

# The Need of a Climate Justice Oriented Approach to Safeguard Human Rights in the Context of Nepal: Opportunities and Challenges

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## Abstract

Climate change and its adverse effects on human beings present a global challenge. As a Least Developed Country (LDC), characterized by mountainous terrain, and socio-economic vulnerability, Nepal is particularly at risk. It is imperative for Nepal to develop a comprehensive understanding to cope with the human rights implications of climate change, and to establish mechanisms for redressing harm, risk, and damage to its population. This paper discusses the urgent need to adopt a climate justice-oriented approach to respond to the deteriorating human rights violations resulting from climate change and its impact. Although limited studies have been conducted in Nepal that explicitly examine the overall human rights dimensions of climate change, the latest available information and sources indicate that rampant and increasing violations of human rights are occurring and that there may be more serious concerns about encroachments on human rights in future days. Similarly, the impact and consequences of climate change on human rights is highly unpredictable in terms of harm, risk, and long-term damage. Thus, through a desk review of existing literature, this paper aims to highlight the need for a comprehensive climate justice approach to human rights. Nevertheless, climate justice is a comparatively new phenomenon in human rights. However, its necessity is now unavoidable due to the outcomes and impacts of climate change on one of the world's most vulnerable countries in terms of geographical and other conditions. Thus, it is important to respond to climate justice issues from a multidimensional perspective, integrating legal, policy, environmental and human rights frameworks to ensure a just and inclusive response to the climate crisis.

**Keywords:** climate change, climate justice, climate justice litigation, human rights-based approach

## Introduction

Climate change is one of the key areas that creates various threats and concerns to the dignified life of human being and human civilization across the world. In simple terms, climate change refers to the impact on and change in the atmosphere due to global warming. However, there are many factors that contribute to the deteriorating situation

- including human activities themselves. One of the key challenges of climate change is its significant impact on the Earth's atmosphere due to greenhouse gases such as carbon dioxide, methane etc. (United Nations, n.d.). Climate change is affecting everyone's life directly and indirectly in a holistic manner, and the need to respond is pivotal to safeguard fundamental rights: the right to life,

environment, health, access to food, fair trial, justice, and others.

The United Nations has long recognized the urgency of climate action. After years of negotiation, the United Nations Climate Change Conference (COP21) in Paris, France, adopted the Paris Agreement on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC). The agreement took effect on 4 November 2016. Nepal became a party to the Paris Agreement by signing and ratifying it in 2016 and thus bears a binding obligation to fulfill its commitments.

The Paris Agreement stipulates the need to tackle the permanent and irreversible impacts of human-induced climate change, particularly through its standalone provisions concerning loss and damage. The Paris Agreement aims to limit the increase in global average temperature to well below 2°C, and to pursue efforts to limit the temperature increase to 1.5°C in comparison to pre-industrial levels. However, the agreement lacks a clear pathway for emissions reduction and relies on a system of bottom-up, voluntary pledges from signatories. The absence of a mechanism to enforce actions or apply punitive measures for the failure to achieve these goals makes the agreement weak and raises doubts about whether the climate crisis will truly be resolved.

Specifically, the Paris Agreement provides a framework for financial, technical, and capacity-building support to countries that need it. Thus, it is important that, as one of the most vulnerable countries, Nepal makes a clear and strong claim to seek all kinds of support, backed by strong advocacy and negotiation skills, to safeguard the fundamental rights of its population as ensured by the Constitution and other legislation at national and international levels. The Paris Agreement also includes provisions related to climate finance, which means providing financial support to vulnerable countries to tackle climate change. However, no specific fixed targets have been mentioned. Apart from this, the Paris Agreement is not able to explicitly address the concerns of human rights violations and the climate justice approach, especially concerning vulnerable countries.

