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FROM RESOLUTIONS TO REPARATIONS: ADVANCING ENVIRONMENTAL AND HUMAN RIGHTS LAW

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ABSTRACT

Environmental law and human rights are the new interface, which emerged as a key focus of both academic and legal inquiry, as there is an absolute need to balance ecological sustainability with the protection of fundamental freedoms. Environmental rights cut across traditional classification of human rights, be it civil, political, economic, or social. Formal establishment of this relationship has started to take a foothold since the 1968 United Nations General Assembly resolution recognized the impact of environmental changes on basic rights. This trend has been continued and further solidified through subsequent declarations, such as the 1990 Commission on Human Rights resolution. Addressing the interaction amid environmental protection and human rights demands a comprehensive legal framework that integrates ecological priorities with the principles of human dignity and justice. This need is especially urgent in the face of escalating global crises that threaten the rights and opportunities of current and future generations. The study proposes that “Ecological Human Rights” be recognized as a basic expansion of human rights and presents an integrated legal approach that unifies environmental sustainability with socio-economic equity. This approach will ensure that benefits from development are equitably distributed and ecological integrity preserved. The paper calls for stronger mechanisms of accountability to include rights- based environmental litigation, climate reparations, and involving marginalized and indigenous communities actively in conservation. These considerations offer a pathway towards a sustainable and just future according to the argument of the paper on the harmonization of human rights and environmental laws.

Then the question arises how can international legal frameworks better harmonize human rights and environmental protection to ensure both ecological sustainability and equitable development? Based on a critical analysis of mechanisms such as the Paris Agreement, it is evident that while it acknowledges issues like loss and damage, it has notable deficiencies, particularly its inability to establish a well-defined compensation framework for vulnerable

nations. This shortcoming leaves these countries exposed to irreversible climate consequences, highlighting the ongoing challenge of addressing global inequalities effectively. It does not address what recently highlighted the crucial establishment of a strong mechanism on the climate reparation. Instead, it gives an insight to the practicality of human rights legislation in an environmental context with case studies where rights-based approaches can drive meaning change, including the Philippines Commission on Human Rights, which investigated how oil companies' activities contributed to global warming.

Key Words: *Ecological Sustainability, Human rights, Socio-economic equity, Sustainable development.*

INTRODUCTION

In 2021, Tuvalu's foreign minister stood knee-deep in sea water delivering a speech at the United Nations Climate Summit a chilling photo of a drowning country as sea levels rise. Thousands of miles distant in the Amazon rainforest, Indigenous peoples fight against persistent deforestation, illegal mining, and corporate land grabbing, destroying one of the planet's most significant carbon sinks. The Amazon, also known as "lungs of the Earth," holds 2.2 billion tons of CO₂ every year.¹ Yet, in the past three decades alone, more than 17% of the rainforest has been destroyed, driving climate change, eroding biodiversity, and displacing Indigenous peoples.² Such crises do not exist in isolation these are expressions of an international human rights crisis created through environmental destruction, corporate collusion, and state indifference.

The destruction of Tuvalu and the Amazon are not just environmental disasters; they are fundamental violations of human rights. Rising sea levels threaten the right to life, security, and national sovereignty of small island states, while deforestation and extractive industries strip Indigenous communities of their land, cultural identity, and means of survival. Attentive to this emerging crisis, international policy and law have more and more situated environmental protection as central to human rights discourse. With the increasing deprivation of the environment because of climate change, deforestation, pollution, and loss of biodiversity its

¹ Gu, C., Xu, J., Wang, C. & Feng, S., Forest Carbon Sequestration Based on Time Series Analysis and Fuzzy Linear Programming Model, 2 J. Mgmt. & Soc. Dev. 45 (2024).

² Rainforest Found. US, Annual Report 2023, <https://rainforestfoundation.org/about/financials-transparency/2023-annual-report/> (last visited Mar. 2025).

impact overflows from environmental issues into directly jeopardizing basic human rights like the right to life, well-being, and a decent level of living. Recognizing this intersection, global legal frameworks have increasingly looked at environmental protection as an intrinsic aspect of human rights. The 1968 General Assembly resolution of the United Nations initially dealt with the effects of environmental change on basic rights, a matter more strongly underscored by later declarations, such as the 1990 Commission on Human Rights resolution. Nevertheless, in spite of increasing legal acknowledgement, wide loopholes still persist in guaranteeing accountability, justice, and equitable distribution of environmental benefits and costs. The paper critically analyzes such gaps and argues for institutionalizing "Ecological Human Rights" a theoretical framework of human rights that bridges environmental sustainability with socio-economic justice. While environmental rights have been codified in various international agreements, their enforcement provisions are lax, allowing states and corporations to get away with environmental destruction. The paper calls for a rights-oriented legal framework that strengthens environmental litigation, climate reparations, and participatory governance mechanisms to safeguard vulnerable and marginalized communities. Drawing on a review of extant legal instruments, including the Paris Agreement, this study presents gaps in current international obligations, including the absence of legally binding climate reparations. The study identifies the disadvantages of voluntary climate finance mechanisms and highlights that legally binding reparations are necessary for nations that have a disproportionate burden under climate change. Additionally, the study examines landmark cases such as the Philippines Commission on Human Rights' inquiry into corporate accountability for climate change to demonstrate the ways legal precedents can be employed to hold corporations accountable. By a solution to these pressing issues, this paper seeks to play a part in the emerging debate of environmental and human rights law. It demands a general, legally binding framework that places utmost priority on environmental justice and imposes state and business accountability. The paper contends that without enhanced enforcement measures, participatory governance mechanisms, and fair climate policies, current international obligations will fall short of protecting both ecological integrity and human dignity for current and future generations. The destruction brought about by climate change is not just an environmental crisis but also a core human rights issue, impacting the right to life, health, and security. Seeing this, global legal structures have slowly developed to recognize the inherent relationship between environmental protection and human rights, thus setting the stage for the formation of Ecological Human Rights as an essential element of international law.

