Human Rights as a Source of Climate Harm: Rethinking Justice in the Anthropocene

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Abstract

This thesis contends that human rights in their current individualistic and myopic nature reproduce the structural harms underlying climate injustice. Through privileging the protection of autonomous interests, human rights frameworks conceal the significance of ecological interdependency, whereby humans rely on their environmental surroundings to flourish. This individualistic approach also renders collective climate harms as difficult to address. Human rights frameworks are predominantly designed to accommodate individualised harms, consequently overlooking the collective nature of climate harm. Additionally, the claims of future generations are marginalised due to the shortsightedness of human rights foundations. The prioritisation of present living interests obscures the impacts of current environmental degradation on the future population's quality of life, limiting their ability to enjoy the necessary environmental conditions for human growth.

This paper evaluates whether the current notion of human rights is adequately equipped to confront climate injustice without replicating the very harms it seeks to overcome. Nevertheless, renouncing human rights entirely would be unwarranted, given their potential to provide a universal foundation for pursuing social justice. Instead, this author argues that a transformative reinterpretation of rights through an eco-centric approach could be part of a just response. Identifying the environment as subject to its own rights can simultaneously advance climate justice for humanity by protecting the ecosystems that we rely on to survive.

Introduction

Dominant interpretations of human rights, particularly via the protection of property rights, may have indirectly crafted the route of climate change by legitimising economic structures that are harmful to the environment. While human rights are frequently cited as both threatened by climate change,[1] and essential to achieving climate justice,[2] a growing body of scholarship has come to question the uncritical adoption of a rights-based approach. For example, Usha Natarajan observes that as society has evolved economically, human rights have reflected this paradigm by providing a legal framework that legitimises the infinite collection of wealth.[3] The right to life and health has been surrendered to give precedence to the right to property,[4] and the fuelling of capitalism. Natarajan's reasoning is convincing as it frames the vicious cycle of the Anthropocene,[5] as a cycle that is powered by rights frameworks. Humans are conditioned through property law to prioritise relentless capital accumulation and commodified self-interest. Thus, rights described as encouraging human dignity and prosperity have simultaneously hindered flourishing over the long term by degrading the environment.

By prioritising wealth accumulation over ecological well-being, the legal architecture of human rights has itself become a vector of climate harm. This paper suggests that the groundwork of human rights generates harmful colonial and liberal assumptions, focusing on three main issues. Firstly, there are complex causality issues when attributing responsibility for climate harms. Next, the inconsistent thresholds of standing between individual and collective harms creates a blind spot for shared climate injuries. Finally, there is a lack of direct actionability for

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[1] Pooja Yadav, *'How Climate Change is Threatening Human Rights'* (*UN News,* 26 December 2025) <https://news.un.org/en/story/2025/12/1166649> accessed 21st September 2026.
[2] Jorje Viñuales, 'A Human Rights Approach to Extraterritorial Environmental Protection? An Assessment' in Nehal Bhuta (ed), *The Frontiers of Human Rights: Extraterritoriality and its Challenges* (Oxford University Press 2016).
[3] Usha Natarajan, 'Who Do We Think We Are?: Human Rights in a Time of Ecological Change' in Usha Natarajan and Julia Dehm (eds), *Locating Nature: Making and Unmaking International Law* (1st edn, Cambridge University Press 2022).
[4] UNGA, 'Universal Declaration of Human Rights' (10 December 1948) UNGA Res 217 A (III), art 17.
[5] National Geographic Society, *'Anthropocene' (National Geographic,* 19 October 2023) <https://education.nationalgeographic.org/resource/anthropocene/> accessed 2nd January 2026.

future generations' rights. These fundamental flaws especially impact marginalised communities, such as women in low-income countries, where their ability to adapt to climate change is further limited due to their existing socio-economic vulnerabilities.[6]

Climate injustice exposes the cultural, social, and economic power imbalances of our world. Although existing human rights attempt to address this crisis, they risk entrenching the very injustices sought to be remedied, by failing to acknowledge the underlying roots of inequality embedded in our system.[7] This article argues that the rights intended to protect human dignity and livelihood may also contribute to their deterioration. Reinterpreting these rights through an eco-centric lens may mitigate such harmful assumptions by moving beyond the anthropocentric nature of human rights frameworks that currently attempt to tackle climate injustice.