Domestically, despite several discrepancies, Nepal has taken notable initiatives such as promoting a clean, and sustainable environment, promulgating and implementing of Euro-6 vehicle standards, hosting the Sagarmatha Talk, and raising concerns about glacial melt in several international forums. Additionally, Nepal has also advocated for the recognition of the special vulnerabilities and needs of the Small Mountainous Developing Countries (SMDCs). However, we do not yet have a specific legal framework that categorically responds to climate change-related human rights violations or provides a clear approach to seeking justice. However, we do have various spread out legal frameworks that ensure different forms of fundamental rights, which also relate to climate justice concerns. Apart from legal adoption, there have also been other limited initiatives undertaken to respond to climate change concerns in terms of strengthening access to justice. These includes advocacy/lobbying, climate justice litigation, policy advocacy, and strengthening National Human Rights Institutions (NHRIs) among others.

For this paper, I have applied analytical, interpretative, and descriptive research methods; however, a personal self-explanatory approach has also been reflected based on my experiences on various issues. I focus on analyzing and clarifying the need for adopting of climate justice initiatives - including analysis of the human rights situation due to climate change, policy-level advocacy, policy reform, and maintaining data on the nature and forms of human rights violations to respond to related violations.

One of the key challenges in our context is the absence of a comprehensive, systematic, and scientific study with data that clarifies the nature and types of human rights of Nepali citizens at risk of encroachment due to climate change, and its impacts. I think that it is necessary to respond to human rights concerns related to climate change by establishing a robust climate justice approach, initiated through various context-specific initiatives that identify Nepal's specific needs and challenges.

### **Human Rights Concerns and Climate Change**

Nepal only contributes around 0.027

percent to global greenhouse emissions; however, it ranks fourth among countries most vulnerable to the impacts of climate change (World Bank, 2021). These impacts include drought, excessive rainfall, floods, landslides, and the inundation of glacier lakes - hazards that disproportionately affect communities with poor socio-economic status (Ministry of Forests and Environment, 2021).

Climate change is increasingly undermining the free and dignified exercising of human rights in multiple ways. It contributes to hazardous environmental conditions, reduces biodiversity, increases health risk, and may lead to forced migration. The consequences can be severe and wide-ranging, particularly for the most marginalized groups.

In recent years, Nepal has experienced serious air pollution, especially in Kathmandu Valley. At several points during the year, Kathmandu ranked first among the most polluted cities in the world, and the overall air quality in Nepal reached dangerously unhealthy levels (IQAir, 2014). According to Nepal's approved air quality index (AQI) standards adopted by the Government, an AQI value between 151 and 300 is considered very unhealthy, and levels above 301 are deemed hazardous (Department of Environment, 2023).

Multiple national news outlets have repeatedly reported that the toxic air pollution poses serious health risks – especially to children, senior citizens, pregnant women, and individuals with pre-existing heart or respiratory conditions (MyRepublica, 2025). In response, the government has urged citizens to stay indoors and wear a mask when going outside. Hospitals have also reported an increase in patients seeking treatment for eye irritation, sore throat, headaches, and respiratory symptoms during peak pollution periods.

Despite Constitutional guarantees of the right to a dignified life, the right to a clean environment, and the right to health it is evident that people in Nepal continue to suffer the consequences of environmental degradation and climate-induced health risks. As an LDC, Nepal faces multi-faceted challenges, with climate justice at risk particularly for vulnerable populations.

## **Human Rights-Based Approach to Responding Climate Change**

It is important to adopt a human rights-based approach in responding towards the concerns raised by climate change. Numerous international human rights instruments explicitly address human rights issues, including the Universal Declaration of Human Rights (1948), International Covenant on Civil and Political rights (1966), and the International Covenant on Economic, Social and cultural Rights (1966).

These instruments affirm that all human beings are born free and equal with dignity and rights, and emphasize principles highly relevant to climate justice. Key principles include:

- **Distributive justice:** Fair allocation of adaptation burdens, adverse health impacts, and other climate related effects, particularly in relation to vulnerable populations.
- **Procedural justice:** Ensuring fair and inclusive decision-making processes, with special attention to communities historically excluded and rendered voiceless.
- **Intergenerational justice:** Considering the long-term consequences of current decisions on future generations.
- **Gender equity:** Recognizing the differing abilities of women and men to adapt to or mitigate the challenges and impacts of climate change.
- **Precautionary principle:** Exercising caution when action or inaction may result harm to the population or the environment.

