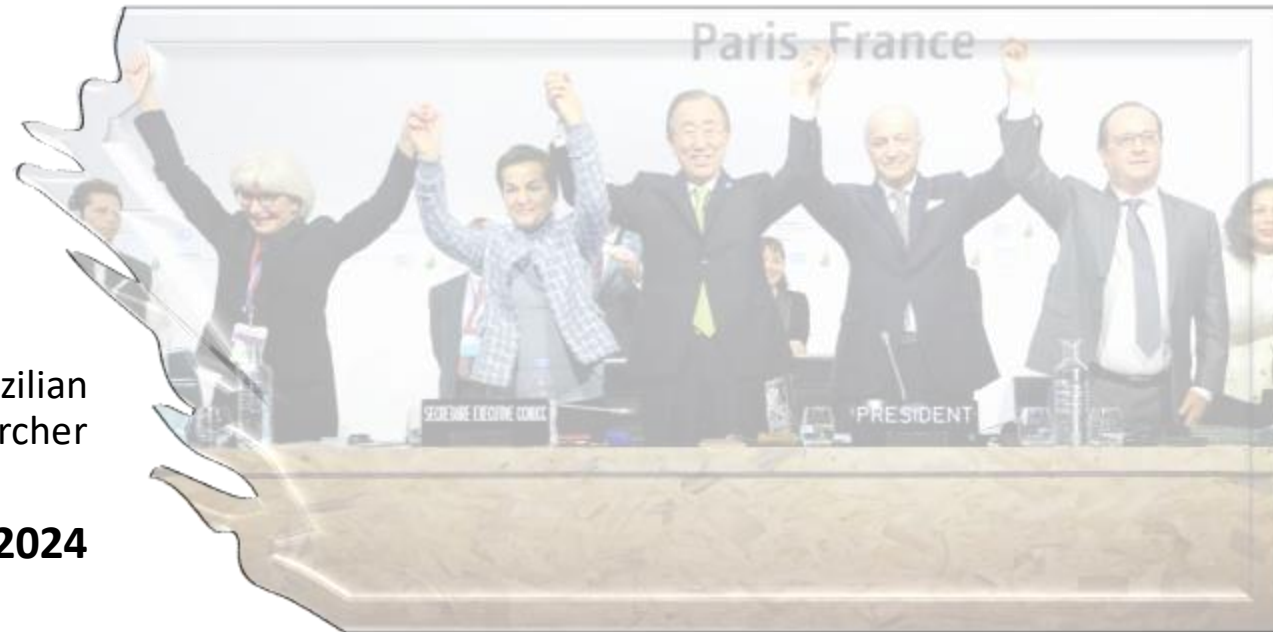


An innovative approach for international environmental law: the critical role played by civil society in tackling climate change

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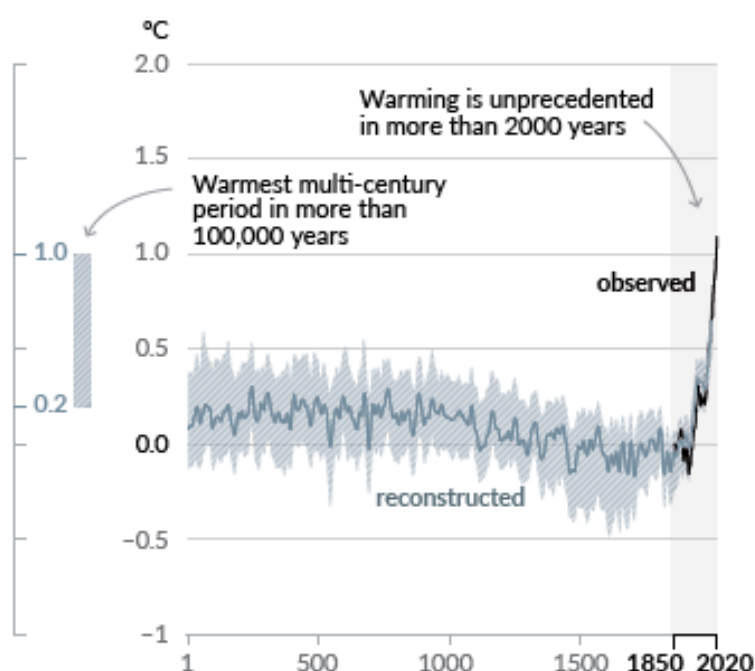