Harmful Assumptions in Human Rights

Human rights law is framed by complex causality, Western individualism, and fragile temporality, which renders its potential to remedy climate injustice highly constrained. Causation remains the 'most significant challenge' in human rights frameworks,[8] requiring a chain of causation between the omission of a state and the violation of a specific victim's right.[9] Factual causation in climate cases is difficult to establish due to greenhouse-gas emissions (GHG) having an abundance of contributory causes,[10] making it virtually impossible to precisely attribute responsibility for specific harm to the conduct of a specific state. This is evidenced in the international human rights case of *Billy and others v. Australia,* where despite the United Nations Human Rights Committee's general findings of violations arising from

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[6] UN Women, *'How Gender Inequality and Climate Change are Interconnected'* (*UN Women,* 21 April 2025) <https://www.unwomen.org/en/articles/explainer/how-gender-inequality-and-climate-change-are-interconnected> accessed 21st September 2026.
[7] Karl Marx, *On the Jewish Question,* in Robert C Tucker (ed), *The Marx-Engels Reader* (Norton 1978).
[8] Douglas A Kysar, *'What Climate Change Can Do About Tort Law'* (2011) 41 Environmental Law 29.
[9] Ole W Pederson, *'Climate Change and Human Rights: Amicable or Arrested Development?'* (2010) 1 Journal of Human Rights and the Environment 236.
[10] Alice Venn, *'Rendering International Human Rights Law Fit for Purpose on Climate Change'* (2023) 23 Human Rights Law Review 1.

Australia's inadequate adaptation measures, they nevertheless expressed difficulty tracing specific causal links between the contribution of the Australian state and the effects on the enjoyment of the claimants' rights.[11] Such reluctance to establish a causal chain by arguably the world's most preeminent human rights authority reveals a deeper set of flawed assumptions. Constructing climate change as too complex of a phenomenon to attribute responsibility for, risks frustrating the safeguarding purposes of human rights.

However, the view that responsibility cannot be readily attributed to climate-related harm is not without challenge. The recent advancement of climate attribution science has enabled quantification of contributions to both sudden and slow-onset harms, as well as the ability to attribute impacts to individual emitters.[12] Some human rights courts have signalled an openness to imposing normative legal standards of causation that lower the factual burden in contexts where more general declaratory relief is sought.[13] Nonetheless, it is questionable whether legal standards that lower the factual burden would be applied in contexts where demands for compensation may be at issue, and how willing the courts would be in these cases to depart from causation standards that are close to factual. This statistical evidence is approached by the courts with a degree of wariness,[14] disclosing the reproduction of structural harms through individualistic rationales.

Such individualistic attitudes stem from a framework embedded in the production of climate change. The origin of human rights law's competitive self-advancement has determined its

[11] *Daniel Billy and others v Australia,* Communication No. 3624/2019 (22 September 2022) UNHRC, 'Views: Communication No 3624/2019' UN Doc CCPR/C/135/D/3624/2019.
[12] Rupert F Stuart-Smith and others, *'Filling the Evidentiary Gap in Climate Litigation' (*2021) 11 Nature Climate Change 651.
[13] Andre Nollkaemper, *'Causation Puzzles in International Climate Litigation' (*2024) 33(1) Italian Yearbook of International Law 25.
[14] Mark Wilde, *'Causation and Climate Change Litigation: 'Bridge Too Far?''* (2021) 8 Austrian Law Journal 268.

struggle to envisage collective, interdependent harms caused by climate change.[15] Ultimately, claims involving collective rights and victim status are treated as exceptional because the human rights system is habituated to individualised harm.

Environmental rights are understood by Azadeh Chalabi as a form of collective rights because they protect shared environmental qualities, such as polluted water or contaminated air, that are essential to a community's long-term welfare.[16] Nonetheless, collective rights can lack firm binding as many States contest their universality,[17] revealing a blind spot where individuals are unprotected from their interdependent losses. For example, in the European human rights case *KlimaSeniorinnen*,[18] the individual women over the age of 70 were not held as victims of violations under Articles 2,[19] and 8,[20] of the European Convention of Human Rights because they failed to display that they were personally affected by the failures of Swiss authorities.[21] This case was still partially victorious since the association itself was given standing as a clearly defined group facing specific climate-related risks. The European system applied a high threshold for the individual women, but a lower threshold to the non-governmental organisation (NGO) that ultimately represented these same women and the collective interest of older women more broadly. This could be seen as a form of legal gymnastics to get around the absence of explicitly collective group rights in the climate context where the court does not wish to deny any remedy, overall leading to decision making that is procedurally difficult to comprehend.