Human rights law and remedies specifically can be helpful tools to protect environmental interests, the right to health, and to reduce inequality, since these rights are widely recognized in both, existing international and national legal frameworks (UN General Assembly, 1948; OHCHR, 2015). The relevance of human rights obligations on climate change is now beyond dispute, and the systemic integration of these obligations is being increasingly adopted, both nationally and internationally (Knox, 2018).

There are also emerging good practices that show human rights-based initiatives can be mobilized to address climate challenges. In some of the countries, National Human Rights Institutions (NHRIs) are also working proactively to respond to human rights concerns from climate change. One notable example comes from the Philippines, where the Commission on Human Rights played a pioneering role in developing accountability for climate-related human rights harms.

In 2015, a coalition of national and international civil society organizations and individuals – led by Greenpeace Southeast Asia – submitted the Carbon Majors Petition to the Commission. The petition called for an investigation into the responsibility of the world's largest corporate greenhouse gas emitters (known as the Carbon Majors) for human rights violations or threats thereof resulting from the impacts of climate change (Greenpeace, 2015). The petition was filed following the widespread loss of life and harm to property and persons associated with increasingly extreme weather events in the Philippines. This initiative led to the National Inquiry on Climate change (NICC), which investigated the increasing frequency and severity of natural disasters and the resulting human rights impact in the Philippines. It marked a historic first-of-its-kind investigation, bridging the gap between environmental harms and corporate human rights accountability. The Commission released its findings in 2022, concluding that corporations can be held accountable for human rights violations stemming from climate change (Commission on Human Rights of the Philippines, 2022). The report established a crucial precedent in coalescing emissions with legal responsibility for rights-based harms.

### **Notion of Climate Justice**

The climate justice movement has its historical roots in anti-globalization protests and the formation of the Durban Group for Climate Justice in 2004, which explicitly critiqued carbon trading. Later, the “Climate Justice Now!” network primarily allied itself with European activism through the “Climate Justice Action” campaign during the 2009 Copenhagen Summit (Bond,

2010). At its core, the climate justice movement frames climate change as a fundamental rights issue, one that affects lives, health, children, and access to natural resources.

The central argument is that the resource footprint, overconsumption, and fossil fuel dependence of the Global North has externalized environmental costs onto the Global South – effectively turning these regions into “social sinks” (Bond, 2012; Shultz, 2010). The climate justice approach calls for the repayment of this climate debt by wealthy nations of the Global North, in the form of reparations and by leaving ecological space for sustainable development in Global South nations (Schultz, 2010).

According to Brian Tokar, a noted climate justice advocate, climate justice evolved out of the anti-capitalist and global justice movements in resistance to institutions like the World Trade Organization, and the economic summits of the late 1990s and early 2000s (Tokar, 2014). He argues that the movement goes beyond environmental sustainability by emphasizing systemic injustice, power imbalance, and the historical responsibilities of industrialized nations.

The Center for Climate Justice at the University of California defines climate justice as a vision to dissolve and alleviate the unequal burdens created by climate change. It recognizes the disproportionate impact on low-income communities and those least responsible for the problem (University of California Centre for Climate Justice, n.d.).

The UN Women framework on Feminist Climate Justice similarly asserts that the climate crisis places a disproportionate burden on poor and marginalized communities, especially women. Addressing this requires dismantling fossil fuel corporate power, ensuring reparations, and achieving a fair distribution of global wealth (UN Women, 2022). Barbara Adams and Gretchen Luchsinger, explain that the notion of climate justice has emerged as a way of encapsulating the equity dimensions of climate change, linking environmental protection to social justice and human rights (Adams & Luchsinger, 2010).

