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CLIMATE JUSTICE IN A GLOBALISED LEGAL ORDER: INTERNATIONAL LEGAL FRAMEWORKS FOR ADDRESSING CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE

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Abstract

Climate justice provides a framework that connects climate change with issues of equity, human rights, and sustainable development, which highlights the disproportionate impacts of climate-related harms on vulnerable communities, developing nations, and future generations. This article critically examines the evolution of international legal frameworks governing climate action, including the UNFCCC, the Kyoto Protocol, the Doha Amendment, and the Paris Agreement. It emphasises principles such as common but differentiated responsibilities, intergenerational equity, and the right to sustainable development. Moreover, the article analyses significant climate precedents, including Urgenda, Juliana, Lliuya, and KlimaSeniorinnen, illustrating how courts are increasingly recognising climate inaction as a breach of legal and human rights obligations. The article contends that while existing treaties provide a normative foundation, the realisation of effective climate justice demands stronger implementation, which would lead to enhanced accountability mechanisms and improved global cooperation. It concludes by suggesting different pathways for integrating justice-oriented approaches into both national and international climate governance systems.

Introduction

“Climate justice links human rights and development to achieve a human-centred approach, safeguarding the rights of the most vulnerable and sharing the burdens and benefits of climate change equitably and fairly.”¹ It can also be defined as a justice-oriented approach to dealing with climate change, encompassing not only environmental protection but also fairness and equality.

¹ Mary Robinson Foundation – Climate Justice, *Principles of Climate Justice* (2011) <https://www.mrfcj.org/principles-of-climate-justice/> accessed 11 August 2025.

Climate Justice can be defined as a justice-oriented response to climate change that emphasises not only environmental protection but also fairness, human rights, and equity. It recognises that the burdens of climate change are unevenly distributed, which affects vulnerable communities, developing countries, and future generations more severely, while developed nations have mainly enjoyed the benefits of industrialisation and globalisation. Thus, climate justice aims to balance responsibilities and ensure that legal, political, and economic frameworks effectively address both environmental sustainability and social equity.

Extreme weather events, such as droughts, extreme heat, flooding, and storms, push millions into poverty annually, causing unemployment and risking unplanned internal and cross-border migration. “Every year, an estimated 26 million people fall into poverty due to extreme weather events and natural disasters. These shocks have the potential to push a total of 130 million into poverty by 2030”,² undermining decades of progress in social and economic development.

Moreover, during the Industrial Revolution, emissions of greenhouse gases resulting from human activities have increased from a negligible level to more than 40 billion tons per year. As these emissions have accumulated in our atmosphere, they have increased the average annual temperature by about 1 degree Celsius compared with the pre-industrial era, which leads to melting of glaciers and ice caps, rising sea level, and more frequent meteorological events such as heat waves and droughts with inevitable effects on ecosystems, agricultural yields, human health, and livelihoods.³

While the effects of climate change are global and their projected impacts concern every area of the world, a wide body of scientific literature suggests that climate risks disproportionately affect the poorest countries and people, who are more exposed and vulnerable to their impacts.

In the poorest economies, a significant portion of the population relies directly on activities that are likely to be the most affected by climate change, particularly the agricultural, forestry, and fisheries sectors. People with the lowest incomes are the most likely to depend on natural resources for their survival. Rising temperatures exacerbate preexisting disparities in access to clean water and affordable food. Most of the time, the poorest populations do not benefit from

² World Bank, ‘Climate Change Overview’ (28 April 2025) <https://www.worldbank.org/en/topic/climatechange/overview> accessed 15 August 2025.

³Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2023: Synthesis Report. AR6 Synthesis Report* (IPCC 2023).

insurance mechanisms or have access to basic health services, making them particularly vulnerable to any shock hitting their assets and income streams.⁴

In July 2025, the International Court of Justice delivered an advisory opinion that clarified how international law governs state responsibilities in relation to climate change. This development has been regarded as a milestone for advancing climate justice, as it reinforces global mechanisms of accountability and the protection of environmental rights.⁵

State's climate obligations are not embedded just in climate-specific treaties, but also under broader norms of international law, including human rights law, the law of the sea, and general principles of international law.

Climate change is not just an environmental problem — it is a global phenomenon of transversal nature affecting nearly every dimension of human existence, as well as ecological well-being.

International Legal Frameworks for Climate Justice

The international legal response to climate change has developed gradually through a series of treaties, conferences, and judicial mechanisms, forming the backbone of global climate governance.

