IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

ARUSHA, UNITED REPUBLIC OF TANZANIA

ADVISORY OPINION NO. 001/2025

In the Matter of a Request by the Pan African Lawyers Union ("PALU") for an Advisory Opinion on the Obligations of States with Respect to the Climate Change Crisis

AMICUS CURIAE BRIEF SUBMITTED BY MICHELLE X. LIU FOR THE HUMAN RIGHTS INSTITUTE AT GEORGETOWN LAW

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This brief was prepared by Michelle X. Liu, Deputy Director of the Human Rights Institute and Adjunct Professor at Georgetown Law. The brief was prepared with the contributions of Emma Dunn (L'2027), Supna Kapoor (L'2027), and Ana Paula Sanchez (L'2027), J.D. students in Georgetown Law's *Human Rights Advocacy in Action Practicum* course working under Professor Liu's supervision, as well as those of Kinga Ewa Nastal, Graduate Research Assistant, and Edwina May Tepper, 2025–2026 Partner Fellow, at the Human Rights Institute.

WITH THE SUPPORT OF

Our Children's Trust, Oregon, United States

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I. STATEMENT OF INTEREST

The Human Rights Institute ("HRI") at Georgetown University Law Center submits this *amicus curiae* brief to the African Court on Human and Peoples' Rights (the "African Court") in the matter of the Request by the Pan African Lawyers Union ("PALU") for an Advisory Opinion on the Obligations of States with Respect to the Climate Change Crisis.

The issues under consideration by this Honourable Court are especially complex and urgent. The faculty of the HRI have expertise in international human rights through litigation, legal advocacy, and academic research, as well as experience within the African continent. The Institute is led by Executive Director Elisa Massimino, who is a Visiting Professor at Georgetown Law and served as the 2019–2021 Robert F. Drinan, S.J., Chair in Human Rights. This legal submission was prepared by the Institute's Deputy Director, Michelle X. Liu,[1] who teaches international human rights at Georgetown Law with a focus on children's and women's human rights in Africa.

The Institute's current research and legal focus on advancing children's human rights to a liveable climate makes the Institute particularly interested in the outcome of the pending questions before the Honourable Court. During the 2025–2026 academic year, students in the Institute's *Human Rights Advocacy in Action Practicum* partnered with Our Children's Trust ("OCT"), a non-profit public interest law firm based in Oregon, USA, that pursues impact litigation to secure youth's legal rights to a liveable climate. In this course, a team of law students studied the human rights impacts on African children caused by climate change, researched the international and regional human rights legal frameworks that protect the rights of children and youth, and carried out a field investigation to Nairobi, Kenya in January 2026 to speak with impacted individuals, community leaders, climate and youth activists, subject matter experts, and human rights lawyers.[2]

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[1] Professor Liu brings expertise in international and regional human rights frameworks, with a particular focus on the African continent. This expertise encompasses familiarity with and analysis of relevant African and international human rights instruments that have been ratified by various African Union states, including the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, the United Nations Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, among others. She has led and supported fact-finding investigations in Botswana, Kenya, Lesotho, Malawi, Tanzania, and Zambia, and has worked closely with NGO partners in sub-Saharan Africa to advance the protection of human rights through strategic litigation and legislative reform. In addition, Professor Liu has contributed to legal knowledge and scholarship through publications and legal submissions on human rights issues in Africa, particularly women's and children's rights in Malawi.

[2] This brief was prepared with the contributions of Emma Dunn (L'2027), Supna Kapoor (L'2027), and Ana Paula Sanchez (L'2027), J.D. students in Georgetown Law's *Human Rights Advocacy in Action Practicum* course working under Professor Liu's supervision, as well as those of Kinga Ewa Nastal, Graduate Research Assistant, and Edwina May Tepper, 2025–2026 Partner Fellow, at the Human Rights Institute.

The Human Rights Institute respectfully submits this brief, grounded in international, African, and comparative human rights law, to assist this Honourable Court in addressing the urgent and complex issues surrounding the protection of children's human rights in the context of the climate crisis.

