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A MECHANISM FOR SEEING INVISIBLE BARRIERS: THE SECRET TO ASSURING
COMPLIANCE WITH INTERNATIONAL LEGAL CLIMATE CHANGE REGIMES

Abstract

Creating more effective laws and policies is not enough. Despite the myriad of existing agreements, policies and protocols to address, monitor and mitigate climate change, noncompliance continues. And, climate change disasters persist. We continue to see ozone depletion, melting polar ice, rising sea levels, exploitation of the environment and natural resources and environmental degradation. These phenomena often serve as a multiplier effect, exacerbating war, conflict, human rights violations, global inequality, poverty and migration crises. Humanity must be more cognizant of the politics behind patterns of noncompliance with international legal regimes.

We will apply critical theory in international relations to address, analyze these issues. We will also discuss ideas for formulating a mechanism to prevent repeating patterns, which thwart the idealistic goals written into international agreements. In addition, we will discuss the potential broader consequences of climate change, sustainability, along with economic, social and environmental justice.

The international space law regime is more extensively developed than that for polar law. For this reason, this paper will rely on a space law perspective, applicable to global climate change regimes. International space law serves as a model for illustrating how soft law (the interspace between law and politics) can subtly produce behavioral norms, which contradict the grand goals, philosophies and terms contained in international legal instruments. One solution could be to orchestrate a methodology for examining the invisible often unaddressed soft spaces, operating underneath and behind international legal agreements. This could be the key to shifting the apathy paradigm. People outside of the climate change community tend not to really care. Similarly, people outside of the outer space community are equally apathetic. It is possible to shift this situation to one of widespread global civic engagement for these global commons territories. For example, legal regimes should contain enforcement provisions, with a mechanism to monitor early detection of behavioral patterns known to threaten successful compliance with international legal regimes.

This paper is a call to action to build a network of strategic international partnerships. These networks can commit time, energy and talent to monitor and address the ideological, economic and social forces, counteracting the terms of climate change laws and policies.

This could enable humanity to systematically resolve perpetual problems related to climate change, and advance social, economic and environmental justice. We can practice the art of preventing specific decisions and actions claiming to benefit all humanity, which in reality benefit only a few.