The modern climate regime traces back to the 1972 Stockholm Declaration, which first recognised the link between the environment and human well-being. This was followed by the Brundtland Commission Report (1987), which introduced the concept of sustainable development, and the Toronto Conference (1988), which described climate change as a “global experiment” requiring urgent action. These initiatives established foundational principles of international environmental law such as precautionary action, equity, and the common concern of humankind.

⁴ World Health Organization (WHO), *Climate Change and Human Health* (WHO, no date) <https://www.who.int/health-topics/climate-change#tab=tab> 1 accessed 10 September 2025.

⁵ Joie Chowdhury and Sébastien Duyck, ‘A Defining Moment for Climate Justice: What to Watch For in the ICJ Climate Ruling’ (CIEL, 21 July 2025) <https://www.ciel.org/icj-climate-ruling-what-to-watch/> accessed 10 September 2025.

1. United Nations Framework Convention on Climate Change (UNFCCC), 1992

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted at the Rio Earth Summit in 1992 and entered into force on 21 March 1994. With 198 parties, it enjoys near-universal membership and serves as the cornerstone of international climate law. The objective of the Convention is laid down in Article 2, which calls for “stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”⁶ Unlike later agreements, the UNFCCC did not impose binding targets for emission reductions. Instead, it provided a framework of principles, commitments, and institutions to guide global climate action.⁷

Article 3: The Convention sets out guiding principles, which form the foundation of international climate justice:

Article 3(1): (Common But Differentiated Responsibilities and Respective Capabilities) it places greater responsibility on developed countries due to their historical emissions and greater capacities.⁸

Precautionary Principle: Article 3(3) requires states to take preventive measures against climate change even in the absence of full scientific certainty.

Right to Sustainable Development: Article 3(4) strikes a balance between environmental protection and the developmental needs of developing countries.

Equity and Intergenerational Justice: Article 3(1) & (4) stress fairness between nations and between generations.

Commitments of Parties (Article 4): The UNFCCC divides countries into:

- **Annexe I Parties (developed nations and economies in transition):** They must adopt national policies and take the lead in limiting GHG emissions (Article 4(2)(a)).
- **Non-Annexe I Parties (developing nations):** Their commitments focus on adaptation and sustainable development, without binding reduction targets.

General commitments applicable to all parties include:

- Preparing and publishing national inventories of GHG emissions.

⁶ United Nations, *United Nations Framework Convention on Climate Change* (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 2.

⁷Ibid, preamble.

⁸Ibid, art 3(1).

- Formulating and implementing national programmes for mitigation and adaptation.
- Promoting research, education, and awareness.

The UNFCCC's most outstanding achievement is creating a global consensus and institutional platform for climate negotiations. It established that climate change is not a local environmental issue but an international problem requiring cooperation and differentiated responsibilities.

However, the Convention has limitations:

- It lacked binding emission reduction targets, leaving commitments largely voluntary.
- The reliance on developed countries' leadership created tensions, as many failed to meet expectations.
- Financial and technological support for developing countries has often fallen short of promises.

2. Kyoto Protocol, 1997

The Kyoto Protocol to the UNFCCC was adopted on 11 December 1997 at the 3rd Conference of the Parties (COP 3) in Kyoto, Japan, and entered into force on 16 February 2005. It was the first legally binding international treaty that set quantified greenhouse gas (GHG) emission reduction targets for developed countries, thereby operationalising the principles of the UNFCCC.⁹ As of now, it has 192 Parties.

The Protocol shares the UNFCCC's ultimate aim (Article 2 of the Convention), but it adds specific and legally binding commitments. Its central provision, Article 3, requires Annex I Parties to ensure that their total GHG emissions for the first commitment period (2008–2012) are reduced by at least 5% below 1990 levels.¹⁰ It identified six greenhouse gases — CO₂, CH₄, N₂O, HFCs, PFCs, and SF₆, whose emissions were to be reduced during the first commitment period (2008–2012). It operationalised the principle of common but differentiated responsibilities (CBDR–RC), which is central to the concept of climate justice.

- **Annexe I Parties (developed countries):**

Under Article 3(1), they accepted *quantified emission limitation and reduction*

⁹Kyoto Protocol to the United Nations Framework Convention on Climate Change (adopted 11 December 1997, entered into force 16 February 2005) 2303 UNTS 148, preamble.

