legal remedy outside the convention process. So, even in terms of climate change, contentious state liability and attributed wrongful act are present in the UNFCCC regime. However, it does not seem to be the right place for the climate-affected people to register their claims.

Customary international law

A widely recognised principle of customary international law is the No-harm Rule, which obliges a state to prevent damage and to minimise the risk of damage to other states. This principle was applied first in the Trail Smelter Arbitration (United States vs Canada). The fact of the case was that a Canadian smelter's sulphur-dioxide emissions had caused air pollution damages across the border in the US. The arbitral tribunal decided that the government of Canada had to pay the United States compensation for the damage that the smelter had caused along the Columbia River valley in the US.

The no-harm principle employed in Trail Smelter Arbitration, was subsequently confirmed by different decisions of international courts and tribunals. Advisory opinion of the International Court of Justice (ICJ) in the Legality of the Threat or Use of Nuclear Weapons (1996), stated that "the existence of the general obligation of states to ensure that activities within their jurisdiction and control respect the environment of other states or of areas beyond national control is now part of the corpus of international law relating to the environment." The "no harm" rule was restated and accepted by both parties (Hungary and Slovakia) in the Gabcikovo case, 1997 decided by ICJ.

It has also been incorporated in international law and policy documents. Principle 21 of the Stockholm Declaration provides that "states have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction." This principle is also included in Article 3 of the 1992 Biodiversity Convention, the 1985 Vienna Convention for the Protection of the Ozone Layer (Preamble, 2nd paragraph), and the UN General Assembly, Resolution 2996 (XXVII), 15 December 1972. It has also been reiterated in the preamble to the UNFCCC (Preamble, 9th paragraph).

Atmospheric pollution clearly falls within the purview of the no-harm rule of international law. However, international law will not support a conclusion that a state emitting GHGs, and thus contributing to global climate change, should be held responsible for damage occurring per se simply because it has emitted such gases. A state's behaviour must be found contrary to a specific standard of care. Once this duty of care is defined, if a state fails to take proportionate measures to minimise the risk of foreseeable damage, the no-harm rule is breached.

No-harm principle and state responsibility

A state's failure to comply with the no-harm rule is an internationally wrongful act that gives rise to an obligation to take responsibility. A state's breach of obligations not to cause damage, to prevent harm, or to minimise the risk of harm occurring, would constitute an internationally wrongful act, which entails the international responsibility of that state. The problem with damage from climate change is that it is diffuse and hard to trace back to any particular state's actions. The general rule under international law, however, appears to be that states that are jointly responsible for a wrongful act are jointly and separately liable. There exist relatively clear estimates of different countries' relative contributions to the tonnes of GHG emitted globally. It has, therefore, been suggested that, because of the cumulative causation of climate change, each actor should only be held responsible for its share of the overall wrong.

Bangladesh, in the context of sufferings of coastal fisher folk, can convincingly establish substantive arguments under public international law that one or more states are responsible for wrongful acts based on causation and liability. While the substantive law may provide a clear basis for the claim of coastal fishers' community of Bangladesh, there are often no procedural means to pursue it further and enforce compliance under public international law. There is no governing authority that automatically addresses the legality of an act or situation at the international level. This reflects the fundamental principle of international relations that states are sovereign and free to choose the methods of resolving their disputes. In practice, political pressure and diplomatic negotiations remain the primary tools in the international arena to influence state conduct.

International Court of Justice and other forums

The ICJ is the principal judicial forum of the UN, and the only international court with universal