

Human rights and climate change: Conceptualising a children's rights-based approach to the climate crisis in Africa

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Abstract: This article offers a conceptual argument for a children's rights-based approach to climate change in Africa. While recent advocacy efforts have raised awareness of the impact of climate change on children and the need for child-sensitive responses, the philosophical basis of these approaches is not always clearly articulated. Furthermore, existing frameworks often overlook the influence of African environmental ethics and the specific position of children in that context. The article criticises the dominance of anthropocentrism in Western environmental philosophy, which prioritises human interests and justifies exploiting nature, a perspective that marginalises non-human entities and fails to adequately address children's particular vulnerabilities. The article draws on African environmental philosophy, especially, anthropoholism and suggests an

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integrated framework that combines children's rights, African ethics and non-anthropocentric models. It demonstrates that emphasising children's rights within African ethical paradigms can bridge the divide between environmental law and human rights. The approach may offer a foundation for climate action in Africa that is inclusive and equitable, acknowledging both the vulnerability and agency of children, the value of the environment, and the importance of culturally grounded responses to the climate crisis.

Key words: African environmental philosophy; anthropocentrism; children's rights; climate change; vulnerability

1 Introduction

This article argues that a children's rights-based approach grounded in the concept of vulnerability offers a strong ethical and legal foundation for climate action, particularly in Africa. Children's heightened exposure to global warming demands that law and policy centre them and their rights in efforts to address climate change. Children's rights-based approaches to climate change have gained currency on the African continent. Through advocacy and litigation, the impact of climate change on children has become clearer, as have governments' obligations to take child-sensitive responses to global warming. Yet, the underlying philosophical premise of these responses, including that of human rights, which is sometimes assumed to be the default ethical position, is not always clear. Existing and proposed responses to the climate crisis often fail to engage with environmental ethics emerging from Africa and how these might influence a children's rights response to global warming. The article draws from African environmental philosophy and children's exclusion from environmental law and ethics to advance a relational and holistic ethics that recognises the interconnectedness of living and non-living beings and humanity's moral obligations towards the environment. The article uses a historical analysis to argue for an integrated normative framework that synthesises children's rights, African communitarian values, and non-anthropocentric models to inform a more just and effective climate response in Africa.

The article begins by discussing key environmental philosophies that have shaped and continue to influence responses to climate change on the continent. It then examines selected African ethical concepts as a bridge between human rights and environmental law, focusing on ubuntu and anthropocentrism. The article subsequently links these ethical paradigms to children's rights through the idea of vulnerability. It proposes an integrated normative framework that centres children's rights at the centre of climate action.

2 Major concepts in environmental philosophy

The current debate about the functions and objectives of law in the context of climate change mirrors the ethical arguments about the relationship humans should have with the natural environment that are traceable to the sixteenth century.¹ Several explanations of environmental ethics emerged that still inform the direction of contemporary law and its approach to climate change. These are divided into two broad categories: anthropocentrism and non-anthropocentrism. The two main subdivisions of non-anthropocentrism are biocentrism and ecocentrism.² Other dominant schools of environmental philosophy include animal liberation/rights theory and eco-feminism.³ The philosophical foundations of environmental ethics are rooted in understanding how we value the environment. While these philosophical categories have been instrumental in shaping environmental law and the global response to climate change, they rarely feature the experiences or rights of children, despite incontrovertible evidence of the risk they face.⁴

2.1 Anthropocentrism

Anthropocentrism has been the dominant Western perspective in explaining humankind's relationship with the environment since the sixteenth century, following the scientific revolution.⁵ Anthropocentrism regards humans as the source of all value, creating a dualism and separation between humankind and nature.⁶ Anthropocentrism denotes the attitude, values and practices prioritising human interests over non-human, non-living, or even non-sentient beings or objects in the natural world.⁷ In other words, humans stand apart from nature, and nature is only valuable for its instrumental value, such as the provision of resources, including fossil fuels.⁸ Anthropocentrism is grounded in the liberal tradition of individualism and rational thinking and, therefore, has limited applicability to animals and is of little value to non-sentient objects.⁹ This largely

1 LH Leib *Human rights and the environment: Philosophical, theoretical and legal perspectives* (2011).

2 HD Rosa & JM da Silva 'From environmental ethics to nature conservation policy: Natura 2000 and the burden of proof' (2005) 18 *Journal of Agricultural and Environmental Ethics* 107.

3 PA Ojomo 'Environmental ethics: An African understanding' (2011) 5 *African Journal of Environmental Science and Technology* 527.

4 J Purdy 'The politics of nature: Climate change, environmental law, and democracy' (2010) 119 *Yale Law Journal* 1122.

5 GS Sessions 'Anthropocentrism and the environmental crisis' (1974) 2 *Humboldt Journal of Social Relations* 71.

6 N Hassoun 'The anthropocentric advantage? Environmental ethics and climate change policy' (2001) 14 *Critical Review of International Social and Political Philosophy* 235.

7 As above.

8 M Kidd 'Environment' in I Currie & J de Waal (eds) *The Bill of Rights handbook* (2016) 516-517.

9 H Kopnina and others 'Anthropocentrism: More than just a misunderstood problem' (2018) 31 *Journal of Agricultural and Environmental Ethics* 109.

explains why in the majority of countries across the world, environmental rights are framed to benefit human beings.¹⁰

2.1.1 *Anthropocentrism and climate change*

Anthropocentrism justifies wanton ecological destruction and the exploitation of nature. Commercial agriculture and animal farming are singled out as prime examples. Domestic ruminant animals account for approximately one-third of global methane emissions.¹¹ Sheltering and feeding them requires the destruction of large tracts of natural climate sinks, such as forests, interfering with the natural process of carbon capture.¹² These ecological consequences, including the suffering inflicted on domestic animals for human consumption, are justified based on the need to satisfy human interests and preferences.¹³ Anthropocentrism also explains the slow progress in addressing climate change despite the prodigious amount of knowledge and technological innovations humans possess to tackle this problem.¹⁴

Insofar as it relates to the causes of climate change, the anthropocentric view of the world is the product of one particular segment of society out of many. In other words, some humans are more blameworthy than others, and there is a difference between those who emit for necessity and those who emit for luxury.¹⁵ Thus, it is vital to be specific about exactly 'who' anthropocentrism impacts. Indigenous peoples, women, racialised groups and children do not necessarily share the same liability for the climate crisis as the world's largest polluting states and corporations.¹⁶

That said, the environmental rights provisions in the United Nations (UN) Convention on the Rights of the Child (CRC),¹⁷ the African Charter on the

10 N Hoek and others 'Implementing rights of nature: An EU natureshape to address anthropocentrism in environmental law' (2023) 19 *Utrecht Law Review* 72.

11 P Smith, D Reay & J Smith 'Agricultural methane emissions and the potential for mitigation' (2021) A374 *Philosophical Transactions of the Royal Society* 20200451; United Nations Environment Programme & Climate and Clean Air Coalition 'Global methane assessment: Benefits and costs of mitigating methane emissions' (2021) Nairobi: United Nations Environment Programme.

12 S Jones 'Tropical forests illegally destroyed for commercial agriculture' *The Guardian* (web blog) 11 September 2014, <https://www.theguardian.com/global-development/2014/sep/11/tropical-forests-illegally-destroyed-commercial-agriculture> (accessed 20 February 2025); J Lynch and others 'Agriculture's contribution to climate change and role in mitigation is distinct from predominantly fossil CO2-emitting sectors' (2021) 4 *Frontiers in Sustainable Food Systems* 1.

13 YN Harari 'Industrial farming is one of the worst crimes in history' *The Guardian* (web blog) 25 September 2015, <https://www.theguardian.com/books/2015/sep/25/industrial-farming-one-worst-crimes-history-ethical-question> (accessed 3 March 2025).

14 Kopnina and others (n 9) 109-127.

15 H Shue 'Subsistence emissions and luxury emissions' (1993) 25 *Law and Policy* 39.

16 M Taylor & J Watts 'Revealed: The 20 firms behind a third of all carbon emissions' *The Guardian* (web blog) 9 October 2019, <https://www.theguardian.com/environment/2019/oct/09/revealed-20-firms-third-carbon-emissions> (accessed 15 May 2025).

