

From Emissions to Equity: A Human Rights and Environmental Justice Critique of Global Climate Governance

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ABSTRACT

This paper examines whether climate change constitutes a human rights issue within the frameworks of international law and environmental justice. Drawing on United Nations Human Rights Council resolutions, the Paris Agreement, IPCC findings and leading climate litigation cases. The paper analyzes how adverse climate impacts undermine civil, political, economic, social and cultural rights. It reviews doctrinal challenges in applying territorial human rights obligations to transboundary climate harms and explore the paradigms of environmental justice emphasizing on equity and procedural fairness. The research objectives include mapping legal obligations, assessing gaps in protection for vulnerable groups and proposing normative and institutional reforms. The paper concludes with recommendations for strengthening human rights-based climate governance through a “*common concern of humankind*” approach, enhanced accountability mechanisms and inclusive decision-making processes.

Keywords: Climate change, Human rights, International law, Environmental justice, Paris Agreement, Climate litigation

INTRODUCTION

Climate change presents many complicated threats to core human rights such as the rights to life, health, food, water, housing and culture. Sea level rise, extreme weather events and ecosystem degradation disproportionately affect vulnerable populations, and thus reinforces existing inequalities.[1] Traditionally human rights are the business of states and operate within territorial borders, which poses challenges when the problem of greenhouse gas emissions is increasingly transboundary and globalized in nature.[2] Environmental justice reveals that for most marginalized groups, fairness is procedural, that is, treatment before and during the decision-making processes as well as distributive equity and recognition through compensation for adverse health impacts are needed to legitimize decision making processes.[3] This paper discusses how an international human rights can be built into international climate governance through both legal and normative means.[4]

Climate change constitutes a series of complex threats to several basic rights, including the rights to life, health, food, water, housing and culture, through interference with ecosystems, disruption of livelihoods and degradation of systems of natural means and subsistence which are fundamental for human dignity[5]. Although current rise in sea level does not force people to move, yet, it threatens coastal communities with displacement and loss of cultural heritage, encroaching on rights to adequate housing and to the culture of the entire world[6]. They have also led to direct threats to life and health, overwhelming health systems, and have aggravated food and water insecurities[7]. The degradation of ecosystems, for instance drought induced desertification and loss of arable land, impedes on food security and the right to adequate standard of living with rural and indigenous people normally bearing the heaviest blow[8]. This particularly has adverse impacts on vulnerable and marginalized people (including women, children, older persons, persons with disabilities and Indigenous persons) which are overlaying on existing social and economic inequalities[9]. Typically, the content of international human rights law (IHRL) imposes a state’s obligation on territorial jurisdiction: to protect rights “within the territory” or “under the jurisdiction” of a state — a requirement that contradicts the global and transboundary nature of greenhouse gas emissions[10].

But this jurisdictional framing does pose major obstacles to redress, given that affected people in one country have very rare standing before the human rights bodies of the emitting countries, and transboundary harm rarely get any redressal[11]. In response, scholars advocate reconceptualizing climate change as a “common concern of humankind,” expanding collective and extraterritorial obligations that reflect the shared global nature of climate risks[12]. Simultaneously, environmental justice underscores the necessity of procedural justice—ensuring inclusive decision-making and transparency[13]—distributive justice[14]—equitable allocation of burdens and benefits—and recognition—valuing diverse identities, knowledges and experiences—in climate governance[15]. This paper explores how climate change within human rights and environmental justice paradigm can reinforce international climate governance by identifying robust legal foundations, exposing normative gaps and proposing pathways for accountability, equity and inclusive participation.[16]

Human Rights Council and OHCHR Reports

Since 2008, the UN Human Rights Council has adopted a series of resolutions elucidating the human rights dimensions of climate change, mandating thematic panel discussions and analytical studies by OHCHR[17]. The 2012 preliminary report of the Independent Expert on human rights obligations relating to a safe, clean, healthy and sustainable environment laid foundational principles for rights-based climate action[18]. OHCHR’s 2021 “*Frequently Asked Questions*” fact sheet further details how climate-induced phenomena violate rights to life, housing, food and cultural identity[19].