II. INTRODUCTION AND EXECUTIVE SUMMARY

"Children are the future of Africa. If we ensure their rights, we are ensuring the continuity of the continent."[3] *– Leonida Odongo*

Children comprise approximately 45 percent of the African population.[4] According to United Nations Children's Fund ("UNICEF"), "Africa's child population will reach 1 billion by 2055, making it the largest child population among all continents."[5] Thirty-four out of the top 50 countries identified as most affected by climate change are in Africa.[6] In the face of the climate crisis, children face heightened risks to their lives and livelihoods; and these impacts threaten a range of fundamental human rights that are enshrined in the African Charter on Human and Peoples' Rights (the "African Charter"), the African Charter on the Rights and Welfare of the Child (the "African Children's Charter"), the United Nations Convention on the Rights of the Child ("CRC"), and other key human rights treaties. In this brief, we aim to demonstrate that protecting children's rights in the context of the climate crisis requires urgent, proactive, and ambitious measures by States, grounded in their human rights obligations.

A. Climate Threats by African Sub-Region

The effects and impacts of climate change are being felt across the continent. Mean temperatures and heat extremes are already emerging above natural variability across geographic and climatic regions on the continent.[7] The Intergovernmental Panel on Climate Change ("IPCC") also projects sea levels rising around the continent, resulting in increasing

[3] Interview with Leonida Odongo, Founder and Executive Director of Haki Nawiri Afrika, a Kenyan organization focused on amplifying the realities of those living on the front lines of the climate crisis, on Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law).

[4] United Nations Children's Fund (UNICEF), *4 in 10 Children Globally Will Be in Africa by 2025 – A Call for Joint Action on Day of the African Child* (Jun. 16, 2025), https://www.unicef.org/ghana/press-releases/4-10-children-globally-will-be-africa-2050-call-joint-action-day-african-child.

[5] UNICEF, *Children in Africa: Key statistics on child survival and population*, UNICEF, 1 (2019), https://share.google/cbqxTNomwC813gq3J.

[6] UNICEF, *The climate crisis is a child rights crisis: Introducing the Children's Climate Risk Index,* 79 (2021), https://www.unicef.org/media/105376/file/UNICEF-climate-crisis-child-rights-crisis.pdf (*see* Table 1: Countries where children are most at risk).

[7] IPCC, *Sixth Assessment Report Working Group I – The Physical Science Basis: Regional fact sheet – Africa,* 1, https://www.ipcc.ch/report/ar6/wg1/downloads/factsheets/IPCC_AR6_WGI_Regional_Fact_Sheet_Africa.pdf (last visited Feb. 27, 2026).

frequency and severity of flooding.[8] In some regions, droughts will become more common, while in other regions, frequent and intense precipitation will exacerbate coastal erosion and further stress existing flood-risk areas.[9]

In the Middle East and North Africa region, climate change is raising temperatures at a rate above the global average, with over 82 million children in the region facing high or extremely high climate risks.[10] Some of these risks include an increase in vector-borne diseases, such as malaria, dengue fever, and yellow fever; increased heatwaves; water stress from severe droughts; and air and water pollution.[11] "Sub-Saharan Africa hosts several climate change hotspots, where strong physical and ecological effects of climate change intersect with large populations of poor and vulnerable communities," according to UNICEF.[12] For instance, in East Africa, people will not only face recurring droughts but also periodic, intense, and short episodes of high rainfall, sea-level rise, and flooding on the coast and inland near Lake Victoria.[13] The latter area alone is home to 10 million children.[14] Some parts of southern Africa are expected to face a multi-year drought,[15] while other areas are expected to experience severe floods and cyclones.[16] West Africa will face declining crop stability,[17] as "climate risks, food insecurity and metastasizing violence" intensifies in the Sahel region of West Africa.[18]

B. Impacts on Children

Children are particularly vulnerable to the effects of climate change, with anticipated increases in mortality and morbidity from heat and infectious diseases, as well as from changes

[8] Id. *See also* World Meteorological Association, *Africa faces disproportionate burden from climate change and adaptation costs* (Sep. 2, 2024), https://wmo.int/news/media-centre/africa-faces-disproportionate-burden-from-climate-change-and-adaptation-costs.
[9] Christopher H. Trisos, et al., *2022: Africa, in* Climate Change 2022: Impacts, Adaptation and Vulnerability 1285, 1290 (Hans-Otto Pörtner, et al., eds., 2022).
[10] UNICEF, *Growing Up in a Changing Climate* 6 (2024), https://www.unicef.org/tunisia/media/7766/file/Growing%20Up%20in%20a%20Changing%20Climate%20.pdf.pdf.
[11] Id. at 6, 8, 14, 16.
[12] UNICEF, *The Climate Crisis: Climate Change Impacts, Trends, and Vulnerabilities of Children in Sub Saharan Africa* 2 (2020), https://www.unicef.org/esa/media/7061/file/UNICEF-The-Climate-Crisis-2020.pdf (naming the severe 2017 Horn of Africa drought, Tropical Cyclones Idai and Kenneth in southern Africa in 2019, an outbreak of desert locusts since 2020 in East Africa that threaten food security, and how more than 11 million people in southern Africa are experiencing "emergency levels of food insecurity").
[13] Id.
[14] Id.
[15] Trisos, *supra* note 9, at 1285, 1328.
[16] Izidine Pinto, et al., *La Niña, Climate change, high exposure and vulnerability combined led to devastating floods in parts of Southern Africa* 3 (2026).
[17] Trisos, *supra* note 9, at 1285, 1351.
[18] UNICEF, *supra* note 12, at 2.

