Global Learning Hub
for Transitional Justice
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Berghof Foundation

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The Centre for the Study of Violence and Reconciliation

Transformative Transitional Justice and Climate Action

Nurturing Synergies for Climate Justice

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JUNE 2026

Executive Summary

In the face of rapidly escalating but unevenly distributed harms, global climate governance is struggling to prevent catastrophic warming while addressing growing demands for climate justice. This paper proposes transformative transitional justice as a lens through which to identify two sources of climate justice action: elements of justice latent within climate policy architectures, and community justice actions too often overlooked by formal institutions. It identifies ways to connect these institutional and community-level elements into a broader, multi-level justice ecosystem.

Transitional justice is an established field developed to address legacies of gross human rights violations through four distinct but interconnected pillars: truth, reparations, accountability, and guarantees of non-recurrence. By addressing past injustices while seeking to prevent their recurrence, it dissolves the sharp boundaries between dealing with the past and securing the future. Transformative approaches go further, emphasising the agency of affected communities and the need to realign power so as to confront and dismantle the structural drivers of harm. Through this lens, climate justice emerges as an integrated practice spanning the four transitional justice pillars, with transformative potential.

The paper first examines entry points within global climate frameworks. It shows how institutional processes such as the Intergovernmental Panel on Climate Change's Assessment Reports can advance truth-telling; how the United Nations Loss and Damage architecture can support reparations, despite formal constraints on liability and compensation; how climate litigation can enforce accountability, strengthened by a set of potentially transformative doctrinal and evidentiary tools; and how preventive climate action, often siloed from retrospective justice concerns, can contribute to non-recurrence. It argues that by identifying and articulating these elements as components of justice, they can be activated as part of a broader justice ecosystem.

It then explores climate actions developed by affected communities in the distinct contexts of Nkhulambe, Malawi, and the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), the Philippines. These cases show that communities are already pursuing climate justice actions that align with transformative transitional justice principles – actions that institutional actors systematically fail to identify and acknowledge. The Nkhulambe case reveals a synthesis of forward- and backward-looking justice through truth-telling, memorialisation, and participatory reform efforts that community members see as crucial to national and international climate responses. The BARMM case, meanwhile, shows how communities amid an unfinished political transition braid together climate and conflict justice into an indivisible practice, with cultural repair as climate-focused non-recurrence and preventive climate action as redress for cultural marginalisation.

The paper concludes that neither the latent justice content in the global climate regime nor unacknowledged justice action advanced by affected communities is sufficient to realise the transformative potential of climate justice efforts alone. Instead, these elements must be brought together into a justice ecosystem that allows for communities' braided experience of harm and articulations of justice to be advanced from the local to the international level, opening the door to a realignment of structures of power through climate action. Transformative transitional justice offers novel concepts and tested measures to facilitate this realignment.

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Introduction: A Novel Approach to Climate Action

Climate justice is at an inflection point. As the Fund for Responding to Loss and Damage enters its operational phase and the global climate policy space grapples with the retrenchment of leading emitters, the communities least responsible for, and most vulnerable to, climate change face the brunt of rapidly escalating destruction. These communities are not passive. Across varied contexts, they are initiating responses that braid together repair and memorialisation, truth-telling and prevention, to address climate harms and intersecting injustices – responses that conventional climate frameworks often fail to recognise.

This paper, along with our accompanying case studies on Nkhulambe, Malawi, and the Bangsamoro Autonomous Region in Muslim Mindanao, the Philippines,[1] argues that transformative transitional justice provides the conceptual lens needed to identify and harness the justice elements embedded within the global climate regime, while illuminating a range of justice practices on the community level that advance climate justice from below.

Transitional justice, an established field developed to address legacies of gross human rights violations through a set of institutional mechanisms, offers a disaggregated view of justice comprising elements of truth, reparation, accountability, and guarantees of non-recurrence. Transformative approaches to transitional justice moreover emphasise the agency and resources of affected communities in promoting justice, in addition to identifying the need to confront structural drivers of harm so as to prevent recurrence. In the climate space, a transformative transitional justice lens offers new ways of responding to the resistance of powerful actors to acknowledging responsibility, reconciling the tension between justice and social-systemic transformation, and acknowledging the role of local and community experiences and agency in relation to institutional processes.

In this paper, we advance three interrelated claims. First, institutional climate frameworks on the global, regional, and national levels contain latent justice content – institutional footholds for truth, accountability, reparations, and guarantees of non-recurrence that can be leveraged to advance climate justice through multiple interconnected processes. Second, communities are already advancing transformative visions of climate justice through epistemically rooted and self-initiated justice actions that institutions systematically fail to identify, or miscategorise as pure adaptation or resilience. Third, these institutions and their frameworks can be connected to community actions to form a transformative climate justice ecosystem in which communities and institutions engage as partners in the formulation and pursuit of justice across scales.

We start by identifying the distinctive contributions of transformative transitional justice and how they can inform climate justice. Applying a transformative transitional justice lens to existing climate frameworks, we identify entry points across the four pillars of truth, reparations, accountability, and guarantees of non-recurrence, as well as the cross-cutting dimension of victim-centred participation.

1 For the detailed findings of our research in Malawi and Mindanao, see Jasmina Brankovic, *Local Transitional Justice Practices for Climate Justice: The Case of Nkhulambe, Malawi* (Berlin: Berghof Foundation, 2026); Samuel Sontag and Reemar Alonsagay, *"After the Peace Process, the Mountains Are Burning": Exploring Transitional and Climate Justice Linkages in the Bangsamoro Autonomous Region in Muslim Mindanao* (Berlin: Berghof Foundation, 2026).

We then apply this lens to community-level climate action, drawing selectively on the findings of the Malawi and Mindanao cases to show how communities combine repair and prevention for climate harms and intersecting injustices across diverse contexts.

The paper concludes with reflections on connecting these institutional and community-based opportunities to nurture synergies among diverse stakeholders, from the local through to the international levels, and thereby advancing more transformative climate action.

Transformative Transitional Justice and Climate Justice

As Sonja Klinsky and Jasmina Brankovic have argued,[2] the field of transitional justice offers a set of tested measures that allow us to look beyond the current constraints of international climate negotiations and actions to better redress past climate harms and lay the ground for a more climate-just future. In this section, we outline the main institutional mechanisms associated with transitional justice and the turn towards more transformative approaches in the field, before applying a transformative transitional justice lens to climate harms.

Mainstream Transitional Justice

Emerging from the regime changes of the late 1980s and early 1990s in Latin America and Eastern Europe, transitional justice is generally used to facilitate transitions from war to peace and from authoritarianism to democracy, and to address historical harms related to colonialism and slavery in consolidated democracies. Transitional justice processes have been widely adopted by countries attempting to emerge from periods of conflict or mass rights violations and address the legacies of these harms.[3] Despite growing challenges to the human rights norms that underpin transitional justice, these processes continue to be implemented across the world.

Transitional justice approaches justice through four interconnected dimensions, often represented as the "pillars" of the field: truth, reparation, accountability, and guarantees of non-recurrence. While they may be implemented separately, experience indicates that these pillars are mutually reinforcing. A combined approach facilitates greater buy-in and shared ownership of a transitional justice process, foregrounding different concerns and actors so as to understand, organise, and respond to particularised justice claims.[4]

In mainstream transitional justice practice, the pillar of truth encompasses truth-seeking and truth-telling measures designed to gather diverse perspectives and generate a shared understanding of harms and their causes. These measures provide victims and survivors with a platform to share their experiences, and enable responsible parties – as well as the broader public – to acknowledge the grave impacts of past wrongdoings and the urgency of redressing them, while countering denial.

2 Sonja Klinsky and Jasmina Brankovic, *The Global Climate Regime and Transitional Justice* (London: Routledge, 2018).

3 Marcos Zunino, *Justice Framed: A Genealogy of Transitional Justice* (Cambridge: Cambridge University Press, 2019).

4 Roger Duthie and Paul Seils, eds., *Justice Mosaics: How Context Shapes Transitional Justice in Fractured Societies* (New York: International Center for Transitional Justice, 2017).

They usually take the form of truth commissions, run by states or, at times, international bodies or civil society groupings, which conduct investigations and hold hearings on particular types of harms inflicted within a determined period, and publish final reports with recommendations for political and other actors.[5]

Turning to reparation, these measures acknowledge the right of affected individuals and communities to restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Typically administered as programmes by states or international institutions, or imposed as a judicial remedy, reparations may be collective or individualised and combine material redress, such as financial compensation and access to land or housing, with symbolic redress, such as apologies and memorialisation processes like commemorations and monuments.[6]

Accountability measures establish responsibility and enforce sanctions for past harms. Individual criminal liability is pursued through international, domestic, or hybrid (international-national) courts or via universal jurisdiction. In some cases, states, armed groups, or corporations are brought before regional human rights mechanisms. The field has shown the value of traditional, Indigenous, community-based, and restorative conflict resolution mechanisms for ensuring accountability while repairing the social fabric. Reflecting the challenges of elite opposition and comprehensive prosecutions for widespread violations, accountability measures also often include forms of partial amnesty conditioned on participation in transitional justice, including through truth-telling or reparative action.[7]

Finally, guarantees of non-recurrence express and enact a commitment to prevent future harms by addressing the structural conditions that enabled past violations. They typically consist of legal and institutional reforms within the government, including the establishment of new institutions and laws or changes to existing ones, as well as vetting of personnel, to acknowledge their complicity in harms and ensure they do not contribute to future harms.[8] By removing institutional drivers of harms, these efforts are designed to maintain and protect the gains of transitional justice processes.