Climate change, driven by anthropogenic greenhouse gas emissions, transcends the realm of environmental concern to emerge as critical human rights issue with profound implications for international law and environmental justice.[20] The intensifying impacts of climate change, including rising sea levels, extreme weather events, and resource scarcity, disproportionately threaten the fundamental rights to life, health, food, water, and adequate housing, particularly for vulnerable populations and future generations[21]. International human rights law establishes a framework of state obligations to protect individuals from environmental harm that interferes with the enjoyment of their rights, imposing duties to prevent, mitigate, and provide remedies for climate-related human rights violations.[22]

International Climate Agreements

The Paris Agreement (2015) is the first global climate treaty to reference human rights, urging Parties to respect, promote and consider their respective rights and obligations when implementing Nationally Determined Contributions and adaptation measures[23]. However, its non-binding human rights clause has been critiqued for lacking enforcement mechanisms and specificity.

The Paris Agreement’s reference to human rights in Article 2.1(c) was a landmark in climate diplomacy, formally recognizing that Parties “*should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous people, ... persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity*”. [24] Yet because this clause is phrased as non-binding, “should” rather than a mandatory “shall,” and because it appears without accompanying enforcement procedures, it has been critiqued as a soft obligation that lacks real teeth. Moreover, its broad and non-prescriptive language—listing rights without defining them, or specifying how to reconcile trade-offs—has left Parties without clear guidance for implementation or reporting[25]. Consequently, human rights considerations have not been systematically integrated into Nationally Determined Contributions or adaptation plans, prompting calls for more precise, enforceable human rights provisions in future climate instruments[26].

Background and Placement in the Paris Agreement

Article 2.1(c) marked the first time any global climate treaty explicitly mentioned human rights. Its inclusion was influenced by a decade of advocacy from states, civil society and UN bodies highlighting how climate

impacts—rise in sea-level, extreme weather, ecosystem loss—threaten rights to life, health, food and culture[27]. The precise wording in the operative text (“*should...respect, promote and consider*”) echoes language adopted in the preamble but stops short of creating binding new obligations beyond existing human rights treaties[28]. Because Article 2.1(c) does not impose concrete duties or link violations to compliance mechanisms, it is classified among the Paris Agreement’s “*non-obligations*” alongside cooperative but unenforceable provisions[29]. Legal scholars note that the soft-law framing means states incur no additional legal liability under international human rights bodies when they fail to mainstream rights in their climate policies[30]. Nor does the Agreement establish any new forum—judicial or quasi-judicial—to adjudicate alleged breaches of the human rights clause[31].

While the clause enumerates various rights and “*vulnerable situations*,” it offers no criteria for assessing policy impacts or resolving conflicts—such as between land-intensive renewable projects and indigenous land rights. The absence of clear definitions or procedural safeguards (*for participation, impact assessments or remedy*) has left national implementers without guidance on due diligence or reporting[32]. As a result, human rights impact assessments remain ad hoc, and Parties have not consistently documented how rights obligations shaped their mitigation or adaptation measures[33]. To move from rhetoric to enforcement, experts propose elevating the human rights clause into a binding article with defined obligations, timelines and review mechanisms under the Global Stocktake.[34] Integrating mandatory human rights impact assessments into NDCs—and subjecting them to peer and expert review—could provide transparency and accountability[35]. Some have even suggested a specialized UNFCCC tribunal or advisory body for climate-rights disputes, modeled on environmental courts in regional systems. Finally, embedding procedural justice through required stakeholder consultations and grievance mechanisms would operationalize rights to participation and remedy at the national level[36].