Introduction

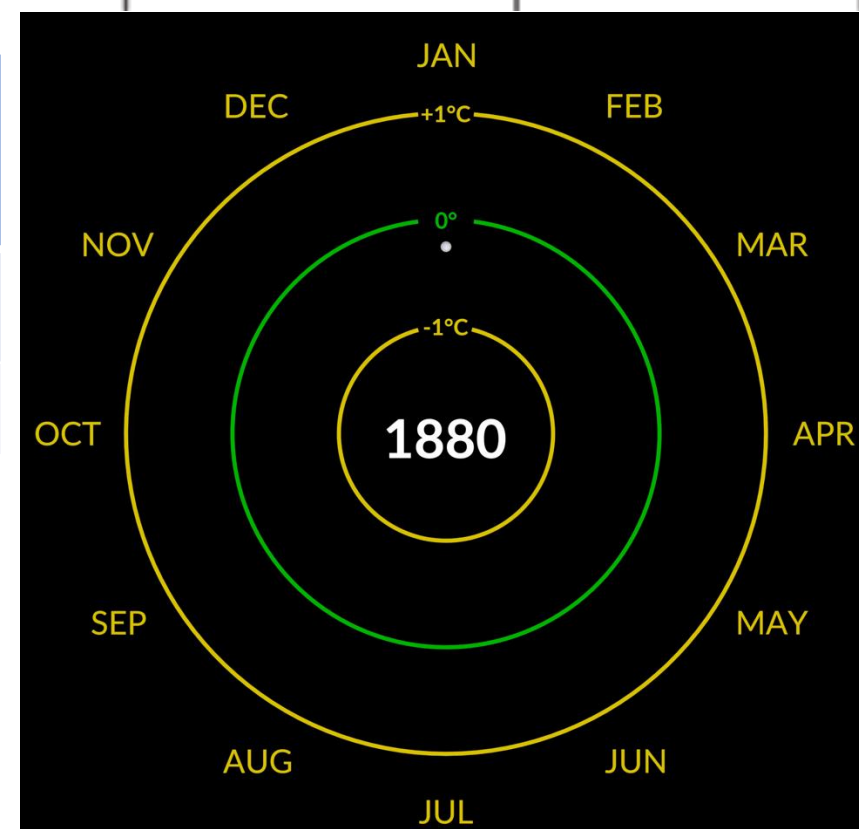
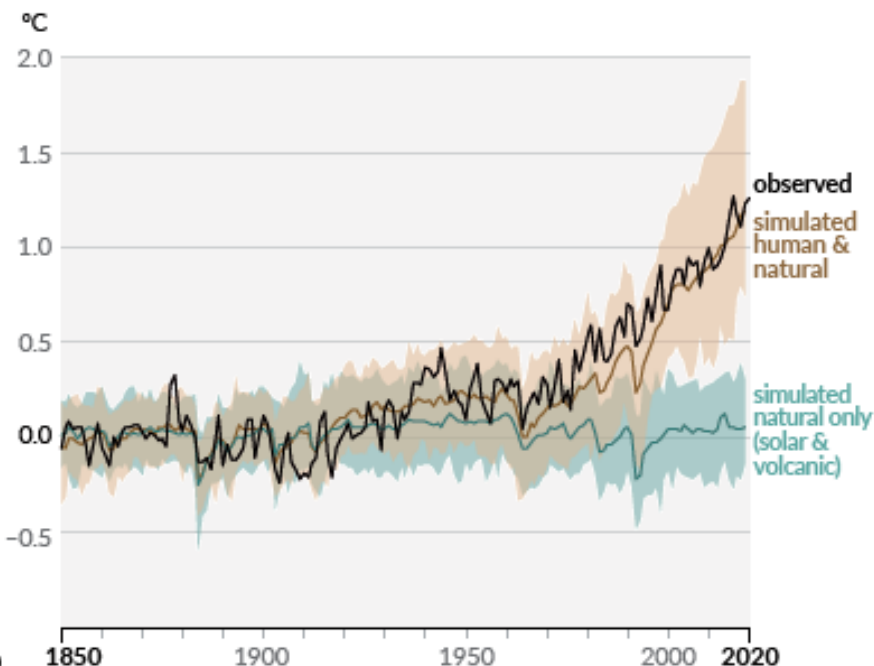
- Climate change
- International Climate Change Regime
- Civil Society
- Procedural Rights
- Civil Society as Observer within the UNFCCC
- Climate Litigation
- Conclusions