The Transformative Turn in Transitional Justice

As transitional justice measures were tested and adapted in diverse contexts over four decades, critiques of mainstream practice inspired the development of transformative approaches to the field. Informed by the experiences of practitioners and survivors, primarily in the "global South", these

5 Onur Bakiner, *Truth Commissions: Memory, Power, and Legitimacy* (Philadelphia, PA: University of Pennsylvania Press, 2016).

6 Pablo de Greiff, ed., *The Handbook of Reparations* (Oxford: Oxford University Press, 2006).

7 Beth Van Schaack and Ronald C. Slye, *International Criminal Law and Its Enforcement: Cases and Materials* (St. Paul, MN: Foundation Press, 2025).

8 Nita Shala, *Guarantees of Non-Repetition in International Human Rights Law and Transitional Justice: Building Peace after Conflict* (London: Routledge, 2024); Maja Davidovic, "The Law of 'Never Again': Transitional Justice and the Transformation of the Norm of Non-Recurrence," *International Journal of Transitional Justice* 15(2) (2021): 386–406.

approaches recognise that transitional justice has been intimately linked to Euro-Atlantic claims to universalism and a global project of political and economic liberalisation.[9]

In response, transformative transitional justice counters the tendency of mainstream practice to promote generalised over contextualised measures, centre states while marginalising other actors, apply a narrow civil and political rights discourse that sidelines socioeconomic rights and historical injustices, and valorise technicist and short-term legal-institutional measures focused on reform rather than deeper social change.[10]

Acknowledging local conceptualisations of justice and the role of non-state actors, transformative transitional justice prioritises experiences, ideas, resources, and solutions that already exist on the ground, particularly those of victims and survivors and others affected by past harms. Thus, the focus is on bottom-up, community-led measures, which can proceed separately from as well as complement official mechanisms such as truth commissions, reparations programmes, prosecutions, and institutional reforms.

Moreover, recognising that transitions are long-term processes, transformative transitional justice tackles historical injustices and socioeconomic rights abuses as root causes, drivers, and amplifiers of harms, while acknowledging the continuum that often exists between past and ongoing harms and their intersectional and intergenerational impacts. As part of this, it embraces open-ended, iterative, and participatory measures that adapt to the context and build on each other over time, while promoting pluralism of participants and ideas.[11]

Crucially, transformative transitional justice is concerned with the realignment of power. It seeks to transform the conditions – systems of marginalisation, subjugation, and extraction – that structure vulnerability and violence. This reflects a core insight of transformative scholarship and practice: that without such realignment, patterns of violence do not simply persist through a transition, but tend to evolve and transform alongside it.[12] Paul Gready and Simon Robins describe "the linked challenges posed by justice in transition and violence in transition."[13] Shifting, multi-level systems of injustice require multi-level, synergistic forms of justice.

9 Abdullahi Ahmed An-Na'im, "From the Neocolonial 'Transitional' to Indigenous Formations of Justice," *International Journal of Transitional Justice* 7(2) (2013): 197–204; Moses Chrispus Okello, Chris Dolan, Undine Whande, Nokukhanya Mncwabe, Levis Onegi and Stephen Oola, eds., *Where Law Meets Reality: Forging African Transitional Justice* (Cape Town: Pambazuka Press, 2012).

10 Paul Gready and Simon Robins, "From Transitional to Transformative Justice: A New Agenda for Practice," *International Journal of Transitional Justice* 8(3) (2014): 339–361.

11 Paul Gready and Simon Robins, eds., *From Transitional to Transformative Justice* (Cambridge: Cambridge University Press, 2019); Matthew Evans, ed., *Transitional and Transformative Justice: Critical and International Perspectives* (London: Routledge, 2019); Matthew Evans, ed., *Beyond Transitional Justice: Transformative Justice and the State of the Field (or non-field)* (London: Routledge, 2022); Jasmina Brankovic and Simon Robins, *Mainstreaming Popular Participation in Transitional Justice: Lessons from Multilateral, State and Civil Society Actors in The Gambia and Somalia* (Johannesburg: Centre for the Study of Violence and Reconciliation, 2025).

12 Graeme Simpson, "Reconciliation Beyond Conceptual Debates," *United States Institute of Peace Insights Newsletter* (Fall 2014): 6, https://www.usip.org/sites/default/files/Insights-Fall-2014.pdf.

13 Gready and Robins (2014), FN 10, p. 348.

Gready proposes that transformation occurs at multiple levels, including "the individual, interpersonal relationships, the community, institutions/the state, and global systems." Change at one level has the potential to trigger change at another. He argues that ideas travel among diverse actors within and across these multiple levels, changing norms as they are adopted and adapted, through cross-pollination, cooperation, and contestation.[14] The aim is to harness this potential, identifying and strengthening synergies among actors, for transformative impact at scale.

Applying a Transformative Transitional Justice Approach to Climate Harms

In addition to overlapping significantly with climate justice, transformative transitional justice offers a new way of looking at and addressing climate harms. As Brankovic has argued,[15] transformative approaches to both transitional justice and climate justice seek to acknowledge the intersectional and intergenerational harms of climate change, prioritise local-level experiences and solutions, promote iterative and participatory climate responses over technicist ones, and recognise the value of pluralism in beliefs and practices.

Transformative transitional justice suggests a new way to manage the policy tension between prospective climate action – mitigation and adaptation – and the demands of justice. In climate policy discourse, justice is often articulated through categories such as distributive justice, loss and damage, participation, and just transition. These point respectively towards the allocation of burdens and benefits, redress for past, ongoing or anticipated harms, procedural inclusion, and forward-looking fairness in decarbonisation and adaptation. While, taken together, these dimensions encompass both retrospective and prospective concerns, they are frequently positioned in tension with mitigation and adaptation, as either constraints or countervailing priorities.

Reframing that relationship, transformative transitional justice suggests that prospective action can itself constitute justice by expressing an acknowledgement of harm and a commitment to structural change. In that sense, the relation between backward- and forward-looking goals, or between justice and prevention, is not merely one of accommodation, but of synthesis. In this view, advancing justice and prevention becomes less a challenge of prioritisation than one of political economy and public legibility.

What transformative transitional justice further contributes is tested measures for demonstrating and dealing with the continuum among past, ongoing, and future climate harms. Through its combination of backward- and forward-looking measures, this approach reveals the true breadth and depth of climate harms over time, rooted as it is in the knowledge of individuals and communities affected by climate change. As shown below, climate impacts cause more than destroyed infrastructure and reduced livelihoods; they lead to loss of loved ones, education, culture, mental health, and other profound, lasting, and often unacknowledged climate harms that climate responses must address to

14 Paul Gready, "Introduction," in Gready and Robins (2019), FN 11, pp. 13–18.

15 Jasmina Brankovic, "Transitional and Climate Justice: New Opportunities for Justice in Transition," *International Journal of Transitional Justice* 17(2) (2023): 185–191.

be effective and sustainable.[16] Climate harms and low adaptive capacity are furthermore intimately connected to vulnerability to poverty, violence, and other deep-rooted challenges of marginalisation.

By combining truth, reparation, accountability, and guarantees of non-recurrence via community-led and institutional measures, transformative transitional justice can help generate a shared understanding and record of how climate impacts lead to climate harms, in addition to the nature of the harms, whom they affect, and which circumstances enable them. It can identify forms of material and symbolic reparation that adequately serve those most affected by climate harms. And it can create the conditions for state and non-state actors – including high emitters – to take responsibility for climate harms, while enabling a legal and institutional environment that prevents and mitigates those harms.

In this way, transformative transitional justice suggests pathways to acknowledging and shifting the power structures that underpin the unequal distribution of climate harms nationally and globally, as well as unequal influence over the international climate regime. As in other transitional contexts, the value of this approach lies in normalising acknowledgement, restorative responsibility, and cross-sectoral solidarity, and thereby constructively involving high emitters and a range of other stakeholders in ways that may shift norms and power relations in the climate transition. As ideas and practices cross-pollinate through engagement and contestation among actors across local, national, regional, and international levels, they can open doors that were previously closed to contextually responsive and transformative climate action.

While the long-term consequences of climate change mean that climate *impacts* will continue, transformative transitional justice can help acknowledge, address, and curb climate *harms* – the forms of suffering and injustice experienced as a direct (but not inevitable) result of these impacts. Moreover, the fact that climate change leads to diffuse harms connected to global and systemic challenges is not a block to transitional justice, as the field has been used to address harms emerging from, for example, socioeconomic exclusion and the legacies of slavery and colonialism.[17]

One recent proof of concept comes from South Africa, where Brankovic and colleagues collaborated with affected communities to co-design and co-implement a transformative transitional justice process for climate harms.[18] The process consisted of a truth-telling process on climate harms; a commemoration event paired with an educational workshop on climate responses; a physical memorial honouring those affected; and reform-focused advocacy for more participatory climate response planning and implementation. This initiative demonstrates the practicability of community-led transitional justice

16 See Sophia Brown, "'One Thousand Ways to Experience Loss': Why Acknowledging Non-Economic Loss and Damage Is So Important," *The Loss and Damage Newsletter* (January 15, 2026), https://lossanddamage.substack.com/p/one-thousand-ways-to-experience-loss.

