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ABSTRACT

The transition from conceptualising to implementing climate justice and achieving human security is just beginning in Africa. In this paper, we adopt an inter-disciplinary approach to examine enabling factors that drive climate justice and human security in Africa. We attempt to contextualise this examination amidst growing global solidarity on climate justice, and in so doing, examine Pan-African issues and investigate emerging policy trends. The first section highlights the climate change context in Africa, emphasising the disproportionate global impacts in Africa. The second part interrogates the definitions of climate justice in Africa, noting the dissonance in meaning and relevance, and also analyses trends associated to cases that have come through the law courts. The third and final section discusses the potential role of non-state actors in the African climate justice discourse, arguing that African youth and community enablers are the bedrock for achieving climate justice and human security.

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(This article is written in the personal capacity of the authors, and do not necessarily reflect the views of UNEP)

INTRODUCTION

In the 1960s and 1970s, climate change was presented as an emerging problem of pollution and global warming, to be addressed by ministries of environment. Science matured in the 1980s and 1990s with evidence of holes in the ozone layer and the melting of polar ice caps. Social and scientific factions of believers and dissenters of the reality of climate change arose. Twenty years ago, climate change was labelled by some security analysts as the ‘mother of all security problems’.¹ Since then, climate change has been widely recast as a threat to international peace and security. Today, in Africa, the ‘securitisation’ of climate change is at the very foundation of humanitarian emergencies.

The Intergovernmental Panel on Climate Change (IPCC) confirmed in its sixth report that Africa was warming faster than the rest of the world. If unabated, this is predicted to worsen over time with adverse impacts on African economies and societies, hampering growth and well-being.² North Africa (together with the Middle East) is already one of the most water-stressed parts of the world. This will be exacerbated by climate change. On the opposite end of the continent, in southern Africa, climate induced disasters such as runaway wildfires and cyclones have increased in frequency and severity. For example, in February 2023, Cyclone Freddy wreaked havoc in Malawi, Mozambique, and Madagascar

for almost five weeks.³ It was one of the most enduring tropical cyclones ever recorded, displacing over 184,000 people in Mozambique, 37,700 in Madagascar, and 500,000 people in Malawi.⁴

One of the most recognised vulnerable regions to climate change in Africa is the sub-Saharan arc, stretching from Mauritania in the West to the Horn of Africa (Somalia and Eritrea, and parts of Ethiopia and Kenya) in the East.⁵ This region is culturally deeply associated with pastoralism, but it is also associated with rising temperatures, soil loss and desertification, and in general, unpredictable weather patterns. This affects crop yields; nomadic pastoralists struggle to exercise traditional grazing rights, and with increasing scarcity of water and pasture lands, competition has intensified over reduced resources while social tensions between local communities have risen.⁶ The West African Sahel, in

¹ Oli Brown, Anne Hammill and Robert McLe-man, ‘Climate Change as the “New” Security Threat: Implications for Africa’ (2007) 83 (6) *International Affairs* (Royal Institute of International Affairs) 1141.

² Intergovernmental Panel for Climate Change, ‘IPCC Sixth Assessment Report 2024’ <<https://www.ipcc.ch/assessment-report/ar6/>> accessed 24 April 2025.

³ United Nations Office for Coordination of Humanitarian Affairs (OCHA, Regional Office for Southern and Eastern Africa), ‘Surviving Freddy: The World’s Strongest and Longest-Lasting Tropical Cyclone’ <<https://www.unocha.org/news/surviving-freddy-worlds-strongest-and-longest-lasting-tropical-cyclone>> accessed 24 April 2025.

⁴ United Nations Office for Coordination of Humanitarian Affairs (OCHA, Mozambique Country Office), ‘Mozambique: Tropical Cyclone Freddy (Floods and Cholera) Situation Report’ 1 (2023) <<https://www.unocha.org/publications/report/mozambique/mozambique-tropical-cyclone-freddy-floods-and-cholera-situation-report-no1>> accessed 24 April 2025.

⁵ Patrick Meier, Doug Bond and Joe Bond, ‘Environmental Influences on Pastoral Conflict in the Horn of Africa’ (2007) 26(6) *Political Geography* 716.

⁶ MS Evans and B Munslow, ‘Climate Change, Health, and Conflict in Africa’s Arc of Instability’ (2021) 141(6) *Perspectives in Public Health* 338.

particular Burkina Faso, Chad, Mauritania, Mali and Niger, have been devastated since 2012 by armed conflicts, insurgencies, jihadist terrorist groups, coups d'états, and the failure of international and other military interventions.⁷ Beset by state fragmentation and state oppression, human livelihoods, health, and living conditions in the Sahel have been greatly impacted by declining quantity and quality of natural resources, food and water security, among others. Furthermore, this region also bears the difficult legacy of foreign interventions rooted in French neo-colonialism ideals.