	Near term, 2021–2040		Mid-term, 2041–2060		Long term, 2081–2100	
Scenario	Best estimate (°C)	Very likely range (°C)	Best estimate (°C)	Very likely range (°C)	Best estimate (°C)	Very likely range (°C)
SSP1-1.9	1.5	1.2 to 1.7	1.6	1.2 to 2.0	1.4	1.0 to 1.8
SSP1-2.6	1.5	1.2 to 1.8	1.7	1.3 to 2.2	1.8	1.3 to 2.4
SSP2-4.5	1.5	1.2 to 1.8	2.0	1.6 to 2.5	2.7	2.1 to 3.5
SSP3-7.0	1.5	1.2 to 1.8	2.1	1.7 to 2.6	3.6	2.8 to 4.6
SSP5-8.5	1.6	1.3 to 1.9	2.4	1.9 to 3.0	4.4	3.3 to 5.7

(a) Change in global surface temperature (decadal average) as reconstructed (1–2000) and observed (1850–2020)



(b) Change in global surface temperature (annual average) as observed and simulated using human & natural and only natural factors (both 1850–2020)



“This Court has recognized the existence of an undeniable relationship between the protection of the environment and the realization of other human rights, in that environmental degradation and the adverse effects of climate change affect the real enjoyment of human rights” (Inter-American Court of Human Rights, Advisory Opinion n. 17/23, November 15, 2017, § 47)

“Earth’s average surface temperature in 2023 was the warmest on record, according to an analysis by NASA. Global temperatures last year were around 2.1 degrees Fahrenheit (1.2 degrees Celsius) above the average for NASA’s baseline period (1951-1980)” (Bardan, R. NASA – NASA Analysis Confirms 2023 as Warmest Year on Record. Goddard Headquarters. January 12 2024. <https://www.nasa.gov/news-release/nasa-analysis-confirms-2023-as-warmest-year-on-record/>)

“32.6mi of internal displacements by disasters, and other 28.3mi of internal displacements by conflict and violence in 2022”. (Norwegian Refugee Council. Internal displacement and food security. Internal displacement monitoring centre, 2023)

“estimated 61,672 (...) heat-related deaths in Europe between 30 May and 4 September 2022”. (Ballester, Joan *et. al.* Heat-related mortality in Europe during the summer of 2022. *Nature Medicine*, v. 29, 1857-1866, <https://doi.org/10.1038/s41591-023-02419-z>)

“Approximately 3.3 to 3.6 billion people live in contexts that are highly vulnerable to climate change (high confidence)”. (IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, et. Al. (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, et. al. (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 3–33, doi:10.1017/9781009325844.001.)

International Climate Change Regime

→ 198 Parties. Decisions taken by consensus.