17 See, e.g., Laura García Martín, "Challenging the Transitional Justice Paradigm: Addressing ESRs Violations in Transitional Justice Processes," *Anuario Español de Derecho Internacional* 35 (2019): 655–677; Office of the High Commissioner for Human Rights, *Reparatory Justice for People of African Descent* (2024).

18 Jasmina Brankovic, *Transformative Transitional Justice for Climate Justice: Lessons from Practice* (Johannesburg: Centre for the Study of Violence and Reconciliation, 2026). The publications, videos, and photographs from this initiative are available here: https://www.csvr.org.za/transformative-transitionaljustice-for-climate-justice/.

processes for climate harms, and points to the potential for a broader ecosystem of local responses in climate-affected communities – one this paper explores below.

In the following section, we look at the global climate regime through a transformative transitional justice lens to identify openings for transformative justice, before doing the same with local climate responses in the Malawi and Philippines cases.

Entry Points in International, Regional, and National Climate Frameworks

Examining selected climate frameworks, this section shows that current institutional arrangements provide numerous entry points for climate responses informed by transformative transitional justice. We analyse elements of the global climate regime through the facets of truth, reparation, accountability, and guarantees of non-recurrence, before turning to the cross-cutting issue of victim-centred participation. While this focus allows us to identify and explore latent justice content across the climate regime, we emphasise that these dimensions are inherently interconnected. It is by exploiting connections between multiple elements embedded in multiple systems that transformative action becomes possible.

The global climate regime arose out of complex processes of grass-roots advocacy, elite resistance, and accommodation. Its frameworks are primarily limited not by a lack of transformative vision, but by a political economy shaped by the incumbency and interests of leading emitters. Climate change poses the challenge that harms are likely to be too attenuated in time, and too unevenly distributed, to create what in transitional justice might be called a "mutually hurting stalemate" – a status quo so unbearable that it compels transformative action.[19]

Yet the persistence and institutionalisation of an explicit justice discourse in the climate space demonstrate the impact of affected communities and the most vulnerable countries in asserting their claims, and their ability to leverage their roles to shift systems of power in limited but consequential ways. This means there are openings in the contested processes of the climate regime through which transformative approaches may be advanced – ones that have the potential to further shift the distribution of power.

Truth

Despite the absence of an international climate truth commission designed to generate a shared understanding of climate harms and recommendations for holistic solutions based on transformative principles, the current climate regime offers a range of opportunities for truth-telling, truth-seeking, memorialisation, and collective narrative formation. This section traces how climate truth is recognised and projected through Intergovernmental Panel on Climate Change (IPCC) assessments,

19 I. William Zartman, "The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments," *Global Review of Ethnopolitics* 1(1) (2001): 8–18.

the Global Stocktake Process, advisory proceedings that advance narratives of responsibility, and national inquiries that centre the testimony of affected communities.

The IPCC, whose Assessment Reports serve as authoritative syntheses of climate science in policy processes related to the United Nations Framework Convention on Climate Change (UNFCCC), is a central source of truth-gathering and truth-telling in the international climate regime.[20] The IPCC provides an institutional platform for recognition of distributive justice claims grounded in unequal impacts and vulnerabilities, and – distinctively important in the climate context – for structured truth-telling about *future* impacts and risks. Assessment Report 6 explicitly engages climate justice in its treatment of loss and damage (including non-economic loss) and intersections between climate harms and other structural injustices.[21]

While a reliance on peer-reviewed scientific information constrains public participation and epistemic pluralism in some respects, the IPCC has drawn on a wide range of social science research to acknowledge the role of "diverse forms of knowledge", including Indigenous and local knowledge, and the importance of "inclusive decision making" in adaptation planning and action.[22]

The UNFCCC's Global Stocktake facilitates participation and recognition of multiple contextualised perspectives more directly. A mechanism for periodic assessment of collective progress, it invites contributions by civil society and impacted communities to identify progress and gaps in climate action.[23]

Non-binding judicial advisory processes on the international and regional levels, such as those at the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea, and the Inter-American Court of Human Rights, also serve as entry points for potentially transformative truth-telling, acknowledgement, and narrative formation.

The ICJ's advisory opinion, "Obligations of States in respect of Climate Change",[24] is important not only for its contents, which include an acknowledgement of the responsibility of states for the causes and consequences of climate change, but also for its process. It originated in a local effort in the Pacific Islands that scaled up to a General Assembly resolution. The public hearings in December 2024 featured a historic level of participation by states and civil society organisations, shaping the public record.[25]

20 Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report* (2023).

21 Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report – Longer Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (2023).

22 Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability – Summary for Policymakers* (2022).

23 See United Nations Framework Convention on Climate Change, Decision 19/CMA.1, UN Doc. FCCC/PA/CMA/2018/3/Add.2 (March 19, 2019).

24 International Court of Justice, "Obligations of States in respect of Climate Change" (Advisory Opinion) (July 23, 2025).

25 International Institute for Sustainable Development, "Summary Report, 2–13 December 2024: International Court of Justice Hearings on the Obligations of States in Respect of Climate Change," *Earth Negotiations Bulletin* (2024).

While formal participation was restricted to United Nations member states and select international organisations, the submissions nevertheless embedded accounts of a broad range of Indigenous and community experiences, many of which were delivered orally to the court by members of the most affected communities.[26] A youth-organised People's Assembly in The Hague, conducted in parallel to the public hearings, offered a more direct platform for truth-telling by those most affected, the outcomes of which were "symbolically submitted" to the ICJ for its consideration.[27]

Recent investigative processes on the national level also offer potential for transformative impact. The Philippines Commission on Human Rights conducted a multi-year National Inquiry on Climate Change. The process functioned in a way similar to a truth commission, collecting broad victim testimony in a series of public hearings and community dialogues to conclude that carbon majors are legally responsible for climate harms affecting Filipinos.[28]

Reparation

As a reparation mechanism, the UNFCCC Loss and Damage architecture – comprising the Fund for Responding to Loss and Damage (FRLD), the Warsaw International Mechanism (WIM), and the Santiago Network – offers numerous anchors for transformative climate redress on a global scale. This section assesses what the architecture can deliver given its constraints on acknowledgement and repair, and how implementation choices could enable more participatory, community-linked, and expressly reparative programming.

The most formidable constraint for the Loss and Damage architecture as a vessel of climate reparations is the explicit rejection of loss and damage funding as a "basis for any liability or compensation" under the Paris Agreement's Article 8.[29] This provision is broadly understood to sever loss and damage action from acknowledgement of responsibility and recognition of affected communities' claims to redress, limiting its reparative potential.

From a transitional justice perspective, the bar on liability is potentially surmountable. It is not uncommon for administrative reparations programmes to be separated from individual civil or criminal liability, while expressing the accountability of the state.[30] But the bar on compensation unavoidably precludes a central component of repair. While textually this provision leaves open the possibility of explicitly reparative action beyond compensation – restitution, rehabilitation, satisfaction, and

26 Isabella Kaminski, "'A Human Face on an Abstract Problem': ICJ Forced to Listen to Climate Victims," *The Guardian* (December 11, 2024).

27 "People's Petition: A Collective Climate Justice Call for the ICJ" (December 13, 2024), https://www.pisfcc.org/peoplespetition.

28 Commission on Human Rights of the Philippines, *National Inquiry on Climate Change Report* (2022), 88–114.

29 United Nations Framework Convention on Climate Change, Decision 1/CP.21 (December 12, 2015), para. 51 (Paris outcome: Article 8 "does not involve or provide a basis for any liability or compensation").

30 Pablo de Greiff, "Justice and Reparations," in de Greiff (2006), FN 6.

guarantees of non-recurrence[31] – it reflects a broader resistance to accountability and repair that is unlikely to be circumvented by textual interpretation alone.

A more promising approach is to conceive the Article 8 shield as an enabling condition, creating manoeuvring room for the FRLD to express its actions in reparative terms without destabilising a fragile political arrangement. In this regard, the shielding provision may serve a role analogous to conditional amnesties in transitional justice processes, which preclude prosecution while enabling justice in other forms. Behind a liability and compensation shield, the Fund could frame its programming not as assistance to vulnerable populations but as a reparative response to harms suffered by communities least responsible for the climate crisis.

Where climate harms are interconnected with injustices that originate on the national or subnational scale, the Fund could also supplement its limited expressive range by supporting country-level programmes that directly acknowledge and redress these intersecting injustices. These institutions, situated nearer to affected communities than the Fund, are better positioned to engage these communities' intersecting experiences of harm and braided claims for redress.[32]

It is important to acknowledge from a reparations standpoint that the current scale of loss and damage funding (USD 250 million for the initial 2025–2026 implementation period)[33] is monumentally insufficient for the level of climate harms already experienced by vulnerable communities and most affected countries, let alone that which is anticipated in the coming decades. At the same time, the FRLD's operationalisation has thus far been limited to financial aspects, with limited articulation of its role in addressing non-economic loss or supporting non-monetary or explicitly expressive forms of repair.