Climate change amplifies the human vulnerabilities of the poor and weak, whose interests (including social well-being and dignity) must be included in any planned human security responses and actions. The question thus arises, how can climate justice and human security be achieved in Africa?

1. THE IMPACTS OF CLIMATE CHANGE IN AFRICA

Africa is experiencing unprecedented rises in overall temperatures averaging higher than global average warming. Much of Africa has warmed by over 1°C since 1901.⁸ Between 1950 and 2022, the Sahara Desert expanded at a rate of

more than 11,000 km² per year.⁹ By 2040, significantly less precipitation is predicted to occur over North Africa and the south-western regions of southern Africa.¹⁰

The impacts of climate change are disrupting social, economic, and political domains across Africa. According to the UN's Financing for Sustainable Development Report of 2023, 52 Low- and Middle-Income Countries are either in debt distress or at high risk of debt distress. Of these, 23 are in Africa, which accounts for more than 40 per cent of the world's poorest people.¹¹

Investments are critical for over-coming climate disaster recoveries, reconstruction of public goods and services, and rebuilding broken lives; in addition to building climate resilient infrastructure such as roads, bridges and dams that can withstand torrential rains and floods. However, interest rates for financial loans offered to developing countries, including African countries, are approximately eight times more compared to the Global North countries, partly because the debt is largely held in foreign currencies that doubles the exposure to global economic shocks.¹²

⁷ Bruno Charbonneau, 'The Climate of Counterinsurgency and the Future of Security in the Sahel' (2022) 138 *Environmental Science and Policy* 97.

⁸ World Meteorological Organization (WMO), *State of the Climate in Africa 2019* (WMO 2020) <<https://library.wmo.int/records/item/57196-state-of-the-climate-in-africa-2019>> accessed 24 April 2025.

⁹ Heba Bedair and others, 'Global Warming Status in the African Continent: Sources, Challenges, Policies, and Future Direction' (2023) 17(45) *International Journal of Environmental Research* 45.

¹⁰ *ibid* 3.

¹¹ United Nations Nations Department of Social and Economic Affairs (UNDESA), 'Financing for Sustainable Development Report 2023' (United Nations 2023) <<https://desapublications.un.org/publications/financing-sustainable-development-report-2023>> accessed 24 April 2025.

¹² Daniel Cash and Maha Khan, 'Rating the Globe: Reforming Credit Rating Agencies for an Equitable Financial Architecture' (United Nations University-CPR 2024) <<https://unu.edu/cpr/report/rating-globe-reforming-credit-rating-agencies-equitable-financial-architecture>> accessed 24 April 2025.

Western risk-rating agencies overstating the risk of African countries (as alleged) results in a skewed structure of the debt market against African countries, further increasing borrowing costs. Considering that Africa faces disproportionate climate change impacts, the debts of climate-vulnerable countries in Africa are bound to increase.

Statistics for climate change-induced human displacements are on a steep upward trajectory, compounding the already significant human displacements caused by other factors. By 2050, up to 5 percent of Africa's population will have migrated due to climate impacts.¹³ The forced migrations increase the risks of indignities and immense human suffering, ranging for example, from sexual assaults in refugee camps, to taking dangerous journeys to Europe across the Mediterranean and Sahara, and thereon, social and welfare insecurity compounded with emotional and psychological health distress.¹⁴

If climate change in Africa can be better managed, then stability can be enhanced in terms of human migration. African countries thus need to take bold actions to address climate change and place the continent on a low emissions development pathway, while meeting its critical socio-economic priorities including food security, wealth creation, increasing opportunities for enterprise to relieve Africa's bulging youth demographic and increasing prosperity.

¹³ Kamal Amakrane and others, 'African Shifts: The Africa Climate Mobility Report: Addressing Climate-Forced Migration and Displacement' (Africa Climate Mobility Initiative and Global Centre for Climate Mobility 2023) <<https://africa.climate-mobility.org/report>> accessed 24 April 2025.

¹⁴ Marie McAuliffe and Linda Adhiambo Oucho (eds), 'World Migration Report 2024' (International Organization for Migration (IOM) 2024) <<https://publications.iom.int/books/world-migration-report-2024>> accessed 24 April 2025.

2. DEFINING CLIMATE JUSTICE IN THE AFRICAN CONTEXT

The term, 'climate justice' has gained global recognition, including being reflected in the protocols of the United Nations Framework Convention on Climate Change (UNFCCC),¹⁵ the UN forum for climate negotiations among its member states.¹⁶ However, the term's meaning, character, scope, and impact are highly contested. This contestation stems largely from how different governments frame climate change. While there are several such framings, three appear to dominate: economic; environmental; and ethical, equity, and justice.¹⁷ These three framings have had a profound influence on climate change actions and policies, including the foreign policies of UN member states and their geo-political alliances.

