

# South Korea's landmark ruling on climate justice

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**O**n 29 August 2024, South Korea's constitutional court declared a key part of the government's 2021 climate legislation to be unconstitutional on the grounds that it does not sufficiently protect the lives and safety of citizens from climate disasters<sup>1</sup>. This historic ruling sets a precedent for other governments to be held accountable for their climate measures.

This case is the first of its kind in Asia, and the complainants included children and young people. The part of the 'Carbon Neutrality Act' (the Framework Act on Carbon Neutrality and Green Growth for Climate Crisis Response; hereafter, the Act) that was declared unconstitutional is Article 8.1, the part that set national targets for reductions in greenhouse gas emissions.

The court ruled that Article 8.1 failed to uphold constitutional environmental rights by omitting quantitative reduction targets for 2031–2049. These missing targets undermine the long-term consistency and ambition necessary to address the escalating climate crisis. Although this provision remains temporarily valid until 28 February 2026 (to allow time for legislative amendments), the decision highlights notable deficiencies in South Korea's climate governance.

Two key constitutional principles underpinned the court's reasoning: the principle of 'prohibition of insufficient protection' and the principle of 'statutory reservation'.

The principle of prohibition of insufficient protection is a constitutional doctrine rooted in the concept that the state must ensure adequate protection of fundamental rights. It is particularly associated with proportionality in constitutional law, where any infringement on rights must not be disproportionate or insufficient in safeguarding those rights<sup>2</sup>. The court upheld the Act's interim target to reduce greenhouse gas emissions by at least 40% from 2018 levels by 2030, and recognized it as part of a progressive pathway towards achieving carbon neutrality by 2050. This target aligns with the goals of the Paris Agreement, which calls for achieving a balance between emissions and removals (net-zero emissions) "in the second half of this century" (ref. 1). Nationally determined contributions, which are submitted by countries under the



Paris Agreement, serve as essential climate action plans, and outline specific commitments to reduce emissions and adapt to climate impacts. The global climate community, including the European Union and the UK, has adopted 2050 as a benchmark for achieving net-zero emissions<sup>3</sup>.

However, the absence of specific targets for 2031–2049 in the Act was deemed a violation of this principle. Without legally mandated interim goals, future governments might prioritize short-term economic or political interests over long-term climate objectives. This omission risks leaving future generations disproportionately burdened by the escalating consequences of climate inaction. The court underscored the constitutional imperative to provide adequate environmental protections for current and future citizens, and emphasized the principle of intergenerational equity as central to climate justice.

The principle of statutory reservation requires that essential matters that affect fundamental rights are explicitly legislated rather than delegated to subordinate regulations. The court ruled that climate targets of the nature included in the Act must not depend on administrative discretion, which is subject to political changes and short-term priorities.

The court also highlighted structural inequities in democratic systems, where future generations – the primary stakeholders in climate policy – have no representation in current decision-making processes. This inherent limitation imposes a heightened duty on legislators to enact robust legal protections that secure long-term environmental justice. The ruling explicitly noted that elected lawmakers, rather than temporary administrations, must take responsibility for setting ambitious and concrete reduction targets to safeguard the rights of both present and future citizens.

This landmark decision has profound implications for South Korea's climate governance and the global climate movement. Domestically, it strengthens the constitutional mandate to protect environmental rights as fundamental human rights. By requiring the legislative incorporation of long-term goals for greenhouse gas reductions, the ruling bridges the intergenerational equity gap – a central issue in climate justice – and ensures that future governments remain accountable for their climate commitments.

The decision also elevates the principle of intergenerational equity from a moral guideline to a constitutional mandate, which aligns with international norms such as sustainable development. First articulated in the 1987 Brundtland Report, sustainable development emphasizes meeting the needs of the present without compromising the ability of future generations to meet their own needs<sup>4</sup>. South Korea's ruling reinforces this principle, which underscores the necessity of legally binding frameworks to institutionalize long-term climate accountability.

By embedding long-term climate goals in legislation, the ruling promotes broader societal consensus on climate action. The legislative process inherently demands input from diverse stakeholders, including scientists, businesses, civil society and the public<sup>5</sup>. This participatory approach fosters more inclusive, equitable and sustainable climate policies, which balance environmental, economic and social considerations. Institutionalizing accountability through legislation also reduces policy volatility, and ensures continuity in climate action across political cycles.

On the global stage, South Korea's constitutional court has set a powerful precedent for judicial intervention in climate governance. By highlighting the insufficiency of vague or incomplete targets, the ruling underscores the importance of making nationally determined contributions specific, measurable and legally enforceable. This aligns with Article 13 of the Paris Agreement, which establishes a robust transparency framework that requires nations to report their emissions and progress towards achieving nationally determined contributions<sup>6</sup>.

This decision may inspire courts worldwide to evaluate whether their governments'

climate policies align with constitutional principles and international obligations. As one of the first cases to mandate legislative accountability for long-term climate targets, it demonstrates the judiciary's crucial role in holding governments accountable<sup>7</sup>. It serves as a reminder that climate litigation is not merely a tool for addressing immediate grievances but a driver of systemic change that secures a sustainable future for generations to come. By emphasizing intergenerational equity, long-term accountability and legally binding targets, the ruling strengthens the foundation for meaningful climate action.

It provides a model for other nations, and illustrates how judicial interventions can advance ambitious, scientifically grounded and equitable climate policies.

**Kil Won Lee<sup>1</sup> & Tae Jung Park<sup>2</sup>**  

<sup>1</sup>Sungkyunkwan University Law School, Seoul, Republic of Korea. <sup>2</sup>Korea Advanced Institute of Science and Technology (KAIST), Daejeon, Republic of Korea.

 e-mail: [tjpark@kaist.ac.kr](mailto:tjpark@kaist.ac.kr)

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## Competing interests

The authors declare no competing interests.