17 United Nations Convention on the Rights of the Child, Treaty Series, vol 1577, 1989 3; arts 24(2)(c) & 29(1)(c).

Rights and Welfare of the Child (African Children's Charter)¹⁸ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol)¹⁹ are anthropocentric. Article 24 of CRC enjoins state parties to take appropriate measures to realise children's rights to the highest attainable standard of health, considering the dangers and risks of environmental pollution.²⁰ State parties must also ensure that children are taught the advantages of environmental sanitation. This provision is replicated almost identically in article 14 of the African Children's Charter. Both treaties also provide that states must ensure that the education of the child is directed to 'the development of respect for the environment and natural resources'. The African Women's Protocol provides that women and girls have the right to equal access to housing and acceptable living conditions in a healthy environment. It also contains the most detailed substantive binding provision on the right to the environment at the global level in article 18.

3 Ecocentrism

Ecocentrism is an environmental philosophy that unites the spiritual, scientific and metaphysical trends in environmental protection.²¹ Although formally coined by Aldo Leopold in the twentieth century in his *Land ethic*, the concept is thousands of years old and has been with humanity since we evolved.²² Many indigenous communities, including African communities, have lived 'sustainably' in harmony with nature.²³ Studies detail certain features critical to this sustainability, such as small populations in a close-knit community; binding rituals; restorative conflict resolution; foraging habits; the use of medicinal plants; organic agriculture; reliance on solar energy; taboos on overhunting; among others.²⁴ Ecocentrism views the eco-sphere – all of earth's ecosystems, atmosphere, water, and land – as the matrix that gave birth to all life and is the sole source of life's existence.²⁴

18 African Charter on the Rights and Welfare of the Child OAU Doc CAB/LEG/24.9/49 (1990), entered into force 29 November 1999; arts 11(2)(g) & 14(2)(h).

19 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) arts 16 & 18.

20 KV Kortenkamp & CF Moore 'Ecocentrism and anthropocentrism: Moral reasoning about ecological commons' (2001) 21 *Dilemmas Journal* 261.

21 A Leopold *The Land Ethic* (1949); GAM Zambrano & JEV Aréchiga 'Indigenous communities: Resisting ecocentric sustainability within rural tourism' (2018) 33 *Téoros*.

22 Ojomo (n 3).

23 JS Rowe 'Ecocentrism and traditional ecological knowledge' Environment and Ecology (web blog), 1994, http://www.ecospherics.net/pages/Ro993tek_1.html#:~:text=Ecocentrism%20puts%20a%20new%20interpretation,the%20regional%20to%20the%20local (25 July 2025); ML Jardin 'The role of local indigenous communities in the management of natural resources in and around South Africa's national parks' Master's dissertation, University of Natal, 2002 1-119; NM Dawson and others 'The role of indigenous peoples and local communities in effective and equitable conservation' (2021) 26 *Ecology and Society* 19; N Hewitt 'Beyond the anthropocene: An ecocentric and rights of nature approach to climate justice' Master's dissertation, University of Deusto, 2022 22.

24 Dawson and others (n 23).

The unifying theme in the philosophy of ecocentrism is that nature's intrinsic value is worth protecting, regardless of its utility or relevance to humanity.²⁵ Some have suggested that the former should give way when human necessities conflict with the planet's health.²⁶ At its core, ecocentrism is about removing humanity from the centre of the ecological universe and replacing it with nature.²⁷ In contrast to anthropocentrism, it extends moral understanding to encompass supra-individual wholes, including entire species and ecosystems.²⁸ Ecocentrists argue that environmental despoliation, including that brought on by climate change and global warming,²⁹ is immeasurably more significant for the harm it inflicts on nature than viewing it as a loss of goods valuable to humanity.³⁰ Remedial actions to the environmental crises that call for large-scale societal change are rooted in the philosophy of eco-centrism.³¹ On the value of ecocentrism to climate change, Rowe observes:³²

[Ecocentrism] is not an anti-human argument nor a put-down of those seeking social justice. It does not deny that myriad significant homocentric problems exist. However, it stands aside from these more minor, short-term issues to consider the ecological reality. It comprehends the Ecosphere as a Being that transcends in importance any single species, even the self-named sapient one.

3.1 Ecocentrism and climate change

There is increasing momentum towards enshrining rights of nature, as an ecocentric approach, into law as a legal response to climate change.³³ At the international level, the UN General Assembly passed a resolution led by Bolivia in 2009, declaring 22 April International Mother Earth Day.³⁴ The Resolution calls for 'harmony with nature and the planet to balance present and future generations' economic, social, and environmental needs.³⁵ Some momentum is also observable at the national level. The Ecuadorian Constitution,³⁶ Bolivian

25 Rowe (n 23).

26 J Gray, I Whyte & P Curry 'Ecocentrism: What it means and what it implies' (2018) 1 *The Ecological Citizen* 130.

27 AJ Hoffman & LE Sandelands 'Getting right with nature: Anthropocentrism, ecocentrism, and theocentrism' (2005) 18 *Organisation and Environment* 142.

28 E Gamlund 'Who has moral status in the environment? A spinosistic answer' (2007) 23 *The Trumpeter* 5.

29 RS Abate *Climate change and the voiceless: Protecting future generations, wildlife, and natural resources* (2020) 11.

30 See generally H Washington and others 'Why ecocentrism is the key pathway to sustainability' (2017) 1 *Ecological Citizen* 35.

31 Rowe (n 23).

32 As above.

33 PV Calzadilla & LJ Kotze 'Living in harmony with nature? A critical appraisal of the rights of mother earth in Bolivia' (2018) 7 *Transnational Environmental Law* 397.

34 United Nations General Assembly (UNGA) 'International Mother Earth Day' A/RES/63/278 (22 April 2009).

35 UNGA (n 34) preambular para 4.

36 Constitution of the Republic of Ecuador (2008); art 71 provides for enforceable rights of nature in art 71. The Constitution provides that '[n]ature or Pachamama (Mother Earth) where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary process'.

legislation,³⁷ Indigenous Peoples in Canada and local laws in some states have provided for justiciable rights of nature.³⁸ Countries in the Global South have endorsed the right to a healthy environment for two reasons.³⁹ The first is their disproportionate exposure to environmental and human rights harm from 'extractive and polluting industries that benefit northern states, transnational corporations and national elites'.⁴⁰ The second reason is the influence of traditional and indigenous laws, ethics and world views that regard humans as an integral part of nature.⁴¹ However, rights of nature protections cannot be effective in the face of deeply entrenched corporate-driven neoliberal and political-economic interests worldwide, including in Africa.⁴² African governments' priorities remain job creation and poverty alleviation,⁴³ and their approach to climate change reflects these concerns.⁴⁴

4 Biocentrism

A biocentric approach to environmentalism, environmental protection and environmental rights asserts that humans owe moral obligations to sentient beings.⁴⁵ Humans are considered members of the Earth's community of life, holding that membership on the same terms as applied to all non-human members.⁴⁶ Biocentrism enables humans to meet their basic needs in exceptional circumstances.⁴⁷ Proponents of biocentrism view environmental protection through the prism of the richness and diversity of life as worthy of protection in themselves. They argue that human beings do not have a right to utilise natural resources other than to satiate their core needs.⁴⁸ Biocentrists, therefore, perceive the need for the aforementioned cultural diversity and the differences in social arrangements as conditions precedent for the planet's survival.⁴⁹

There are divided opinions on the usefulness of the rights framework regarding biocentrism. One assessment argues that the rights doctrine does not add value to how humans view and interact with the environment.⁵⁰ This view rejects the

37 See Law of the Rights of Mother Earth, Law 71 of 21 December 2010.

38 Calzadilla & Kotze (n 33).

39 CG Gonzalez 'The right to a healthy environment and the Global South' (2023) 117 *AJIL Unbound* 173.

40 As above.

41 As above.

42 LS Muñoz Prudencio 'Bolivia's mother earth laws: Is the ecocentric legislation misleading?' *ReVista* (web blog), 6 February 2023, <https://revista.drclas.harvard.edu/bolivias-mother-earth-laws-is-the-ecocentric-legislation-misleading/> (accessed 28 September 2024).