Insufficient funding for reparation is a familiar problem in transitional justice, which has innovated around financial limitations by emphasising non-monetary dimensions of reparations, including restitution, satisfaction, guarantees of non-recurrence, and symbolic reparations such as memorialisation.[34] Yet without robust funding, reparations programming often results in anger, disillusionment, and a failure to meaningfully acknowledge and address the marginalisation and continuing vulnerability of victims and survivors in their societies[35] – a risk the Fund must contend with as it operationalises.

Whether the FRLD ultimately approximates a reparations process depends on implementation choices under the Barbados Implementation Modalities. The Fund's framing is state-centric, but

31 United Nations General Assembly, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/RES/60/147 (December 16, 2005).

32 The accompanying study on Mindanao explores the potential for the nascent Bangsamoro Transitional Justice and Reconciliation Commission to serve such a role at the subnational level, engaging braided justice claims encompassing climate harms through its land dispossession mandate. See Sontag and Alonsagay (2026), FN 1.

33 Fund for Responding to Loss and Damage Board, *Barbados Implementation Modalities,* Decision B.5/D.4 (April 2025).

34 See Pablo de Greiff, "Justice and Reparations," in de Greiff (2006), FN 6, pp. 451–477.

35 Ruben Carranza, *The Right to Reparations in Situations of Poverty* (New York: International Center for Transitional Justice, 2009).

its founding documents contemplate community-level engagement, including "small grants that support communities, Indigenous Peoples and vulnerable groups".[36] Critical questions include the relative prioritisation of local as opposed to national projects, whether vulnerability is assessed intersectionally to include historical marginalisation, and whether countries channel FRLD grants into participatory reparative programming that reaches the community level.

The WIM and the Santiago Network both have capacity-building and facilitative roles in supporting community and national engagement with the Fund that could advance more transformative approaches. The WIM is mandated to support "dialogue" and "synergies" among stakeholders and to enhance loss and damage action through "technical support and guidance on approaches" as well as mobilising expertise to strengthen and develop novel approaches.[37] The Santiago Network, meanwhile, "connects developing countries and communities with tailored, context-specific technical assistance on loss and damage for them to shape and lead action that reflects their priorities and realities."[38]

Accountability

Transformative transitional justice broadens accountability beyond criminal prosecutions to encompass participatory, victim-centred processes that address root causes and systemic injustices, while pursuing diverse forms of responsibility for those who enabled, benefited from, and are structurally implicated in harm. It favours active change-making by responsible parties over passive punishment, including through the use of conditional amnesties as a tool for structuring responsibility.[39] This section assesses climate litigation as the most consequential avenue available for transformative climate accountability, and reviews a set of promising tools through which to advance it: the use of attribution science and integrated assessment modelling, the elaboration of due diligence as a basis for climate responsibility, and the crystallisation of the right to a clean, healthy, and sustainable environment.

Civil climate litigation on the international, regional, and national levels plays an increasingly significant role in advancing climate justice claims beyond the constraints of the UNFCCC regime.[40] Current international and regional climate litigation practice pursues accountability outside the criminal realm largely by necessity (a push for codification of the crime of ecocide in the Rome Statute is nascent),[41] through civil actions, in which a set of potentially transformative tools is emerging.

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36 United Nations Framework Convention on Climate Change, Decision 1/CP.28, UN Doc. FCCC/CP/2023/11/Add.1 (March 15, 2024).

37 United Nations Framework Convention on Climate Change, Decision 2/CP.19, UN Doc. FCCC/CP/2013/10/Add.1 (January 31, 2014), para. 5(b)–(c).

38 Santiago Network, "About Us," https://santiago-network.org/.

39 Louise Mallinder and Ron Slye, *Rethinking Peace and Justice* (Barcelona: Institute for Integrated Transitions, 2019); Duthie and Seils (2017), FN 4.

40 See Laura Schäfer, Vera Künzel and Christoph Bals, *The Significance of Climate Litigation for the Political Debate on Loss & Damage* (Bonn: Germanwatch, 2018). See also United Nations Framework Convention on Climate Change, Decision 1/CP.21, "Adoption of the Paris Agreement," in *Report of the Conference of the Parties on Its Twenty-First Session, Held in Paris from 30 November to 11 December 2015,* UN Doc. FCCC/CP/2015/10/Add.1 (January 29, 21016), para. 51.

41 Assembly of States Parties to the Rome Statute of the International Criminal Court, *Report of the Working Group on Amendments,* ICC-ASP/23/26 (December 1, 2024) annex II, "Proposal Submitted by Vanuatu to Amend the Rome Statute."

First, developments in attribution science and integrated assessment modelling create an opportunity for more victim-centred framings in climate litigation. In order for climate accountability processes to be victim-centred, they need to better reflect the experiences of harm and narratives of injustice of those affected by climate harms. Where global policy debates often emphasise state-level distributive elements of justice, the claims of affected communities are more fine-grained, focusing on particularised experiences of climate harm.[42] A growing recognition of attribution and modelling tools as a legitimate basis for the ascription of responsibility and causation[43] makes feasible the litigation of particularised claims in regional and national fora.[44]

Second, the due diligence standard articulated across human rights and environmental law, and elaborated in recent advisory opinion jurisprudence, supports layered accountability, including for indirect forms of responsibility, as well as for the kind of structural drivers that transformative transitional justice emphasises as essential to justice. By framing obligations in terms of a duty of care with positive and negative, forward- and backward-looking dimensions, the ICJ opinion forms a basis for transformative sanctions that enlist responsible parties in the process of repair and prevention.[45] In conjunction with attribution science and risk-based causal modelling tools, a due diligence approach addresses the crucial challenge in climate justice of ascribing responsibility for probabilistic future harms by reframing them as failures of precaution.

This theory of responsibility has been developed within regional human rights systems, including in the landmark case of *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*. The European Court of Human Rights found that Switzerland had violated its positive obligations to protect the applicants' right to life and access to justice in failing to take sufficient adaptation and mitigation measures.[46]

Finally, the right to a clean, healthy, and sustainable environment, recognised by the United Nations General Assembly[47] and characterised by the ICJ as "essential for the enjoyment of other human rights",[48] provides a doctrinal fulcrum for shifting focus from states to the individuals and communities directly affected by climate change.

Climate litigation is an important channel for the articulation and pursuit of justice claims, but a narrow one. While individualised redress and accountability for particularised harms are meaningful and valuable in a broader justice ecosystem, they are inherently limited by standing, jurisdictional

42 Peter Newell, Shilpi Srivastava, Lars Otto Naess, Gerardo A. Torres Contreras and Roz Price, "Toward Transformative Climate Justice: An Emerging Research Agenda," *Wiley Interdisciplinary Reviews: Climate Change* 12(6) (2021): e733.

43 As well as the application of more flexible standards of legal causation itself, as was the ICJ's approach in its advisory opinion. International Court of Justice (2025), FN 24, para. 438.

44 See Simon Dietz, Joana Setzer, Catherine Higham, Tiffanie Chan, Noah Walker-Crawford and Frank Venmans, "Translating Climate Science into Legal Standards: Lessons from the *Milieudefensie v. Shell* Case*," Science* 391, no. 6780 (2026): 26–29; *Saúl Ananías Luciano Lliuya v. RWE AG,* Oberlandesgericht Hamm, I-5 U 15/17, judgment of May 29,2025 (accepting in dicta attribution science as a basis for legal causation).

45 International Court of Justice (2025), FN 24.

46 *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* Application no. 53600/20, Judgment, Eur. Ct. H.R. Grand Chamber) (April 9, 2024).

47 United Nations General Assembly, "The Human Right to a Clean, Healthy and Sustainable Environment," A/RES/76/300 (adopted July 28, 2022).

48 International Court of Justice (2025), FN 24, para. 393.

limits and other access and capacity constraints, all of which tend to reproduce the preexisting systems of exclusion that also structure climate injustices. In order for it to advance transformational accountability, climate litigation must generate effects beyond individual remedies, creating cumulative reputational, financial, and regulatory pressure on emitters, while clarifying duties and evidentiary standards in ways that shift behaviour ex ante.[49]

Guarantees of Non-Recurrence

Transformative transitional justice practitioners have broadened the mainstream focus on institutional reform and personnel vetting as guarantees of non-recurrence, recognising that structures of violence, not merely institutions and individuals, must be transformed in order to disrupt the propagation of harm and injustice through a transition.[50] They anticipate that, barring targeted action, structures of violence will themselves propagate and transform along with the society.[51] This section assesses just transition, mitigation, and adaptation commitments as prevention-focused justice measures, and explores openings for transformative impact.

In the climate space, the guarantees of non-recurrence framing is most obviously relevant to just transition frameworks, which concern the impact and potential injustices of the transition to green energy and a sustainable economy. Through a transformative transitional justice lens, the issue of a just transition can be understood not merely as a baseline safeguard of "do no harm", but rather as an active effort to anticipate and prevent the transmission of systemic forms of violence at the root of climate change and vulnerability.