JUNCTURE OF ENVIRONMENTAL PROTECTION AND HUMAN RIGHTS

Human rights, as universally accepted to be inherent in all human by virtue of being a human, were initially thought of as protection against the arbitrary use of state power. Human rights are based on the principle that all individuals have the right to enjoy their rights without discrimination. The need to protect individuals from the arbitrary application of state power led to the development of the concept of fundamental rights. Consequently, the rights which mandate governments to refrain from certain activities were initially the center of focus. Here, human rights are often called "fundamental privileges." Due to the fact that humans are defined as rational beings, they are born with some basic rights. All human beings are born with these rights, which are innate. Basic rights, birth rights, inherent rights, fundamental rights, natural rights, which may also be referred to as the rights, regulate the social welfare, spiritual, moral, and physical aspects of a human being. Human rights are used as a model and point of reference for the law in that they are viewed as an indispensable requirement of leading a life worthy of respect. The need that human rights be protected by the law commonly referred to as "the rule of law" is an important consequence of these features.

A major topic in both national and international legal systems for many years has been the relationship between environmental preservation and human rights. A healthy environment is essential to the accomplishment of basic human rights, such as the rights to life, health, and a sufficient quality of living, as acknowledged by an integrated approach. Degradation of the environment jeopardizes these rights by influencing food security, water and air quality, and general human welfare. Legal frameworks highlight public engagement in decision-making, information access, and environmental justice as crucial foundations of efficient environmental governance in order to reduce these concerns. While access to justice gives people and organizations the means to protest damaging environmental practices and demand government accountability, public involvement promotes inclusivity and fortifies legal accountability.

The increasing legal recognition of environmental rights is demonstrated by international agreements. The rights to justice in environmental matters, public participation in decision-making, and access to environmental information are guaranteed under the Escazú Agreement, the first legally enforceable environmental treaty in Latin America and the Caribbean. In keeping with the pressing need to protect activists who are threatened for speaking out against

environmental degradation, it is also the first international convention to specifically protect environmental defenders.

The need to hold businesses and governments responsible for environmental deterioration has also been recognized by human rights organizations. Resolutions confirming the right to a sustainable, well and clean environment have been passed by the UN General Assembly and UN Human Rights Council. Although these resolutions are not legally enforceable, they do add to the expanding corpus of standards that support nations' obligations to incorporate human rights concerns into environmental policies.

There are still obstacles in the way of completely combining environmental preservation with human rights, even with these legal developments. The conflict between environmental sustainability and economic development is still a major global issue. Social justice and sustainable development depend on the approach to environmental and human rights law. By acknowledging environmental protection as a human right, communities and individuals are given the legal means to fight for their welfare. In order to enforce accountability and safeguard vulnerable communities from ecological harm, it is imperative that institutions for justice and openness in environmental affairs be strengthened. To enact legally binding frameworks that ensure environmental sustainability while respecting human dignity, governments, international organizations, and society must cooperate.

HISTORICAL DEVELOPMENT OF ENVIRONMENTAL HUMAN RIGHT

The development of environmental rights as global human rights has been a gradual process over the last five decades, spurred by international legal instruments and accumulating scientific proof of climate change's effects on human living conditions. The 1968 United Nations General Assembly (UNGA) Resolution was one of the first recognitions that environmental degradation has direct effects on basic human rights. This was followed by other landmarks, including the Stockholm Declaration of 1972 on the Human Environment reaffirming that human beings are entitled to an environment that allows dignity, well being and quality of life. It transformed the view of if the world by legally grounding a link between environmental conservation and human rights, which forces states to embrace policies of

sustainable development.³

On these principles, Rio Declaration on Environment and Development (1992) set fundamental environmental law maxims, such as the precautionary principle that favor preventive action when there are risks to the environment and the polluter pays principle that mandates that entities responsible for degrading the environment should cater for the clean-up. The principles were aimed at imposing responsibility and incorporating consideration of the environment into human rights paradigms.⁴ Yet, even with these advances, legal enforcement systems were still inadequate, and environmental degradation continued without proper redress. Though these milestones are significant steps toward identifying environmental protection as a human right, they are still more declaratory than enforceable. Without binding legal measures, persistent loopholes in accountability have resulted in states and corporations continuing to plunder the environment with little or no repercussions.

The 2015 Paris Agreement was a milestone in attempting to restrain global warming and its harmful effects. Although the Agreement acknowledged that climate change imposed an unfair burden on developing states, the Agreement did not establish a climate reparation policy⁵. The establishment of the Loss and Damage Mechanism⁶ was a step forward in instituting an acknowledgment of past responsibility for climate harm but was non-binding and voluntary. Hence, the developing world, though having the least emissions, is still suffering from sea-level rise, weather-related natural disasters, and loss of natural resources without the assurance of money or infrastructure support.

The Human Rights Council (HRC) reports also highlighted the imperative need for effective legal frameworks. The HRC report of 2022 highlighted that the developed nations, which have historically caused most of the climate change, have not adequately discharged their responsibility towards the vulnerable countries. This imbalance is moral and legally incorrect as it contravenes the very premises of equitable and sustainable development. Aware of such

³ L. Vandamme, S. Klinsky, J. Chowdhury & E. Lennon, *Remedy and Reparations for Climate Harm: The Human Rights Case* (N. Reisch, S. Duyck & E. Lyons eds., Ctr. for Int'l Env'tl. L. 2024), https://www.ciel.org/wp-content/uploads/2024/11/Remedy-and-Reperations-for-Climate-Harm_CIEL_Report_2024.pdf.