in temperature, heatwaves, and precipitation.[19] Children are less able to regulate their body temperature and are more likely to experience respiratory symptoms from air pollution than adults.[20] The impacts of climate change on children and youth are wide-ranging and severe. From educational disruptions due to school closures, to malnutrition from crop failure, to inadequate drinking water, and harm to their physical and mental health[21]—children's lives and livelihoods are oftentimes determined directly by the health of their environment and the ability or inability of their families, communities, and government leaders to prioritize their best interests and protect their human rights.

Children who experience intersecting vulnerabilities—such as children belonging to indigenous communities or girl children—face unique and heightened impacts.[22] Indigenous communities are often the ones living on the front lines of the climate crisis and relying most closely on their connection to ancestral lands—making them particularly susceptible to disruptions in nature caused by climate change.[23] Climate change also amplifies social inequalities such as the impacts of discrimination or subordination embedded in pre-existing social structures.[24] For instance, a UNICEF study recorded a rise in gender-based violence and child marriage following extreme weather events.[25] Inadequate drinking water and the lack of water facilities in places such as schools also disproportionately discourage attendance among girls, who may be forced to stay home for sanitary reasons related to their menstrual cycles or are more likely to be relied upon by their families to collect water for household use.[26]

Furthermore, climate change not only affects children living now. It is well recognized to be "an intergenerational problem," and we can no longer ignore that "the well-being of future generations depends upon the actions that we take today."[27]

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[19] UNICEF, *The climate-changed child: A Children's Climate Risk Index Supplement*, 6–8, 11–15 (2023), https://www.unicef.org/media/147931/file/Theclimage-changedchild-ReportinEnglish.pdf.
[20] Id. 7, 14.
[21] Id. 6–8, 11–15.
[22] Comm. on the Rts. of the Child, General Comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change, ¶ 14, U.N. Doc. CRC/C/GC/26 (Aug. 22, 2023) [hereinafter CRC General Comment No. 26].
[23] Aarti Lila Ram & Eric Shahzar, *Land, loss and liberation: Indigenous struggles amid the climate crisis*, World Economic Forum (Feb. 9, 2024), https://www.weforum.org/stories/2024/02/indigenous-challenges-displacement-climate-change/. (noting that "climate change is displacing Indigenous communities at seven times the rate of the global population, leaving ancestral lands slipping away and traditions hanging in the balance.").
[24] *See generally* Ella Sandrine Parsons et al., *Climate Change and Inequality*, 98 Pediatric Research 1238 (2025).
[25] UNICEF, *supra* note 19, at 12.
[26] Id. at 12.
[27] Edith Brown Weiss, *Climate Change, Intergenerational Equity, and International Law*, 9 VT. J. ENVT'L L. 615, 616 (2008).

C. Children's Human Rights in the Context of Climate Change

This brief examines a range of human rights and fundamental freedoms that affect children[28] and youth[29] in the context of climate change. These include, but are not limited to, the substantive rights to a healthy environment, life, health, education, equality and non-discrimination, as well as duties owed to future generations. In addition, this brief considers States' obligations in respect of children and youth who face compounded risks at the intersections of gender and indigenous identity, as the impacts of climate change can be intensified for them. Finally, this brief emphasizes the critical importance of procedural rights for children and youth, including the rights to access information, to political participation, the right to be heard, and to freedom of expression, association, and assembly. In doing so, we respectfully ask this Honourable Court to recognize children and youth not only as victims and rights-bearers but also as leaders and change-makers—now and in the future.