For the environmental problem-framing, solutions are mostly aimed at reducing anthropocentric carbon emissions that result in global warming.¹⁸ Thus, as the environmental goal is restoration to the natural state of equilibrium, little regard is afforded to the root causes and impacts of climate change and attendant policies.¹⁹ Climate change is not solely concerned

¹⁵ Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016). UN Doc FCCC/CP/2015/10/Add.1.

¹⁶ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994). 1771 UNTS 107, Art 7.

¹⁷ Daniel Bodansky, Jutta Brunnée and Lavanya Rajamani, *International Climate Change Law* (OUP 2017)

¹⁸ *ibid* 4.

¹⁹ *ibid*.

about the protection of the environment; it is centrally concerned with people whose lives and livelihoods depend on the environment.²⁰ Framing climate change from an economic lens thus seeks to achieve efficient outcomes with the highest benefits, but is unfortunately creating perverse trade and market incentives that may reinforce inequalities, downplay the complex nature of the Earth system, and ignore the implicit people-centric aspect.²¹

Aside from the environmental and economic framing explored above, on the other hand, the ethical, equity and justice framing is comprehensive and expansive. Here, causality, history, beneficiaries of unfettered carbon emissions, and the negative impacts of climate change on people in their differentiated situations, are considered.²² This framework rejects the narrow environmental and economic lens. It locates the disproportionate climate change impacts in structural social inequalities and injustices. These structural issues emanate from colonial ideologies; exploitative resource extraction; patriarchy; discriminatory age, gender, and race/tribal prejudices; and unequal opportunities. Climate justice in Africa is thus defined as a complex political amalgam of these structures, which seemingly manifests, in quoting Patrick Bond, as 'paralysis above, movement below'.²³ In Africa, thus, climate change responses must encompass the social, economic, and environmental rights of the vulnerable and the poorest of the poor.

²⁰ Robin Mearns and Andrew Norton (eds), *Social Dimensions of Climate Change: Equity and Vulnerability in a Warming World* (World Bank 2010).

²¹ Bodansky, Brunnée and Rajamani (n 17) 5.

²² Bodansky, Brunnée and Rajamani (n 17) 6.

²³ Patrick Bond, *Politics of Climate Justice: Paralysis above, Movement Below* (University of Kwazulu-Natal Press 2012).

Climate justice is gaining global prominence including being originally highlighted in multilateral environmental agreements. For example, the 1992 Rio Declaration,²⁴ a key outcome of the Earth Summit held in the Brazilian city of Rio de Janeiro, recognises the unequal contributions to environmental degradation. Article 3 of the United Nations Framework Convention on Climate Change (UNFCCC) and the 2015 Paris Agreement assign *common but differentiated responsibilities* (CBDR) to countries. The link between CBDR and climate justice has triggered controversy in international discourses, deliberately sidelining the actual attainment of climate justice. Despite the Alliance of the Small Island Countries (AOSIS, where member states consist of 39 countries)²⁵ first raising 'climate loss and damage' concerns in 1992 - rising sea levels and lost lands in Caribbean and Pacific small island states - it took two decades of consistent agitation for its inclusion in the UNFCCC considerations.²⁶ Even so, climate justice

²⁴ 'Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992. Volume 2, Proceedings of the Conference' (UN 1993) <<https://digitallibrary.un.org/record/168679>> accessed 24 April 2025. Rio Declaration: Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 Volume I: Resolutions Adopted by the Conference. A/CONF.151/26/Rev. I (Vol. I), United Nations (1992).

²⁵ Alliance of Small Island Countries is an organization comprised of 39 small island and low-lying coastal states, formed in 1990, to represent and advocate for the interests of these states in climate change and sustainable development negotiations.

²⁶ Simon Addison and others, 'Addressing Loss and Damage: Practical Insights for Tackling Multidimensional Risks in LDCs and SIDS' (International Institute for Environment and Development 2022) <<https://www.iied.org/21046iied>> accessed 24 April 2025.

remains one of the most disputed topics in the climate change negotiations,²⁷ and is only now starting to make progress as a result of evidence-based science, diplomatic compromises, political pressure, and persistent persuasion.