43 L Fonjong, F Matose & DA Sonnenfeld 'Climate change in Africa: Impacts, adaptation, and policy responses' (2024) 89 *Global Environmental Change* 102912.

44 As above.

45 L Feris 'Constitutional environmental rights: An under-utilised resource' (2008) 22 *South African Journal on Human Rights* 29.

46 MR Scheessele 'The hard limit on human non-anthropocentrism' (2021) 37 *AI & Society* 52.

47 L Samuelson 'At the centre of what? A critical note on the centrist-terminology in environmental ethics' (2013) 22 *Environmental Values* 631.

48 As above.

49 As above.

50 As above.

notions of rights and argues that if nature is a rights-holder, it loses its aesthetic quality and is not deemed part of humanity. Relatedly, proponents of this view also reject the idea that the natural world must rely on legal language to be 'seen and heard'.⁵¹ The other, less stringent view of biocentrism, as expressed in some national constitutional provisions, particularly in Latin America, regarding the protection of the environment, is one in which nature is considered a rights holder.⁵² The traditional common law approach to environmental conservation, which ties environmental protection to an individual rights holder, is considered untenable under this approach.⁵³

The utility of biocentrism to climate change lies in the moral standing of non-human organisms in the ecosphere.⁵⁴ Scholars have criticised biocentrism for its silence on whether ecosystems have value beyond that assigned to non-human organisms.⁵⁵ Non-living, non-human parts of the eco-sphere, such as salt flats, bogs or savannas, which are also threatened by climate change, are not within the environmental protection envisioned by biocentrism.⁵⁶ Nonetheless, biocentrism's influence and impact on climate change are similar to that of ecocentrism discussed above.

5 African environmental philosophy as a bridge

5.1 Between humans and the environment: An irreconcilable choice?

International law is gradually progressing towards recognition of the right to the environment.⁵⁷ An international right to the environment would go a long way towards clearing up some of the normative confusion that plagues international environmental law regarding climate change. The implementation of sustainable development is characterised as a choice between an eco-centric

51 J Livingstone 'Rightness or rights' (1984) 22 *Osgoode Hall Law Journal* 309; see generally M Guim & MA Livermore 'Where nature's rights go wrong' (2021) 107 *Virginia Law Review* 1347

52 JM Waldmüller 'Living well rather than living better: Measuring biocentric human-nature rights and human-nature development in Ecuador' (2015) 5 *International Journal of Social Quality* 7.

53 As above.

54 R Attfield 'Biocentrism, climate change, and the spatial and temporal scope of ethics' in BG Henning & Z Walsh (eds) *Climate change ethics and the non-human world* (2020) 63-74.

55 J Basl *The death of the ethic of life* (2019) 14, for the assertion that biocentrism limits its moral concerns only to living organisms; J MacClellan 'Is biocentrism dead? Two live problems for life-centred ethics' (2023) *The Journal of Value Inquiry* 1.

56 DL Rice 'Biocentrism in environmental ethics: Questions of inherent worth, etiology, and teleofunctional interests' PhD thesis, University of Arkansas, 2016 4.

57 O Quirico, J Brohmer & M Szabo 'States, climate change and tripartite human rights: The missing link' in O Quirico & M Boumghar (eds) *Climate change and human rights: An international and comparative law perspective* (2016) 7-38; United Nations General Assembly 'Resolution adopted by the General Assembly on 28 July 2022: The human right to a clean, healthy and sustainable environment' 1 August 2022 A/RES/76/300.

approach,⁵⁸ which centres nature as the core beneficiary of the paradigm, and an anthropocentric approach, which centres human beings.⁵⁹ This dichotomy portrays anthropocentrism as ethically flawed and incapable of producing sustainable outcomes.⁶⁰ In other words, the need to achieve sustainable development requires the integration of potentially conflicting demands.⁶¹ Two key variants of sustainable development models are proposed: the economic growth model and the human needs-centred model.⁶² Economic growth focuses on states and corporations, whereas the human needs-centred model addresses the fundamental requirements for human well-being and thriving.⁶³ The argument for humans to be the centre of sustainable development requires that economic growth is subordinated to social and ecological needs in cases of conflict.⁶⁴ The rationale is that economic growth is a 'desire' while ecological and social imperatives are required to survive.⁶⁵

5.2 Climate change and African environmental ethics

Academia and policy makers have long ignored or marginalised African environmental ethics.⁶⁶ The international climate change discourse has long ignored people's values, beliefs and world views, paying lip service to the importance of equity and global security.⁶⁷ The field of African environmental ethics does not neatly fit into any of the three major strands of environmental philosophy articulated above. Some scholars suggest that African environmental philosophy

58 B Taylor and others 'The need for ecocentrism in biodiversity conservation' (2020) 34 *Conservation Biology* 1089.

59 *Stanford encyclopaedia of philosophy* 'Environmental ethics', <https://plato.stanford.edu/entries/ethics-environmental/> (accessed 3 March 2025).

60 H Kopnina 'Anthropocentrism: Problem of human-centred ethics in sustainable development goals' in WL Filho and others (eds) *Life on land* (2021) 48–57.

61 The current discourse on sustainable development has taken different trajectories in the Global North and Global South. Industrialised countries are now seeking to attempt to 'nurse' the environment back to health with as little disruption to their economies as possible while developing countries want to pursue economic growth to reduce poverty and create employment opportunities. In 2002, humans extracted over 50 billion tonnes of natural resources from the planet's ecosystems. It is estimated that by the end of 2020, we will need to extract 80 billion tonnes for our development needs. T Strange & A Bayley 'Sustainable development: Linking economy, society, environment' OECD Insights (report) 2008, https://www.oecd.org/content/dam/oecd/en/publications/reports/2008/12/sustainable-development_g1gh9be9/9789264055742-en.pdf (accessed 8 June 2025).

62 T Madebwe 'A rights-based approach to environmental protection: The Zimbabwean experience' (2015) 15 *African Human Rights Law Journal* 110.

63 As above.

64 PS Omoyefa 'The conflict between environmental rights and human rights: A panacea' (2008) 3 *International Journal of Development and Management Review* 75.

65 SB Longo and others 'Sustainability and environmental sociology: Putting the economy in its place and moving toward an integrative socio-ecology' (2016) 8 *Sustainability* 454.

66 Writing in 2022, Ethiopian philosopher Workineh Kelbessa points out that printed work on environmental ethics and philosophy has only emerged 'recently'. Very limited research has been done on the subject and its implications are hardly understood by African policy makers; W Kelbessa 'African environmental philosophy, injustice, and policy' *Georgetown Journal of International Affairs* 16 February 2022, <https://gjia.georgetown.edu/2022/02/16/african-environmental-philosophy-environmental-injustice-and-policy%EFBF%BC/> (accessed 23 May 2025).