¹⁰Kyoto Protocol, art 3(1).

commitments (QELRCs), listed in Annexe B. For example:

- EU: 8% reduction
- USA: 7% reduction (though the US never ratified)
- Japan and Canada: 6% reduction³

- **Non-Annexe I Parties (developing countries):**

No binding reduction targets, but encouraged to pursue sustainable development pathways.

By differentiating responsibilities based on historical contributions and current capacities, the Kyoto Protocol sought to align international climate obligations with the principles of equity and fairness, ensuring that those most capable and historically accountable take the lead in mitigating climate change impacts—a core tenet of climate justice.

Mechanisms of Implementation

The Protocol introduced flexible mechanisms to reduce the cost of compliance (Articles 6, 12, 17):

- 1. Joint Implementation (Article 6):**

Annex I Parties can earn *Emission Reduction Units (ERUs)* by implementing projects in other Annex I countries.

- 2. Clean Development Mechanism (CDM) (Article 12):**

Allows Annex I Parties to fund or implement projects in Non-Annex I countries, earning *Certified Emission Reductions (CERs)* while promoting sustainable development in host states.¹¹

- 3. International Emissions Trading (Article 17):**

It enables Annex B Parties to trade assigned amount units (AAUs), removal units (RMUs), CERs, and ERUs.

In addition to quantified targets, Article 10 requires all Parties (Annex I and Non-Annex I) to:

- Improve emissions data and inventories.
- Promote environmentally sound technology transfer.
- Support research, education, and awareness.¹²

¹¹*Kyoto Protocol*, art 12.

¹²*Kyoto Protocol*, art 10.

It is basically the first treaty to impose legally binding emission targets. Moreover, established the Clean Development Mechanism, which attracted significant investment in renewable energy and afforestation projects and laid the foundation for carbon trading systems. However, there are some drawbacks:

- The United States opted out of this protocol, which means it was never ratified, weakening global impact.
- Canada also withdrew in 2012 after failing to meet targets.
- China, India, and other major emitters had no binding targets, which limited their effectiveness.
- Global emissions continued to rise during the first commitment period.¹³

3. Doha Amendment to the Kyoto Protocol (2012)

The Doha Amendment to the Kyoto Protocol was adopted in 2012 to establish a second commitment period for greenhouse gas (GHG) reductions, running from 1 January 2013 to 31 December 2020.¹⁴ It directs that Annex B parties commit to at least an 18% reduction below 1990 emission levels by the end of the second commitment period.² Nitrogen trifluoride (NF₃) was also included in Annex A, the list of GHGs covered. Currently, there are 147 parties that have accepted the Doha Amendment, which surpassed the threshold (144) needed for its entry into force. However, it's important to note that some major emitters, such as the United States, Canada, Japan, New Zealand, and Russia, did not participate in the second commitment period, thereby reducing its overall effectiveness in addressing climate change.

4. 2015 Paris Agreement

The Paris Agreement, adopted during COP 21 on 12 December 2015 and entered into force on 4 November 2016, builds upon the UNFCCC framework. It aims to strengthen the global response to climate change, promoting sustainable development, climate equity, and common but differentiated responsibilities (CBDR–RC). As of 2025, nearly all countries are parties to the Agreement, reflecting its universal acceptance.

Objective and Purpose (Article 2): To limit global temperature rise well below 2°C

¹³ Daniel Bodansky, *The Art and Craft of International Environmental Law* (Harvard University Press 2011) 231–35.

¹⁴ UNFCCC, *Doha Amendment to the Kyoto Protocol* (2012) <https://unfccc.int/process/the-kyoto-protocol/the-doha-amendment> accessed 10 September 2025.

above pre-industrial levels and pursue efforts toward a 1.5°C goal, while aligning climate action with sustainable development and poverty eradication. It emphasises that all countries must contribute to climate action according to their capacities, ensuring climate justice and equitable burden-sharing.

Nationally Determined Contributions (Article 4): It obligates all parties to prepare, communicate, and maintain NDCs, which outline each country's climate action plan, including mitigation measures. NDCs are to be submitted every five years and are expected to progress over time, reflecting the highest possible ambition in light of national circumstances. The obligation is one of conduct, not result, which means that parties are expected to aim for their targets in good faith, without facing penalties for shortfalls.

Transparency Framework (Article): The Agreement established a comprehensive transparency framework, requiring parties to provide information on emissions, mitigation, adaptation, and support needed or provided. Developed countries must report on finance, technology transfer, and capacity-building support, while developing countries report on their needs and receive assistance. This framework also includes a technical expert review and multilateral assessment to ensure clarity and accountability, with built-in flexibility to accommodate differing capacities.