- United Nations Framework Convention on Climate Change
 - General objectives;
 - General principles;
 - Institutional structure;
 - Future arrangements;
- Paris Agreement
 - Quantified goal;
 - Bottom-up approach;
 - Voluntary goals;



United Nations
Framework Convention on
Climate Change

CIVIL SOCIETY

Civil society. Refers to the **associations of citizens** (outside their families, friends and businesses) **entered into voluntarily to advance their interests, ideas and ideologies.** The term does not include profitmaking activity (the private sector) or governing (the public sector). Of particular relevance to the United Nations are **mass organizations (such as organizations of peasants, women or retired people), trade unions, professional associations, social movements, indigenous people's organizations, religious and spiritual organizations, academic and public benefit non-governmental organizations**

PROCEDURAL RIGHTS

RIO DECLARATION – Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, **each individual shall have appropriate access to information** concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. **States shall facilitate and encourage public awareness and participation** by making information widely available. Effective **access to judicial and administrative proceedings**, including redress and remedy, shall be provided.

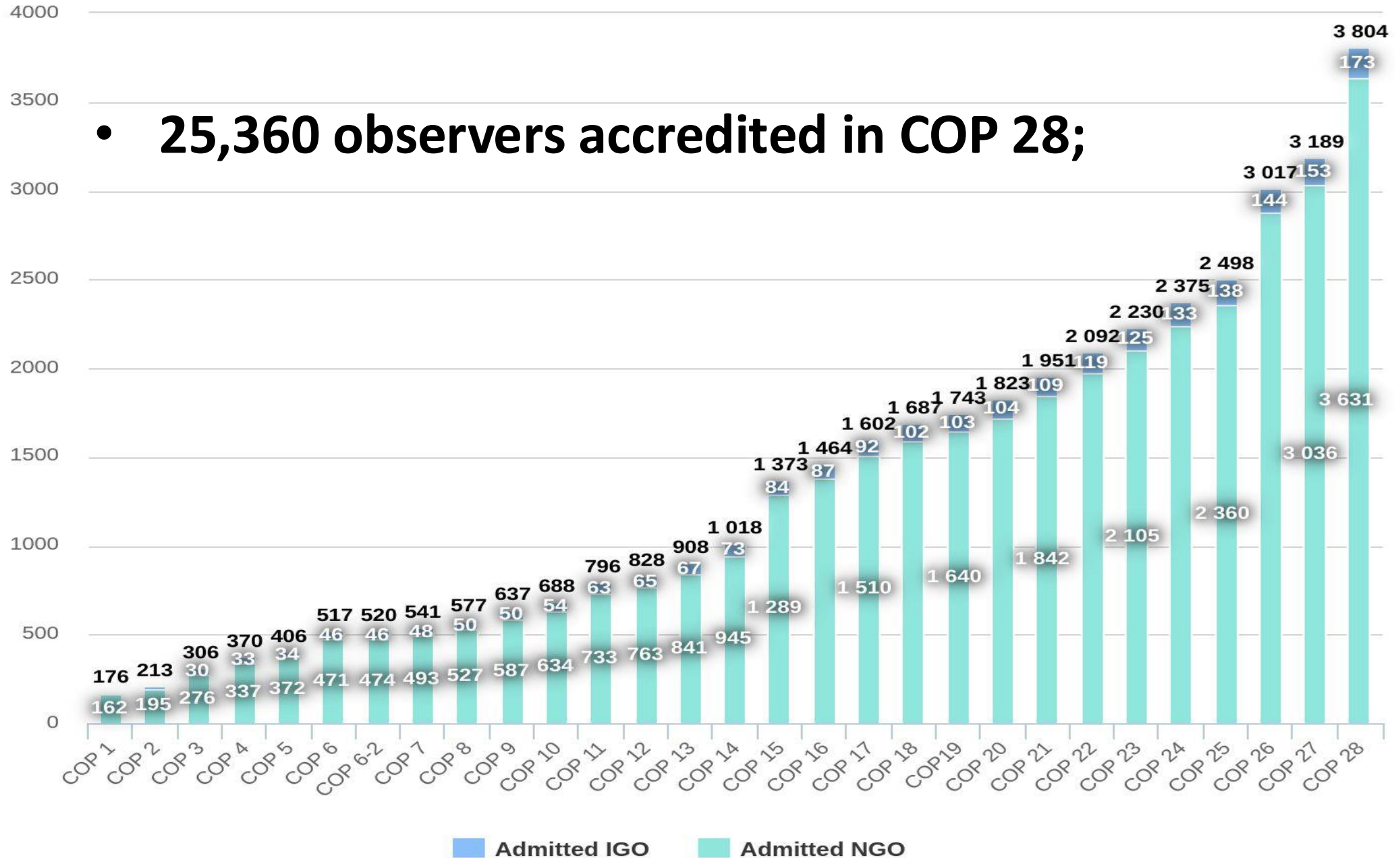
PROCEDURAL RIGHTS

- **Right to access information;**
- **Right to participate in the decision-making process;**
- **Right to access justice;**

→ AARHUS CONVENTION – UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)

→ ESCAZÚ AGREEMENT – Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean

Cumulative admission of observer organizations



Civil Society as Observer within the UNFCCC

ADVOCACY

- access to events, meetings, and backstage of the COPs, as well as direct contact with the diplomatic body of the State members and negotiators;
- influencing positions and building up solutions along with the State-parties' delegations;
- public pressure and compliance between States' positions and international engagements.

CONTRIBUTIONS

- The SBI recognized the value of NGO contributions to deliberations on substantive issues;
- The SBI agreed that requests for submission of information and views could be extended to NGOs where appropriate and on the understanding that such submissions would not be issued as official documents.