67 K O'Brien, AL St Clair & B Kristoffersen (eds) *Climate change, ethics and human security* (2010) 10.

is biocentric, ascribing inherent value to all living beings.⁶⁸ Others believe that ecocentrism best describes Africans' relationship with the environment, given that ecocentrism recognises the importance of the entire eco-community.⁶⁹ Some scholars describe African environmental values as eco-bio-communitarian, premised on the interdependence and peaceful coexistence between the earth, plants, and humans.⁷⁰ The African environmental ethics espouses a holistic rather than an atomistic approach to the environment. Human beings are in and part of a vibrant, interconnected 'whole' from which they cannot detach themselves.⁷¹ In a direct riposte to capitalist ideology, African environmental philosophy rejects the private ownership of land by a few individuals.⁷² Land belongs to gods, the community of the living dead (colloquially referred to as ancestors), the living and future generations.⁷³

Value is attributed to the ecosystem as a whole, encompassing both living and non-living, non-human entities, rather than just human beings who are merely constituent members.⁷⁴ African world views teach that natural resources and ecosystems should not be exploited beyond their sustainable limits.⁷⁵ The environment must be taken care of for the benefit of present and future human generations, as well as the well-being of non-human entities.⁷⁶ Environmental conservation benefits all living beings, including humans, non-human animals and the natural world, all of which are interconnected.⁷⁷ African environmental ethics eschew the premise of anthropocentrism as a philosophical justification for environmental conservation.⁷⁸ This is critical because it compels us to examine how we can utilise anthropocentric human or children's rights to guide societal and individual actions in mitigating the effects of climate change.⁷⁹ African environmental ethics gives value to inanimate beings of nature, beyond the instrumental role they play in human survival. This interpretation might have been regarded as unscientific a few decades ago.⁸⁰ Recently, there has been a shift towards recognising the role of Indigenous or traditional values and knowledge

68 M Chemhuru 'Introducing African environmental ethics' in M Chemhuru (ed) *African environmental ethics: A critical reader* (2019) 1-3; PA Ojomo 'An African understanding of environmental ethics' (2010) 2 *Thought and Practice: Journal of the Philosophical Association of Kenya* 249.

69 Chemhuru (n 68) 1-5.

70 GB Tangwa 'Bioethics: An African perspective' (1996) 10 *Bioethics* 183.

71 Kelbessa (n 66).

72 As above.

73 As above.

74 Chemhuru (n 68).

75 As above.

76 M Chemhuru 'The moral status of nature: an African understanding' in Chemhuru (n 68) 29-31.

77 MJ Tosam 'African environmental ethics and sustainable development' (2019) 9 *Open Journal of Philosophy* (2019) 172.

78 CS Ifeakor 'Is African environmental ethics anthropocentric?' (2017) 2 *PREORCJAH* 72.

79 See, eg, M Oksanen 'On tackling the environmental crisis through human rights' (2020) 75 *Rivista di Estetica* 104.

80 After all, the environmental crisis is partly the result of unbridled scientific development without the moral or traditional wisdom necessary for its management.

in stemming the ecological crisis.⁸¹ This shift requires articulating an African environmental philosophy that might help address climate change. Kelbessa notes that African policy makers have not paid significant attention to ethical principles related to climate change.⁸² As a result, the debate on climate change and human rights has thus far been dominated by non-African scientific, technical and economic analyses. As Owolabi observes:⁸³

Every society within the global community must dip into its value system to construct an environmental ethic that will usher in a new environmental order. Every society has its own culture of reacting to the environment and every society should approach those problems according to the way they manifest.

5.3 Climate change: Children's rights and African environmental ethics

The human needs-centred model is not necessarily inconsistent with promoting ecological preservation. The epistemological and ontological framing of human rights and the environment in Africa necessitates a deeper understanding of this relationship.⁸⁴ Under African environmental philosophy, all components of the environment, living beings and non-living beings, have moral standing, but on a sliding scale.⁸⁵ According to Behrens:⁸⁶

African thought extends moral considerability to include all beings that are a part of the interconnected web of life, that is, all individual living things, groups of living things such as families, species and ecosystems, as well as inanimate natural objects such as rivers and mountains.

This personification of the environment is oriented towards sustaining good relations with the natural environment.⁸⁷ Moral status is accorded to non-human beings and/or inanimate resources of nature beyond the role they play in the survival of human beings.⁸⁸ The degree of importance is determined, among other factors, by sentience, the ability to influence other beings, and vulnerability.⁸⁹ Sub-Saharan African ethical values prioritise relationality as the foundation for assigning value to constituents of the environment.⁹⁰ Whereas all members of the ecosystem have value, the more a being can engage with and in a certain

81 J Petzold and others 'Indigenous knowledge on climate change adaptation: A global evidence map of academic literature' (2020) 15 *Environmental Research Letters* 11300.

82 Kelbessa (n 66).

83 KA Owolabi *Because of our future: The imperative for an environmental ethic for Africa* (1996) 1-32.

84 JCN Ashukem 'Introduction: African environmentalism and sustainability – Framing the epistemic parameters of human rights and the environment in Africa' in JCN Ashukem & SM Sama (eds) *Human rights and the environment in Africa: A research companion* (2024) 1-16.

85 Tosam (n 77).

86 KG Behrens 'An African relational environmentalism' (2014) 36 *Environmental Ethics* 63.

87 M Łaszewska-Hellriegel 'Environmental personhood as a tool to protect nature' (2021) 51 *Philosophia* 1369.

88 F Mangena 'Discerning moral status in the African environment' (2013) 14 *Phronimon* 25.

89 Tosam (n 77); J van Jaarsveld 'Can African environmental ethics help in weathering Gardiner's storm' (2023) 3 *Arumayuka: Journal of Conversational Thinking* 1.

90 Tosam (n 77).

communal relationship, the greater its moral stature and, therefore, the greater the duty owed to it.⁹¹

A being has moral status as it can be part of a communal relationship. Community in the African sense refers to those living and dead, animals and the living dead or ancestors.⁹² Exhibiting solidarity with one another primarily involves engaging in mutual aid and acting in the best interest of one another.⁹³ This view contrasts with traditional Western thought, which accords moral status only to beings that reciprocate with one another.⁹⁴ Several African philosophies speak to this solidarity, compassion, justice, reciprocity, dignity and harmony, such as ubuntu, the most widely known, from the Nubian desert to the Cape of Good Hope and from Senegal to Zanzibar.⁹⁵ Similar concepts exist across the continent, such as in the Kenyang language in Manyu, Cameroon,⁹⁶ Ukama, which means relatedness in Shona,⁹⁷ or Omoluwabi in Yoruba, Nigeria,⁹⁸ and the Gadaa system among the Oromo peoples of Ethiopia.⁹⁹ Metz uses two examples to illustrate this point. A severely mentally incapacitated human being is elevated beyond an animal that may have identical internal abilities, and a new-born infant might have greater moral status than a mid-to-late-stage fetus.¹⁰⁰

5.3.1 *Ubuntu as a mediating ethic to the climate crisis*

Ubuntu is a South African philosophy derived from the Nguni languages of Southern Africa, such as Xhosa, which has the expression *umuntu ngumuntu ngabanye Bantu*, loosely translated to mean ‘a person is a person through other people.’¹⁰¹ While ubuntu appears to be only related to relations between humans, its application is much broader.¹⁰² Various interpretations and expositions of ubuntu exist, and it is neither possible nor desirable to adequately interrogate them here; suffice it to say that ubuntu connotes ideas of humanness, social justice

91 As above.

92 Tosam (n 77) 172.

93 T Metz ‘An African theory of moral status: A relational alternative to individualism and holism’ (2012) 15 *Ethic Theory Moral Practice* 387-402.

94 As above.

95 Ashukem (n 84) 8; F de Tejada ‘The future of bantu law’ (1979) 11 *Archiv für Rechts- und Sozialphilosophie*, cited in M Ramose ‘The philosophy of ubuntu and ubuntu as a philosophy’ in PH Coetzee & APJ Roux (eds) *Philosophy from Africa* (2002) 230.

96 Tosam (n 77)

97 K Horsthemke *Animals and African ethics* (2015) 93.

98 PK Tubi ‘Afroecology of traditional African societies: An anthropology of ecotheology, ecophilosophy and ecospirituality of the Yoruba’ in IKA Kanu (ed) *African eco-philosophy: Cosmology, consciousness and the environment* (2021) 311-338; OR Olaopa ‘African indigenous knowledge (AIK) for environmental management and sustainable development: The role of Yoruba epistemology’ (2025) 11 *Cogent Social Sciences* 1.