The 2024 United Nations Environment Programme (UNEP) Emissions Gap Report indicates that large disparities exist between the major emitters and world regions. Greenhouse gas emissions (GHG) amongst G20 members accounts for 77 per cent of global emissions; and the six largest GHG emitters accounted for 63 per cent of global GHG emissions. The United States and the European Union are responsible for 19 per cent and 13 per cent respectively of global GHG emissions. In contrast, the 54 countries making up the African Union accounts for only 3.1 percent.²⁸ Despite the Africa's minimal emission of GHGs and the continent having the lowest carbon footprint globally, it is one of the most vulnerable continents to climate change and climate variability. In comparison, countries historically responsible for emissions are industrialised and comparably, have better adaptive capabilities to address the impacts of climate change. This presents a global moral dilemma which acutely magnifies the need to correct past socio-economic choices at a time when the science was unclear, and when moral parameters were poorly presented or simply disregarded. Scholars have referred to the moral dimension of climate

debt as *climate apartheid* and *climate colonialism*.²⁹

In 2022, for the first time in history, climate scientists associated to the Intergovernmental Panel on Climate Change acknowledged that colonialism has been a historic and ongoing driver of the climate crisis: 'Present development challenges causing high vulnerability are influenced by historical and ongoing patterns of inequity such as colonialism, especially for many Indigenous Peoples and Local communities'.³⁰ Today, there is a global recognition by officials and scientists about the significant role that colonialism played in heating the planet. Governments of the global South are thus increasingly seeking solutions for climate justice and human security.³¹

3. CLIMATE JUSTICE AND HUMAN SECURITY ENABLEMENT

In December 2021, the UN Security Council draft resolution on Climate Change and Security (proposed by Ireland and Niger)

²⁷ Lina Lefstad and Jouni Paavola, 'The Evolution of Climate Justice Claims in Global Climate Change Negotiations under the UNFCCC' (2024) 18(3) Critical Policy Studies 363.

²⁸ United Nations Environment Programme (UNEP), 'Emissions Gap Report 2024: No More Hot Air Please' (2024) <<https://www.unep.org/resources/emissions-gap-report-2024>> accessed 24 April 2025.

²⁹ Jennifer L Rice, Joshua Long and Anthony Levenda, 'Against Climate Apartheid: Confronting the Persistent Legacies of Expendability for Climate Justice' (2022) 5 Environment and Planning E: Nature and Space 625. Also see Gurminder K Bhambra and Peter Newell, 'More than a Metaphor: "Climate Colonialism" in Perspective' (2023) 2 Global Social Challenges Journal 179.

³⁰ Working Group II contribution to the Sixth IPCC Assessment Report, 'Summary for Policymakers' (2022) <<https://www.ipcc.ch/report/ar6/wg2/chapter/summary-for-policymakers/>> accessed 24 April 2025.

³¹ Janice Golding, 'COP27 and the New Rise of the Global South' (2023) 35(2), New England Journal of Public Policy, Special Issue: Climate Warnings.

came up for a vote. The claimed lack of adequate evidence associated to causal links between climate change and climate security led to the use of Russia's veto and China's abstention in the vote, highlighting disunity among the Council's five permanent members (US, China, Russia, Britain, and France).³² While India voted against the resolution, 12 voted in favour and 113 states co-sponsored the resolution. Similar claims about the lack of evidence have been, and still are being, made in the UN Peacebuilding Commission.

The African Union Climate Change and Resilient Development Strategy and Action Plan (2022-2032), recognises that climate change could represent an existential threat to Africa's communities, ecosystems, and economies.³³ While the strategy sets out principles, priorities, and critical action areas for coordinated Pan-African climate cooperation from an environmental and economic frame, it is silent on substantive issues such as the implications on policy reforms and actions; the nature of the climate change/human security nexus; direct and indirect links between climate change and human security; and the mandate and role of military and security actors, for example, on the risks of state failure and institutional/operational capabilities, armed conflicts, and climate-induced human migration. For its part, the African Union's 15-member Peace and Security Council recognises that climate

change bears negative consequences for peace and security on the continent and advocates the building of capacity of subregional organisations to analyse cross-regional trends; and sharing relevant information and improving knowledge and tools on climate early-warning predictions and disaster preparedness within member states.

In the global context, government role-players and their responses to climate change have evolved substantially over the last decade, largely due to factors associated with the changing international climate of multilateral diplomacy and the entry of non-state actors into this sphere (see also Table 1).³⁴ At the national level, climate justice traverses many institutions, and in Africa, the paradigm of climate change and security appears generally to be tied to human security in the sense of physical security and personal safety, with the majority of governments locating the issue in ministries of security and defence. Further, the majority of the African countries appear to have incorporated climate change as another threat to their national security without taking specific policy actions, with only a handful explicitly referring to climate change in their national security-related policies.³⁵

The ability of African governments to address climate justice are further burdened by internal governance issues, which include remnants of colonial vestiges, unequal land-holding, corruption allegations in climate finance (both in governments and private sectors) and continued exclusion of the most vulnerable groups from these problems. Furthermore,

³² Rick Gladstone, 'Russia Blocks UN Move to Treat Climate as Security Threat' *The New York Times* (13 December 2021) <<https://www.nytimes.com/2021/12/13/world/americas/un-climate-change-russia.html>> accessed 24 April 2025.

