

*Genuine Climate Justice: Fulfilling States' Legal Obligations to Uphold Human Rights, Take Climate  
Action and Ensure Environmental Democracy*

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**Kariuki Muigua**

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**Genuine Climate Justice: Fulfilling States' Legal Obligations to Uphold Human Rights, Take Climate Action and Ensure Environmental Democracy**

**Kariuki Muigua\***

**Abstract**

*This paper examines how genuine climate justice can be attained by fulfilling states' legal obligations to confront climate change. The paper observes that with climate change adversely impacting people and planet, states have a legal obligation to combat climate change towards promoting climate justice. The paper discusses states' legal obligations in the climate justice discourse. However, despite have an obligation to address climate change, the paper notes that states are yet to fully discharge their mandate contributing to climate injustices. Consequently, the paper suggests how genuine climate justice can be realised by fulfilling states' legal obligations to uphold human rights, take climate action and ensure environmental democracy.*

**1.0 Introduction**

Upholding climate justice has become an increasingly vital agenda in the modern era due to the disproportionate impacts of climate change on people and planet. Despite being a global problem, the impacts of climate change are felt unevenly. For instance, vulnerable and marginalized individuals, groups and communities including indigenous peoples, local communities, women, the youth, the elderly, people of colour, persons with disabilities and people and communities in developing countries are adversely affected by climate change<sup>1</sup>. In addition, it has been observed that despite their little contribution to the climate crisis, nations in the Global South are extremely vulnerable to climate change and its impacts<sup>2</sup>.

The impacts of climate change are therefore felt unequally across individuals, communities, nations and regions. The concept of climate change acknowledges and seeks to redress these inequalities. It has been observed that climate justice is based on the principles of equity, fairness, human rights, and responsibility towards effectively

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<sup>1</sup> Center for Climate Justice., 'What is Climate Justice?' Available at <https://centerclimatejustice.universityofcalifornia.edu/what-is-climate-justice/> (Accessed on 14/10/2026)

<sup>2</sup> Giles. M., 'The Principles of Climate Justice at CoP27.' Available at <https://earth.org/principles-of-climate-justice/#:~:text=That%20response%20should%20be%20based,the%20consequences%20of%20climate%20change> (Accessed on 14/10/2026)

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tackling climate change and its impacts<sup>3</sup>. Climate justice focuses on addressing the unequal impacts of climate change by prioritizing the health, safety, security and human rights of those who face the greatest risk from extreme climatic events including flooding, sea-level rise, drought, heatwaves and wildfires<sup>4</sup>.

Promoting climate justice is therefore necessary towards ensuing equity, fairness, responsibility and human rights in climate action since this ideal focuses on protecting the most vulnerable including the poor, women and girls, the youth, indigenous peoples and local communities who are adversely impacted by climate change<sup>5</sup>. The goal of climate justice is to make sure that no one is left behind in the transition to a net-zero, sustainable and climate-resilient future<sup>6</sup>. This approach seeks to tackle the root causes of climate injustices such as poverty, unequal access to resources, and exclusion from decision-making processes in order to ensure that climate action not only protects people and planet but also creates fair, equal and just societies<sup>7</sup>.

This paper examines how genuine climate justice can be attained by fulfilling states' legal obligations to confront climate change. The paper observes that with climate change adversely impacting people and planet, states have a legal obligation to combat climate change towards promoting climate justice. The paper discusses states' legal obligations in the climate justice discourse. However, despite have an obligation to address climate change, the paper notes that states are yet to fully discharge their mandate contributing to climate injustices. Consequently, the paper suggests how genuine climate justice can be realised by fulfilling states' legal obligations to uphold human rights, take climate action and ensure environmental democracy.

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<sup>3</sup> What is Climate Justice?., Available at <https://www.cordaid.org/en/climate-justice/> (Accessed on 14/10/2026)

<sup>4</sup> Climate Justice., Available at <https://doh.wa.gov/community-and-environment/climate-and-health/climate-justice> (Accessed on 14/10/2026)

<sup>5</sup> Aliozi. Z., 'Climate Justice and Human Rights, in a World in Climate Emergency' Available at <https://repository.gchumanrights.org/server/api/core/bitstreams/2eba3de1-1427-481b-a2d6-07818e00a53b/content> (Accessed on 14/10/2026)

<sup>6</sup> Climate Justice., Op Cit

<sup>7</sup> 5 Key Dimensions of Climate Justice., Available at <https://unu.edu/ehs/article/5-key-dimensions-climate-justice> (Accessed on 14/10/2026)

## **2.0 Role of States in the Climate Justice Discourse**

States play a key role in tackling climate change and promoting climate justice. For example, it has been observed that countries play a key role in translating global climate commitments under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement into actionable national mitigation and adaptation strategies towards confronting climate change for people and planet<sup>8</sup>. In particular, the UNFCCC<sup>9</sup> enshrines various commitments by member states towards confronting climate change. These include promoting and cooperating in the development, application and diffusion, including transfer, of technologies, practices and processes aimed at combating climate change; cooperating in preparing for adaptation to the impacts of climate change; taking climate change considerations into account in social, economic and environmental policies; promoting and cooperating in scientific, technological, technical, socio-economic and other research on climate change; and promoting and cooperating in education, training and public awareness related to climate change<sup>10</sup>.