Climate justice builds on a platform of equitable development, human rights, and democratic participation. It seeks to redress the injustice of global warming by reducing disparities in development and power that drive the climate crisis and perpetuate inequality. According to Dr. Jethro Pettit of the University of Sussex, marginalized communities are already invoking climate justice in rights-based language to identify actors responsible for climate harms, and to challenge systems that continue to reinforce vulnerabilities (Pettit, 2009). Pettit also argues that a climate justice approach can help expose and address human rights issues, inequality, and systemic injustice. It is essential, therefore, to explore how a climate justice approach can be used in Nepal to respond to climate-related human rights-based concerns and to apply a human rights-based framework to climate policy and legal mechanisms.

The Office of the United Nations High Commissioner for Human Rights (OHCHR), in its 2009 report, emphasized that the effects of climate change give rise to justiciable human rights violations. However, the report also identifies several technical and procedural obstacles to holding stakeholders accountable, including the challenge of finding judicial or quasi-judicial bodies willing and able to hear such complaints.

### **Advancing a Climate Justice Approach in Nepal: Imperatives and Strategic Pathways**

A climate justice approach represents a critical framework that must be prioritized within the Nepali context. A central question that demands urgent consideration is: *How can the protection and promotion of fundamental human rights be ensured amidst escalating climate-related challenges?* Climate justice is inherently multidimensional, necessitating the coordinated engagement of diverse stakeholders—each bearing distinct roles, responsibilities, and accountability mechanisms.

Despite minimal contribution to global greenhouse gas emissions, Nepal is burdened with disproportionate climate vulnerabilities due to its mountainous terrain, fragile ecosystems, and socio-economic constraints. Consequently, adopting

a climate justice lens is not only warranted but imperative to safeguard the rights of people least responsible for climate change, yet most severely impacted. To operationalize this approach, the following strategic interventions are proposed:

#### ***Promoting Climate Justice Advocacy***

Effective advocacy is essential to raise awareness and build consensus on what climate justice itself entails and how it can be implemented. This includes informing key stakeholders – such as policymakers, legal professionals, civil society, and community leaders – about the normative principles and tools underpinning climate justice.

As a signatory to the Paris Agreement, Nepal must actively engage in international forums to secure increased climate financing, technical support, and stronger global commitments to emissions reductions. Such advocacy should reflect the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC).

#### ***Leveraging Human Rights Law***

Human rights law serves as a powerful instrument for advancing climate justice. It provides a robust legal foundation for protecting environmental integrity, the right to health, and other rights adversely affected by climate change. These frameworks enable individuals and communities to demand accountability and seek redress of grievances when violations occur.

Policy advocacy must aim to integrate national legal instruments with climate justice principles and incorporate climate-related risks into broader human rights discourse. Existing human rights standards should serve as complementary fillers to ensure meaningful protection where environmental law proves inadequate.

#### ***Strengthening Climate Justice Litigation***

Strategic litigation can be an effective mechanism for holding both state and non-state actors accountable for inaction or harmful practices related to climate change. Although climate litigation in Nepal remains nascent, it possesses significant potential for catalyzing systemic change.



In order to pursue this avenue, targeted capacity-building initiatives should be implemented for judicial actors—including judges, lawyers, prosecutors, and court personnel. These programs should focus on best practices in climate jurisprudence, strategic litigation techniques, and the interpretation of constitutional and human rights norms in the context of environmental harm.

### ***Empowering National Human Rights Institutions:***

Strengthening the mandate and operational capacity of Nepal's National Human Rights Commission (NHRC) is essential to institutionalize a climate justice approach. The NHRC can play a critical role in monitoring environmental rights, investigating climate-related violations, and issuing actionable recommendations for government accountability.

Furthermore, establishing dedicated redress mechanisms—either within the NHRC or through parallel institutional structures—would enhance public trust and facilitate access to remedies for marginalized and climate-affected communities. Such mechanisms should prioritize transparency, accessibility, and responsiveness to ensure effective climate and human rights protection.

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