Global Stocktake (Article 14): It is like a check-up for the whole world to see how countries are collectively performing on climate action. It does not evaluate individual countries but looks at the whole for achieving goals. Collective progress is reviewed every 5 years starting from 2023, which helps the countries to adjust and enhance their NDCs. It encourages collective accountability based on equity and fairness. It is not punitive but a tool to guide better climate action collectively.

Compliance Mechanism (Article 14): Article 15 establishes a compliance committee that facilitates implementation and promotes compliance in a non-punitive and expert-based manner. The committee helps parties identify challenges, recommend actions, and provide support while respecting national sovereignty. It does not function as an enforcement or dispute-resolution body.

Loss and Damage (Article 8): Article 8 addresses climate-related loss and damage resulting from extreme events (storms, cyclones, droughts) and slow-onset processes (sea-level rise, desertification, biodiversity loss). The Warsaw International Mechanism (WIM) supports vulnerable countries by enhancing knowledge, coordination, and the provision of finance and technical support. Importantly, the Agreement does not create liability or compensation obligations.¹⁵

Paris Rulebook (Adopted in 2018): It is essentially the operational guide for implementing the Paris Agreement. While the Paris Agreement outlines broad principles and obligations, the Rulebook clarifies how countries should report, monitor, and track their climate actions. It is akin to a “manual” that instructs countries on how to comply with the Agreement. Countries must submit information on their Nationally Determined Contributions (NDCs), climate policies, and emissions.

Landmark Climate Justice cases

Urgenda Foundation v. State of the Netherlands (2019): The *Urgenda Foundation*, along with 900 Dutch citizens, filed a case against the Dutch government, demanding stronger climate action. In this case, the Netherlands Supreme Court ordered the government to reduce its greenhouse gas emissions by at least 25% by 2020 (compared to 1990 levels). The court ruled that the government had a legal duty of care to protect its citizens from the dangers of climate change. The court relied on multiple principles, including the European Convention on Human Rights (Articles 2 and 8), international law principles (principles of no harm, precautionary approach, and fairness), and EU climate policies. So, in 2019, the Supreme Court of the Netherlands became the first court to direct a government to reduce emissions based on human rights principles.

Juliana v. United States (2020)¹⁶: In this case, 21 young plaintiffs sued the federal government, arguing that government policies (related to energy, fossil fuels extraction, etc) and its actions and inactions on climate change violated their constitutional rights to life, liberty, and property under the 5th amendment. The plaintiffs invoked the public trust doctrine

¹⁵ UNFCCC, *Explainer: Warsaw International Mechanism for Loss and Damage (WIM), Article 8 of the Paris Agreement* https://unfccc.int/sites/default/files/resource/WIM_Explainer_final.pdf accessed 18 September 2025.

¹⁶Climate Case Chart, *Juliana v United States* (Columbia Law School Sabin Center for Climate Change Law) <https://climatecasechart.com/case/juliana-v-united-states/> accessed 08 September 2025.

and substantive due process to claim a right to a stable climate system. Although the case has faced significant procedural hurdles and in 2024, the Ninth Circuit ordered dismissal of the amended complaint, and in March 2025, the Supreme Court of the U.S declined to review the case, which led to the end of the case. Although the case was dismissed, it had a global influence and inspired the youth generation to fight climate justice movements.

Lliuya v. RWE AG (2015): This is one of the most prominent transnational climate cases. In 2015, Saúl Luciano Lliuya, a Peruvian farmer and mountain guide, sued the German energy company RWE in a German court. He alleges that RWE, as a major historical emitter, is partly responsible for the melting of a glacier in the Peruvian Andes above his hometown of Huaraz, Peru. The melting glacier has caused a glacial lake to swell, creating a significant flood risk to his community. Lliuya is seeking a contribution to the cost of protective measures that is proportional to RWE's historical share of global emissions. He sought compensation for 0.47% of flood protection costs, corresponding to RWE's share of historical global emissions.

The District Court of Essen dismissed the case, citing difficulties in proving direct causation. However, in 2017, the Higher Regional Court of Hamm allowed the case to proceed to the evidentiary stage, recognising that a private company could, in principle, be held liable under German civil law for climate damages abroad. Later in 2022, a site visit was conducted, but in May 2025, the higher regional court of Hamm finally dismissed the appeal, saying that there was no substantial or imminent risk to the plaintiff's property.