⁴ Id (pg no. 38)

⁵ Significant redress for climate harm, and access to justice necessary to guarantee the right to remedy in the case of climate-related human rights harm

⁶ Synonym for climate harm, mainly used to describe this harm in the context of the negotiations under the UNFCCC. When capitalized, "Loss and Damage" refers to political discussions and related mechanisms under the UNFCCC

imbalances, the United Nations Human Rights Council (UNHRC) formally proclaimed in 2021 that healthy, unsoiled, and sustainable setting constitutes a universal anthropological right.⁷ It was succeeded by UNGA Resolution 76/300 (2022), reaffirming environmental protection is needed for the enjoyment of all human rights. Legal accountability is still in shambles, with limited access to justice for the affected groups.

THEORETICAL FRAMEWORKS ON ENVIRONMENTAL HUMAN RIGHTS

The rights-based understanding of environmental law is a solid legal foundation to address climate change as a matter of human rights. As opposed to the state sovereignty and economic-centric traditional environmental policy, this is premised on individual and collective rights to a safe and sustainable environment. This is to be seen in international climate modification of law suits, for example, the request by the Philippines Commission on Human Rights against the fossil fuel industries, arguing that such big corporations "carbon majors" are legally liable for human rights violations brought about by climate change.

Carbon Majors is a database of 180 of the world's largest oil, gas, coal, and cement producers' historical production records. The historical record, from 1750 to 2023, shows that 67% of global fossil fuel and cement emissions are traceable to 181 entities, and more than one-third of those emissions are linked to only 26 producers.

Surprisingly, 36 entities accounted for over half of the world's fossil fuel and cement CO₂ emissions in 2022. The biggest carbon-spewing entities of 2023 are state-owned institutions, 16 of the biggest 20 of which are state-owned.⁸

The concentration of the emissions on such high-emitters is to highlight their disproportionate impact on climate change and the resulting duty such high-emitting actors bear in curbing its effects. With more climate cases being filed and environmental rights being recognized more and more as human rights, legal frameworks must be modified such that they have more stringent regulation mechanisms, enforce the polluter pays principle, and render binding climate

⁷ U.N. High Comm'r for Hum. Rts., Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, U.N. Doc. A/HRC/50/57 (2022), <https://www.ohchr.org/en/climate-change/impact-climate-change-rights-people-vulnerable-situations>.

⁸ Carbon Majors: 2023 Data Update <https://carbonmajors.org/briefing/The-Carbon-Majors-Database-2023-Update-31397> accessed on March 2025

reparations obligatory such that such high-emitting actors become legally accountable.

Linked very closely to this paradigm is that of climate justice, which speaks to the deep injustices between the industrialized high-emitting nations and the climate-vulnerable countries. The Intergovernmental Panel on Climate Change (IPCC) estimates that the small island developing states (SIDS) and other low-emitting states emit less than 1% of the earth's carbon but face some of the world's most disastrous consequences, including sea-level rise, extreme weather events, and economic instability. These injustices make it all the more imperative to have equitable climate policies that do not just seek to suppress emissions but also to compensate those nations facing irreversible loss.

A critical aspect of climate justice is the principle of the polluter pays, where perpetrators of environmental harm are required to pay for mitigation as well as reparations. This doctrine has been increasingly invoked in climate cases, most recently in *Milieudéfense v. Royal Dutch Shell* (2021), where a Dutch court ordered Shell to reduce its carbon footprint by 45% by 2030.⁹ This judgment was a historic precedent, illustrating that companies could be held accountable in law for their contribution to climate change. However, application of this principle is patchy between jurisdictions, and this is why stronger international legal mechanisms are needed.

Even as environmental rights are increasingly being acknowledged, there are still large gaps in international treaties and enforcement. The Paris Agreement, though a breakthrough, is largely based on voluntary action and thus does not oblige countries to assume responsibility for climate change loss and damage.

The UNFCCC Loss and Damage Fund, which was set up to help developing countries, is underfunded and non-binding, constraining its ability to deal with the magnitude of environmental damage being faced by vulnerable communities. One of the biggest challenges is corporate impunity under environmental law. Fossil fuel companies, although they were aware of the harmful impact of their emissions at least since the 1960s, have continued to expand and have actively undermined climate policy through disinformation. The Human Rights Council's report in 2022 explained how lobbying by corporations and legal loopholes

⁹ Judgment of 12 November 2024 in the case of *Shell Plc vs. Environmental Defense Association et al.* In *THE HAGUE COURT OF APPEAL*. https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2024/20241112_8918_judgment.pdf

have stalled effective climate action, allowing high emitters to escape financial and legal sanctions. Although litigation cases in the United States, European Union, and Global South are on the rise, the majority of lawsuits are unable to impose penalties because of weak legal systems that do not effectively establish corporate liability for climate-related human rights abuses.

The most urgent one is the lack of a binding global system of climate reparations. While developing countries are disproportionately impacted by climate disasters, there is no global mechanism that guarantees that historically high-emitting countries pay them for loss and damage. Center for International Environmental Law (CIEL) reports support the creation of a climate reparations fund, drawing on past mechanisms of historical compensation applied in situations of massive human rights abuses. However, opposition from developed countries has blocked progress in this area, giving affected communities scant options other than humanitarian relief, which is rarely adequate and is short-term.¹⁰

PROPOSAL FOR ECOLOGICAL HUMAN RIGHTS

With the speeding up of the climate crisis, the urgency for a unified legal framework that unites environmental protection and human rights has become inescapable. Although environmental rights have increasingly been recognized in international law, enforcement mechanisms through the law are still lacking, enabling states and corporations to shirk accountability for climate damage. Vulnerable groups, especially in SIDS, Indigenous lands, and economically poor regions, still carry the burden of environmental degradation with minimal access to justice or remedy. This paper calls for the enactment of Ecological Human Rights, a piece of legislation that enshrines the right to a healthy, clean, and sustainable environment as an absolute human right. Three arenas must be strengthened before it can be enacted in full: climate reparations, rights-focused environmental litigation, and participatory governance that gives voice to marginalized populations.