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[15] Azadeh Chalabi, *'A Right to Environment-Based Approach as a New Route for Climate Litigation'* (2025) 43 Nordic Journal of Human Rights 241.
[16] Azadeh Chalabi, *'A New Theoretical Model of the Right to Environment and Its Practical Advantages'* (2023) 23 Human Rights Law Review 1.
[17] Andrea Schapper, *'Climate Justice and Human Rights'* (2018) 32 International Relations 275.
[18] *Verein KlimaSeniorinnen Schweiz v Switzerland* (2024) 79 EHRR 1.
[19] Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) art 2.
[20] ECHR art 8.
[21] *KlimaSeniorinnen* (n 18).

Similarly, in the domestic context of the Netherlands, the NGO *Urgenda* also received standing for 'acting on behalf of the current generation of Dutch nationals,'[22] and the action succeeded in directing the State to reduce emissions by at least 25%.[23] At first instance, the court accepted *Urgenda's* standing, however the court notably limited the groups on whose behalf the organisation could act, excluding non-Dutch citizens.[24] This revealed a doctrinally cautious approach, aimed at avoiding any precedent for transboundary climate representation. On balance, this exception does not undermine the broader point that many climate cases struggle to accommodate collective harms, demonstrated by the inconsistent thresholds of standing applied to individual and collective claimants. Human rights are ill-equipped to comprehend systemic injustices whilst operating within individualist assumptions. This limitation is further intensified when regarded alongside temporal hindrance.

Temporal myopia is a continuing limitation of human rights because their framework operates in a retrospective manner, where prioritisation of immediate harms makes it difficult to protect against foreseeable climate harms that materialise gradually or in a distant future.[25] Climate impacts are predominantly prospective; by around 2050, wildfires are predicted to consume two to six times more Western land than present statistics.[26] Evidence by NASA carries significant strength in scientific credibility, yet human rights remain poorly equipped to respond to this proactive outlook, repeating injustice for communities who fear for the future. Sam Adelman considers citizens' rights to health as typically only capable of utilisation after

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[22] Jacqueline Peel and Hari M Osofsky, *'A Rights Turn in Climate Change Litigation'* (2017) 7 Transnational Environmental Law 37.
[23] *Urgenda Foundation v Netherlands* (Supreme Court of the Netherlands, 20 December 2019) ECLI:NL:HR:2019:2007.
[24] ibid.
[25] B.T. Warwick, *'Temporalised International Human Rights: Complicated Times'* (2025) 43(4) Netherlands Quarterly of Human Rights 217.
[26] *'The Effects of Climate Change' (NASA Science)* <https://science.nasa.gov/climate-change/effects/> accessed 7th January 2026.

rights violations have transpired.[27] Adelman is persuasive because he unveils the façade of human rights as a moral performance rather than a protective instrument, shielding inaction towards slow-onset events due to lack of imminency.

The imminence requirement stipulates that an individual must be personally and directly affected,[28] from an act or omission of the State, or that such harm has already materialised.[29] This strict threshold operates as a structural barrier, ignoring foreseeable future harms until they are irreversible. Scholars, such as Knox, have proclaimed that climate harms constitute imminent threats because once in progress, they are onerous to forestall.[30] Despite the persuasiveness, human rights have not adopted this analytical lens, highlighting the nuance between different individuals' interpretations of imminency. The case of *Teitiota v New Zealand* reflects the practical degree of struggle required, where risks to a Kiribati national's right to life as a result of rising sea levels was not deemed sufficiently imminent to prevent deportation.[31] Ultimately, handling slow-onset climate harms as too remote to recognise, entrenches injustice further by failing to protect people that are currently vulnerable to climate risks and placing burdens onto future generations.