³³ African Union, 'African Union Climate Change and Resilient Development Strategy and Action Plan (2022-2032)' (2022) 1-118 <<https://au.int/en/documents/20220628/african-union-climate-change-and-resilient-development-strategy-and-action-plan>> accessed 05 May 2025.

³⁴ Golding (n 31).

³⁵ Anselm Vogler, 'Barking up the Tree Wrongly? How National Security Strategies Frame Climate and Other Environmental Change as Security Issues' (2023) 105 *Political Geography* 102893.

climate change responses sometimes cause injustices to marginalised people. For example, Mau Forest restoration efforts by the Kenyan government led to the eviction of the Ogiek from mid 2000s, an indigenous forest-dweller community. Despite the African Court on Human and People's Rights ruling in May 2017 that the Ogiek have a right to return to their homeland in the forest,³⁶

to date, no meaningful steps have been taken to comply with this judgment. Such forest restoration measures, though well intentioned, demonstrate the failure of states to integrate justice into their climate action plans.³⁷

Table 1. African policy transformation in climate justice and human security (Adapted: Golding 2023).

Transformational Aspect	Current, Transitional Context	Future, Aspirational Context
Scope	Narrow, Diagnostic, Scoping, Learning, Process-orientated	Principles and Implementation orientated, Integrated, Multi-focal, Cross-cutting, Inter-disciplinary, Comprehensive, Expansive
Content	Scientific, Carbon Emissions, Natural Resource Management, Biodiversity, Land Use	Food Security, State Security, Human Migration, Energy security, Public Health, Economic Growth
Political Approach Framework	Technical, Methodological, Operational, Fragmented, Diffuse	Principles, Values, Foreign Policy, Political Ideology, Solidarity, Geopolitical Alliances
Inclusivity	Insular, Government driven, Not highly inclusive	Participatory, People-centred, Leave No One Behind (Gender, Youth and Indigenous Peoples), Whole-of Society, NGOs/CBOs, Private Sector
Accountability	Environment Ministry UNFCCC Liaison in National Ministry, Top-down policy architecture Whole-of-government	Ministry of Foreign Affairs and Head of State, Ministries of Finance, Defence, Environment, Water, Energy etc.

³⁶ African Commission on Human and Peoples' Rights v Kenya (Application No. 006/2012) [2017] AfCHPR 2 (26 May 2017).

³⁷ Salome Muiruri, 'Eviction of the Ogiek People Despite Winning a Repatriation Case Against the Government of Kenya' (*Natural Justice*, 3 November 2023) <<https://naturaljustice.org/eviction-of-the-ogiek-people-despite-winning-a-repatriation-case-against-the-government-of-kenya/>> accessed 24 April 2025.

To date, there have been a handful of climate litigation cases in Africa contributing 2.3 percent of all climate litigation cases in the world.³⁸ This does not readily suggest that the continent is trailing behind the rest of the world. The low number may be indicative of other informal and/or pluralistic rule of law approaches. Additionally, it also suggests domestic and regional barriers such as inchoate policy frameworks and conflicting principles, weak legislative policies, slow judicial processes, and limited analytical and technical capacity to scientifically calculate climate attribution.³⁹ The existing multilateral security architecture has limitations that prevent the realisation of climate justice for Africa, even when there are genuine efforts to address climate justice. Irish-South African scholar, Patrick Bond reminds us of the historical legacies and notes the pervasive deeply ingrained and unfair world order associated to the 'looting of Africa', which in turn, results in odious debt and financial relationships, phantom aid, unfair trade, distorted investment, capital flight and the continent's brain/skills drain.⁴⁰

i. A Snail's Pace: Climate Change Litigation

Globally, in the last few decades, climate litigation has grown in number and

acceptance across jurisdictions, and has largely been successful in holding governments and private entities accountable.⁴¹ Importantly, climate litigation presents a legally binding tool for fostering accountability which has been largely lacking in mainstream global climate change action plans. Climate litigation cases have also provided fertile ground for the involvement of non-state actors in binding climate commitments, an element unavailable at the multilateral level where states are the main players. Largely perceived to be a policy issue within the ambit of the executive branch of governments, climate litigation has involved judiciaries in these processes. While the full potential of the litigation tool is yet to be realised in Africa, its pervasive nature is promising in both numbers and review of 'merit decisions' by governments.