99 Ashukem (n 84).

100 Metz (n 93) 387-402.

101 Y Mokgoro ‘Ubuntu and the law in South Africa’ (1998) 4 *Buffalo Human Rights Law Review* 15.

102 DE van Norren ‘African ubuntu and Sustainable Development Goals: Seeking human mutual relations and service in development’ (2022) 43 *Third World Quarterly* 2791.

and fairness.¹⁰³ It requires balancing the interests of society, including the need to live in a healthy environment, against those of the individual.¹⁰⁴ South African courts have embraced ubuntu as a key cornerstone in interpreting the country's Constitution, ordering its society and strengthening its democracy, firmly establishing it as a critical interpretative tool.¹⁰⁵ South Africa's Constitutional Court has interpreted ubuntu as part of the country's 'rainbow heritage', describing the significance of group solidarity, compassion, respect, dignity, conformity to basic norms and collective unity.¹⁰⁶ In this regard, Le Grange advises that ubuntu is an ideal framework for all policies and practices to address the pressing environmental problems facing South Africa.¹⁰⁷

At the regional level, ubuntu and its applicability to climate action is visible in the wording of article 24 of the African Charter on Human and Peoples' Rights (African Charter) – the first regional human rights instrument with binding environmental obligations. Article 24 provides that 'all peoples shall have the right to a general satisfactory environment favourable to their development'.¹⁰⁸ At this juncture, it is noteworthy that the provision breaks with conventional wording of the subject of human rights – the individual – to guarantee the right for 'peoples'. The African Charter does not define 'peoples', but the term may connote a whole population of a country, or a part of the population bound together by cultural, linguistic, ethnic or other factors.¹⁰⁹ This designation reflects the ubuntu principle of conserving and protecting the environment for the benefit of society, not just the individual. This formulation implies that nature and its resources cannot be utilised with unbridled abandon.¹¹⁰ The African Charter requires the rights under its article 24 to be 'exercised with due regard to the rights of others, collective security, morality and common interest'.¹¹¹

The anthropocentric-oriented exploitation of nature and the capitalist-driven commodification of natural resources contrast with the prescribed interconnectedness inherent in ubuntu. One who becomes a person through others, including our natural environment, cannot misuse natural resources to satisfy selfish needs or greed.¹¹² Ubuntu prescribes a lifestyle based on sufficiency,

103 Mokgoro (n 101).

104 Van Norren (n 102).

105 C Himonga, M Taylor & A Pope 'Reflections on judicial views of ubuntu' (2013) 16 *Potchefstroom Electronic Law Journal* 372.

106 *S v Makwanyane & Another* [1995] ZACC 3 (CCT3/94); 1995 6 BCLR 665; 1995 (3) SA 39 para 307.

107 L le Grange 'Ubuntu/botho as ecophilosophy and ecosophy' (2015) 49 *Journal of Human Ecology* 301.

108 Art 24 African Charter on Human and Peoples' Rights adopted 27 June 1981, entered into force 21 October 1986, OAU Doc CAB/LEG/67/3 rev 5, 21 ILM 58 (1982).

109 L Chenwi 'The right to a satisfactory, healthy and sustainable environment in the African regional human rights system' in JH Knox & R Pejan (eds) *The human right to a healthy environment* (2018) 65.

110 M van der Linde & L Louw 'Considering the interpretation and implementation of article 24 of the African Charter on Human and Peoples' Rights in light of the *SERAC* communication' (2003) 3 *African Human Rights Law Journal* 74.

111 Art 27(2) African Charter.

112 Van Norren (n 102).

permitting the individual and the wider community to utilise natural resources to meet their basic needs. Nature is not commodified and exploited to satisfy self-interest.¹¹³ An ubuntu-driven response to climate change at the global, regional and local levels would animate solidarity with our fellow planetary inhabitants and inform a universal paradigm shift encompassing communitarianism, respect for nature, and future generations. This is only possible if ubuntu and similar approaches, such as Senghor's Negritude¹¹⁴ or *Buen Vivir* from Latin America,¹¹⁵ are harnessed and integrated with other values to address the climate crisis.¹¹⁶ Negritude evinces a revised view of the world beyond the diversity of its forms to counter the immorality of violence to nature, which it considers violence against humanity.¹¹⁷ It evokes an ethical consideration for restoring despoiled ecosystems and resistance against destructive extractivism, fuelling today's climate crisis.¹¹⁸

In Latin America, *Buen Vivir*, which translates to 'good living' or 'living well', is a concept and way of living that 'denotes, organises and constructs a system of knowledge and living based on the communion of humans and nature and on the spatial-temporal-harmonious totality of existence'.¹¹⁹ It demands an ethically different relationship with nature – community-centric, ecologically balanced and culturally sensitive.¹²⁰ As a means of societal ordering, *Buen Vivir* is based on ethical values rather than economic ones, rejecting the commodification of humans, land and nature.¹²¹ It is based on the idea that the community's well-being is inextricably linked to that of the individual. In other words, individuality prevalent in the Western conception of human rights is expressed through complementarity with other beings in the group, and tempered by the needs of broader society.¹²² *Buen Vivir* has been incorporated into the 2008 Constitution of Ecuador under Title II, Chapter Two as 'rights of the good way of living' and the 2009 Constitution of Bolivia as *vivir bien* under article 8.¹²³ The concern

113 AC Terblanché-Greeff 'Ubuntu and environmental ethics: The west can learn from Africa when faced with climate change' in Chemhuru (n 68) 93.

114 TE Fon and others 'Panaficanism, cultural resilience, and biodiversity conservation: A historical perspective in the face of climate change' (2024) 13 *International Journal of Science and Research Archive* 1269.

115 A Acosta & MM Abarca 'Buen Vivir: An alternative perspective from the peoples of the Global South to the crisis of capitalist modernity' in V Satgar (ed) *The climate crisis: South African and global democratic eco-socialist alternatives* (2018) 131-147.

116 PO Isanbor & MM Uzomah 'Embracing Senghor's negritude for African sustainable development' (2023) *Academic Journals Online* 517; MF Ordóñez, K Shannon & V d'Auria 'The materialisation of the Buen Vivir and the rights of nature: Rhetoric and realities of Guayaquil Ecológico urban regeneration project' (2022) 9 *Territory and Architecture* 1.

117 Isanbor (n 79).

118 C Terreblanche 'Ubuntu and the struggle for an African eco-socialist alternative' in Satgar (n 115) 177-178.

119 JF Salazar 'Buen vivir: South America's rethinking of the future we want' *The Conversation* (web blog), 24 July 2015, <https://theconversation.com/buen-vivir-south-americas-rethinking-of-the-future-we-want-44507> (accessed 20 January 2025).

120 As above.

121 As above.

122 L Etchart 'Buen vivir and the rights of nature in national and international law' in L Etchart (ed) *Global governance of the environment, indigenous peoples and the rights of nature, governance, development, and social inclusion in Latin America* (2022) 65.

123 Constitution of the Republic of Ecuador, 2008, Official Register 449 of 20 October 2008; Political Constitution of the State of Bolivia, 2009, promulgated 7 February 2009.

from some quarters is about the justiciability of these concepts and their ability to inform human and children's rights standards in the context of climate change.¹²⁴ The following part explores how ubuntu, *Buen Vivir* and related ethical traditions can be meaningfully integrated into normative frameworks governing children's rights and climate obligations.