Nevertheless, the case was significant because the court clarified that large emitters may, in principle, be held proportionally liable for climate damages, even across borders, under Section 1004 of the German Civil Code (BGB). In this case, the specific flood risk to Lliuya's property was not imminent enough to meet the legal threshold for intervention under German civil law. The court found the probability of a flood event occurring within the next 30 years to be less than 1%.

Verein KlimaSeniorinnen Schweiz & Ors v. Switzerland (2024): This is a landmark ruling from the European Court of Human Rights (ECtHR). A group of over 2,000 Swiss senior women sued the Swiss government, arguing that their health conditions had worsened due to heatwaves because of insufficient climate policies, and that Switzerland had failed to take adequate climate action (Articles 2 & 8 - right to life, health, and private/family life). Earlier,

the case was dismissed by the Swiss court but accepted later when the association went to the ECHR.

The ECtHR ruled in favour of the association and found violations of Article 8 and Article 6 (access to courts) since there was no quantified carbon budget and missed past targets due to inconsistent action. It is the first time a major international human rights court has held a state accountable for its inaction on climate change. It sets a crucial precedent for future transnational cases, as the ECtHR's rulings are binding on the 46 member states of the Council of Europe.

Conclusion and Way Forward

Climate change is a significant and urgent problem affecting everyone, particularly Earth's most vulnerable populations. It's a global issue that requires countries to work together, putting aside national differences for the common good. This global challenge is deeply linked to climate justice, which entails ensuring that everyone's rights are protected and that the burdens and benefits of addressing climate change are shared fairly.

The world has built a legal system to respond, with the Paris Agreement standing out as the most important international agreement on climate change. It clearly states that climate action must consider and uphold human rights like the right to health, the rights of indigenous peoples, children, and women.

However, international agreements are just a starting point; they need to be implemented at home. This is where judges and national courts play a crucial role. They are like "gatekeepers" or "climate emergency managers". Judges play a crucial role by holding governments accountable for their climate promises and legal obligations.

Also, recent international cases from the Urgenda case in the Netherlands to Lliuya v. RWE show a paradigm shift in the legal approach to climate change. These cases are moving beyond traditional environmental law to establish a duty of care for governments to protect their citizens and the global community from climate-related harms. However, not all cases have resulted in a direct victory for the plaintiffs. Nevertheless, these cases have led to a push for a new legal frontier, which also serves as an example for vulnerable communities and individuals

who are affected by climate change.

To make sure that climate justice is truly achieved within our global legal system, here are some suggestions:

- 1. Educate and Connect Judges:** We need to train judges so they fully understand the urgency of climate change, the science behind it, and how it connects with human rights and environmental laws. Support and expand international and regional platforms, such as the Asian Judges Network on Environment (AJNE) and the Global Judicial Institute on the Environment (GJIE), to facilitate knowledge sharing, the exchange of best practices, and the development of innovative jurisprudence across diverse legal systems. Such networks help judges overcome professional isolation and encourage innovation in managing climate change litigation.
- 2. Strengthen Laws and Policies:** Governments must review and improve their national laws to close any gaps that stop climate action from moving forward. These laws should clearly aim to meet the Paris Agreement's temperature goals. It's also important to make sure that climate change impacts are considered in all major development plans and that laws are clear enough for judges to enforce them effectively.
- 3. Support Rights-Based Legal Actions:** We should encourage and make it easier for people to sue governments and companies based on human rights when climate change harms them. Judges can continue to interpret basic rights, such as the right to life or a healthy environment, to include protection from climate-related impacts. Legal and policy measures should specifically prioritise the rights of disproportionately affected groups, including women, children, indigenous communities, older adults, and those in small island developing states and least developed countries, ensuring their meaningful participation and access to justice.
- 5. Use Money and Business Influence for Good:** When governments spend money on economic recovery or new projects, they should always think about climate change. This involves utilising financial incentives to promote green businesses and ensuring that banks and companies invest in ways that align with climate goals. Financial institutions and businesses should be encouraged to make strong climate commitments and be open about their climate risks.
- 6. Boost Global Cooperation and Shared Learning:** Countries need to work together more closely to help developing nations adapt and reduce emissions, providing financial and technological support. We also need more discussions among legal

experts, scientists, and leaders to find creative and effective solutions for climate change. As Justice Antonio Herman Benjamin states, since judges deal with all kinds of conflicts, "it makes no sense to leave climate change outside the courtroom".

By complying with these suggestions, countries have taken a significant step towards achieving climate justice, which in turn helps save the environment by providing justice at a global level.