Conventional human rights frameworks are insufficient in protecting inter-generational interests at risk of climate harm. Courts have typically steered clear of addressing whether future generations have independent free-standing rights and instead acknowledge future generations in the context of intergenerational burden sharing. This lack of direct actionability

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[27] Sam Adelman, *'Human Rights in Pursuit of Climate Justice' (*2021) 38 Wisconsin International Law Journal 171.
[28] UN Office of the High Commissioner for Human Rights, *Fact Sheet No 7/Rev 1: Complaints Procedure* (OHCHR 2003), <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet7Rev.1en.pdf> accessed 7th January 2026.
[29] Venn (n 10).
[30] John H Knox, *'Linking Human Rights and Climate Change at the United Nations'* (2009) 33 Harvard Environmental Law Review 477.
[31] UN Human Rights Committee, Teitiota v New Zealand, Views Adopted Under Art 5(4) Of the Optional Protocol, Communication No 2728/2016 (7 January 2020) UN Doc CCPR/C/127/D/2728/2016.

for future generations' rights makes this area of litigation imprecise. For example, while the German Constitutional Court in *Neubauer v Germany* recognised that inadequate climate policy today could place disproportionate restrictions on the future exercise of fundamental freedoms, it was simultaneously suggested that future generations do not carry any fundamental rights in the present since they are not yet born, treating such generations as legally peripheral.[32] However, as Aoife Nolan argues, such efforts to protect future generations remain complicated due to the absence of a stringent definition, causing legal uncertainty.[33]

A more optimistic reading proposes that protecting future generations would sacrifice improving the welfare of the present generation by obscuring contemporary injustices.[34] Although a compelling argument, climate justice requires declining the thought that one generation's well-being must be sacrificed for another because this explicitly falls short of inclusion in protection, particularly where climate harms disproportionately affect vulnerable populations both now and in the future. My following focal point will connect to these harmful assumptions by providing evidence of their resulting inequitable impacts, specifically on women.

Inequitable Consequences

For the reasons discussed above and as will be explored further below, human rights in their current formulation cannot be part of a just response. At present, human rights-based responses risk magnifying the structural inequalities of society through unfavourable, uncompromising requirements. This critique is particularly clear-cut when scrutinising gendered burdens of climate harm.

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[32] *Neubauer v Germany* 1 BvR 2656/18 (2021).
[33] Aoife Nolan, *Children and Future Generations Rights Before the Courts: The Vexed Question of Definitions (*2024) 13(3) Transnational Environmental Law 522.
[34] Stephen Humphreys, *Against Future Generations* (2022) 33(4) European Journal of International Law 1061.

Fundamentally, we must first consider the concept of social justice and what this really asks of us. As society is complex, the concept of social justice mirrors this complexity.[35] It operates in parallel with the unsettled issue of what justice demands in an evolving climate, and who endures responsibility. The persistent contestation over what justice entails renders climate justice progress marginal – justice cannot be achieved when the very concept lacks an agreed definition. Nancy Fraser, for example, insists that justice requires a two-dimensional approach of redistribution and recognition to allocate resources to those most vulnerable, whilst acknowledging and respecting the dignity and experiences of marginalised groups.[36] Contrastingly, Henry Shue places human rights as inherently minimalist,[37] aimed not to enable human flourishing, but to facilitate a decent existence with minimal standards for all.[38] Among these competing scholars, plausibly, Fraser's writing is more compelling as it encapsulates the multidimensional nature of climate injustice. Shue's formal equality approach may secure a basic standard of protection but, fails to grasp the depth of substantive global inequities in a way that prioritises those most vulnerable to climate harm.

Applying equality of condition in the context of women, prevailing rights systems concurrently disadvantage women by reproducing structural inequalities instead of ensuring that women possess equal standard of living and quality of life.[39] For instance, today 47.8 million more women suffer from the impacts of famine compared to men.[40] This reflects the disproportionate burdens of climate harm on women - yet their role in securing food and water is misunderstood

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[35] Emmaline Soken-Hubert, *'Four Principles of Social Justice' (Human Rights Careers)* <https://www.humanrightscareers.com/issues/four-principles-of-social-justice/> accessed 10th January 2026.
[36] Nancy Fraser, *'Social Justice in the Age of Identity Politics: Redistribution, Recognition, Participation'* (WZB Discussion Paper FS I 98-108, 1998).
[37] Tomas Wedin, *'Samuel Moyn and Marcel Gauchet on the Relationship Between Human Rights, Neoliberalism, and Inequality'* (2023) 41 Nordic Journal of Human Rights 471.
[38] Robert Mark Simpson, *'Minimalism, Determinacy, and Human* Rights' (2021) 34 Canadian Journal of Law and Jurisprudence 149.
[39] Joanne Hughes and others, '*Equality of Condition? Exploring Minority Ethnic Group Experiences of Education in Northern Ireland'* (2025) 73(6) British Journal of Educational Studies 695.
[40] UN Women (n 6).

