

# Chapter 5

# Climate Change and Legal Responsibility for Greenwashing

**Abouelwafa Ibrahim**

*United Arab Emirates University, UAE*

## **ABSTRACT**

*The term “greenwashing” refers to the act of misleading consumers about a company's environmental practices or the environmental benefits of a product. This term was coined by environmental activists to describe the efforts of companies to portray themselves as environmentally friendly and use this as a cover for environmental violations. In this sense, it is the opposite of a “green product,” which contributes to the reduction of greenhouse gas emissions. A lawsuit was filed against Washington Gas in August 2022 for misleading its customers with advertisements that portrayed methane gas as a clean fuel that could be an important climate solution. The case has not been settled yet. Within a foundational and analytical approach, and concluding with some results and recommendations, this chapter discusses the liability for such act and the facts of this case and its legal basis, as it harms consumers and fair competition.*

## **INTRODUCTION**

Climate change is a contemporary issue with palpable impacts felt worldwide, manifesting in phenomena such as rainfall patterns, floods, heatwaves, and elevated temperatures surpassing historical norms. It poses a formidable challenge that extends across various sectors including healthcare, agriculture, energy, and water management. For this reason the United Nations Framework Convention on

DOI: 10.4018/979-8-3693-2987-0.ch005

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Climate Change of 1992 (United The United Nations Framework Convention for Climate Change states in its Article II that “the ultimate objective of the Convention and of any related legal instruments that may be adopted by the Conference of the Parties is to achieve, in accordance with the relevant provisions of the Convention, the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.” The qualitative advancements observed in the realm of climate change culminated in the signing of the Paris Agreement on December 12, 2015, under the auspices of the Framework Convention on Climate Change. This landmark agreement marked a significant milestone in international efforts to combat climate change. Article 4.1 of the agreement outlines its primary objective: to achieve a substantial reduction in emissions, aiming to attain carbon neutrality by the latter half of the current century. Furthermore, the provisions of the agreement encompass strategies to address greenhouse gas emissions, enhance adaptation measures, mitigate environmental degradation, and commit all 196 participating countries to formulate policies aimed at minimizing harmful emissions. The agreement underscores the imperative of mitigating the adverse effects of climate change, limiting temperature escalation, safeguarding against food and water scarcity risks, and emphasizes the responsibility of industrialized nations to facilitate technology transfer and adaptation towards a carbon-neutral economy.

Given the widespread failure of numerous nations and corporations to adhere to the stipulations outlined in the agreement, an increasing number of individuals and civil society organizations have turned to the legal system in recent years seeking redress and protection from the impacts of climate change. A report jointly issued by the United Nations Environment Program and Columbia University in New York, released on July 27, 2023, revealed a significant surge in climate change-related litigation. Within a span of five years, the number of lawsuits filed by concerned individuals and environmental advocacy groups has more than doubled. With millions of people grappling with dire consequences ranging from dwindling water supplies to unprecedented heatwaves, the report indicated that until 2017, only 884 lawsuits had been documented across 24 jurisdictions. However, in the subsequent five years, approximately 2,180 lawsuits were filed, spanning 65 jurisdictions worldwide. These legal actions targeted governments for their alleged failure to enforce climate-related legislation and policies, while some lawsuits also accused certain companies of engaging in greenwashing practices (The number of lawsuits related to climate change, 2023).

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