Doctrinal Challenges in IHRL

Climate change means that IHRL’s state centric and territorially bounded obligations are in collision with climate change’s diffuse causation and cross border impact[37]. To bridge this gap, scholars propose to treat climate change as a ‘common concern of humankind’ and analogize it to the law of the sea and biodiversity conventions. This section elaborates how the territorial foundations of IHRL fail to provide an effective means to redress transboundary climate harms and posits that the common concern of humankind doctrine, first as a matter of principle in 1988 and as a matter of law in the 1992 UNFCCC, provides a cooperative, equity-based paradigm for action[38]. The state centric, jurisdictional model of IHRL clashes with the global, cumulative and diffused nature of greenhouse gas emissions. International cooperation over climate change is possible by repositioning it as shared concern so as to break through entrenched boundaries of territory, and to acknowledge common duties of mitigation, adaptation and remedy[39]. Analogies to the law of the high seas as a common heritage and to the Convention on Biological Diversity’s framing of biodiversity as a common concern, such demonstrate how global public goods can be governed through multilateral cooperation and intergenerational equity[40].

International human rights treaties, such as the ICCPR and ICESCR, predicate state obligations on territorial jurisdiction—requiring that rights be protected “within [a state’s] territory” or “under its jurisdiction”[41]. Climate harms, however, are diffuse: emissions from one state contributing incrementally to impact thousands of miles away, with deferred and cumulative effects[42]. The traditional causation-based liability framework in IHRL demands a direct linkage between state conduct and harm, yet climate damage results from multistate, long-term processes, frustrating clear attribution[43]. Recent cases before the European Court of Human Rights, such as Duarte Agostinho, highlight the difficulty of establishing jurisdiction for transboundary climate harm and the consequent inadmissibility of many claims under current human rights mechanisms[44].

The “Common Concern of Humankind” Paradigm

Scholars propose recognizing climate change as a “*common concern of humankind*” to overcome these jurisdictional and causation barriers[45]. This doctrine originated in the UN General Assembly’s 1988

resolution, which first described climate change as a shared global responsibility[46]. This concept is referred to for the first time in treaty form in the 1992 UNFCCC preamble, where Parties are bound to ‘cooperate...to achieve...stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system’[47]. The paradigm of collective duties to a global public good owed by all states for the protection of such good is not bounded by borders[48].

Normative Dimensions

The common concern framework is based on three core dimensions.

1. **Collective Duty to Cooperate:** states have to cooperate jointly on adaptation and mitigation, to share technology, finance and expertise[49].
2. **Intergenerational Equity:** The doctrine recognizes that rights and duties exist between the present and future generations and imposes the responsibility of long-term stewardship of the global commons[50].
3. **Common but Differentiated Responsibilities:** It assigns the burden of efforts based on the ability and the history of emissions[51].

Analogies to Other Regimes

- **Law of the Sea (UNCLOS):** On the high seas, the ‘common heritage of humankind’ is governed by international legal regimes to manage resource use and protect the environment beyond national jurisdiction[52].
- **Convention on Biological Diversity (CBD)** preamble also states that “*the conservation of biological diversity is a common concern of humankind*” and thus imposes on states the duty to incorporate biodiversity into national planning and cooperate internationally[53]. The analogies elaborate on the operational mechanisms that could be employed for a human rights-anchored climate governance structure: global-level bodies, compliance procedures, and resource-sharing funds[54].

The common concern doctrine within IHRL would allow acknowledgment of extraterritorial obligations in relation to transboundary climate harms[55]. It would also help global review mechanisms ensure compliance with human rights-based climate duties and make embedding intergenerational and distributive justice in human rights and climate regimes more equitable[56]. In short, approached as a common concern of humankind, climate change offers a sustainable normative and institutional crossing between the geographical boundaries of IHRL and the global demands of climate management.

Environmental Justice Perspective

Environmental justice is founded on procedural justice (inclusive decision making), distributive justice (equitable burdens, benefits) and recognition (respect for diverse identities and knowing systems)[57]. It makes two points about rights-based approaches: they must discern between systemic inequities on climate impacts and inequities in governance[58]. In particular, the normative approach of environmental justice adds the ideals that climate policies do not simply realize mitigation and adaptation goals, but that these goals are realized in processes that are fair, just, and equitable as well as in outcomes that respect affected communities.

