

ENVIRONMENTAL COURT CASES ACROSS THE WORLD

Climate Change

SHRESTHA V. OFFICE OF THE PRIME MINISTER ET AL.

Supreme Court of Nepal, Filed: August 23, 2017; Decided: December 25, 2018

THE NEPALI GOVERNMENT IS ORDERED TO ISSUE A NEW LAW TO ADDRESS CLIMATE CHANGE

Parties

Applicant: Padam Bahadur Shrestha (an environmental lawyer)
Defendant: Government of Nepal

Key Facts

The applicant filed an application to compel the government of Nepal to enact a new climate change law, arguing that the Environmental Protection Act of 1997 did not adequately address environmental issues associated with climate change and that the Climate Change Policy of 2011 had not implemented. When the government failed to respond to this request for new climate legislation, the applicant filed a petition with the Supreme Court of Nepal to issue a writ of mandamus or similar appropriate order to enact a climate law. Applicant argued that this failure to enact a new climate change law resulted in Nepalese residents and ecosystems experiencing grave climate impacts. The applicant asserted that the government's inaction on climate change violated the rights to a dignified life and a healthy environment guaranteed in the Constitution of Nepal, as well as Nepal's commitments under the UNFCCC and the Paris Agreement.

The Court's Decision and Reasoning

The Court's Decision

The court ordered the government of Nepal to enact a new climate change law to mitigate and adapt to the effects of climate change, to reduce consumption of fossil fuels, and to promote low carbon technologies. The court also ordered the government to develop both scientific and legal instruments to compensate Nepalese residents who are harmed by pollution and environmental degradation.

The Court's Reasoning

The court determined that a new law was required in order for Nepal to meet its international obligations under the Paris Agreement and its domestic obligations under Nepal's Constitution. The court stated that the Environmental Protection Act of 1997 was inadequate to address the need for climate change mitigation and adaptation measures. The court ordered the government to properly implement existing national climate policy until the new law was implemented.

What now?

After the Supreme Court's decision, the government of Nepal passed the [Environment Protection Act of 2019](#) and the [Forests Act of 2019](#), both aimed at addressing the need for climate mitigation and adaptation measures.



International Impact

The South Asia region, including Nepal, Bangladesh, India, Pakistan, and Sri Lanka, has seen numerous significant climate cases in recent years, including this case and *Leghari v. Federation of Pakistan*, both of which addressed the need for government to undertake climate adaptation measures. This is particularly important in the region, as Bangladesh, Afghanistan, India, and Pakistan are among the highest risk countries in the world for impacts of climate change, with Nepal and Sri Lanka considered very high risk as well.

Key Issues

Greenhouse gas mitigation, climate adaptation, right to dignified life, right to healthy environment, fossil fuels, low-carbon technology, compensation for climate harm

Laws and Agreements Cited

Domestic:

Constitution of Nepal (rights to a dignified life and a healthy environment)

International:

UNFCCC

Paris Agreement

References & Further Reading

Judgments

For the decision in Nepali: PDF download [here](#)

For the decision in English: PDF download [here](#)

Further Reading

[UNICEF - Children in four South Asian countries at 'extremely high risk' of the impacts of the climate crisis](#)

[Clean Energy Wire - Climate litigation advances to key tool for enforcing emission cuts](#)

For more information:

Contact Natural Justice at
info@naturaljustice.org
Or find us @ www.naturaljustice.org

Published December 2021, with support from

HEINRICH BÖLL STIFTUNG
CAPE TOWN
South Africa | Namibia | Zimbabwe