and invisible.[41] Primarily in lower income countries, women suffer inequalities and open discrimination in all aspects of life. This includes unequal access to education[42] and persistent pay disparities, with female employees in April 2025 earning a 12.8% lower median hourly wage than that of men.[43] Human rights law inadvertently feeds these inequities into the climate sphere by relying on a gender-neutral standard of equality that overlooks women's structural disadvantages. For instance, the failure of human rights to address discriminatory land-tenure systems reproduces gendered climate injustice through crop loss, food insecurity and displacement, as women in lower income countries are restricted in their rights to inherit or control land.[44]

In addition, gender-based violence illustrates how human rights treats certain harms as temporally out of sync, fabricating the exclusion of women from remedies. International law now confirms that harms within the private sphere are recognised as within States obligations to prevent,[45] with CEDAW recognising gender-based violence as a human rights issue.[46] Yet, human rights fail to address slow and cumulative violence outside the conventional definitions of imminence. This structural gap elaborates Fraser's view that climate justice cannot rest on recognition alone in the hope that acknowledged injustices will plainly diminish – it requires the redistribution of resources, such as access to adaptation funding, to mitigate impoverished

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[41] UN Women, "Access *to Information is the Basis of Democracy" – Interview with Environmental Journalist Miriam Jemio on World Press Freedom Day' (UN Women,* 1 May 2024) <https://www.unwomen.org/en/news-stories/interview/2024/05/access-to-information-is-the-basis-of-democracy> accessed 10th January 2026.
[42] UNICEF, *'1 In 3 Adolescent Girls from the Poorest Households Has Never Been to School' (UNICEF,* 19 January 2020) <https://www.unicef.org/press-releases/1-3-adolescent-girls-poorest-households-has-never-been-school> accessed 11th January 2026.
[43] House of Commons Library, *Gender Pay Gap Statistics* (Research Briefing, 17 November 2025) <https://commonslibrary.parliament.uk/research-briefings/sn07068> accessed 29th July 2026.
[44] UN, *'Securing Women's Land Rights for Increased Gender Equality, Food Security and Economic Empowerment' (UN Chronicle,* 15 June 2023) <https://www.un.org/en/un-chronicle/securing-women%E2%80%99s-land-rights-increased-gender-equality-food-security-and-economic> accessed 28th June 2026.
[45] Ronagh JA McQuigg, *'Domestic Violence as a Human Rights Issue: Rumor v Italy'* (2015) 26 European Journal of International Law 1009.
[46] UN Committee for the Elimination of All Forms of Discrimination Against Women, 'General Recommendation No 35' (2017) UN Symbol CEDAW/C/GC/35.

women's structural vulnerabilities. Climate disasters have been linked to increased gender-based violence, with the escalation of existing inequalities, economic insecurity and displacement heightening women's exposure to harm. Human rights cannot constitute a just response whilst preventing women's access to justice. Further, excluding slow, recurring harms of gendered violence denies women effective citizenship and preserves illegitimate advantages for men. Such short-sightedness cultivates climate injustice.

Human rights fail to deliver fairness or equality of condition for women in developing countries by supporting wealth inequalities that prevent resources from reaching the most vulnerable. The rights-based approach perpetuates a vicious sequence of 'compound injustice,'[47] where the socio-economic hardship lays the foundation for climate injustice. For example, even in the urban context, a study established that 50% of flats in a Hong Kong neighbourhood exceeded 30°C indoors, leading to dehydration,[48] and that women are therefore more likely to be disproportionately exposed to such health impacts because they are more likely to take on domestic caring responsibilities whilst living on low incomes.[49] This is unsurprising since human rights generate structural economic disparities produced by systemic bias. Arguably, human rights typically focus on formal equality rather than the underlying economic structures that produce women's vulnerabilities to begin with. A cyclical state of compound injustice is apparent where women who are already disadvantaged by their gender are additionally underprivileged by climate change due to their poor economic status. A transformative reinterpretation of human rights is urgently required to break this cycle.