UNFCCC also establishes the principle of *common but differentiated responsibilities and respective capabilities* which requires all countries to protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities<sup>11</sup>. In particular, under this principle, developed states must take more demanding measures to prevent environmental harm and must satisfy a more demanding standard of conduct when compared to developing countries<sup>12</sup>. Fulfilling states legal obligations under the UNFCCC including through upholding the principle of common but differentiated responsibilities and respective capabilities is therefore key towards effectively confronting climate change and promoting climate justice for developing countries.

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<sup>8</sup> United Nations., 'All About the NDCs' Available at <https://www.un.org/en/climatechange/all-about-ndcs> (Accessed on 14/10/2026)

<sup>9</sup> United Nations General Assembly, *United Nations Framework Convention on Climate Change : Resolution / adopted by the General Assembly, A/RES/48/189*, 20 January 1994

<sup>10</sup> Ibid, Article 4

<sup>11</sup> United Nations General Assembly, *United Nations Framework Convention on Climate Change : Resolution / adopted by the General Assembly, A/RES/48/189*, 20 January 1994

<sup>12</sup> International Court of Justice., 'Obligations of States in respect of Climate Change' Available at <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf> (Accessed on 14/10/2026)

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In addition, states have legal obligations under the *Paris Agreement*<sup>13</sup> to tackle climate change and promote climate justice. In order to achieve this goal, the Paris Agreement requires states to prepare, communicate and maintain successive national climate action plans known as Nationally Determined Contributions (NDCs) that they intend to achieve<sup>14</sup>. Each successive NDC is meant to reflect an increasingly higher degree of ambition compared to the previous version<sup>15</sup>. NDCs refer to national climate action plans by each country under the Paris Agreement<sup>16</sup>. It has been observed that a country's NDC outlines how it plans to reduce greenhouse gas emissions to help meet the global goal of limiting temperature rise to 1.5°C and adapt to the impacts of climate change<sup>17</sup>. The Paris Agreement further requires parties to pursue domestic mitigation measures, with the aim of achieving the objectives of their respective NDCs<sup>18</sup>. The Agreement further acknowledges the special circumstances of developing countries some which are more vulnerable to the effects of climate change and requires developed countries to support them in their efforts to confront climate change through measures such as provision of financial resources and technology transfer<sup>19</sup>.

States therefore have legal obligations under the UNFCCC and the Paris Agreement to address climate change and promote climate justice. However, states are yet to fulfill these obligations worsening the climate crisis, fuelling human rights violations and contributing to climate injustices. For instance, failure by states to fulfill their obligations to reduce greenhouse gas emissions is worsening the climate crisis<sup>20</sup>. It has been observed that rising greenhouse gas emissions has led to an increase in the frequency and intensity of extreme weather events such as heat waves, severe droughts, floods and tropical cyclones, aggravating water management problems, reducing agricultural productivity and food security, increasing health risks, damaging vital infrastructure and interrupting the provision of basic services such as water and sanitation, education, energy and transport leading to injustices and human rights violations<sup>21</sup>.

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<sup>13</sup> Paris Agreement to the United Nations Framework Convention on Climate Change., Dec. 12, 2015, 3156 U.N.T.S. 79

<sup>14</sup> Ibid, Article 4 (2)

<sup>15</sup> Ibid

<sup>16</sup> United Nations., 'All About the NDCs' Op Cit

<sup>17</sup> Ibid

<sup>18</sup> Paris Agreement., Op Cit

<sup>19</sup> Ibid, Articles 9 (1) & 10

<sup>20</sup> United Nations., 'Goal 13: Take Urgent Action to Combat Climate Change and its Impacts.' Available at <https://www.un.org/sustainabledevelopment/climate-change/> (Accessed on 14/10/2026)

<sup>21</sup> United Nations Environment Programme., 'Goal 13: Climate action.' Available at <https://www.unep.org/explore-topics/sustainable-development-goals/why-do-sustainable-development-goals-matter/goal-13> (Accessed on 14/10/2026)

In addition, failure by states to fulfill their obligations on climate finance is also contributing to climate injustices. It has been observed that access to adequate, timely and equitable finance remains a fundamental barrier to the acceleration of climate action especially in developing countries<sup>22</sup>. In particular, the inability of developed countries to meet their global climate finance commitments is affecting access to climate finance in developing countries with negative impacts on environmental and climate justice. Accessing climate finance for developing countries is often slow, unpredictable and burdensome worsening climate injustices<sup>23</sup>.