6 Anthropoholism as an African environmental ethic

Chemhuru argues that environmental philosophy and ethical thinking in sub-Saharan Africa are informed by teleological and normative conceptions that grant nature, including human beings, non-human living beings such as animals and plants, and non-living beings such as air, water and soils, ethical standing.¹²⁵ In his view, the teleological and ethical basis for respecting nature is twofold: First, it is where human beings find their habitat and, second, nature itself must live and flourish and achieve its purpose for existence and well-being.¹²⁶ The purpose of nature includes supporting the well-being and survival of both human and non-human living beings and, therefore, human beings must have duties to nature to ensure its well-being and flourishing.¹²⁷ Granting moral status and legal rights to nature is not novel. It is encapsulated in the growing rights-of-nature movement.¹²⁸ Rights-of-nature proponents advocate the rights of natural communities, ecosystems and other natural entities that are alive or sustain life, such as mountains, rivers and Mother Earth.¹²⁹ The rights-of-nature movement posits that entities with value for their own sake, rather than the value they provide others, can have rights.¹³⁰ Chemhuru argues that the moral status of human and non-human animals is not similar (note that he does not use the word 'equal') to that of human beings.¹³¹ Human beings occupy a higher ontological level than animals and plants due to their varied capacities for purpose and greater ability to communicate and make informed choices.¹³²

Anthropoholism is an African environmental ethics that draws from environmental philosophy's anthropocentric and holistic strands.¹³³ Central to anthropoholism is the idea that humans are an integral part of the environment

124 Acosta & Abarca (n 115).

125 Chemhuru (n 68) 29-30.

126 Chemhuru (n 68) 32.

127 As above.

128 Calzadilla & Kotze (n 33).

129 As above.

130 Chemhuru (n 68) 32-33; G Chapron, Y Epstein & JV Lopez-Bao 'A rights revolution for nature: Introduction of legal rights for nature could protect natural systems from destruction' (2019) 363 *Science* 1392; J Darpo 'Can nature get it right: A study on rights of nature in the European context' European Parliament (report) March 2021, [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/689328/IPOL_STU\(2021\)689328_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/689328/IPOL_STU(2021)689328_EN.pdf) (accessed 3 February 2025).

131 Chemhuru (n 68) 38.

132 Chemhuru (n 68).

133 SA Bassey "Anthropoholism" as an authentic tool for environmental management' (2019) 2 *International Journal of Environmental Pollution & Environmental Modelling* 160.

and are not inherently above or superior to other beings.¹³⁴ Owing to their enhanced capacity for rationality, only humans can bear this duty to look after the environment sustainably, including recognising and guaranteeing the 'rights' that attend to living non-human beings, such as animal rights.¹³⁵ This duty articulates a symbiotic relationship between human beings and nature. Ifeakor and Otteh argue that this duty is obligatory.¹³⁶ Bielefeldt terms it as 'the inescapable anthropocentrism of responsibility' because humans are the only members of the environment that can recognise rights.¹³⁷

Humans are the only constituent members of the environment who can ask, think and do.¹³⁸ It is doubtful that this grants humans 'pride of place' in the ecosphere, as Ifeakor and Otteh suggest.¹³⁹ This obligation is not targeted at the satisfaction of human ends, human benefit, or economic enrichment, but towards the African concept of holism – survival of the whole ecosystem. The purpose of obligatory anthropoholism is holistic, and humans are the only agents who can fulfil this end.¹⁴⁰

The duty or obligation to look after the environment sustainably is manifested in the African Charter, albeit in anthropocentric terms. The African Charter guarantees peoples the right to dispose of their wealth and natural resources freely, and this right shall be exercised in their exclusive interest.¹⁴¹ The Charter further recognises the right of all peoples to a general satisfactory environment favourable to their development.¹⁴² The African Charter also imposes duties on family, society and other legally recognised communities. These rights and freedoms shall be exercised with due regard to the rights of others, collective security, morality and common interest.¹⁴³ As observed earlier, the African Children's Charter has similar provisions. It requires children's education to be directed towards developing respect for the environment and natural resources. The African Children's Charter also imposes a duty to preserve and strengthen African cultural values, including those relevant to environmental protection, and to contribute to the moral well-being of society.¹⁴⁴

As Chemhuru rightly contends, the communitarian ethics imbued in these two instruments imposes duties to preserve the environment for the benefit of

134 G Asuquo 'Live and let live: Making sense of Samuel Bassey's "anthropocentrism" as ethics for environmental management' (2020) 12 *Cogita Multidisciplinary Research* 34.

135 Tosam (n 77).

136 CS Ifeakor & A Otteh 'African environmental ethics: Towards a non-anthropocentric African environmentalism' in A Ikechukwu (ed) *African eco-philosophy: Cosmology, consciousness and the environment* (2021) 152.

137 H Bielefeldt 'Moving beyond anthropocentrism? Human rights and the charge of speciesism' (2021) 43 *Human Rights Quarterly* 526.

138 As above.

139 Ifeakor & Otteh (n 136) 152.

140 As above.

141 Art 21(1) African Charter.

142 Art 24 African Charter.

143 Arts 27-29 African Charter.

144 African Charter (n 111) art 23.

broader society.¹⁴⁵ However, if compromises and trade-offs are required between these two value systems, what are they, and how can they be achieved? Tladi argues that this balancing act requires us to note the following: None of the models excludes the relevance of the central values of the other models; both economic growth and human-centred needs are or can be anthropocentric; and there is a divergence of law and policy on the international plane.¹⁴⁶

Key international rights instruments primarily reflect the human-centred needs model, while the practice of 'hard' international law tends to promote economic growth. The climate change regime decisively favours the economic growth model for so-called sustainable development.¹⁴⁷ Developed countries are reluctant to make large-scale changes to their economic structures for fear of losing competitiveness with one another.¹⁴⁸ Developing countries, such as South Africa, aim to maintain momentum towards poverty eradication, job creation and the provision of housing and electricity by maintaining the *status quo*, despite warnings from scientists that this approach is detrimental to efforts to combat climate change.¹⁴⁹

Scholars have developed the so-called 'weak sustainability' and 'strong sustainability' to denote anthropocentric-centred and eco-centric initiatives towards sustainable development, respectively.¹⁵⁰ Under the weak sustainability model, the spatial, temporal and integration models of sustainable development are considered equal.¹⁵¹ However, because human interests are central to the model, the environment is protected for its instrumental value to humans.¹⁵² Ecocentrists have criticised this model for undergirding the destruction of the environment that has led to ecological disasters that are now worsened by climate change.¹⁵³ The argument goes that if sections of the environment are not helpful for human use, they are dispensable and, therefore, prone to destruction and/or eradication.¹⁵⁴ Like the anthropocentrism it underpins, this model does not protect species and ecosystems of no present or potential interest to humankind.¹⁵⁵

¹⁴⁵ M Chemhuru 'Interpreting ecofeminist environmentalism in African communitarian philosophy and ubuntu: An alternative to anthropocentrism' (2018) 48 *Philosophical Papers* 241-264.

¹⁴⁶ D Tladi 'Strong sustainable development, weak sustainable development, and the earth charter: Towards a more nuanced framework of analysis' (2004) 11 *South African Journal of Environmental Law and Policy* 20.

¹⁴⁷ As above.

¹⁴⁸ D Bodansky 'The United Nations Framework Convention on Climate Change: A commentary' (1993) 18 *Yale Journal of International Law* 505.

¹⁴⁹ Tladi (n 146).

¹⁵⁰ Tladi (n 146) 17, 19.

¹⁵¹ As above.

¹⁵² As above.

¹⁵³ See discussion on ecocentrism above.

¹⁵⁴ Tladi (n 146).

¹⁵⁵ As above.

The strong sustainability model prioritises the ecological system over all other human or economic considerations.¹⁵⁶ Social needs and justice must be seen as part of the ecological system, or are subject to the needs and survival of the ecological system.¹⁵⁷ Tladi suggests that this position is inflexible, noting that there are no compromises and trade-offs because ecology always has primacy.¹⁵⁸ In other words, ecology is central and, in case of conflict, ecological interests prevail.¹⁵⁹

This model has been championed by scholars and environmentalists alike, who are unconvinced of the value, ethics and morality of using an anthropocentric approach to dealing with ecological crises and climate change.¹⁶⁰ In this debate, the question becomes whether ecology must take precedence over human concerns to achieve sustainable development, specifically sustainable human development.¹⁶¹ It is debatable whether a human needs-centred model of sustainable development, which provides a foundation for applying a human rights framework to environmental protection, is insufficient, given that it promotes species chauvinism.¹⁶² While opinion is divided, this analysis agrees with Tladi's assessment that a human needs-centred approach does not necessarily preclude the protection of nature for its intrinsic value.¹⁶³

6.1 Anthropoholism and children's rights

The anthropoholistic environmental ethics is contended to be compatible with the human rights and children's rights framework. The human rights framework is an ethical approach drawing from widely accepted, coherent and well-developed legal norms. Part of its advantage is that it places human beings most affected by climate change,¹⁶⁴ such as children, at the centre of its analysis. It moves the imperative to act on climate change from the scientific to the moral realm, creating a duty to act out of collective self-interest. It also has strong

156 K Kortenkamp & CF Moore 'Ecocentrism and anthropocentrism: Moral reasoning about ecological commons' (2001) 21 *Dilemmas Journal* 261.