III. THE RELEVANT LEGAL FRAMEWORK

At the core of this Advisory Opinion is the opportunity to clarify the scope of human and peoples' rights in the context of the climate crisis and the obligations of African States to mitigate and adapt to climate change as required by international and African human rights law. As Article 1 of the African Charter stipulates, States "shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them."[30]

Under Article 4(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the "Protocol to the African Charter"), this Court is empowered to "provide an opinion on any legal matter relating to the Charter or *any other relevant human rights instruments….*"[31] Here, a wide range of

[28] In this brief, we use the word "child" as defined by the African Children's Charter to mean every human being under the age of 18. *See* African Charter on the Rights and Welfare of the Child, July 1, 1990, art. 2, OAU Doc. CAB/LEG/24.9/49 (1990) [hereinafter African Children's Charter].

[29] In this brief, we use the word "youth" as defined by the African Youth Charter to mean every person between the ages of 15 and 35. *See* African Youth Charter, *Definitions* (2006), entered into force Aug. 8, 2009.

[30] African Charter on Human and Peoples' Rights, June 27, 1981, art. 1, 1520 U.N.T.S. 217; 21 I.L.M. 58 (1982) [hereinafter African Charter]: "… [P]arties to the present Charter […] shall undertake to adopt legislative or other measures to give effect to [the rights, duties and freedoms enshrined in the Charter]." Such measures may include legislative measures including amending legislation contrary to the African Charter, as "ratification obliges a state to diligently undertake the harmonization of its legislation to the provisions of the ratified instrument." *See* Amnesty International and Others v. Sudan, African Commission on Human and Peoples' Rights, Comm. No. 48/90, 50/91, 52/91, 89/93, ¶ 40 (1999).

[31] Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, June 10, 1998, OAU Doc. OAU/LEG/EXP/AFCHPR/PROT (III), art. 4(1) (1998) (entered into force Jan. 25, 2004) [hereinafter the Protocol to the African Charter] (emphasis added). *See also* Id., art. 7. *See also* Rules of Court of the African Court on Human and Peoples' Rights, Rule 82(2) (as amended

human rights frameworks may be used to inform the Court's interpretation and clarification of African States' obligations to implement legislative and other measures necessary to respond to the climate crisis. Thus, in addition to the African Charter and the African Children's Charter serving as the primary legal sources for interpreting and clarifying obligations of African States to protect children, youth, and future generations from the impact of climate change,[32] this Court may also turn to other human rights legal frameworks to inform its Advisory Opinion. Such treaties include the International Covenant on Civil and Political Rights ("ICCPR"),[33] the International Covenant on Economic, Social and Cultural Rights ("ICESCR"),[34] the CRC,[35] and the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW"),[36] among others. These treaties are interpreted, respectively, by the African Commission on Human and Peoples' Rights (the "ACHPR" or the "African Commission"), the African Committee of Experts on the Rights and Welfare of the Child ("ACERWC"), the UN Human Rights Committee, the UN Committee on Economic, Social, and Cultural Rights ("CESCR"), the UN Committee on the Rights of the Child, and the UN Committee on the Elimination of Discrimination of Women ("CEDAW Committee"). These committees are

September 1, 2020): "Any respect for advisory opinion shall be on legal matters and shall specify the provisions of the Charter or of any other international human rights instrument in respect of which the advisory opinion is being sought..."

[32] African Children's Charter, *supra* note 28. The African Children's Charter has been ratified by 51 out of 55 AU member states. *See Ratifications Table*, ACERWC, https://www.acerwc.africa/en/member-states/ratifications (last visited Mar. 26, 2026). *See also* African Youth Charter, July 2, 2006, O.A.U. Doc. CAB/LEG/66.5 (2006) [hereinafter African Youth Charter].

[33] International Covenant on Civil and Political Rights, Dec. 16, 1966, art. 6, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20; 6 I.L.M. 368 (1967) [hereinafter ICCPR]. The ICCPR has been ratified by 53 AU Member States, with Comoros and Sahrawi Republic failing to ratify the treaty. *See* United Nations Human Rights Office of the High Commissioner, *UN Treaty Body Database (CCPR)*, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en (las t visited Mar. 25, 2026).

[34] International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3; S. Exec. Doc. D, 95-2 (1978); S. Treaty Doc. No. 95-19; 6 I.L.M. 360 (1967) [hereinafter ICESCR]. The ICESCR has been ratified by 51 AU member States, with Comoros, Sahrawi Republic, Botswana, and Mozambique failing to ratify the treaty. *See* United Nations Human Rights Office of the High Commissioner, *UN Treaty Body Database (CESCR)*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/treaty.aspx?treaty=cescr&lang=en (last visited Mar. 28, 2026).