Lack of inclusivity and equity in climate action also raises injustices and human rights abuses. In particular, exclusion of vulnerable groups including women, the youth, indigenous and local communities from decision-making processes worsens their vulnerability while undermining equity, fairness, justice and human rights in climate action<sup>24</sup>.

In light of the foregoing concerns, it is imperative for states to fulfill their legal obligations to uphold human rights, take climate action and ensure environmental democracy in order to effectively confront climate change towards genuine climate justice.

### **3.0 Fulfilling States' Legal Obligations to Uphold Human Rights, Take Climate Action and Ensure Environmental Democracy**

With the impacts of climate change being felt unevenly across the world, promoting climate justice is necessary for equity, fairness and human rights. Climate justice recognises the disproportionate impacts of climate change on the people, communities and nations least responsible for the climate crisis<sup>25</sup>. These include women and girls, the youth, indigenous peoples and local communities and developing nations in the Global South<sup>26</sup>. It has been observed that climate change severely impacts the human rights of the vulnerable by causing loss of lives, livelihoods, language, and culture, affecting health and education services, putting individuals and communities at risk of food and water

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<sup>22</sup> United Nations Development Programme., 'What is climate finance and why do we need more of it?' Available at <https://climatepromise.undp.org/news-and-stories/what-climate-finance-and-why-do-we-need-more-it> (Accessed on 14/10/2026)

<sup>23</sup> United Nations Trade and Development., 'Reforming global finance for climate-resilient development' Available at <https://unctad.org/news/reforming-global-finance-climate-resilient-development#:~:text=In%20terms%20of%20thematic%20areas,just%20transitions%20and%20widening%20inequality.%E2%80%9D> (Accessed on 14/10/2026)

<sup>24</sup> Aliozi. Z., 'Climate Justice and Human Rights, in a World in Climate Emergency' Op Cit

<sup>25</sup> Center for Climate Justice., 'What is Climate Justice?' Op Cit

<sup>26</sup> Ibid

shortages, and triggering displacement and conflict<sup>27</sup>. At the same time, marginalized groups including the youth, women and girls, and indigenous and local communities are usually excluded from climate negotiations and plans undermining environmental democracy in climate action<sup>28</sup>.

Achieving genuine climate justice is therefore necessary towards protecting individuals, communities and nations from the disproportionate impacts of climate change for Sustainable Development. In particular, states have legal obligations to uphold human rights, take climate action and ensure environmental democracy. The International Court of Justice (ICJ), via an advisory opinion, has reaffirmed states' obligation with respect to climate change<sup>29</sup>. The Advisory Opinion notes that states' have legal obligations to confront climate change as set out under key international treaties including the UNFCCC, the Kyoto Protocol, the Paris Agreement, the United Nations Convention on the Law of the Sea, the United Nations Convention to Combat Desertification and the Convention on Biological Diversity<sup>30</sup>. In particular, the Advisory Opinion notes that states' legal obligations to combat climate change include reducing greenhouse gas emissions; preparing and implementing NDCs; fostering country-driven, gender-responsive, participatory and fully transparent adaptation measures; and embracing international co-operation, including financial assistance, technology transfer and capacity-building in order to effectively confront climate change<sup>31</sup>. Further, the Advisory Opinion notes that under the principle of common but differentiated responsibilities and respective capabilities, developed states must take more demanding measures to prevent environmental harm and must satisfy a more demanding standard of conduct when compared to developing countries<sup>32</sup>. In addition, the Advisory Opinion affirms that states have an obligation to address climate change in order to protect human rights especially for vulnerable groups including children, women and indigenous peoples<sup>33</sup>.

States therefore have fundamental legal obligations to address climate change for people and planet. In particular, in light of current climate injustices, it is imperative to uphold

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<sup>27</sup> United Nations Development Programme., 'Climate change is a matter of justice – here's why' Available at <https://climatepromise.undp.org/news-and-stories/climate-change-matter-justice-heres-why> (Accessed on 15/10/2026)

<sup>28</sup> Ibid

<sup>29</sup> International Court of Justice., 'Obligations of States in respect of Climate Change' Available at <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf> (Accessed on 15/10/2026)

<sup>30</sup> Ibid

<sup>31</sup> Ibid

<sup>32</sup> Ibid

<sup>33</sup> Ibid

human rights. It has been observed that climate change has adverse impacts on human rights including the right to life; the right to health; the right to a clean, healthy and sustainable environment; and the right to an adequate standard of living, which entails access to food, water and housing<sup>34</sup>. Since climate change directly and indirectly affects internationally guaranteed human rights, states who are duty bearers have an obligation to take adequate and effective measures to prevent and redress the human rights impacts of climate change, and to ensure that all human beings (rights-holders) have the necessary capacity to adapt to the climate crisis and enjoy their fundamental rights<sup>35</sup>. It has been observed that climate justice requires that climate action is consistent with existing human rights agreements, obligations, standards and principles<sup>36</sup>. States therefore have an obligation to uphold human rights for the vulnerable including women, children, indigenous peoples and local communities who face severe human rights violations as a result of climate change<sup>37</sup>.