Often defined through its core pillars—procedural justice (meaningful participation and transparency), distributive justice (fair allocation of benefits and burdens) and recognition (valuing diverse identities, knowledge systems and experiences) its limits become most evident in inequalities laid bare by the ways systemic inequalities codetermine vulnerability to climate impacts. An additional lens through which we see these intersections of race, class, gender, disability and indigeneity that compound multiple injustices, is through using an intersectional lens, which also shows us the need for tailored remedies and inclusive governance[59]. Achieving environmental justice through climate action can be seen in San Francisco’s climate–justice–informed adaptation planning and finance mechanisms, as well as in the U.S. Inflation

Reduction Act's Environmental and Climate Justice Program[60]. However, there are also substantive challenges that provide the risk to weaken the justice objectives in terms of power imbalance, absence of data that allows for studying differential impacts and the exposure to 'green gentrification'. Community struggles against polluting industries sited in marginalized neighborhoods that arose in the 1980s generated environmental justice[61].

In early scholarship, justice was characterized as threefold: equitable distribution of environmental risks and/or benefits related to CESEs, recognition of diverse identities and experiences in addressing just distribution, and participation in decision making relating to one's environment[62]. This plural and unified framework centers the voices of the most affected on their position in the techno system and how it is experienced throughout their lives by questioning top down and technocratic models of climate governance[63].

Core Pillars of Environmental Justice

Procedural Justice- Procedural justice stipulates that impacted communities must be able to meaningfully contribute in the climate policy design, including information access, open decision-making methods commensurate with the authority to be held accountable. For instance, all of San Francisco's adaptation plans outline community workshops, Indigenous advisory councils, and other participatory budgeting orders that allow for the shaping of resilience strategies by local knowledge.[64]

Distributive Justice- In referring to distributive justice, this entails fair distribution of the climate burdens (e.g. exposure to heat waves, floods and other forms of pollution) and benefits (e.g. green jobs and clean energy investments)[65]. At COP27, the Principles of Climate Justice were adopted that high emitting countries must provide financing for adaptation and loss and damage support for low-income nations bearing disproportionate impacts, in equity and intergenerational solidarity[66].

Recognition—Recognition means recognizing and respecting people's cultural identities, Indigenous and traditional knowledges and histories of environmental marginalization. Free, Prior and Informed Consent (FPIC) is called for in renewable-energy siting, and Indigenous territories are meant to be protected from being overwhelmed by extractive infrastructure, and this pillar underpins these demands[67].

Intersectional perspective and Power – An intersectional perspective shows how intersections of race, gender, class, disability, and indigeneity intersect with systems of oppression to create climate vulnerability, and adaptive capacity[68]. For instance, women of colour and LGBTQ+ people are more exposed to climate disasters because they are discriminated against in housing, healthcare and even recovery aid[69]. Climate justice programs need be tweaked, rather than, putting one fits all solutions, to address these intersections as per community needs[70].

Institutionalizing Environmental Justice in Climate Governance

- **Reports from UNEP and the OECD:** Global reviews by UNEP and the OECD are urging the integration of justice criteria (procedural, distributive, and recognition) within national policies and financing of climate, respectively[71].
- **Under the Inflation Reduction Act,** the EPA's ECJ Programme directs billions to technical and financial assistance to disadvantaged communities to ensure that justice is built into clean-energy investments[72].
- **Ethical Frameworks** in which UNESCO's ethical principles on climate change call for precaution, equity and justice, and "measures that benefit all in a spirit of justice and equity[73]".

Challenges & Future Directions: Lack of disaggregated, more granular data about how climate hazards impact individuals across different demographic groups makes it difficult to create targeted interventions that are tailored for uniquely vulnerable groups[74]. Communities often lack the legal capacity or political influence to enforce participation rights or seek remedies. Climate adaptation investments can inadvertently drive-up property values and displace safeguarding of low-income residents[75].

