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## Urgenda Foundation v. State of the Netherlands (2015) and Associated Policy Impacts

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### Abstract

Climate change is a global issue that calls for global responses. It is also crucial to address regionally, according to each state's best ability, and respond to regionally-felt impacts. Often, this regional change must begin with individual and community action. The Urgenda Foundation v. State of the Netherlands case is a crucial example of how individual interests and community actions can create regional change and result in global change through concentrated effort. The Urgenda Foundation was created to promote national shifts toward sustainable societies. It facilitates the integration of individuals' sustainable interests into community action. As the first legal success against the national government within climate policy, the case is a prime example of what these community actions can fulfill for the good of these individuals, communities, and global actors threatened by the impacts of climate change. Additionally, the case highlights significant limitations of litigation's role in climate activism.

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### **Foundation Overview**

The Urgenda Foundation is built around an understanding that climate change is a major modern issue. It is a nonprofit climate activist group based in the Netherlands, initially founded in 2007 to represent 886 Dutch citizens (Burkett & Fredericks, 2019). It was formed in response to a 2007 report by the Intergovernmental Panel on Climate Change (IPCC), which called for a 25-40% reduction in emissions below 1990 levels to avoid disastrous impacts from climate change (Meguro, 2020). Urgenda promotes the development of a circular Dutch economy and society that will be self-reliant on 100% renewable energy by 2030 (Urgenda, 2015). They regularly release sustainability reports and cost-benefit analyses, hoping to aid this transition for the ensured

stability of future generations (Urgenda, 2020). The public good is central to Urgenda's mission as a citizens' platform.

As of 2021, Urgenda Foundation v. State of the Netherlands is their most profound accomplishment. It is a landmark historical case brought against the Dutch Supreme Court on behalf of individual efforts.

### **Case Overview**

Urgenda Foundation v. State of the Netherlands is a crucial example of citizen action influencing national government. Meguro identifies the case as one of the earliest successes in challenging climate change policy based on a human rights approach (2020). It represents the ability of citizens' platforms to raise their opinions to sway government policy. By legal understanding, Urgenda acted on its own as a collective nonprofit and on behalf of the individuals it represents (Verschuuren, 2019). When the Dutch government proclaimed in 2010 that they would only commit to reducing their greenhouse gas emissions by 14-17% compared to 1990 levels, there were direct grounds for conflict between Urgenda and the Netherlands' state (Neslen, 2015).

In September 2013, Urgenda sued the Dutch government. The case began with a hearing at the District Court in 2015, then progressed to the Court of Appeals in 2018. Finally, in 2019, the case was presented before the Dutch Supreme Court (Verschuuren, 2019). Urgenda accused the Dutch government of acting negligently towards its citizens because of their unambitious reduction goals. To make this claim, they cited Articles 2 and 8 of the European Convention on Human Rights (ECHR), Article 21 of the Dutch Constitution, and the Dutch civil code (ELAW, 2018).

The ECHR is an international convention dedicated to preserving human rights, and it was crucial for Urgenda's legal argument. Formed in 1950, the ECHR's ratification is a prerequisite for nations joining the Council of Europe as an agreement to their standards for human rights (Council of Europe, 2021). Specifically, the Urgenda Foundation used Articles 2 and 8 of the ECHR. Article 2 refers to the right of protection from climate-related harms. The Council of Europe asserts that Article 2 is among the most important within the ECHR (2021). Article 8, more extensively, means to protect the right to respect for one's private life, referring to family life and home (Verschuuren, 2019). Under Article 8, the Dutch government could not rightfully support activities that contribute to the imminent threat of climate change, as it posed potential harm to these actors and so violated citizens' rights.

Article 21 of the Dutch constitution aided this argument. It reads, "It shall be the concern of the authorities to keep the country habitable and to protect and improve the environment" (Constitute Project, 2008). As the associated risks of climate change pose potential harm to the natural environment, the Dutch government's apathy violates this vow as well.

Enabling practical applications of Dutch law, Article 6:162 of the Dutch Civil Code grants legal legitimacy to the case. It ensures that those who suffer damages or harm are in their right to demand compensation or press charges (WILMap, 2018). By this Article, the Dutch government failed its duty of care for Dutch citizens by failing to prevent damages and harms of climate change, furthering the argument that the government needs proactive climate policy at the national level.

Due to an existing precedent in Dutch legal history where widely accepted scientific knowledge is credible ground for lawmaking, the IPCC's 2014 report provided a strong foundation for the case's progression (Verschuuren, 2019). Similarly, the precedent of the

precautionary principle ensured that, in large part, the uncertainty of climate change's associated risks was precisely why the government should take a proactive stance to reduce emissions (Verschuuren, 2019).

Even though climate change is a collective issue, the Urgenda Foundation maintained its belief that the Netherlands (as a developed country) holds individual responsibility to mitigate its emissions (Meguro, 2020). In 2019, the Dutch Supreme Court ruled in favor of Urgenda. The Supreme Court ruled that Articles 2 and 8 of the ECHR obligate the Netherlands to do its part to prevent associated climate harm (Meguro, 2020). This was the first instance of citizens successfully suing a national government to legally obligate them to address climate change (Urgenda, 2020).

### **Impacts**

Urgenda Foundation v. State of the Netherlands secured a handful of positive impacts on climate policy, both regional and global. The Supreme Court's ruling saddled the Dutch government with an obligation to reduce their greenhouse gas emissions by 25%, relative to their 1990 levels, by the end of 2020 (Meguro, 2020). The Dutch government now aims to fulfill a 49% reduction of CO<sub>2</sub> emissions by 2030. Their tactics include implementing driving and carbon taxes and incentivizing private and corporate uses of clean energy to promote a transition from gas reliance to electric reliance. Additionally, they plan to ban coal power plants by 2030 (Meijer, 2019). The case was lauded as the first of its kind and inspired invested climate activists worldwide with the possibility of suing governments to enable climate justice.

However, the court's ruling only obligated the Dutch government to reduce national emissions according to the minimum levels recommended by the 2014 IPCC report. Even this lowest standard has not been met in practice: by 2020, the Netherlands only achieved a 21%

reduction in remissions (Meguro, 2020). Additionally, the Netherlands only emits approximately .46% of the world's greenhouse gases (Worldometers, 2021). The US, the EU, China, and India combined account for more than 60% of greenhouse gas emissions (Meguro, 2020). Emissions reductions in the Netherlands have a relatively low impact on the atmosphere on a global scale.

### **Conclusion**

The Urgenda Foundation v. State of the Netherlands case proved the ability of steady community efforts to make a change, though the immediate impacts of the case are currently short of what was assured. It should be lauded as the first case of its kind and as an ambitious, effort for individuals and their organized community. It illustrates both opportunities and limitations associated with climate change litigation, which are crucial to examine now that the pathway of suing national governments is achievable, even if complex and time-consuming.

As a collective action problem, climate change often fails to receive the adequate time, resources, and focus directed to its mitigation, compared to other national interests deemed of higher priority. In response, individuals must represent their interests when their governments fail to, and participate among like-minded communities to assure change. Community action is an excellent foothold upon which individuals can grasp. However, unless further action is taken, it remains only that single foothold in the daunting climb of confronting climate change.

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