More recently within the last decade, environmental rights have become more recognized as human rights, but no effective enforcement is offered by current legal systems. In 2021, the

¹⁰ Vandamme, L., Klinsky, S., Chowdhury, J., Lennon, E., & Center for International Environmental Law. (2024b). *Remedy and Reparations for climate harm: The Human Rights case* (N. Reisch, S. Duyck, & E. Lyons, Eds.). Center for International Environmental Law. https://www.ciel.org/wp-content/uploads/2024/11/Remedy-and-Reparations-for-Climate-Harm_CIEL_Report_2024.pdf

UNHRC implemented resolution reaffirming a vigorous environment as a universal human right, a step later supported by the UNGA Resolution 76/300 in 2022.¹¹ But these resolutions, have no binding enforcement powers, which restricts their capacity to hold states and corporations answerable for damaging the environment.

Idea of Ecological Human Rights aims to comprehensively fill this gap through the creation of an unmistakable legal duty on states and corporations to restore and safeguard environmental integrity. Such a system would acknowledge:

- Substantive Rights – There has to be a legally enshrined right for people and communities to have access to clean air, safe water for consumption and a secure climate.
- Procedural Rights – Citizens should have a right to receive environmental information, engage in decision-making, and claim legal recourse for environmental injury.
- Accountability Measures – Governments and companies should be legally required to avoid, mitigate, and pay for environmental degradation.

By enshrining these rights into international and domestic law, Ecological Human Rights would provide a more solid platform for climate litigation and policymaking, such that environmental protection would no longer be viewed as a secondary imperative but as a central legal obligation. In addition to accountability, genuine environmental justice demands just reparations to disproportionately impacted communities from climate change. As corporations and high-emission nations continue to reap rewards from environmental pillage, marginalized populations and vulnerable nations suffer disproportionately. Climate reparations therefore present themselves as an essential legal and moral imperative to redress such injustices.

Strengthening Accountability Mechanisms

1. Climate Reparations as a Legal Obligation

One of the most pressing elements of Ecological Human Rights is the creation of legally binding climate reparations. Climate reparations are economic and non-economic compensation to communities disproportionately affected by climate change, particularly those in developing nations. Currently, the UNFCCC Loss and Damage Fund under the Paris Agreement is an economic instrument to support countries that are suffering from climate-

¹¹ United Nations. (2022a). A/RES/76/300 The human right to a clean, healthy and sustainable environment. In *General Assembly*

related destruction. Still, donations to the fund are voluntary, and emissions heavy nations have fought to compel reparations through the law, depriving climate affected states of sufficient funding. In order to establish climate justice, reparations must move from the voluntary to the legal sphere. This involves:

- **Binding Legal Commitments:** An internationally binding Global Climate Reparations Fund obligating historically high-emitting nations to pay those affected according to their share in climate change.
- **Legal Precedents:** Following *Milieudefensie v. Royal Dutch Shell* (2021), which held a private company responsible for emissions reduction, the same legal tools can be used to enforce state responsibilities for climate reparations.
- **Equitable Distribution:** Climate reparations should first go to frontline communities, especially in Africa, South Asia, and the Pacific Islands, which bear the effect of climate impacts while contributing the slightest to global emissions.

Legally enforceable reparations would transfer the onus of climate adaptation and mitigation from vulnerable countries to historically emitter nations, equating climate finance with accountability and justice principles.

Enforcement of Ecological Human Rights is strongly hampered because there is no binding international legal instrument to prosecute states and corporations for climate damage. Although domestic courts have increasingly decided in cases of climate litigation, international tribunals and courts are not sufficiently utilized when dealing with environmental destruction as a human rights issue. Due to the transboundary nature of climate change, there is an urgent need to expand the jurisdiction and mandate of international courts to entertain cases with a climate element. But with an independent judiciary, climate reparations can be more than voluntary and futile. To make accountability a reality, institutions of international law such as the ICJ, the ICC and regional human rights tribunals must play a more active role in enforcing reparations and holding environmental criminals accountable.

The International Court of Justice is the central judicial organ of the United Nations with a mandate to settle disputes between states regarding matters of international law. Although the ICJ previously concentrated on territorial and human rights violations disputes, its increased activity in climate cases makes it possible that the trend is currently to entrench environmental degradation as a matter of law worthy of international adjudication.

In 2023, Vanuatu spearheaded a group of more than 130 countries in calling for an ICJ advisory opinion on states' legal obligations to combat climate change¹². This move aims to clarify: Whether or not states are legally bound to prevent transboundary environmental damage under customary international law. In case the failure to reduce emissions is a human rights obligation under existing environmental agreements, e.g., the International Covenant on Civil and Political Rights (ICCPR).

An ICJ ruling affirming state responsibility for climate damage would be a powerful legal authority to support climate litigation around the world, compelling states to strengthen their national climate policies in line with international law.

The ICJ has already rendered judgments in respect of transboundary environmental damage, such as the Pulp Mills on the River Uruguay Case (2010)¹³, in which it upheld the position that states are obligated to prevent environmental damage across their borders. The same logic can be used for climate change by:

- Enshrining the polluter pays principle state responsibility for past carbon emissions.
- Establishing legal channels for climate-affected countries to pursue compensation from industrialized states for loss and damage.

But the one major drawback is that ICJ decisions are state-consensual, and hence high-emitting countries like the United States, China, and India might not agree to comply. Enhancing international enforcement mechanisms, for example, by connecting ICJ decisions to trade action or economic sanctions, would act to enhance compliance.