157 As above.

158 As above.

159 Kortenkamp & Moore (n 156).

160 Tladi (n 146) 22.

161 J Oloka-Onyango 'Human rights and sustainable development in contemporary Africa: A new dawn, or retreating horizons' (2000) 39 *Buffalo Human Rights Law Review* 44, where the author argues that a focus on civil and political rights, while important, excludes those segments of society for whom autonomy is meaningless without the life's necessities. In fact, the UN introduced a new metric to measure growth. The Human Development Index (HDI) was created to emphasise that people and their capabilities should be the ultimate criteria for assessing the development of a country, not economic growth alone. The HDI is a summary measure of achievement in key dimensions of human development: a long and healthy life, being knowledgeable and having a decent standard of living. United Nations Development Programme 'United Nations Development Programme 'Human Development Index', <http://hdr.undp.org/en/content/human-development-index-hdi> (accessed 23 March 2025).

162 Bielefeldt (n 137).

163 Tladi (n 146).

164 S Theil *Towards the environmental minimum: Environmental protection through human rights* (2021) 10-15.

connections to mechanisms of implementation and enforcement.¹⁶⁵ Caney argues for prioritising human rights as an ethical approach to climate because it is grounded in persons' humanity; it represents moral thresholds below which no conduct is permitted; it promotes respect for every individual and takes general priority over other values.¹⁶⁶ Scholars further argue, in classic Western liberal tradition, that human rights focus on humans as individuals, not humans in the aggregate.¹⁶⁷

The advantages of the human rights framework ought to be combined with the benefits of other ethical systems, such as ubuntu, Negritude and *Buen Vivir*, as a basis for addressing climate change. This approach combines the utility of existing indigenous/traditional knowledge on addressing climate change with obligatory conduct that human rights require. Second, it prioritises communities' experiences and how they respond to climate change with localised solutions. This integrated approach elevates the interests of the 'weakest and most vulnerable', maximising overall welfare.

6.2 Anthropoholism, children's rights and vulnerability

The children's rights framework comports with the duty to address the needs of those most vulnerable to climate change, also found in the relational ethics of African environmental philosophy. The concept of vulnerability brings real-life experiences to human rights law.¹⁶⁸ Vulnerability describes segments of the population that are or should be recipients of extra care and attention. Timmer and others argue that the rights framework is essential in revealing the various dimensions of human suffering associated with continued environmental degradation and realising justice.¹⁶⁹

The human rights framework – and how it deals with vulnerability – is critical: While everyone is vulnerable, some, such as children, are more vulnerable than others.¹⁷⁰ In tandem with the concept of anthropoholism, vulnerability can also inform 'an ontological stance away from a human-centred, neo-liberal, and impregnably Western understanding of human rights'.¹⁷¹ Vulnerability in the context of climate change requires recognising that although everyone is susceptible to climate change, some are more vulnerable than others.¹⁷² Children's vulnerability has been recognised on several grounds, including 'their status and

165 As above.

166 S Caney 'Climate change, human rights and moral thresholds' in S Humphreys (ed) *Human rights and climate change* (2009) 69-90.

167 As above.

168 A Timmer and others 'The potential and pitfalls of the vulnerability concept for human rights' (2021) 39 *Netherlands Quarterly of Human Rights* 192.

169 As above.

170 As above.

171 As above.

172 As above.

inability to secure the protection of their rights'.¹⁷³ Some statistics can bear this situation out. The right to survive and thrive, to learn and grow, is still not realised for millions of children with disabilities, indigenous children and stateless children.¹⁷⁴ The UN estimates that 570 million children are deprived of dignity and the right to an adequate standard of living.¹⁷⁵ Nearly 17 000 children under the age of five years die every day; 58 million children of primary school age are not in school, with as many as 250 million failing to learn basic literacy or numeracy as a result of the poor quality of education.¹⁷⁶ The inadequate development outcomes reflected by those numbers are created by a ripple effect associated with inequality and discrimination, and compounded by inter- and intra-generational cycles of poverty.¹⁷⁷ Identifying vulnerability mandates particular attention from states and gives rise to protection duties.¹⁷⁸ Thus, it becomes clear that children's rights, particularly as countries start drafting and/or implementing their responses to climate change, must account for their vulnerability in addition to environmental conservation.¹⁷⁹ The inequality and discrimination that confront children and compel them to live below their full potential are caused by poor policy decisions that do not prioritise the realisation of children's rights, regardless of the face of extreme poverty, marginalisation and vulnerability.¹⁸⁰

Climate change responses must be consistent with the general principles of non-discrimination, the child's best interests, the right to life, survival and development, and the right to be heard. These responses must also account for the fact that children constitute one-third of the world's population, with almost half of the child population living in poverty.¹⁸¹ The factors that affect children's right to survival, such as poverty, are multidimensional and intergenerational and are being exacerbated by the effects of climate change.¹⁸² Failure to address them in one area will have a ripple, cyclical effect. For instance, failure to provide access to quality education will lead to stagnation in social mobility,¹⁸³ which increases a child's chances of falling into or staying in poverty. In some cases, where

173 AHE Morawa 'Vulnerability as a concept of international human rights law' (2003) 6 *Journal of International Relations and Development* 139.

174 United Nations Human Rights Council 'Report of the United Nations High Commissioner for Human Rights on the protection of the rights of the child in the implementation of the 2030 Agenda for Sustainable Development' A/HRC/34/27 para 13.

175 As above.

176 United Nations High Commissioner for Human Rights 'Input from a child rights perspective to the High Level Political Forum on Sustainable Development review of eradicating poverty and promoting prosperity in a changing world' July 2017, <https://sustainabledevelopment.un.org/content/documents/16641OHCHR.pdf> (accessed 22 February 2025).

177 United Nations Human Rights Council (n 174).

178 Morawa (n 173) 139–155.

179 If unaddressed, climate change will, in the long run, seriously hamper the prospects for realising the rights guaranteed by CRC and the African Children's Charter that ensure rights to life, survival, development and health. K Arts 'A child rights perspective on climate change' in MA Mohamed Salih (ed) *Climate change and sustainable development: New challenges for poverty reduction* (2009) 79–93.

180 United Nations Human Rights Council (n 174) paras 16–35.

181 As above.

182 As above.

183 P Brown 'Education, opportunity and the prospects for social mobility' (2013) 34 *British Journal of Sociology of Education* 678.

guardians or parents prefer boys to go to school, girls will often find themselves discriminated against and kept out of opportunities that education provides.¹⁸⁴

The integrated and holistic nature of anthropoholism mirrors the indivisible, mutually reinforcing nature of the rights of the child and all human rights.¹⁸⁵ A human rights-based approach is vital to realising economic, social and cultural rights. Despite the differences in the process, states are unified in the recognition that their response to climate change will involve adjusting their economic and environmental priorities.¹⁸⁶ This problem is bound to come to the fore, especially in countries such as South Africa that have to deal with increasing unemployment levels, stubborn levels of poverty and alarming levels of inequality. Children, who are already vulnerable, are likely to suffer the consequences of a climate change response that fails to cater to their rights and needs.

CRC is the most ratified international treaty,¹⁸⁷ with all states except the United States of America bound by it.¹⁸⁸ Nearly all of its 196 state parties are also bound by the United Nations Framework Convention on Climate Change (UNFCCC).¹⁸⁹ However, in tandem with other UN human rights treaties that omit an explicit right to a healthy environment, CRC only scarcely refers to environmental issues directly and does not mention climate change. CRC should not be criticised in isolation, given that the prevailing milieu of international law is still too generic to have concrete legal implications.