Decolonial, Relational and Eco-Centric Transformations

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[47] Henry Shue, *Climate Justice: Vulnerability and Protection* (Oxford University Press 2014).
[48] Sarah Fuller, *'Configuring Climate Responsibility in the City: Carbon Footprints and Climate Justice in Hong Kong'* (2017) 49 Area 519.
[49] Women's Environmental Network, *'Wen's Take: As Temperatures Rise, So Must Women's Voices' (Women's Environmental Network,* 23 June 2026) <https://www.wen.org.uk/2026/06/23/wens-take-as-temperatures-rise-so-must-womens-voices/> accessed 28th July 2026.

While there are reasons to be critical of the current substance and practice of human rights law, the potential of a newly constituted rights-based response to the climate crisis should not be overlooked. It is possible that justice could be revived by adopting a new worldwide formulation of rights that would require human rights systems globally to acknowledge the ecological interdependence that connects human well-being to environmental standards. The shift from an anthropocentric to an eco-centric approach would recognise the ingrained value of ecosystems whilst viewing humans as inseparable from nature. Ecological fate is apparent – when the environment is protected, humans experience the benefit. The following section evaluates the extent to which a right to environment-based approach (REBA, used simultaneously with a rights-of-nature approach, can overcome the limitation of human rights in climate justice, considering any practical challenges that may limit their effectiveness.

Legitimising REBA would regulate wider structural climate-related issues,[50] including collective, territorial, and temporal aspects. REBA comprises of a three-dimensional model: as an individual right enabling personal claims against localised harm; as a collective right protecting from shared environmental degradation; and as a global right to address planet-wide threats.[51] Chalabi contends that this would constructively address the collaborative gap and broaden protection across all levels of susceptibility, assuring the absence of systemic exclusion from remedies for suffering collective harm.

However, this position is problematic – as in current practice there is inconsistent juridical reasoning of whether the right to environment promotes individual entitlement (as in *Leghari),*[52] or collective entitlements (as in *Future Generations)*.[53] Ultimately, the human right

[50] Jolene Lin, *'Climate Change and The Courts'* (2012) 32 Legal Studies 35.
[51] Chalabi (n 15).
[52] *Ashgar Leghari v Federation of Pakistan* (2015) W.P. No 25501/2015 (Lahore High Court Green Bench).
[53] *Future Generations v Ministry of the Environment and Others* (2018) Case No 11001-22-03-000-2018-00319-01 (Colombian Supreme Court).

to a healthy environment (that Chalabi's REBA builds upon) is often interpreted as ambiguous due to its incohesive theoretical framework.[54]Although this counterargument may initially hold potent value, the very 'inconsistency' underscores the need for REBA. Case law variation indirectly shows why such a theoretical model is needed to explain and guide the courts when operating at various levels of environmental safeguarding. This could form part of a just response by engaging with equality of condition.

Chalabi's formulation of REBA could ease the burdens of proving causation or victim status in practice as it explicitly adopts a more relational framework. The current burden of proof falls unfairly on disadvantaged individuals, appearing counterproductive where those who lack the necessary resources to prove a violation are against powerful states. REBA proposes a more accommodating requirement, where it would be sufficient to show the link between individual emitters and potential climate harms,[55] allowing relatedness between direct effect and future harms. Further transformation encompasses a shift of burden onto the government to exonerate itself.[56] As seen in *Tătar v Romania*, the applicant was spared from proving certitude of the risk.[57] This reinterpretation would withdraw procedural barriers that prevent marginalised communities from accessing justice.