Besides state responsibility, individual responsibility for ecological devastation is also on the rise. The ICC, which sends people to prison for genocide, war crimes, crimes against humanity, and aggression, has come under mounting pressure to include "ecocide"—tremendous damage to the environment that ruins human life and biodiversity—in its list of crimes to prosecute. By adding ecocide to the Rome Statute, the ICC can hold state leaders and policy makers as well as corporate chiefs personally liable for acts of ecocide, complementing the enforcement by the ICJ against obligations of states. Defining Ecocide Under International Law, in 2021, the Independent Expert Panel for the Legal Definition of Ecocide suggested the following

¹² United Nations Environment Programme. (n.d.). UN resolution billed as a turning point in climate justice. UNEP. <https://www.unep.org/news-and-stories/story/un-resolution-billed-turning-point-climate-justice>

¹³ Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. 14 (Apr. 20).

definition:

"Unlawful or reckless acts done with knowledge that there is a strong likelihood of serious and either widespread or long-term harm to the environment."¹⁴

This definition fits the ICC's jurisdiction upon crimes that result as mass suffering, placing climate devastation as a crime against humanity. Corporate leaders and government officials would be criminally liable for massive environmental damage, including, oil spills and deforestation causing loss of biodiversity (e.g., loss of Amazon rainforest), mass carbon emissions causing sea-level rise and climate displacement, industrial air and water pollution and toxic waste dumping on vulnerable groups.

Today, the ICC only prosecutes individuals, not companies. But according to legal scholars, CEOs of large polluting industries, like fossil fuel and mining corporations must be held individually responsible for ecocide. If ecocide is officially made a crime, CEOs of such polluters might stand trial like human rights abusers.

Proposed as it is, ICC prosecution of environmental devastation has numerous hurdles, Political opposition from emitting states that are afraid of liability, The necessity of amending the Rome Statute, which demands two-thirds majority support from ICC member states, Challenges in establishing direct intent in climate crimes, considering the intricacy of global emissions.

In order to overcome these obstacles, civil society groups, scholars of law, and climate vulnerable states need to actively campaign for implementation of ecocide as international crime.

International courts play an essential but overlooked role in applying climate justice. The ICJ, ICC, and regional human rights courts need to extend their jurisdiction to sanction states and companies for ecocide. The criminalization of ecocide, consolidating climate precedents, and connecting ICJ decisions with economic sanctions are indispensable measures to shift environmental law from a system of soft law into a legally binding system of responsibility. Without such legal frameworks, climate inaction will persist to threaten future generations and breach basic human rights. Although the ICJ, ICC, and other courts of law are avenues for legal recourse, they are most times weakened by political and structural hurdles. The absence of

¹⁴ Independent Expert Panel for the Legal Definition of Ecocide, Proposal for a Legal Definition of Ecocide, STOP ECOCIDE FOUND. (June 2021), <https://www.stopecocide.earth/legal-definition>.

binding obligations, state sovereignty issues, and lobbying by corporations hinder the enforcement of climate laws and the achievement of Ecological Human Rights.

2. Expanding Rights-Based Environmental Litigation

Legal structures need to be reformed as well to make climate litigation a more effective tool for environmental justice. Recent cases have shown that courts can be an influential force in holding states and corporations accountable when human rights claims are used effectively. Yet, numerous climate cases encounter procedural hurdles, such as jurisdictional, standing, and burden of proof challenges. Enforcing rights-based litigation would enable impacted individuals and communities to gain access to justice more easily.

To do so, legal reforms must encompass:

- **Widening Legal Standing:** Courts must permit affected communities, NGOs, and environmental activists to sue polluters, whether they are states or corporations.
- **Instituting Climate Justice Courts:** Specialized environmental courts or tribunals should be established at various levels to deal with climate-related human rights abuses, ensuring expertise and efficiency in responding to environmental damage.
- **Shifting the Burden of Proof:** The law would impose on states and corporations to demonstrate that they are not environmentally harmful, in contrast to saddling victims with the burden of establishing causation.

The reforms would help open up the doors of the climate courts as well as their effectiveness, providing a vital enforcing tool for Ecological Human Rights.

3. Ensuring Inclusive and Participatory Environmental Governance

The third pillar of Ecological Human Rights is the engagement of marginalized groups in environmental decision-making. Climate change most disproportionately affects Indigenous peoples, rural communities, and economically marginalized groups, but they are least engaged in policy discourse. The validation of traditional ecological knowledge and equal stake in environmental governance are the door to opening up sustainable and equitable climate.

To facilitate inclusivity, legal systems ought to ensure Indigenous Land Rights, the native lands, which account for more than 80% of global biodiversity, should be protected by law

against land grabbing, forest destruction, and other natural resource exploitation.¹⁵

Enforce Prior Consultation, states and companies must be obliged by law to consult impacted communities before engaging in projects affecting their environment, with prior, free, and informed consent (FPIC). Climate adaptation funds must be invested by governments in Indigenous peoples and local people for climate resilience and community conservation.

By having the voice of the poor represented in climate decision-making, policies will be improved, more just, and aligned with human rights. Even while the recognition of Ecological Human Rights brings a paradigm shift to solving climate justice, its application is faced with very serious legal, political, and economic challenges.

The main obstacles are due to state sovereignty issues, resistance from corporations, economic trade-offs, and pragmatic enforcement concerns.

State Sovereignty and International Environmental Obligations

One of the most significant stumbling blocks to enforcing legally binding climate reparations and accountability is that there is an interplay of conflict between the sovereignty of the state and compliance with international obligations. Most nations oppose foreign enforcement of environmental problems since they deem domestic policy ought to be framed through national agenda rather than global obligation.