CRC has adopted General Comments relevant to climate change initiatives. General Comment 26 on children's rights and the environment, focusing on climate change, is one of the most authoritative interpretations of states' duties to take climate action under CRC.¹⁹⁰ General Comment 26 asserts that 'a clean and sustainable environment is both a human right and necessary for the full enjoyment of a broad range of children's rights'.¹⁹¹ General Comment 15 addressed the need for a 'growing understanding of the impact of climate change on children's health'.¹⁹² The General Comment was drafted to interpret article

184 Plan International 'Climate change and girls' education: Barriers, gender norms and pathways to resilience' (Synthesis Report) 2013, https://plan-international.org/uploads/2023/11/Climate-Change-and-Girls-Education_Synthesis-Report_Nov2023_.pdf (accessed 2 July 2025).

185 As above.

186 Bodansky (n 148).

187 UNICEF 'Convention on the Rights of the Child: For every child, every right' (website), <https://www.unicef.org/child-rights-convention> (accessed 23 April 2024).

188 As above.

189 UNFCCC 'Parties to the United Nations Framework Convention on Climate Change' (website), <https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states> (accessed 14 August 2025).

190 Committee on the Rights of the Child 'General Comment 26 (2023) on children's rights and the environment, with a special focus on climate change' 22 August 2023 CRC/C/GC/26.

191 General Comment 26 (n 190) para 8.

192 Committee on the Rights of the Child 'General Comment 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art 24)' 17 April 2013 CRC/C/GC/15.

24 in light of environmental issues and climate change,¹⁹³ with CRC stating that 'given the relevance of the environment, beyond environmental pollution, to children's health' and that environmental interventions should, among others, address climate change, as this is one of the biggest threats to children's health and exacerbates health disparities.¹⁹⁴ States, therefore, should put children's health concerns at the centre of their climate change adaptation and mitigation strategies.¹⁹⁵ Other General Comments also address climate change in terms of the risks of pollution and natural disasters, the importance of a healthy and safe environment and the right to survival and development.¹⁹⁶

The African Children's Charter omits provisions for the right to a healthy environment. However, its Preamble explicitly acknowledges the relationship between climate change and sustainable development. It notes with concern that 'the situation of most African children remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters'.¹⁹⁷ The main text does not reference environmental protection, climate change or sustainable development. These concepts have to be 'read into the text', so to speak, by analysis of some of its provisions. The African Children's Charter mirrors CRC in setting norms that guide the interpretation of its provisions: non-discrimination, right to survival and development, best interests of the child, and participation. Realising these goals while responding to climate change requires that development be undertaken alongside children's rights protection.

In the 'weak anthropocentrism' model discussed above, 'development' is not confined to economic growth. It also requires and includes lifting the world's most impoverished populations out of poverty, allowing them to lead decent and dignified lives without necessarily causing irreparable environmental damage. As Tladi points out, in societies such as those in Africa, with staggering numbers of poverty, unemployment and income-inequality, the needs of children experiencing poverty are not and should not be marginalised and considered less important than the environment.¹⁹⁸ Today's generation has no right to decide what species or ecosystems benefit or interest future generations. Intergenerational equity is integral to ecologically sustainable development, as it allows future generations to determine their own needs and interests.¹⁹⁹ Indeed, no person will be willing to save environmental resources for tomorrow if they cannot meet their basic needs today.²⁰⁰

193 General Comment 26 (n 190).

194 General Comment 26 (n 190) paras 37-44.

195 General Comment 26 (n 190) paras 5, 50.

196 Committee on the Rights of the Child 'General Comment 7 (2006) implementing child rights in early childhood' 20 September 2006 CRC/C/GC/7/Rev.1.

197 Preamble, para 4 African Children's Charter.

198 Tladi (n 146) 140, 24.

199 A Kiss & D Shelton *Guide to international environmental law* (2007) 106.

200 Tladi (n 146) 25.

Anthropoholism and the children's rights framework require the integration of social, environmental and economic concerns in policy making to address climate change.²⁰¹ It also necessitates optimal resource management to maximise the net benefit of economic development, conditioned on the preservation of services and the quality of natural resources. In the social context, sustainable development often means that men, women and children are the centre of attention, and development should be woven around people. The common thread running through most of these concepts is the linkage between economic growth and environmental standards in the context of improving human social conditions.

Anthropoholism and vulnerability can mediate the relationship and ostensible tension between economic development, environmental protection and social equity for vulnerable populations.²⁰² Indeed, sustainable development is structurally conceived as a temple-like structure with three pillars: international environmental law, international human rights law and international economic law. International environmental law is said to be its central pillar.²⁰³ The phrase 'sustainable development' first appeared in a publication entitled *World Conservation Strategy: Living Resource Conservation for Sustainable Development* which stated in its foreword: 'In their quest for economic development and enjoyment of the riches of nature, human beings must come to terms with the reality of resource limitation and the carrying capacity of ecosystems. They must take account of the needs of future generations.'²⁰⁴

Therefore, there must be a conscious and conscientious effort to transform the material conditions of African children. Work to stem the environmental crisis must be accompanied by the realisation of children's socio-economic rights. The appropriate starting point for addressing climate change in Africa must integrate the protection of natural resources with the imperative to emancipate and rehabilitate the majority of the continent's children who are in want. This was recognised by the Brundtland Commission report in its observation that 'poverty pollutes the environment, creating environmental stress differently'.²⁰⁵

201 SA Bassey 'Individualism v holism: A discourse in environmental ethics' (2022) 162 *Abraka Journal of Religion and Philosophy* 235; International Law Association Committee on International Law on Sustainable Development 'Second draft report' (prepared for the International Law Association Conference, Toronto) 2006.

202 It has been suggested that given the breadth of international endorsement for the concept, few states would dispute the proposition that development should, in principle, be sustainable and that all natural resources should be managed as such. See P Birnie, A Boyle & C Redgwell *International law and the environment* (2009) 125.

203 D McGoldrick 'Sustainable development and human rights: An integrated conception' (1996) 45 *The International and Comparative Law Quarterly* 796.

204 International Union for Conservation of Nature and Natural Resources 'World conservation strategy: Living resource conservation for sustainable development' IUCN (report) 1980, <https://portals.iucn.org/library/efiles/documents/WCS-004.pdf> (accessed 3 June 2025).

205 World Commission on Environment and Development *Our common future* UN Doc. A/42/427 (1987) ch I para 8.

The UNFCCC provisions and general international climate law affirm that responses to climate change should involve a coordinated and integrated response from the fields of social and economic development.²⁰⁶ These measures must be in tandem with national development programmes. Solutions to climate change require the integration of social, environmental and economic concerns in policy decisions.²⁰⁷ Prioritising human development and environmental protection is not an irreconcilable choice. Indeed, the ‘concurrent attainment of both human development and environmental protection can only ever be at the level of rhetoric ... real-life situations almost always require trade-offs.’²⁰⁸ Disproportionate attention to one category at the expense of another would lead to a ‘truncated human reality.’²⁰⁹ The question for debate, therefore, is not so much conceptual but practical. In this scenario, human and children’s rights are the bedrock of a synthesised approach to climate action.

7 Conclusion

This article has argued that a children’s rights-based approach to climate change is informed by African environmental ethics such as ubuntu and anthropoholism. It offers a legitimate and culturally resonant framework for climate action in Africa. The article has demonstrated that limitations of the dominant paradigms lie in their inability to address the complex vulnerabilities of children in a world affected by global warming. By relying on African philosophical traditions that emphasise interdependence, communal obligation and harmony with nature, this article shows that environmental law can be enriched by ethical insights that centre on human dignity and ecological balance. These ethical systems provide a new and transformative lens through which to pursue climate justice if combined with the legal obligations enshrined in international and regional children’s rights instruments. Ultimately, this integrated approach challenges the false dichotomy between development and environmental sustainability and reorients climate action towards the simultaneous fulfilment of children’s rights, ecological conservation and intergenerational equity.

206 Bodansky (n 148) 505.

207 As above.

208 D Tladi ‘Flexible mechanisms: An analysis from a sustainable development perspective’ in VI Grover (ed) *Global warming and climate change ten years after Kyoto and still counting* (2008) 239-254.

209 Oloka-Onyango (n 161).