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# **African Journal of Climate Law and Justice** (AJCLJ) 2025

AO Jegede 'Editorial' (2024) 1  
*African Journal of Climate Law and Justice* v-viii  
<https://doi.org/10.29053/ajclj.v12i1.00010>

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## **Editorial**

The year 2025 stands out in the climate change discourse for its pioneering focus on the intersection of climate change and human rights at the global level. Rarely will there be another year when international and regional bodies are approached for an advisory opinion on states' obligations and climate change in the manner it has been done in 2025, and the responses have been unprecedented. For the first time, on 23 July 2025, the International Court of Justice (ICJ) issued an advisory opinion on the obligations of states in respect of climate change. In doing so, it highlighted that the adverse effects of climate change on the enjoyment of human rights, the right to a clean, healthy and sustainable environment and the scope of human rights treaties validate international human rights law as a basis for obligations of states to address climate change. At the same time, in another landmark opinion, the Inter-American Court of Human Rights (Inter-American Court) affirmed the interface between climate change and human rights, highlighting that states have due diligence obligations to protect vulnerable populations in the face of a climate emergency.

At the African regional level, the outcome of the study on climate change impact and human rights in Africa undertaken under the auspices of the African Commission on Human and Peoples' Rights (African Commission) is still being awaited. However, the Pan African Lawyers Union (PALU), in collaboration with a number of African climate and legal organisations, have joined the trend in requesting the African Court on Human and Peoples' Rights (African Court) to provide an advisory opinion concerning the obligations of African states to address the climate crisis. As events unfold at international and regional levels, it will be a worthwhile intellectual venture in the coming years to engage issues that they raise from multiple lenses,

This special issue, the second edition of the *African Journal of Climate Law and Justice*, is released in the context of the foregoing trends. Hence, with its focus on 'Climate justice and the rights and welfare of the child in Africa: Legal and policy

aspects,<sup>3</sup> the edition could not have come at a more auspicious time. The edition, nonetheless, is informed by rationales of its own. Climate change affects children disproportionately and poses a substantial threat to their fundamental rights in Africa. The ripple effect of unsustainable extraction and use of natural resources leads to extreme impacts on the natural environment, intensifying climate change which, in turn, interferes with the rights regime of children in Africa. Furthermore, solutions meant to address climate change may have implications for children's rights. While there is a need for legal and policy solutions that speak to the lived realities of children in the context of climate change, children are often regarded as individuals with no agency or voice to influence decisions made in various settings.

Undoubtedly, the United Nations (UN) Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (African Children's Charter) of the African Union (AU) respectively constitute the rights regime of children. The instruments recognise that children have the autonomy to make decisions and to influence decision-making processes that directly or indirectly affect their lives. Furthermore, CRC and the African Children's Charter enumerate key principles that are interdependent and interrelated to the rights, the latter also containing provisions that are of peculiar relevance to the protection of children's rights in Africa. The four principles are non-discrimination; the right to life, survival and development; the best interests of the child; and participation.

There has been further normative development at the UN level to address the interface of climate change with the human rights of the child. For instance, realising the urgent need to address the adverse effects of environmental degradation, with a special focus on climate change and the enjoyment of children's rights, the Committee on the Rights of the Child (CRC Committee) developed and adopted General Comment 26 on 28 August 2023. General Comment 26 elaborates on the rights enshrined in CRC as they relate to issues of climate change and environmental protection. It specifically clarifies the obligations of states under CRC and, further, provides authoritative guidance on legislative, administrative and other appropriate measures to address environmental harm, with a special focus on climate change. In particular, the General Comment underscores that children have the right to a clean, healthy and sustainable environment. This right is directly linked to the rights to life, survival and development, participation, information, access to remedies, the highest attainable standard of health, food, water, housing, education, among others.

The General Comment on article 6 of the African Children's Charter by the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee) states that the child's rights to survival, development and protection necessitate special measures from the earliest stages of infancy. These special measures include children's health, early childhood education and

social grants, and are relevant in the climate change context. Also, the African Children's Committee Working Group on Climate Change and Children's Rights underscored the need for a child rights-based approach to climate action. Yet, issues in relation to climate justice remain: How does the policy and legal development at international, regional and national levels hinder or enhance the protection of the rights of children in different vulnerable situations in the context of climate change in Africa? To what extent are legal and policy interventions in African states safeguarding children in the context of climate change? Are there good practices or do business-as-usual approaches remain in relation to the protection of children in the context of climate change? To what extent are interventions by African states inclusive of children in the deliberations, access to justice, effective remedies and other initiatives related to climate change?