CASE STUDY ANALYSIS

Urgenda Foundation v. State of the Netherlands: The Dutch District Court held that the government's climate policy violated Articles 2 (right to life) and Article 8 (right to private and family life) of the European Convention on Human Rights, ordering at least a 25% emissions reduction by 2020[76]. This landmark ruling affirmed that existing human rights obligations impose enforceable climate action duties on states.

Juliana v. United States: In *Juliana*, youth plaintiffs alleged that federal inaction on climate change infringed their constitutional right to a stable climate system. Although ultimately dismissed for lack of standing, district and appellate courts recognized the novel framing of climate in terms of intergenerational justice and inalienable rights[77]. The case galvanized global youth climate litigation movements.

Luciano Lliuya v. RWE AG: Peruvian farmer Saúl Luciano Lliuya sued RWE under German tort law for contributions to climate impacts threatening his home[78]. The German courts allowed limited causation-based claims to proceed, opening avenues for corporate climate liability under human rights and tort principles.

Klima Seniorinnen v. Switzerland: In April 2024, the European Court of Human Rights condemned Switzerland for inadequate climate measures, holding that inaction violated Articles 8 (private and family life) and Article 6 (access to justice) of the European Convention[79]. This “historic” decision underscores the readiness of regional human rights bodies to enforce climate duties.

DISCUSSION AND RECOMMENDATIONS

Framing climate change as a human rights issue strengthens moral and legal imperatives for mitigation and adaptation. Rights-based approaches provide clear standards (e.g., non-discrimination, participation, remedy) and access to judicial and quasi-judicial mechanisms[80]. However, jurisdictional limitations and the nature of harms on climate demands innovative legal constructs—such as recognizing climate change as a common concern of humankind—to hold distant emitters accountable under IHRL. Embedding environmental justice in climate governance ensures that the most affected communities can participate meaningfully in decision-making, secure equitable outcomes and access effective remedies[81]. This section deepens the discussion by outlining concrete pathways to operationalize human rights and justice-based climate regime, addressing legal, institutional and accountability gaps[82]. We argue that transforming soft commitments into binding obligations, creating dedicated adjudicatory forums, embedding human rights and environmental justice in core UNFCCC processes, empowering oversight bodies and extending duties to non-state actors will collectively strengthen global climate governance and protect vulnerable populations[83].

The present “should...respect, promote and consider” phrasing in Article 2.1(c) must be elevated to a mandatory obligation—using “shall”—to compel Parties to integrate human rights into mitigation and adaptation measures[84]. Embedding this change in the next amendment or a COP decision, with clear definitions of key terms (e.g., “right to a healthy environment,” “vulnerable groups”) and explicit reference to procedural duties (e.g., impact assessments, public participation), would close existing loopholes[85]. Moreover, linking human rights performance to the Agreement's compliance mechanism—requiring Parties to report on rights-based indicators under the transparency framework—would generate accountability.

Recognizing climate change as a “common concern of humankind” underpins the creation of an independent tribunal or advisory chamber—modeled on the International Tribunal for the Law of the Sea or the WTO Appellate Body—that could adjudicate cross-border human rights claims related to climate harms[86]. Such a body would have jurisdiction to hear both State-State and individual-State disputes, applying human rights and environmental justice standards uniformly[87]. Legal scholars have evaluated feasible mandates and procedural rules for this mechanism and have recommended that it be included within the UNFCCC architecture in order to maintain complementarity with existing procedures[88].

To translate rights into practice, Parties should be required to conduct and publicly disclose Human Rights Impact Assessments (HRIAs) for all new mitigation and adaptation initiatives, with methodological guidance from OHCHR's indicators framework[89]. Incorporating these findings into NDCs and National Adaptation Plans which are subject to the peer review under the enhanced transparency framework would facilitate comparability, showcase the best practices and indicate the gaps[90]. The Global Stocktake should evaluate these HRIA outcomes, using rights-based metrics to guide collective progress[91].