- Work programmes established under the UNFCCC and Paris Agreement process and framework;

Civil Society as Observer within the UNFCCC

Global Stocktake (GST)

- **Paris Agreement, art. 14**
 - Stock of the implementation of the agreement assess the collective progress towards achieving the purpose of the treaty and its long-term goals;
 - First GST taken in 2023 (decision 1/CMA.5);

“Acknowledging that climate change is a common concern of humankind and that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to a clean, healthy and sustainable environment, the right to health, the rights of Indigenous Peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.

Civil Society as Observer within the UNFCCC

New Collective Quantified Goal on Climate Finance (NCQG)

- **Paris Agreement, art. 9.3**
 - Global effort for mobilizing climate finance;
 - **Decision 9/CMA.3**
 - Paragraph 3. Work programme established for deliberations on the NCQG;
 - Paragraph 5. Technical expert dialogues organized to develop the NCQG;
 - Paragraph 17. Civil society and others invited to submit contributions on their views on the objectives and elements of the NCQG;
- In the first year, 23 submissions by State Parties and other 22 by civil society (report by the co-chairs of the work programme);

Climate litigation

Advisory procedures in International Courts

- International Tribunal of the Law of the Seas – decision delivered;
- International Court of Justice;
- Interamerican Court of Human Rights;

Contentious cases

- Verein KlimaSeniorinnen Schweiz and Others v. Switzerland;

Quasi-judicial

- International treaty bodies;
- Daniel Billy and others V. Australia - The Committee concluded that the Australian government has violated articles 17 and 27 of the ICCPR;

National jurisdiction

- Around 2,341 cases identified up to mid-2023 – two-thirds being filed since 2015;
- Brazil – ADPF 708; Neubauer et al. V. Germany; Milieudefensie et. al v. Royal Dutch Shell PLC

Conclusions

- Civil society engagement in climate matters;
- Rise in the number of observers in every COP;
- Adoption of innovative channels for civil society participation;
- Rise in the number of lawsuits because of State inaction or inappropriate/insufficient action;
- Progressive rulings and decisions on climate change matters;
- Emerging international legal framework on procedural rights and national jurisdiction compliance;

Thank you

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