Even when nations agree to climate treaties, the absence of effective enforcement makes compliance voluntary. The Paris Agreement (2015), for example, is premised on nationally determined contributions (NDCs) where nations can set their own emissions reduction targets without the threat of legal penalty for noncompliance. Unlike other international framework e.g., the World Trade Organization (WTO), which has enforcement mechanisms like economic sanctions, there is no world organ to sanction environmental transgression.

The three major emitters of greenhouse gases in the world, China, the United States, and India, have consistently opposed legally binding international climate obligations on grounds of economic sovereignty and independence. For example, the US pullout from the Paris Accord

¹⁵ U.N. Dep't of Econ. & Soc. Affs., Indigenous Peoples and the Preservation of the Environment, U.N. (May 2021), <https://www.un.org/development/desa/indigenous-peoples/environment>.

in 2017 (later revoked in 2021) showed how global climate pacts with no enforcement power are weak, while some developing nations retort that economic advancement need not be hampered by strict environmental protection if it is at the cost of the developed world that has traditionally been the largest producers of climate change. In attempting to balance sovereignty with international environmental responsibility, international climate law should adopt a "differentiated responsibility" approach as enunciated in the UNFCCC principle of Common but Differentiated Responsibilities (CBDR).¹⁶ The principle acknowledges that industrialized nations have a greater burden to cut back on greenhouse gases to mitigate climate change due to their historical emissions, but that developing nations get some leeway in the observance of sustainable practices.

To meet sovereignty issues, climate agreements have to be legally binding, with explicit enforcement provisions such as:

- **Penalties for Non-Compliance:** Economic sanctions on non-compliant nations with emission reduction goals.
- **Mandatory Climate Reparations:** High-emission nations should be legally obligated to compensate affected countries through a Global Climate Justice Fund.
- **International Environmental Court:** A special climate justice court within the International Court of Justice (ICJ) or an independent International Environmental Court could preside on climate cases and hold them accountable.

Rio Declaration on Environment and Development in 1992 is highly absolute in Principle 21 that states have the sovereign right to use their natural resources but are also under an obligation of not allowing their activities to destroy the global environment outside their boundaries.¹⁷ The rule has been reaffirmed in a line of International Court of Justice (ICJ) judgments, such as the Pulp Mills on the River Uruguay case (2010), which held that states are under an obligation to prevent transboundary environmental damage transboundary environmental damage¹⁸.

Secondly, state sovereignty should not be invoked as a reason for inflicting environmental harm

¹⁶ United Nations Framework Convention on Climate Change, Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) Principle, UNFCCC (1992), <https://unfccc.int/resource/docs/convkp/conveng.pdf>.

¹⁷ United Nations Conference on Environment and Development, Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26 (Vol. I) (June 14, 1992), https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf.

¹⁸ Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. 14 (Apr. 20), <https://www.icj-cij.org/public/files/case-related/135/135-20100420-JUD-01-00-EN.pdf>.

on other states. Environmental degradation that crosses borders, such as deforestation, air pollution, and sea-level rise, is not concerned with borders, and therefore climate change is an international issue that requires international legal response. The legal mechanisms such as the International Court of Justice (ICJ) advisory opinion on climate obligations and the UN Human Rights Council climate resolutions have the ability to promote international obligation without disempowering national sovereignty.

Economic Growth versus Environmental Protection

Another powerful counterargument is that stringent environmental conservation is capable of discouraging economic development, reducing levels of employment, and retarding industrialization, particularly among developing nations that peg their economic growth on the exploitation of fossil fuel, mining, and forest resources. According to the International Energy Agency (IEA), the fossil fuel industry contributes over \$5.9 trillion to the global economy every year¹⁹. Those countries such as Saudi Arabia, Russia, and Australia that are heavily fossil fuel-reliant export economies argue that precipitous decarbonization would lead to economic disruption, job losses, and declining revenues²⁰.

While economic stability concerns are valid, the failure to act on climate change poses an even greater threat to long-term economic prosperity. The Swiss Re Institute estimates that world GDP could fall by up to 18% by 2050 if climate change continues unchecked, with developing nations suffering the most economic losses.²¹ Similarly, the World Economic Forum (WEF) ranks climate change as the top risk to economic stability in the world, emphasizing the long-term financial implications of failing to transition towards sustainable development.²²

Also, green investment in energy and climate resilience is an enormous economic opportunity. The International Renewable Energy Agency (IRENA) makes the estimates that the renewable energy sector alone can provide over 42 million jobs by 2050, dwarfing job losses in fossil fuel industries.²³ Countries like Germany and Sweden, which have ambitious greenhouse gas reduction goals, have demonstrated that strong climate policies can drive innovation, economic

¹⁹ Int'l Energy Agency, World Energy Outlook 2021 (2021), <https://www.iea.org/reports/world-energy-outlook-2021>.

²⁰ World Bank, World Development Report 2022: Finance for an Equitable Recovery (2022), <https://www.worldbank.org/en/publication/wdr2022>.

²¹ Application form submitted successfully.PID is 13063169

²² World Econ. F., Global Risks Report 2023 (2023), <https://www.weforum.org/reports/global-risks-report-2023/>.

²³ Int'l Renewable Energy Agency, World Energy Transitions Outlook 2021 (2021),

growth, and employment without compromising industrial competitiveness.²⁴ Thus, rather than viewing climate action as a disincentive for economic growth, it can be seen as a long-term economic stability and worldwide prosperity investment.