The Global Stocktake (GST) offers a critical opportunity to mainstream human rights. Civil society and UN bodies have urged that the first GST explicitly assess Parties' compliance with Article 2.1(c)'s human rights clause and related Paris preamble commitments[92]. This entails incorporating rights-based questions into the GST's technical dialogues, compiling evidence on participation, equity and remedy, and issuing targeted recommendations to enhance rights integration in the next NDC cycle[93].

Procedural and distributive justice principles must be woven into all UNFCCC workstreams[94]. This includes: Allocating adaptation and loss-and-damage funds through criteria that prioritize the most affected and least developed countries[95]. Reforming UNFCCC constituency rules to grant indigenous peoples, women's groups and frontline communities direct seats in negotiation bodies. Establish an independent complaints facility within the UNFCCC Secretariat for rights violations linked to climate projects, ensuring timely remedies[96].

The Office of the High Commissioner for Human Rights should be formally recognized as the lead UN body for climate-rights monitoring, with a dedicated Climate and Human Rights Unit and increased resources for country visits and thematic reporting. Regional courts—such as the European, Inter-American and African courts—should adopt explicit jurisdictional guidelines to hear extraterritorial climate-rights claims, drawing on the “common concern” doctrine to justify expanded standing[97].

To address corporate contributions to climate change, the forthcoming UN Treaty on Business and Human Rights must include explicit duties for companies to respect the right to a healthy environment and to conduct climate-specific human rights due diligence[98]. Binding corporate reporting requirements on greenhouse-gas emissions, human rights and environmental impacts—aligned with the UNGPs and forthcoming EU Corporate Sustainability Due Diligence Directive—will close accountability gaps[99].

CONCLUSION

The convergence of climate change, international law, and environmental justice underscores the urgent need to reframe climate change as a fundamental human rights issue. As sea levels rise, ecosystems degrade, and extreme weather events increase, the impacts of climate change are increasingly exacerbated and have the potential to cause not only harm to the rights to life, health, food, water, housing and culture, but also, as we shall presently see, to destroy them altogether. The adverse impacts of instant global communication disproportionately affect vulnerable populations, making it difficult for pre-existing structures to keep pace and leading existing inequalities to create stark fissures in the body politics.

The state centric and territorially bounded nature of international human rights law (IHRL) poses difficulties for its application to a transboundary and diffuse problem such as climate change. Climate change is recognized as a common concern of humankind. This approach is in line with the principles of environmental justice in climate governance, that is equitable distribution of burdens and benefits, procedural fairness, and receptiveness of diverse identities and knowledge systems.

Effective responses to the human rights dimensions of climate change would include: Amendment in the existing international agreements like Paris Agreement where it includes binding human rights clauses with implementation and enforcement mechanisms so that applicable states will be liable if their climate actions or inactions violate human rights. Creation of International Tribunals and create other mechanisms, dedicated for the adjudication of cross border climate related human rights disputes are needed, so that the affected individuals and communities can seek redressal.

Integrating Environmental Justice and principles to national and international climate policies, guaranteeing the participation and provision of resources and rights based on justice and ethics. Bolstering the mandates and resources of entities such as the Office of the High Commissioner for Human Rights (OHCHR) and regional human rights institutions that can monitor, report and enforce climate related human rights obligations. Non-State Actors: Take human right obligations to corporations and beyond into non-state actors, requiring corporations, among other non-state actors, to perform due diligence and accountability, where environmental impacts of their operations occur.

Overall, the human rights and environmental justice approach to combat climate change puts moral and legal obligations for action into perspective and ensures that the response is just, inclusive, and effective. Embracing a rights-based approach enables the international community to make resilience, dignity, and sustainable development real in the face of one of the 21st century's most urgent challenges.

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