Through this lens, commitments to mitigation and adaptation can be read as guarantees of non-recurrence, at least where they are framed and expressed through the language of justice, responsibility, and recognition. However, as noted above, the justice value of preventive action often depends more on the substance of the action – whether it reflects affected communities' understandings and experiences of harm, while recognising and integrating community agency – than on how it is labelled.

For preventative action to truly express justice value would require more than a rebranding of the status quo. One potential entry point for a concrete shift in practice towards an adaptation-as-non-recurrence approach could be the "paradigm shift" metric in the funding criteria of the Green Climate

49 See, e.g., Schäfer, Künzel and Bals (2018), FN 40.

50 Graeme Simpson, "'A Snake Gives Birth to a Snake': Politics and Crime in the Transition to Democracy in South Africa," in *Justice Gained? Crime and Crime Control in South Africa's Transition,* eds. Bill Dixon and Elrena van der Spuy (Cape Town: Juta Academic, 2004), 1–28; Gready and Robins (2014), FN 10.

51 Gready and Robins (2014), FN 10, p. 348 (describing "the linked challenges posed by justice in transition and violence in transition").

Fund (and others).[52] Interpreted broadly, it could include the transformation of the root causes of emissions, inaction, and structural vulnerability on a national scale.

Institutional reform and vetting processes, the mainstream anchors of non-recurrence action, also bear relevance for the transformation of global climate institutions, though the analogy is delicate. Climate institutions are not institutionally responsible for past mass violations in the way a military or police force might be in a post-conflict transition. But they are at risk of replicating and re-inscribing harm, particularly where they serve as institutional channels for the same private interests and states that have driven climate change. Institutional reforms of climate bodies could ensure better integration of community knowledge and agency, shifting from a status quo approach in which participation serves largely to legitimate the system itself, to a more transformative approach in which it serves as a structural safeguard against cyclical marginalisation and extraction.

As a climate analogue to the vetting of security forces and other implicated sectors in post-conflict transitions, interests implicated in climate harms could be barred or removed from advisory and governance roles within climate bodies. This approach has precedent in international governance: Article 5.3 of the World Health Organization Framework Convention on Tobacco Control, which requires parties to protect public health policy from influence by tobacco industry interests.[53] In the climate space, a non-recurrence framing could reinforce growing demands for the restriction of fossil fuel industry participation in climate policy processes.[54]

More broadly, the "justice as prevention" perspective embodied in a transformative view of guarantees of non-recurrence helps to resolve the policy tensions between supposedly retrospective climate justice and the prospective priorities of mitigation and adaptation. In this view, justice might be articulated not as a retrospective counter-priority to adaptation and mitigation, but as a necessary complement.

Victim-Centred Participation

Transformative transitional justice emphasises participation not only as a basis for effective mechanism design and process legitimation, but also as a substantive dimension of repair for individuals and communities for whom marginalisation, disempowerment, and erasure are at the root of their experiences of injustice. It "seeks a form of participation that engages with but transforms victimhood … that sees the marginalised challenge, access and shape institutions and structures from which they were previously excluded."[55] At the same time, it insists on a meaningful analysis

52 Paradigm shift potential is defined in the Green Climate Fund's investment framework as the "[d]egree to which the Fund can achieve sustainable development impact beyond a one-off project or programme investment through replicability and scalability" and "[s]ystemic change towards low-carbon and climate-resilient development pathways", including a sub-criterion described as "[c]ontribution to the creation of an enabling environment (i.e. achieving systemic change) and to sustainable development, including social, economic and environmental co-benefits for a paradigm shift". Green Climate Fund, Investment Framework, Decision B.07/06 (May 21, 2014), Table 2: Initial criteria for programme and project funding decisions, "Paradigm Shift Potential".

53 World Health Organization Framework Convention on Tobacco Control (2003), Art. 5.3.

54 See Transparency International, *Fuelling Delay: How Fossil Fuel Interests Shape Global Climate Negotiations* (2025).

55 Gready and Robins (2014), FN 10, p. 348. See also Brankovic and Robins (2025), FN 11.

of the role of participation in the realignment of power and the advancement of meaningful change, recognising that it is not always the answer to merely "add participation and stir."[56] This section assesses the entry points for participation in the UNFCCC system to identify practical limitations and areas of promise.

The UNFCCC system offers a number of textual hooks for participation.[57] The UNFCCC itself commits parties to facilitate "public participation in addressing climate change and its effects and developing adequate responses".[58] The Paris Agreement states that adaptation programming "should follow a country-driven, gender-responsive, participatory and fully transparent approach"[59] and establishes an obligation to "cooperate in taking measures, as appropriate, to enhance … public participation and public access to information".[60]

In practice, however, UNFCCC processes are often described as elite-driven, siloed, and limited in their conception and implementation of participatory action. One study, drawing on Indigenous experiences in the Local Communities and Indigenous Peoples Platform (LCIPP), reports that participants criticised UN climate governance as "a space of spectacle, a performance of inclusivity".[61] The LCIPP's own report calls for a shift in narrative surrounding local communities and Indigenous Peoples from "vulnerability to leadership in climate action."[62]

One space to which this critique may not apply is the LCIPP itself. The platform serves several functions, including horizontal knowledge exchange at the community level and capacitation of Indigenous and local communities to engage with the UNFCCC and, conversely, of UNFCCC parties to engage with communities and Indigenous peoples. It also promotes integration of "diverse knowledge systems, practices and innovations" in designing climate actions, and facilitation of actions by Indigenous peoples and local communities to support achievement of nationally determined contributions.[63] Its Facilitative Working Group is composed of an equal number of Indigenous peoples' representatives and UNFCCC parties.

This body reflects not only the prioritisation of local agency and epistemological diversity in transformative transitional justice, but also the recognition that a local paradigm, like an entirely state-centric paradigm, is not transformative on its own. Gready and Robins argue that "[s]caling up often irrevocably alters the initial, local intervention" and, therefore, that meaningful engagement of

56 Dustin N. Sharp, "What Would Satisfy Us? Taking Stock of Critical Approaches to Transitional Justice," *International Journal of Transitional Justice* 13(3) (2019): 570–589.

57 Office of the United Nations High Commissioner for Human Rights, *The Right to Participation in the UNFCCC* (2025), https://www.ohchr.org/sites/default/files/events/2025/eve-251109-office-hc-cop30-right-participation-en.pdf.

58 United Nations Framework Convention on Climate Change, "United Nations Framework Convention on Climate Change" (1992), Art. 6(a)(iii).

59 United Nations Framework Convention on Climate Change, "Paris Agreement" (2015), FN 40, Art. 7.5.

60 Ibid., Art. 12.

61 Siobhan McDonnell and Brianna Gordon, "Indigenous Participation in the Local Communities and Indigenous Peoples' Platform: The Need to Decolonize UN Climate Governance," *Geoforum* 169 (2026).

62 United Nations Framework Convention on Climate Change, *Report of the Facilitative Working Group of the Local Communities and Indigenous Peoples Platform,* UN Doc. FCCC/SBSTA/2024/1 (March 22, 2024).

63 United Nations Framework Convention on Climate Change, Decision 2/CP.23, "Local communities and indigenous peoples platform," UN Doc. FCCC/CP/2017/11/Add.1 (February 8, 2018), para. 6.

the global and the local requires mediated spaces.[64] They argue that particularly in contexts where the global to local and duty-bearer to rights-holder vectors align, "[w]orking with both sides of the rights equation, and building complementary capacities, can create multistakeholder platforms for dialogue about how rights are understood and what interventions are most appropriate."[65] This is precisely the approach of the LCIPP.

Having examined the global climate regime and aspects of regional and national systems through a transformative transitional justice lens to identify entry points for transformative climate justice, we now turn to the role of initiatives led by affected communities in transformative climate action.

Entry Points in Community-Led Climate Action

This section applies a transformative transitional justice lens to community climate actions, drawing selectively on the findings in our case studies on Malawi and Mindanao. It demonstrates that communities are already advancing climate justice in ways that institutional actors systematically fail to identify, through actions that correspond to the four pillars of transitional justice: truth-telling, repair, demands for accountability, and preventive action aimed at non-recurrence. These actions, we argue, form a necessary complement to institutional justice processes. Where institutional action expresses the duty-bearer's responsibility, accountability, and commitment to non-recurrence, community action embodies the justice value of agency, voice, and participation.

Arising from communities' unitary experience of harms, these actions directly assert communities' epistemic authority, defying programmatic silos while confronting structures of power and marginalisation. The community initiatives described here, and explored in depth in the accompanying case studies,[66] suggest new approaches to climate justice from below, approaches that could inform, catalyse, and connect with institutional actions to form a more transformative climate justice ecosystem across scales.

While the Malawi and Mindanao cases diverge in their political context, conflict histories, and climate impacts, they offer several shared insights. First, community justice measures in both contexts link past, present, and future, dealing with the past so as to transform present conditions towards a safer and more just future. In so doing, they offer lessons to other communities and institutional actors navigating policy and practical tensions between adaptation and mitigation on the one hand and the demands of justice on the other.