Corporate Obstruction and Poor Enforcement Mechanisms

Large firms, especially from the fossil fuel, manufacturing, and agricultural business, have also been known to obstruct climate laws because of the fear of impacting profitability and running costs. Accounts indicate that ExxonMobil, Shell, and Chevron, three of the largest oil companies globally, have paid billions of dollars in lobbying for climate policies and financing disinformation campaigns to cause delays in regulation²⁵. The Carbon Majors Report (2023) discovered that only 100 companies have accounted for over 70% of all emissions since 1988, but legal tools to hold them accountable are still in their infancy.²⁶

To counter corporate resistance, climate laws need to incorporate:

- **Compulsory Carbon Disclosure Regulations:** Governments must make it compulsory for corporations to reveal publicly their carbon footprint, environmental footprint, and sustainability practices, as with the EU's Corporate Sustainability Reporting Directive (CSRD).²⁷
- **Criminal and Financial Penalties for Environmental Damage:** Stricter environmental legislation must make corporate managers criminally and financially liable for knowingly causing climate change, like corporate liability regulations for human rights abuses.²⁸
- **Carbon Pricing and Greenhouse Gas Emissions Taxes:** Carbon taxes and cap-and-trade systems need to be rolled out worldwide to make sure that polluters are made to pay the economic price of environmental degradation, not transferring it to society.²⁹

²⁴ Eur. Comm'n, The European Green Deal: Striving to Be the First Climate-Neutral Continent (2021), https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en.

²⁵ Carbon Tracker, Big Oil's Political Lobbying: Undermining Climate Action (2022), <https://carbontracker.org/reports/big-oils-political-lobbying/>.

²⁶ Richard Heede, The Carbon Majors Database: 2023 Update, Climate Accountability Inst. (2023), <https://climateaccountability.org/carbonmajors.html>.

²⁷ Eur. Parl., Corporate Sustainability Reporting Directive (CSRD), 2022 O.J. (L 322) 15, <https://www.europarl.europa.eu/news/en/press-room/20221107IPR49611/corporate-sustainability-reporting-directive-csrd>.

²⁸ Org. for Econ. Coop. & Dev. (OECD), Corporate Liability for Environmental and Human Rights Harms (2023), <https://www.oecd.org/environment/corporate-liability-for-environmental-and-human-rights-harms.htm>

²⁹ World Bank, State and Trends of Carbon Pricing 2023, <https://www.worldbank.org/en/topic/climatechange/publication/state-and-trends-of-carbon-pricing-2023>.

With mounting consumer and investor pressures, firms are also being compelled to conform to sustainability norms. The growth of Environmental, Social, and Governance (ESG) investing, which has surpassed \$35 trillion worldwide, proves that sustainable businesses receive more investment and long-term profitability.³⁰

HUMAN RIGHTS, ENVIRONMENTAL LAW, AND ABORIGINAL WELL-BEING

Legally Entrenching Ecological Human Rights

In line with aligning human rights with environmental law is legally entrenching the right to a clean, healthy, and sustainable environment. On July 28, 2022, the United Nations General Assembly voted on a resolution affirming the right, demonstrating international consensus for environmental protection. Indigenous and low-income communities are most frequently affected by environmental degradation with the lowest contribution to its causation. Legally binding climate reparations funds must be created to offer economic relief to these communities. For example, their chiefs in the Peruvian Amazon have demanded resistance against oil and gas projects in their land, claiming that the projects infringe on their rights and destroy their land, health, and food security. They have appealed to the world to compel them to comply with international laws protecting their rights, calling for powerful tools to protect vulnerable societies. Safeguarding Indigenous rights over land is also a critical aspect of environmental justice. The Ecuadorian Waorani won a landmark lawsuit against their government to stop the government from selling their land to oil companies without approval, establishing precedent for Indigenous self-determination. Their ancestral lands hold a lot of the world's remaining biodiversity, so preserving it there is crucial. Mandatory Free, Prior, and Informed Consent (FPIC) ensures they are brought into the decision on use of their land.

Inclusive environmental management facilitates these protections. The evidence points to the need for incorporating Indigenous knowledge in environmental policy. Nemonte Nenquimo is an Indigenous Waorani people activist who describes how engaging Indigenous people in decision-making will help guard their lands and cultures. Legal accountability and Indigenous representation in environmental management will strengthen climate justice and human rights protection.

³⁰ BloombergNEF, ESG Market Outlook 2023, <https://about.bnef.com/blog/esg-market-outlook-2023/>.

Binding Climate Reparations and Support for Vulnerable Communities

Their vulnerability and native populations are ultimately exposed to the disproportionate effect of global warming while emitting relatively low levels of emissions into the world's atmosphere. Threat to sea-level increase, weather-related disasters, and climatically induced environmental deterioration risks their way of life, means of living, and basic human rights.

In exchange for providing monetary as well as technical assistance to vulnerable groups, it is a critical necessity to establish legally binding funds on climate reparations. Climate reparations are about making historically high-emitting countries and corporations responsible for their input to global warming. The United Nations points out that Indigenous peoples are among the first to be affected by the straight impacts of climate change because of their strong relationship with the environment and its resources. However, the UNFCCC Loss and Damage Fund, which is supposed to help climate-affected countries, is underfunded and non-binding, thus not very effective. A legally binding international system of reparations would have liable countries pay based on their past emissions and ability to pay. Indigenous peoples have struggled hard to protect their rights against environmental degradation.

In the Peruvian Amazon, Indigenous leaders have resisted big oil and gas projects on the grounds that the extractive sector tramples over their rights and destroys their lands, waters, and food sovereignty. 75% of Peruvian Amazon residing territory of 21 Indigenous communities has oil and gas concessions overlap on Indigenous territory, as documented. The groups have sought international judicial recourse for securing compliance to international environmental legislations and norms. Reparations, so that climate justice is served, must consider compensations in economic terms, repairing lands, as well as putting in place infrastructures to strengthen climate resilience. Improving global legal frameworks and making companies accountable will bring sustainable, long-term solutions to poor communities affected by the devastating impacts of global warming.