The Global Climate Litigation Report: 2023 Status Review recorded an exponential increase in climate litigation cases globally.⁴² It documents 1,550 cases in 2020 across 39 jurisdictions, compared to 2,180 in 2023 in 69 jurisdictions. The report, however, takes a reductionist approach, focusing only on cases that raise material issues of law or fact relating to climate change mitigation, adaptation or the science of climate change. This perhaps reflects the Global North's pressures and priorities (mitigation and emission contributions) that might not be a priority for Africa. Thus, what qualifies as climate litigation in Africa is mostly sought in a justice claim, and a climate change outcome may be just one of several outcomes.

³⁸ United Nations Environment Programme (UNEP), 'Global Climate Litigation Report: 2023 Status Review' (2023) <<https://www.unep.org/resources/report/global-climate-litigation-report-2023-status-review>> accessed 24 April 2025.

³⁹ Yusra Suedi and Marie Fall, 'Climate Change Litigation before the African Human Rights System: Prospects and Pitfalls' (2024) 16 *Journal of Human Rights Practice* 146.

⁴⁰ Patrick Bond, *Looting Africa: The Economics of Exploitation* (Zed Books 2006)

⁴¹ Precious Oluwaseun Okedele and others 'Climate Change Litigation as a Tool for Global Environmental Policy Reform: A Comparative Study of International Case Law' (2024) 8(2) *Open Access Research Journal of Multidisciplinary Studies* 104.

⁴² United Nations Environment Programme (UNEP) (n 38), 'Global Climate Litigation Report: 2023 Status Review'.

The afore-mentioned report presents a small handful of documented climate justice cases in Africa (Figure 1: Kenya, Namibia, Nigeria, South Africa and Uganda).⁴³ Most cases are from South

Africa and focus largely on energy-security related issues. In the other African countries, the cases are largely associated with regulatory processes (environmental assessments and permitting).

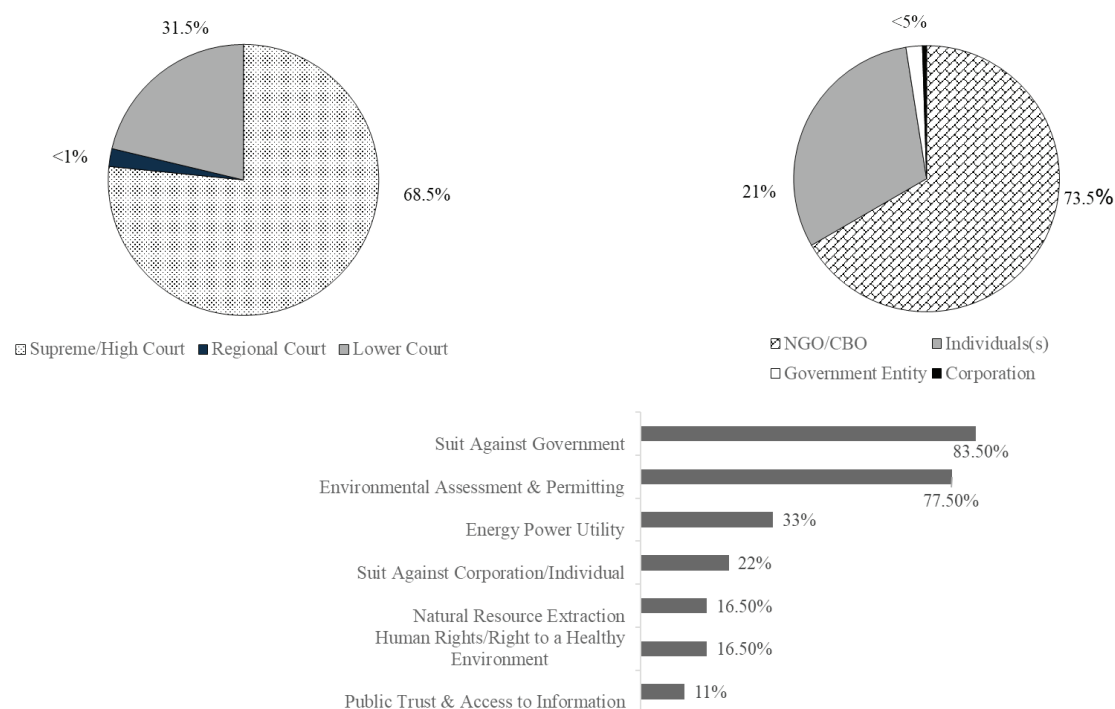


Figure 1. Analysis of climate justice in formal court systems in African countries (Source: Sabin Centre for Climate Change Law).