In addition, it is imperative for states to fulfill their legal obligations to take climate action. The United Nations Environment Programme (UNEP) observes that unless greenhouse gas emissions fall dramatically, warming could pass 2.9°C this century, which would have catastrophic consequences for life on the planet<sup>38</sup>. States therefore have an obligation to take climate action including through developing and implementing NDCs towards reducing their greenhouse gas emissions<sup>39</sup>. Further, it has been observed that states have an obligation to embrace low-carbon development towards effective climate action<sup>40</sup>. Low-carbon development refers to forward-looking national economic development plans or strategies that encompass low-emission and/or climate-resilient economic growth<sup>41</sup>. The idea of low-carbon development aims to achieve the goals of reducing greenhouse gas emissions, exploiting low-carbon energy, and ensuring sustainable

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<sup>34</sup> Ibid

<sup>35</sup> Office of the United Nations High Commissioner for Human Rights., 'Human Rights and Climate Change' Available at <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/materials/KMClimateChange.pdf> (Accessed on 15/10/2026)

<sup>36</sup> Ibid

<sup>37</sup> International Court of Justice., 'Obligations of States in respect of Climate Change' Op Cit

<sup>38</sup> United Nations Environment Programme., 'Climate Action' Available at <https://www.unep.org/en/what-we-do/climate-action> (Accessed on 15/10/2026)

<sup>39</sup> United Nations., 'All About the NDCs' Op Cit

<sup>40</sup> United Nations., 'Low Carbon Development.' Available at <https://sustainabledevelopment.un.org/index.php?menu=1448#:~:text=The%20concept%20of%20low%20carbon,low%2Dcarbon%20growth%20plans> (Accessed on 15/10/2026)

<sup>41</sup> Ibid

economic growth<sup>42</sup>. This can be achieved through measures such as transitioning to renewable sources of energy including wind, solar and geothermal, adopting climate smart agricultural techniques, fostering sustainable cities and infrastructure and adoption of sustainable waste management techniques<sup>43</sup>. Developed countries also have an obligation to support climate action in developing countries including through providing climate finance in accordance with the principle of common but differentiated responsibilities<sup>44</sup>.

Further, states have an obligation to ensure genuine climate justice by ensuring environmental democracy. Environmental democracy is grounded in the understanding that active, effective and meaningful participation by the public is critical to ensuring that decisions related to the environment and natural resources adequately and equitably address the interests of all citizens towards sound environmental governance and Sustainable Development<sup>45</sup>. This concept advocates for transparency, inclusivity, fairness and justice in order to ensure that all stakeholders, including vulnerable and marginalized communities, have a voice in shaping environmental policies and decisions that directly impact their lives, livelihoods and the needs of future generations<sup>46</sup>. Due to the disproportionate impacts of climate change, environmental democracy is necessary towards effective, equitable and responsive climate action. In particular, there is need to put vulnerable groups including the youth, women and girls, indigenous peoples and local communities at the core of decision-making and action on climate change towards environmental democracy<sup>47</sup>.

#### **4.0 Conclusion**

The pursuit of climate justice is a vital agenda for people and planet due to the adverse and disproportionate impacts of climate change across individuals, communities and nations. States have legal obligations to address climate change towards protecting people and planet<sup>48</sup>. It is therefore necessary for states to fulfill their legal obligations to

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<sup>42</sup> Yuan. H, Zhou. P, & Zhou. D., 'What is Low-Carbon Development? A Conceptual Analysis.' *Energy Procedia*, 5 (2011) 1706–1712

<sup>43</sup> Ibid

<sup>44</sup> International Court of Justice., 'Obligations of States in respect of Climate Change' Op Cit

<sup>45</sup> Worker. J., & Ratte. S., 'What Does Environmental Democracy Look Like?' Available at <https://www.wri.org/insights/what-does-environmental-democracy-look> (Accessed on 15/10/2026)

<sup>46</sup> Environmental Democracy., Available at <https://www.studysmarter.co.uk/explanations/environmental-science/environmental-policy/environmental-democracy/> (Accessed on 15/10/2026)

<sup>47</sup> United Nations Development Programme., 'Climate change is a matter of justice – here's why' Op Cit

<sup>48</sup> International Court of Justice., 'Obligations of States in respect of Climate Change' Op Cit

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uphold human rights, take climate action and ensure environmental democracy towards genuine climate justice for Sustainable Development.

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