Protecting Indigenous Land Rights

Indigenous and marginalised people heavily rely on their ancestral lands for their livelihood, environmental protection, and identity. Their livelihood depends not only on these lands but also play a crucial part in maintaining global biodiversity. Importantly, Indigenous territories account for roughly 80% of current global biodiversity, and their fundamental position in the maintenance of ecological equilibrium. Requirement of Free, Prior, and Informed Consent In

ensuring protection of Indigenous peoples' rights over land, the requirement that application of the principle of Free, Prior, and Informed Consent (FPIC) must be observed. FPIC ensures that whatever action or resource extraction occurs on Indigenous lands, it first has clear and unequivocal consent from the affected people. This is enshrined in global standards such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), where Indigenous peoples' rights to self-determination and ownership of land are accorded priority.

- Case Study: Legal Victory by Ecuador's Waorani People

FPIC employed, as evident best in the case of Ecuador's Waorani people. The Waorani sued the government of Ecuador in 2019 for trying to sell their land to oil corporations without consulting them first. The court vindicated the Waorani, stopping the sale of approximately 500,000 acres of land. Not only did this protect their land, but it also created a legal precedent regarding environmental justice and Indigenous rights that ensured the integrity of seeking true consent from Indigenous peoples prior to initiating projects on their territories. Challenges and Ongoing Struggles Even with such triumphs, Indigenous individuals across the globe continue to struggle to defend their lands.

In the Peruvian Amazon, Indigenous protesters have been demanding that oil and gas operations move forward onto their land. They object that the projects are expanding onto their lands, breaking into their habitat, and endangering their health and food security. Reports state that 75% of the Peruvian Amazon occupied by 21 indigenous communities has been put under oil and gas concessions covering their land. These societies have called for external intervention in enforcing compliance with international laws to safeguard their rights, an indication that strong measures for assisting vulnerable groups must be ensured. Domestic complacency, poor enforcement of FPIC, denial of recognition to Indigenous titles to land, and denial of judicial forums to question arbitrary occupation by the majority all jeopardize the security of Indigenous peoples and dilute means at domestic levels to support such persons. Both are needed. Implementation and acknowledgment of these rights will allow Indigenous people to continue serving their important role of maintaining our world healthy for future generations.

INCLUSIVE AND PARTICIPATIVE GREEN GOVERNANCE

Active engagement of Indigenous and marginalized communities in environmental governance is at the core of climate justice and attainment of sustainable development. They have entrenched, centuries-evolved traditional knowledge systems that have evolved over centuries,

and experience in the sense of sustainable management of the environment. When their voices are heard, not only are their rights defended but also environmental policies are fortified.

A systematic review in Environmental Management suggests the incorporation of Indigenous perspectives and knowledge into global environmental governance systems. The research calls for actual integration and not symbolic participation, citing the potential for improved environmental policy and outcomes through Indigenous knowledge. This is equivalent to respect for Indigenous cultural heritage and tapping their intimate knowledge of local ecosystems into more effective conservation. The incorporation of environmental management and Indigenous knowledge systems balances human rights and environmental conservation.

Indigenous knowledge has been applied in Australia to fight wildfires, and this is towards the purpose of demonstrating the utilitarian applications of Indigenous knowledge towards environmental management in the present day. There has to be a recognition and safeguarding of the rights of the Indigenous Peoples if there is going to be proper environmental management, particularly in regions like ASEAN. With inclusion of Indigenous knowledge systems and participation in decision-making, environmental policy can become culturally sensitive and potent. Environmental policy that involves and takes account of Indigenous and marginalized peoples in decision-making and possesses the capacity to value and mobilize Indigenous knowledge is key to providing effective and fair climate action. Respecting Indigenous knowledge, respecting FPIC, and actively promoting peoples' contribution in environmental supervisory will enable societies to provide sustainable development consistent with both human rights and environmental conservation objectives.

CONCLUSION

Environmental protection and human rights are no longer a discussion at the abstract legal level but an international imperative. This work reaffirms that environment sustainability and human dignity are causally related in the sense that failure to preserve ecological integrity indirectly erodes fundamental human rights. Despite growing international recognition of environmental rights, existing legal regimes remain wanting, and companies and state actors can acquire immunity. The absence of legally binding climate reparations and international instruments remains disproportionately burdensome for vulnerable groups, particularly developing nations and Indigenous peoples. The study demands the formal implementation of Ecological Human Rights a tool that enshrines environmental protection as an unencumbered

human right and makes states and corporations legally liable for their conduct.

By rights-based litigation, legally enforceable climate reparations, and participatory environmental governance, this system seeks to correct long-standing injustices in environmental law. Case studies such as the Philippines Commission on Human Rights investigation into corporate responsibility for climate change demonstrate the potential of legal precedents to drive accountability. But lasting progress relies on institutional reform, cooperation between nations, and stronger enforcement mechanisms at both national and international levels. In order to make further progress, international legal systems need to transition away from voluntary targets and toward legally binding requirements capable of sanctioning high-polluting nations and corporations. The establishment of an International Environmental Court, legally binding climate reparation, and expanded jurisdiction of human rights courts over environmental issues are the next steps towards justice. Furthermore, the participation of Indigenous and marginalized peoples in environmental decision-making needs to be enhanced to achieve equal decision-making and sustainable development. This research concludes that if there is no immediate legal and policy reform, the environmental crisis will only increase to further exacerbate international inequalities, at risk of undermining the rights and futures of marginalized individuals further. Governments, courts, and civil society must collaborate to progress from resolutions to reparations, making environmental protection not an inspirational ideal but a legally binding fact. An environmental law based on rights is not only a matter of climate justice but also necessary to guarantee the future generations right to a habitable world.