Non-state actors including non-governmental organisations (NGOs) and individuals account for

94 per cent of litigants (Figure 1), which is hardly surprising since NGOs and community-based organisations (CBOs) have traditionally led a spirited fight in strategic litigation across Africa. Although these groups work under often restrictive

and harsh conditions, they are well versed in the justice demands of local communities and deeply involved in the lives of vulnerable persons. They also play a crucial role in governance reforms in public participation, democratisation and justice claims. Many of these non-state actors in countries such as Kenya and South Africa are geographically localised CBOs working on environmental issues. In addition, while individuals also form a critical component of litigants, most cases are representative in nature, seeking community-wide redress. This demonstrates the increased

⁴³ 'Climate Change Litigation Databases - Sabin Center for Climate Change Law' (Climate Change Litigation) <<https://climatecaselaw.com/>> accessed 24 April 2025.

importance, awareness, and growing frustration of communities seeking to be involved in fashioning climate justice actions. It represents a wider human rights battle for democratisation and inclusivity.

African States are overwhelmingly the respondents, which is understandable because most claims involve procedural environmental rights such as access to information and public consultation. Lawsuits predominantly involve government action or inaction. With respect to corporation defendants, they are either sued together with government, and mostly associated to the issuance of permits and approval processes (Figure 1).

On the nature of claims, the content varies, but substantive environmental rights appear to dominate these claims. In this regard, procedural rights such as access to information, failure to conduct environmental impact assessments, public participation, risk mitigation, and emission commitment targets are mostly raised to protect substantive environmental rights. More significant, however, is the challenge based on the right to a clean and healthy environment in and of itself. For example, the ongoing Kenyan case on Lake Baringo filed in 2022 seeks largely to invoke the positive duty of the state while in contrast, the Sustaining the Wild Coast NPC in South Africa sought to protect cultural, social, and spiritual livelihood.⁴⁴ These cases present sweeping claims, suggesting that the understanding of the environment is

broader in context. Furthermore, in the 2022 Namibian Ncumcara Community Forest case, the claim included protection of wildlife, further suggesting a holistic understanding and appreciation of the environment that includes protection of nature in its own right.⁴⁵ In general, climate justice litigation in Africa is nascent, and appears to be less important than broader and more commonplace environmental disputes such as resource exploitation, land ownership, and property rights.

ii. Change Agents: Harnessing Informal Norms and Non-state Actors

Global geo-politics often determines rules, norms, institutions, and practices within countries, consequently impacting the distribution of power, power relations, and structures. Economically and politically powerful states thus play a potentially powerful role in transferring or imposing conceptions of climate justice and human security on to weaker states. Hereto, state leadership is vital to achieve climate justice and human security. Seemingly successful climate litigation in African countries can end up being unenforceable, amounting to a *brutum fulmen*, and enablers can help facilitate achievement of climate justice and human security.

Drawing on six country case studies (Ghana, Kenya, Malawi, Uganda, Zambia, and Zimbabwe), Arriola, Rakner and van de Walle emphasise how African governments use the legal system to constrain the scope of action among

⁴⁴ 'Iten ELC Petition No. 007 of 2022 - Legal Advice Centre T/A Kituo Cha Sheria & Anor v. Attorney General and 7 Others'. (Climate Change Litigation) <<https://climatecasechart.com/non-us-case/iten-elc-petition-no-007-of-2022-legal-advice-centre-t-a-kituo-cha-sheria-anor-v-attorney-general-and-7-others/>> accessed 24 April 2025.; *Sustaining the Wild Coast NPC and Others v. Minister of Mineral Resources and Energy and Others* Case No. 3491/2021.

⁴⁵ *Ncumcara Community Forest Management Association v The Environmental Commissioner* (HC-MD-CIV-MOT-GEN-2022/00289) (2022) NAHCMD 380 (29 July 2022).

citizens, including application of constitutional provisions and the law courts.⁴⁶ However, youth and communities are *sine qua non* power structures for advocacy and solidarity in climate activism and thought leadership, but evidently, the relations between these power structures (often ensconced in NGOs/CBs) and their political inclusion in democratic processes, are shown to be unequal, contrived and disconnected.⁴⁷ While this state of affairs does not provide ideal enabling conditions for non-state actor involvement in climate justice and human security, harnessing informal norms may help advance the cause for climate justice and human security, through empowerment, agency and ownership processes. Hereto, the African youth constituency is probably the most important non-state actor.

Africa has the youngest population in the world, with 70 per cent of sub-Saharan Africa under the age of thirty. Its youth population is growing rapidly and is expected to double to more than 830 million by 2050.⁴⁸ According to the African Development Bank, one-third are unemployed and discouraged; another one third are vulnerably employed, and only one in six are in formal wage employment.⁴⁹

⁴⁶ Leonardo R Arriola, Lise Rakner and Nicolas van de Walle (eds), *Democratic Backsliding in Africa?: Autocratization, Resilience, and Contention* (OUP 2023).

