As promised, I’ve provided the emailed review questions below along with my answers in bold. You will also find these questions and responses posted to the class website.

Thanks again for a great semester, and good luck with your finals. And if we don’t see each before the break, have a fantastic winter holiday!

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1. Please clarify how a state or individual can sue their national government because that government has failed to hold other nations responsible for following the Paris Agreement (or some other international agreement on climate change), especially if those individuals are losing their land to sea level rise? Would it require a petition to get a government to act, or do most nations have laws that allow citizens to bring suits for not enforcing an international agreement?

Some nations allow their citizens to sue their governments in their own domestic courts for failing to comply with international law (e.g., the Netherlands, Pakistan). If that same nation has incorporated international laws into its own domestic statutes or common law, then those citizens arguably could sue their own national government if it fails to satisfy a domestic legal obligation that arises under international law. A petition for rulemaking could in turn provide a legal vehicle to create a final agency action that a court could review (in nations, such as the U.S., that require final agency action before a court can review the agency’s conduct).

That said, the Paris Agreement does not create a mechanism for one signatory nation to force another signatory to reduce emissions as promised in its National Determined Contribution. The Paris Agreement does not provide any compulsory enforcement process or penalties for nations that fail to meet their NDC commitments; it instead relies on transparency and “naming and shaming” to nudge nations into satisfying their promises.

2. With the understanding that most international law is more or less customary law, the main consequences for nations not following these customary laws would be for the other nations to put sanctions on those nations?

For most customary international laws, the primary remedy for violations lies in sanctions imposed by other nations. In theory, an international organization such as the International Court of Justice, the Permanent Court of Arbitration, the United Nations, or other entities could issue a judgment or assess penalties, but the recalcitrant nation would only come under their jurisdiction if it chose to waive its sovereignty either through treaty commitments or consistent conduct constituting a de facto waiver.