Some scholars argue that REBA would fail as a legal standard, let alone produce justice, because its content is too conceptually vague,[58] and redundant when the right to environment can be protected through present civil rights.[59] Imagined in the context of social justice, the apparent inconclusiveness of REBA is a weaker concern when compared with the injustice of

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[54] Chalabi (n 16).
[55] ibid.
[56] Chuan-Feng Wu, *'Challenges to Protecting the Right to Health Under the Climate Change Regime' (*2021) 23 Health and Human Rights Journal 121.
[57] *Tatar v Romania* App No 67021/01 (ECtHR, January 2009).
[58] Pau De Vilchez and Annalisa Savaresi, *'The Right to A Healthy Environment and Climate Litigation: A Game Changer?'* (2023) 32 Yearbook of International Environmental Law 3.
[59] Marcos Orellana, *'Quality Control of the Right to a Healthy Environment'* in John Knox and Ramin Pejan (eds), *The Human Right to a Health Environment* (Cambridge University Press 2018).

harsh evidentiary thresholds that prevents access to justice. Altogether, REBA's collectivism and relationism, as proposed by Chalabi, offer a more equitable approach to climate protection. However, the framework of the human right to environment outlined by Chalabi may fall short without corresponding rights-of-nature, as it remains centred upon human entitlement, leaving nature remaining as the object of rights rather than the subject. This author will now examine the corresponding options for establishing new rights.

Recognising Rights-of-Nature as Standalone Rights

A rights-of-nature approach provides a decolonial framework for a just response to climate change by acknowledging non-Western cultures and knowledge.[60] A rights-of-nature approach would mark a radical departure from environmental protection as a human welfare towards recognition as a rights-holder in its own right. Embedding this right into an international legally binding treaty would reinterpret rights in a mechanism that displaces anthropocentrism with eco-centrism – yet the current system fails to recognise the rights-of-nature as standalone rights and remains silent on their adoption.[61]

Historically, human rights have conceived nature as 'subject to appropriation, reducible to property, and capable of entering the stream of commerce,'[62] a perspective that reproduces structural colonial harms through economic exploitation of nature's resources. Contrastingly, the rights-of-nature approach confirms the environment as 'indivisible and whole,'[63] enabling the environment to flourish as a legal entity without interference from human sovereignty. For instance, the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 granted the

[60] Daniëlla Dam-de Jong and Fabian Amtenbrink (eds), *The Greener International Law* (1st edn, TMC Asser Press 2023).
[61] ibid.
[62] Ileana Porras, *'Appropriating Nature: Commerce, Property, and the Commodification of Nature in the Law of Nations'* (2014) 27 Leiden Journal of International Law 641.
[63] Earth Law Center, *'New Zealand' (Earth Law Center,* 16 August 2016) <https://www.earthlawcenter.org/international-law/2016/8/new-zealand> accessed 8th January 2026.

Whanganui River legal personhood in New Zealand.[64] This shift to decolonisation could provide a just response if applied universally, by attempting to dismantle harmful practices of extractivism and allowing ecosystems to thrive interdependently with humans through Indigenous concepts.

A more sceptical reading warns that a rights-of-nature approach risks generalising culturally specific cosmologies, such as Māori relationality,[65] in methods that romanticise their ideas rather than enforce them in legal orders. Even so, these critiques are pessimistic and strengthen the argument for just transformation – a rights-of-nature approach must reinterpret legal authority away from nature appropriation towards ecological reciprocity. If nature's rights can be established, fairness could be restored through the redistribution of climate protections towards both vulnerable humans and non-humans interdependently. The right to environment and rights of nature should not be understood as competing alternatives, but as addressing different normative deficits in existing climate governance. Consequently, transforming human rights to address ecological interdependence and relationality can be part of a just response, and must be addressed with urgency if we want any chance of producing climate justice.

Conclusion

Ultimately, a transformative reinterpretation of human rights is essential in assembling part of a just response. Without such transformation, human rights remain shackled to archaic individualist and colonial methodologies that are unprepared to address the convolutions of an evolving global crisis. This paper has exhibited how human rights reproduce hierarchical injustice and indirectly manufacture exclusion.

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[64] Toni Collins and Shea Esterling, *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 and the Indigenous Cosmovision* (2019) 20(1) Melbourne Journal of International Law 8.
[65] Minea Tănăsescu, '*Rights of Nature, Legal Personality, and Indigenous Philosophies'* (2020) 9(3) Transnational Environmental Law 429.

Reflecting on broader implications, transformative reinterpretation would allow human rights to safeguard society rather than discard the only global language capable of remedying such harms. Chalabi's human right to environment-based approach provides part of a promising solution, but only when complimented by rights of nature to secure nature as subject to rights instead of an object for human benefit. Further research could examine how marginalised communities themselves envision transforming human rights, illustrating climate justice from the perspective of plaintiffs previously failed by the system.