Second, the harms communities in both contexts have identified and addressed are far more complex, layered, and socially determined than institutional climate frameworks typically apprehend. The distributive dimensions of climate injustice broadly recognised on the inter-state, geopolitical level

64 Gready and Robins (2014), FN 10, p. 360. Not all affected communities are localisable. Non-localisable groups whose experiences of climate harm are structured by race, gender, class, disability or other factors may require different kinds of mediated spaces, as well as institutional structures through which to organise and articulate claims in the first place.

65 Ibid., 353.

66 See Brankovic (2026) and Sontag and Alonsagay (2026), FN 1.

trace downwards all the way to how these communities experience and respond to particular climate events. This implies a need for justice responses that better reflect the complex nature of climate harms and their relation to intersecting injustices across scales.

Both cases also demonstrate that communities' demands on institutions go beyond inclusion and participation as processes. What communities require is recognition of their epistemic authority and agency in advancing repair, through institutional engagement that approaches communities as partners in justice rather than passive recipients of aid.

The Case of Nkhulambe, Malawi

The case of Nkhulambe reveals a number of entry points for climate justice informed by transformative transitional justice, which link action at the local and global levels. The research participants in Nkhulambe reflected that, in order to even begin responding adequately to the climate harms in the area, residents have taken a holistic approach that braids together forward-looking and backward-looking measures. Climate readiness measures serve to create a community environment where climate impacts are less likely to lead to climate harms, while truth-telling, memorialisation, and participatory institutional reform efforts acknowledge the extent of past climate harms, honour what was lost, and promote learning and mobilisation around climate action.[67]

Nkhulambe is a rural area in the south of Malawi that has been among the hardest hit by climate impacts in the country. As participants noted, the local climate has been changing for decades, but climate impacts have become more frequent and extreme in recent years. Residents have experienced erratic rainfall patterns and shifts in the timing and duration of the rainy season, which have led to severe flooding alongside dry spells and droughts. As a result, they have struggled with failing crops, decreasing agricultural yields, and increasing numbers of pests such as army worms. They have also faced increasing food insecurity and a rise in diarrhoeal and respiratory diseases over time.[68]

In addition to these everyday and ongoing climate impacts, participants highlighted the devastation wrought by extreme weather events, particularly repeated tropical storms and cyclones. Tropical Cyclone Freddy, which nearly destroyed the community in 2023, has had lasting effects on residents' lives that have been exacerbated by subsequent weather events.[69]

A key finding that emerged from our research is that creeping climate change, combined with disasters like Cyclone Freddy, has resulted in a wide range of profound and lasting climate harms,

67 To see detailed references for the research participants' statements, in addition to more details on this case study, see Brankovic (2026), FN 1.

68 See Danish Red Cross and Malawi Red Cross Society, *Knowledge, Attitudes and Practices on Flood Early Warnings and Early Action among Local Communities in Zomba and Phalombe, Malawi* (2024); Department of Climate Change and Meteorological Services, *Climate Risk Maps: Phalombe District* (2022).

69 See Jack McBrams, "'I'm Tired of Surviving. I Want to Live Again': Cyclone Freddy's Legacy in Malawi," Dialogue Earth (July 15, 2025), https://dialogue.earth/en/climate/im-tired-of-surviving-i-want-to-liveagain-cyclone-freddys-legacy-in-malawi/; Fiona Braka, Ebenezer Obi Daniel, Joseph Okeibunor, Neema Kimambo Rusibamayila, Ishata Nannie Conteh, Otim Patrick Cossy Ramadan, Jayne Byakika-Tusiime, Chol Thabo Yur, Emmanuel Maurice Ochien, Mathew Kagoli, Annie Chauma-Mwale, Dick Chamla and Abdou Salam Gueye, "Effects of Tropical Cyclone Freddy on the Social Determinants of Health: The Narrative Review of the Experience in Malawi," *BMJ Public Health* 2(1) (2024): e000512.

which are more complex, layered, and intersectional than generally recognised. Because of their deep contextual knowledge and long-time experience with climate impacts, the participants are in a position to identify harms that go unacknowledged by the public and even climate experts. They noted that these harms are particularly grave for vulnerable persons with low adaptive capacity, including persons with disabilities and children heading households.

Participants spoke of watching family members swept away by floods, with some never to be recovered and many left with serious physical injuries, permanent disabilities, and chronic health challenges. They discussed losing homes and belongings gathered across a lifetime, as well as the widespread destruction of essential infrastructure such as bridges, roads, health centres, schools, police stations, trading centres, the energy grid, and irrigation schemes – hampering residents' mobility, security, and access to healthcare, education, and livelihoods. Climate impacts have destroyed income and food security, with residents losing crops and livestock and struggling to grow previous staples because of changing rainfall, barren soil, and collapsed river and irrigation systems.

Noting that cultural practices have been undermined, participants described floods destroying graveyards and disrupting traditional ways of honouring the dead and residents' ancestors. Scarcity has unsettled the social order, leading to a rise in youth migration, early marriages, unintended pregnancies, sexually transmitted infections, and sex work. Residents have been left struggling with trauma and other mental health challenges, which affect not only individuals but also families and communities, including across generations. Trauma can be triggered by every heavy rainfall, with some residents repeatedly spending the night in nearby trees, fearing another flood.

To respond adequately to these manifold climate harms, participants asserted, residents have developed a set of epistemically rooted forward- and backward-looking measures that they implement within the community. The forward-looking measures include early warning systems, local climate resilience groups, reforestation efforts, climate-smart agriculture, community savings mechanisms, and mutual financial and emotional support – intended to create conditions for non-recurrence or at least to curb climate harms. The backward-looking measures entail truth-telling, memorialisation, and participatory reforms, intended to acknowledge past climate harms and spur learning, mobilisation, and narrative shaping around climate change and action in the area.

Regarding truth-telling, participants noted that community governance structures, cultural events, and religious ceremonies have proven to be platforms for residents to give extended and recorded statements on their experiences of climate harms and the causes and enabling factors they perceive. Many have also organised informal groups that meet regularly to share experiences of harms and trauma, some of which include a special "children's corner" for this vulnerable group. To reach audiences beyond their community, residents conduct truth-telling with external stakeholders, especially journalists and civil society representatives who can disseminate their statements to a large audience, as well as healthcare and other government actors collecting data.

Participants emphasised that truth-telling helps residents share the emotional burden of their experiences and begin the process of healing from trauma. Moreover, truth-telling raises awareness, locally and beyond, of the range of climate harms in the area, capturing the scale of the challenges residents face. It facilitates learning from the past among children, youth, and the wider community, while also helping attract increased and more tailored and informed external support.

Importantly, truth-telling enables residents to share not only experiences of climate harms – and the marginalisation and layered vulnerabilities that exacerbate these harms – but also the solutions they have developed. Participants argued that the knowledge of affected communities helps local, national, and international audiences acknowledge past harms and the power structures that prevent them from being adequately addressed at the global level. It also builds solidarity for future action, increasing the likelihood of contextually responsive and transformative climate action. As one participant asserted, "We need to tell our stories so that other communities can learn from our experiences."

Regarding memorialisation, participants noted that residents use traditional practices and religious services to commemorate lives lost and reflect on climate harms in Nkhulambe, many on the anniversary of Cyclone Freddy. Residents also gather within communities and families to remember what was lost, encourage each other amid the pain they face, and contribute to the trauma healing process, including during the unveiling and annual cleaning of tombstones. Some families conduct annual memorial rituals, which entail abstaining from work or from eating meat.

Many participants emphasised the value of building a physical memorial for climate harms, with one stating, "A memorial is important for the new generations and for not forgetting." Some were aware of the memorial pillar installed in nearby Phalombe to honour the hundreds of lives lost in a massive rockslide caused by flooding in 1991. The traditional authority in one area of Nkhulambe noted that residents and local small business owners had discussed gathering funds to erect a similar memorial for victims of Cyclone Freddy. Participants reflected that a public memorial in Nkhulambe would help formalise the memorialisation processes already occurring throughout the area and provide a joint physical space for commemoration.

Importantly, for participants, memorialisation enables those most affected by climate harms to shape the way those harms are discussed and addressed. These efforts offer opportunities for educational activities aimed at children and youth as well as the broader community – learning about what happened and the actors and conditions that enabled it, as well as collective efforts to identify, share, and undertake climate responses within the community. Moreover, they provide a learning opportunity for external actors, including the government and civil society, as well as international actors, who have influence on global climate change debates and actions.

When asked about responsibility for addressing climate change, participants emphasised that "developed" countries and corporations have contributed the most to historical and ongoing carbon emissions. For them, these actors bear the greatest responsibility for climate change and an obligation to address its effects in backward- and forward-looking ways, including in countries and communities that have contributed the least emissions, like Nkhulambe. Participants focused not on prosecutions and other retributive forms of accountability (for now), but rather on the restorative and reparative value of international actors learning from affected communities, providing support for scaling up community-led approaches, and linking them with global climate responses that encompass mitigation, adaptation, and loss and damage alike.

Furthermore, participants discussed the responsibility of the Malawian government. In addition to acknowledging that the government has climate change policies in place, they noted that government actors provide disaster relief, training in disaster management, and some infrastructure repair.