There are nine articles in this special issue covering a wide range of issues that aim to improve the understanding of the relevance and role of law and policy in various issues relating to climate justice and the African child. Altogether, the articles in this edition may be grouped into three streams: first, the contextual basis for the African child, climate justice and human rights; second, children's agency in regional and international remedial approaches; and, third, the relationship of national law and policy on climate change and children.

There are three articles on the first stream. Muhumuza and Ramakhula criticise 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 in Africa. They draw on African environmental philosophy to demonstrate that emphasising children's rights within African ethical paradigms can bridge the divide between environmental law and human rights. Mastaki analyses the complex interaction between climate change and the fundamental rights of internally displaced children in Africa, highlighting their challenges in an increasingly vulnerable context. The author recommends that adopting an integrated approach that respects children's rights may turn the challenges posed by climate change into opportunities to ensure a fair and resilient future for internally displaced children. Lastly, on this stream, Chibwe, Adeniyi and Musindo provide a descriptive figure of the girl child as the intersectionality of being female and a child, as a vulnerable person, in the context of climate change. They demonstrate how the existing legal and policy framework may expose the vulnerability of the girl child to climate injustice.

Four articles engage with the second stream of this edition, dealing with children's agency in regional and international remedial approaches. Muller's article discusses children's climate litigation as a critical avenue to seek remedies for the climate crisis, which disproportionately affects them and violates their fundamental rights. While highlighting the challenges children face in accessing justice through courts, the article argues for adopting a child-rights approach and integrating non-Western philosophies such as South Africa's ubuntu to

overcome these barriers. Damtew argues that while the current framework presents significant normative and jurisdictional gaps, the principles enshrined in children's rights norms, including the best interests of the child and the right to an effective remedy, offer opportunities for reinterpreting obligations in a manner that is responsive to the climate crisis. While focusing on the use of supranational bodies, especially the reasoning of the CRC Committee in *Chiara Sacchi & Others v Argentina & Others (Sacchi)*, Nanima highlights the challenge in extraterritoriality as a means of achieving accountability for climate change. The author engages with the way in which the normative and institutional guidance of the African Children's Charter and the African Children's Committee may offer an opportunity for relevant remedies. Gupte's article examines the nexus between ecocide and the climate migration of children and proposes actionable legal reforms to bridge existing legal and policy gaps at the African regional level.

Two articles focus on the third stream of this edition, namely, the relationship of national law and policy on climate change and children. In their article, Gbomagba and Addaney highlight a significant gap between Benin's international and regional human rights obligations and its domestic climate change adaptation framework. Hence, the authors argue for the need to develop guidance for gender-sensitive vulnerability assessment, establish robust monitoring systems with gender-responsive indicators, disaggregated data, and allocate dedicated financial resources for gender-specific actions in Benin. Focusing on the legal and policy framework on climate change in Nigeria, Ekhatior and Umukoro sketch some critical and current issues surrounding the climate-changed child. Their article argues that the Nigerian government can explicitly mainstream the rights of children and youths into climate change interventions, and demonstrates how provisions on the right to a clean and healthy environment can be used to protect children from the negative impacts of climate change and promote litigation, particularly by children and the youth in Nigeria.

The editors wish to greatly thank the following independent reviewers who graciously assisted in the blind peer review process to ensure the quality of this second edition: Oluwatoyin Adejonwo; Muyiwa Adigun; Olubunmi Ayodele Afinowi; Dennis Agelebe; Usang Maria Assim; Mildred Bekink; Kim Bouwer; Musavengana Chibwana; Ebenezer Durojaye; Elvis Fokala; Rogendzayi Fambadsayi; Cornelia van Graan; Charlotte Kabaseke; Preetkiran Kaur; Taofeek Ladan; Bridget Lewis; Emma Lubaale; Rotondwa Mashige; Crystal Mokoena; Paul Mudau; Michael Nyanko; Bright Nkrumah; Frederick Ponelis; Daniel Ruheza; Chiedza Simbo; and Clive Vinti.

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