⁴⁷ *ibid* 37.

⁴⁸ African Union (AU), 'Africa's Future: Youth and the Data Defining their Lives' (2019) <<https://au.int/en/documents/20191204/africas-future-youth-and-data-defining-their-lives>> accessed 24 April 2025.

⁴⁹ African Development Bank (ADB), 'Reflections on Africa's Youth Employment Problem' (2021) 12(2) Africa Economic Brief 2.

Yet, while constitutions of many African countries expressly protect the right to a healthy environment, inter-generational environmental equity (youth involvement) is not recognised as a substantive right in any African country (with three known exceptions).⁵⁰ Section 24(b) of South Africa's Constitution stipulates that everyone has the right 'to have the environment protected, for the benefit of present and future generations'; Article 42 of Kenya's Constitution reiterates that every person has the right 'to have the environment protected for the benefit of present and future generations'; and Article 73 of Zimbabwe's 2013 Constitution echoes that 'every person has the right 'to have the environment protected for the benefit of present and future generations'. While the notion of inter-generational climate equity has been extensively covered in Western media and academic literature, Nkrumah argues that Africa is not yet witnessing a sustained and consistent effort among its own youth to advocate for justice in climate-resilient development pathways.⁵¹ African youths tend to use Western platforms for climate advocacy; their activism on climate justice issues is typically short-term and sporadic; and this activism emanates from a small handful of countries (Kenya, Nigeria, Rwanda, and South Africa). These reasons are discouraging as they relate to the fundamental challenges of high youth unemployment, and limited education and income opportunities.

A second important non-state actor in climate justice and human security is local communities and the application

⁵⁰ Bright Nkrumah, 'Future Citizens: Intergenerational Equity in Climate Activism' in Kim Bouwer and others (eds), *Climate Litigation and Justice in Africa* (Bristol University Press 2024) 313.

⁵¹ *ibid* 329-331.

of indigenous knowledge. There is wide recognition of the role of cultural/customary dimensions (as both barriers and enablers) in mitigating and adapting to climate change.⁵² Customary justice systems are widespread across Africa, and informal customary laws and local governance structures have sought to maintain traditional ways to make climate-related decisions, craft solutions, develop support systems, and resolve disputes.

Case studies drawn from 19 African countries, highlight the value of indigenous knowledge in supplementing climate services in instances where there is limited access to modern climate and weather forecasts; building socio-cultural coping mechanisms; and increasing adaptive capacities in food security, disaster management, and forest/water resource management.⁵³ However, climate change is found to disproportionately affect women more negatively compared to men as a result of engendered labour, and social norms and values associated to resource control and decision-making.⁵⁴ Cultural and indigenous knowledge systems that do not pay homage to gender-differentiated impacts, and that exclude participation of women, limit advances in climate action,

and more broadly, active participation in democratic processes.⁵⁵

Non-state actor involvement can be a complementary and potentially powerful grassroots enabler for climate litigation, especially for integrating formal and informal law and court systems.

CONCLUDING REFLECTIONS

Africa is the world's home of competing claims about what constitutes climate justice and human security, with many actors and voices involved in these discourses, and often painting the continent in broad brushstrokes. At present, there is a wave of knowledge-generation on climate justice from environmental, developmental and humanitarian angles.

African activists in alliance with legal and policy intellectuals can come up with alternative conceptions that incorporate African youth and community 'self-activities' into socio-cultural law, order and related governance experiences. If African states genuinely appreciate the complementary and democratic role of youth and community enablers, then the objective of climate justice and human security can be achieved. This is an area in dire need of examination and development. The transition from conceptualising to implementing climate justice and achieving human security is just beginning in Africa. This provides some reason for optimism.

⁵² Roger Few and others, 'Culture as a Mediator of Climate Change Adaptation: Neither Static nor Unidirectional' (2021) 12 WIREs Climate Change e687.

⁵³ Walter Leal Filho and others, 'The Role of Indigenous Knowledge in Climate Change Adaptation in Africa' (2022) 136 Environmental Science and Policy 250.

⁵⁴ Alex O Awiti, 'Climate Change and Gender in Africa: A Review of Impact and Gender-Responsive Solutions' (2022) 4 Frontiers in Climate <<https://www.frontiersin.org/journals/climate/articles/10.3389/fclim.2022.895950/full>> accessed 05 May 2025.

⁵⁵ Filomina Chioma Steady, 'Women, Climate Change and Liberation in Africa' (2014) 21/1-2 Race, Gender and Class 312-33; Tii Nchofoung and others, 'Gender, Political Inclusion, and Democracy in Africa: Some Empirical Evidence' (2023) 51 Politics and Policy 137.

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