Participants argued, however, that these initiatives are largely focused on the moment of disaster, short-term rather than sustained, and premised on one-way information transfers rather than two-way dialogue and collaboration between state actors and affected residents. They also noted that these initiatives often fail because they are not adequately contextualised, as residents discard or sell materials and choose not to attend activities they know will not improve their situation. In addition, a large portion of state support does not reach those who need it most, as government actors do not work closely enough with community members to identify the most vulnerable residents for targeted support.

Participants therefore advocated for a more participatory approach to designing and implementing climate responses in Malawi. Rather than simply passing messages from residents to district and other government officials via community structures, participants called for local councils to work with residents to establish new mechanisms for regular, consistent engagement with government officials. They called for two-way, direct conversation and decision-making, including through community members affected by climate impacts serving in leadership positions on government bodies dealing with climate change. Participants also emphasised that those most affected by climate change should actively participate in the development and review of national policies and laws relating to climate change, including in the development of the country's Nationally Determined Contributions and other forms of engagement with the global climate regime.

When discussing national-level responsibility, therefore, participants focused primarily on introducing participatory institutional and procedural reforms in order to facilitate more holistic climate responses that contribute to non-recurrence. With these reforms, government frameworks would be better aligned with local needs and solutions, and have more likelihood of buy-in and sustainability in the long term. Moreover, the Malawian government's inputs and actions as part of the global climate regime would be more in line with affected communities' understandings of and approaches to climate justice. In this way, participants once more linked local to global climate responses, this time via national climate action.

While residents in Nkhulambe, Malawi, do not describe what they are doing as "transitional justice", applying a transformative transitional justice lens to their initiatives reveals a wealth of ideas and practices around truth, repair, accountability, and non-recurrence that suggest new pathways towards climate justice in their own right. In addition, residents are open to sharing their approaches and collaborating actively with other actors to strengthen local, national, and international climate action. As one participant noted, "Communities are experts; they are not passive, so we should not put them in a passive position and impose interventions on them." The case of the Bangsamoro Autonomous Region in Muslim Mindanao shows a similarly instructive perspective.

The Case of Bangsamoro Autonomous Region in Muslim Mindanao, the Philippines

The case of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) both echoes and complicates the findings of the Malawi case. Applying a transformative transitional justice lens to a region amid a post-conflict transition, it demonstrates how communities braid together forward- and backward-looking dimensions of justice to respond to layered experiences of climate harm, marginalisation, and conflict. These community actions, encompassing truth-telling, repair and memorialisation, accountability advocacy, and non-recurrence measures, approach interconnected

harms not synergistically but as a unitary whole. As one Indigenous participant argued, "It's not about connection; it's about oneness."[70]

In the BARMM, climate harms are inextricable from the layered injustices of land dispossession and extraction, governance failures, social exclusion, and violent conflict, which structure communities' vulnerability to climate events. The BARMM is the product of a centuries-long process of marginalisation of, and resistance by, the Muslim (Moro) and non-Moro Indigenous Peoples (NMIPs) of Mindanao.[71] A programme of systematic land dispossession by colonial powers and the Philippine state culminated in brutal forced dislocation during the Marcos era. To make way for Christian settlers and extractive corporate interests, Indigenous communities were forced onto more climate-vulnerable land.[72]

Despite commitments on the national and BARMM levels following the peace agreement to address the legacies of "marginalization through land dispossession"[73] through transitional justice processes, the BARMM has experienced growing horizontal conflict around competing land and resource claims, illegal logging and mining, and the systematic targeting and dispossession of NMIP communities and land defenders.

In this same period, the BARMM has seen rapidly escalating climate impacts, causing harms that range from the physical and immediate (flood deaths and destruction of homes, displacement due to storms and landslides) to intangible and attenuated (spiritual harm from the inability of displaced peoples to conduct land-based rituals, and the disruption of intergenerational transmission of traditional practices and cultural knowledge).

Whereas climate, peace and security debates dissect the causal pathways through which climate change acts as a "risk multiplier" for conflict, participants grounded their justice narratives in the shared root causes that shape *vulnerability* to both forms of harm.[74] This reframing is reflected in a local aphorism: "Sometimes it rains water; sometimes it rains bullets." Participants placed the issue of "marginalisation through land dispossession" at the root of both climate and conflict justice. As one key informant put it, "land is the language of conflict in Mindanao." The historical dispossession and displacement of Moro and NMIPs from their lands into more flood-prone areas, along with systematic sociopolitical and economic marginalisation, made these communities more vulnerable to conflict and climate threats. In this context, participants argued, climate harms are themselves

70 To see detailed references for the research participants' statements, in addition to the full findings of this case study, see Sontag and Alonsagay (2026), FN 1.

71 Despite a shared history of dispossession with the 13 Islamised ethnolinguistic groups collectively referred to as the Moro people, the six non-Moro Indigenous Peoples of Mindanao (the Teduray, Lambangian, Dulangan Manobo, Erumanen ne Menuvu, Blaan, and Higaonon) maintain a distinct sociopolitical trajectory. NMIPs articulate their own claims to self-determination, including within the political framework of the Bangsamoro. See Lena Muhs, "The Struggle for Recognition Continues: Non-Moro Indigenous Peoples in the Bangsamoro," in *Indigenous Peoples' Rights in the Philippines: Realities, Challenges, Struggle for Self-Determination,* ed. Mirjam Overhoff and Hannah Wolf (Essen and Hamburg: philippinenbüro e.V. and Ökumenewerk der Nordkirche, 2025), 24–27, https://www.asienhaus.de/archiv/user_upload/Asienhaus_Kurzbroschuere_phibue_Indigene_EN_250211-RZ.pdf.

72 See Transitional Justice and Reconciliation Commission, *Report of the Transitional Justice and Reconciliation Commission* (2016), Sec. 2.3.3.

73 Ibid., Sec. 2.4.

74 This reframing is familiar to transitional justice practice. See United Nations, *Guidance Note of the Secretary-General on Transitional Justice: A Strategic Tool for People, Prevention and Peace* (2023).

expressions of systemic injustice that are precipitated by meteorological events. In one participant's words, "climate harms are not just natural; they're political."

One harrowing example of these interconnected injustices, recounted by several participants, is the 2022 Kusiong landslides, which killed 27 Teduray during Severe Tropical Storm Paeng. This Teduray community, whose ancestral domain claims had not been processed by the BARMM government,[75] was forced to relocate from the shoreline, allegedly to make way for a development project linked to local political elites, to the foothills of Mt. Minandar, denuded by logging in the 1960s sanctioned by the Marcos regime. The community protested their relocation, both because deforestation had created erosion risk and because the foothills were a sacred site, but their concerns were dismissed as superstitious. Without force of arms, they had little practical standing to assert their claims. When the floods came and loose soil swept off the mountainside, many were buried alive. Participants alleged that the government-led search for survivors was called off prematurely.

These layered injustices fall distinctively and disproportionately on NMIP communities in the BARMM. Having historically faced a similar pattern of cultural erasure and dispossession as Moro counterparts, NMIPs are now a marginalised minority under Bangsamoro authority, victimised by forced dispossession, development aggression, and violent targeting of land defenders and community leaders. This experience reflects the phenomenon described in transformative transitional justice scholarship as "violence in transition",[76] which systems of violence tend to propagate across changes to the social order. As one Indigenous participant observed, pointing to the renewed marginalisation of NMIPs under the BARMM's political structure, "sometimes, peace kills us."

Participants described an inseparable link between Indigenous land sovereignty, spiritual practice, and ecological stewardship. In this context, they explained, the right to free, prior and informed consent entails not only the approval of the community, but also the approval of the land itself, obtained through Indigenous spiritual practices. The 2024 Indigenous Peoples Code, which formalises the rights of NMIPs within the BARMM's legal structure, codifies this traditional duty to consider the rights of nature in decisions regarding ancestral domains.[77]

In this context, community initiatives braided together not only forward- and backward-looking dimensions of justice across the four transitional justice pillars, but also justice for climate-, conflict- and marginalisation-based harms. These actions, communities emphasised, did not simply coordinate redress for intersecting harms, but rather approached justice for these interconnected injustices as a single process without categorical distinctions. As such, preventive climate action was pursued as a non-recurrence measure to address structural marginalisation, and cultural repair as a form of redress for climate harms.

75 A non-binding resolution of the BARMM Parliament issued in the first months of the transition functionally stalled ancestral domain claims within the BARMM until the Bangsamoro Indigenous Peoples' Act of 2024 restored a pathway to certification of ancestral domain titles. See International Crisis Group, "Southern Philippines: Fostering an Inclusive Bangsamoro," *Asia Report* No. 322 (2021); Bangsamoro Parliament, Resolution No. 38 (adopted September 25, 2019).

76 Gready and Robins (2014), FN 10.

77 See Bangsamoro Parliament, *Bangsamoro Autonomy Act No. 54: Bangsamoro Indigenous Peoples' Act of 2024* (Cotabato City: Bangsamoro Autonomous Region in Muslim Mindanao, 2024).

Project *Bungkas* offers a particularly vivid demonstration of how NMIP communities in the BARMM advance climate justice.[78] A community-led initiative of NMIP youth from the Teduray and Lambangian peoples, it consisted of a series of intergenerational knowledge transfers, a tree stewardship initiative, and a climate solidarity march. Through these actions, it reclaimed Indigenous practices as both redress for past harms and a means of preventing their recurrence.

The first component of Project *Bungkas*, a series of intergenerational knowledge transfers, pursued cultural restoration as both repair and prevention. During these sessions, held in remote Indigenous villages, Teduray and Lambangian elders shared traditional practices for sustainable land use and adaptation to show indigenous youth how their own traditions embody climate action. According to an organiser, the sessions taught participants that indigenous people "have been fighting climate change since the day we were born."

In the context of cultural erasure and marginalisation, the transmission of cultural knowledge served both as a form of self-initiated repair for these structural harms, and, participants argued, as a way of pursuing non-recurrence for climate harms. The knowledge transfers also suggest that the rights of future generations consist of more than the negative right not to be robbed by the actions of previous generations. It includes a positive right as well: to inherit and draw on the cultural knowledge of the past in taking climate action themselves.

A second component of Project *Bungkas*, a tree-growing programme in the municipality of Upi, Maguindanao del Sur, illustrates the interlinkage of land-based justice claims and the synthesis of forward- and backward-looking dimensions of justice. The tree-growing initiative was connected to a particular Teduray and Lambangian cultural practice described during an intergenerational dialogue at the start of the project: the tradition of tying a newborn's umbilical cord to a native tree, creating a spiritual bond and a lifelong duty of stewardship.

The tree-growing activity thus served three justice functions. It operated as a climate-oriented non-recurrence measure, advancing mitigation through reforestation and adaptation in the form of erosion control. It also served as memorialisation of widespread illegal logging on ancestral domains and of climate disasters exacerbated by deforestation, and as repair through the restoration of land-based practices. Here, healing involved not only reclaiming rights and autonomy, but renewing obligations of stewardship towards land and community. Other communities and local organisations similarly conducted tree-planting actions as both commemorative responses to climate harms and preventative adaptation strategies.

The third component of Project *Bungkas* was a climate solidarity march that combined advocacy for climate action as a form of non-recurrence with truth-telling and symbolic repair of Indigenous cultural authority. Indigenous marchers and partners, walking in the sweltering heat to the melody of a traditional gong ensemble, chanted demands for the recognition of Indigenous knowledge as a tool for climate action.

78 *Bungkas* is a Teduray word meaning opening. The initiative aims to open the *itungan* (mind), *fusung* (heart), *kegetigan* (skills), and *tambeng* (barriers) in promoting and sustaining the Indigenous Knowledge Systems and Practices (IKSPs).

Participants argued that such advocacy demanding justice from external actors could itself carry symbolic and intangible justice value for communities. One key informant, for example, described justice protests by storm victims as sites of memorialisation. In such actions, he said, "traces of memory are driven by the demand for justice."

Participants challenged a narrow resilience framing that imagines communities' role as enduring the interim between climate harm and external support.[79] This conception, they argued, promises both too much and too little. On the one hand, it supposes that a capacity to return to a prior baseline in the wake of climate disaster sufficiently addresses community needs. On the other, it fails to recognise the centrality of community agency in climate responses. In this regard, participants observed that the narrow mandates of international non-governmental organisations and the structure of project cycles tend to undercut incentives for self-initiated climate actions.

While participants emphasised that community agency and active participation are essential to justice, they did not romanticise the power of the local to transform unjust systems on their own. The transformative potential of community initiatives, they argued, depended on the engagement, support, and responsiveness of institutional actors relating to communities as "partners, not beneficiaries", without forcing their actions into programmatic silos or instrumentalising them to advance external priorities. Only within a broader justice ecosystem, capable of addressing interlinked harms at multiple levels, could the layered injustices experienced by communities in the BARMM be fully redressed.

Conclusion: Towards a Transformative Climate Justice Ecosystem

A transformative transitional justice lens dissolves the sharp boundaries between dealing with the past and securing the future, recognising climate justice as an integrated practice of truth, repair, accountability, and non-recurrence braided through policy architectures and community actions. By both expanding and disaggregating the vision of justice, this lens identifies openings for transformative justice action where only adaptation, mitigation, and community resilience were visible before.

Taken together, these openings point towards a more transformative climate justice ecosystem: a synergistic and interconnected set of justice processes across contexts and scales. Such an ecosystem would address the roots of climate vulnerability so as to prevent the replication and re-inscription of harms, connecting institutions and communities as partners in the formulation and pursuit of justice.

Applying this lens to global and regional climate frameworks, we have identified latent entry points for justice action within existing institutional architectures. Truth-telling, acknowledgement, and narrative formation already take place in processes ordinarily recognised for their scientific, procedural, and technical functions: IPCC reports, the Global Stocktake, and advisory judicial

79 See, e.g., Intergovernmental Panel on Climate Change (2022), FN 22, p. 7 (describing a narrow framing in adaptation programming of "bouncing back and returning to a previous state after a disturbance", as well as thicker transformative conceptions).

processes. Reparative action beyond compensation, including acknowledgement, satisfaction, rehabilitation, and guarantees of non-recurrence, can be pursued through the operationalisation of the UNFCCC Loss and Damage architecture, despite, and perhaps even enabled by, the Article 8 bar on liability and compensation. Accountability, in the form of climate litigation, can be pursued in more transformative ways through the use of an evolving set of tools: attribution science and integrated assessment modelling, the due diligence standard of duty-bearer responsibility, and the crystallising right to a clean, healthy, and sustainable environment. Finally, guarantees of non-recurrence can be expressed through mitigation, adaptation, and just transition actions, as well as through the reform of climate governance itself to prevent the reproduction of structural injustices at the root of climate harms.

Crucially, the transformative justice potential of these institutional entry points depends not only on their identification and articulation as such, but also on their ability to connect and respond to affected communities so as to meaningfully shift the balance of power underpinning the climate crisis. The LCIPP may serve as a useful archetype of this type of engagement, representing a mediated space through which local and global actors can co-create climate action.

This lens directs our attention to communities that are articulating and advancing climate justice from below without waiting for institutional justice to arrive. The Malawi and Mindanao case studies demonstrate, across divergent contexts, that communities conceptualise and pursue climate justice in ways that are grounded in their complex experience of harm – ways often unrecognised and unrecognisable to institutional actors.

The Nkhulambe case demonstrates that the climate harms communities suffer and redress are far more layered and socially embedded than typically acknowledged. It reveals a synthesis of forward- and backward-looking justice through truth-telling, memorialisation, and participatory institutional and procedural reform efforts that is not an external imposition of transitional justice doctrine but an endogenous expression of community epistemologies and justice needs, which community members see as crucial to national and international climate responses.

The BARMM case, meanwhile, shows how communities amid an unfinished political transition braid together climate-, conflict-, and marginalisation-based justice into an indivisible practice. In this context, mutually constitutive injustices are redressed not in parallel but as a single act: cultural repair as climate-focused non-recurrence and preventive climate action as redress for cultural marginalisation.

The presence of these practices in two strikingly different contexts, and their lack of prior recognition, suggests a broader global pattern of community-led climate justice that warrants further inquiry.

The central challenge of this paper's framework is the question of connection. We have argued, and the participants in the accompanying country cases have shown, that neither the latent justice content in institutional architectures nor the unrecognised justice actions advanced by communities are sufficient on their own. Instead, they must be brought together into a justice ecosystem that allows for communities' braided experience of harm and articulations of justice to be advanced and answered on multiple levels.

Community climate actions have an irreplaceable role: they embody the authority of community experience, the inherent justice value of agency in the context of historical marginalisation, and the capacity to address unitary experiences of injustice without artificial division. But, as participants in Mindanao insisted, "accountability is not transferable." The justice functions of acknowledgement, accountability, recognition, and reform require institutional acts.

More fundamentally, the realignment of structures of power – the core imperative of a transformative approach – cannot be accomplished on the community level alone. By engaging communities as partners, not simply beneficiaries, in the formulation and pursuit of justice action, climate institutions can begin to build a transformative justice ecosystem across scales.

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Acknowledgements

We are grateful to the key informants and research participants in Nkhulambe, Malawi, and the Bangsamoro Autonomous Region in Muslim Mindanao, the Philippines, who generously shared their climate harm experiences, responses, and insights with us and whose contributions are essential to this work.

We extend our gratitude to Julius Ng'oma, Chimwemwe Kapichi, Glory Angel Muva, Moses Chisanu Samalani, Lumbani Nyangulu, and colleagues from the Civil Society Network on Climate Change in Malawi for their research assistance and insights, and to Reemar Alonsagay, co-author of the BARMM case study.

We also thank the climate policy experts who offered their invaluable insight and constructive critique during our validation workshop: Kate Higham, Brendan O'Donnell, Amos Wemanya, Nazanine Moshiri, and Nina Strumpf.

Finally, we thank Natascha Zupan, Johanna Lober, Matthias Auer, and Constantin Treisch of the Berghof Foundation, and the members of the Global Learning Hub for Transitional Justice and Reconciliation, for their support and valuable feedback on this study. Any errors that remain are our own.

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Funded by Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung

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