[35] Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989) [hereinafter CRC]. The CRC has been ratified by 54 AU member States, with Sahrawi Republic failing to ratify the treaty. *See* United Nations Human Rights Office of the High Commissioner, *UN Treaty Body Database (CRC)*, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC&Lang=en (last visited Mar. 28, 2026).

[36] Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13; 19 I.L.M. 33 (1980) [hereinafter CEDAW]. The CEDAW has been ratified by 53 AU member States, with Somalia and Sahrawi Republic failing to ratify the treaty. *See* United Nations Human Rights Office of the High Commissioner, *UN Treaty Body Database (CEDAW)*, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC&Lang=en (last visited Mar. 28, 2026).

composed of independent experts whose task is to monitor the compliance of their respective treaties and provide authoritative interpretations of the obligations contained therein.[37]

This Court may also draw from comparative regional human rights legal instruments and their interpretations by regional human rights tribunals. While these instruments are not binding on African States, their interpretations may provide this Court with illustrative examples of region-specific interpretations of human rights in the context of climate change. This brief draws on the jurisprudence of the Inter-American Court of Human Rights (the "IACtHR"),[38] which clarifies States obligations to protect human rights in the context of the climate crisis under regional instruments.[39]

Lastly, we respectfully urge this Honourable Court to keep the following guiding principles in mind when clarifying African States' obligations in Advisory Opinion No. 001/2025:

- ***Best Interests of the Child*** is both a substantive right[40] and a "fundamental, interpretive legal principle."[41] As the Committee on the Rights of the Child has outlined, "[i]f a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen."[42] The ACERWC has taken a similar position.[43]
- ***The Principle of Non-Discrimination***, enshrined in Article 2 of the African Charter and other human rights instruments,[44] provides for "a heightened duty to protect those in vulnerable situations for climate impacts."[45] As the UN Committee on the Rights of

[37] International Commission of Jurists, *Background Note: Core Functions and Activities of the UN Human Rights Treaty Bodies*, 2 (2014), https://www.icj.org/wp-content/uploads/2014/02/TreatyBodies-CoreFunctions.pdf.
[38] For the jurisprudence of the IACtHR, *see C*limate Emergency and Human Rights, Advisory Opinion AO-32/25, Inter-Am. Ct. H.R. (May 29, 2025) [hereinafter Inter-Am. Ct. H.R. Advisory Opinion].
[39] This brief refers to the following regional instruments: Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 [*hereinafter* Pact of San José]; Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Mar. 4, 2018, U.N. Doc. LC/PUB.2018/8 [*hereinafter* Escazú Agreement].
[40] *See* CRC, *supra* note 35, at art. 3(1); African Children's Charter, *supra* note 28, at art. 4.
[41] Comm. on the Rts. of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para, 1), ¶ 6(b), U.N. Doc. CRC/C/GC/14 (May 29, 2013) [*hereinafter* CRC Gen. Comment No. 14].
[42] Id.
[43] African Committee of Experts on the Rights and Welfare of the Child, *ACERWC Study on Climate Change & Children's Rights in Africa: A Continental Overview*, 24 (2025), https://www.acerwc.africa/sites/default/files/2025-04/Continental%20Study%20On%20Climate%20Change%20and%20Children%20Rights%20in%20Africa.pdf.
[44] African Charter, *supra* note 30, at art. 2. *See also* African Children's Charter, *supra* note 28, at art. 3; CRC, *supra* note 35, at art. 2; ICCPR, *supra* note 33, at art. 2(1); ICESCR, *supra* note 34, at art. 2(2). *See also* Framework Principles on Human Rights and the Environment, ¶ 45, UN Doc A/HRC/37/59 (2018).
[45] Written Statement of the African Union Obligations of States in respect of Climate Change, Advisory Opinion, 2025. I.C.J. 1, ¶ 196 (Mar. 22, 2024). *See also* Comm. on the Elimination of Discrimination against Women,

the Child recognizes, "children in general, and certain groups of children in particular, face heightened barriers to the enjoyment of their rights, due to multiple and intersecting forms of discrimination."[46] In the context of this Advisory Opinion, this principle requires this Court to have special regard for those at the greatest risk from the climate crisis.

- ***The Principle of Intergenerational Equity*** states that "all generations have an equal place in relation to the natural system, and that there is no basis for preferring past, present or future generations in relation to the system."[47] The principle of intergenerational equity has been acknowledged in a number of development and environmental legal frameworks.[48] The Special Rapporteur on the right to development notes that the principle is "useful in the context of equity not only between children and adults of present generations but also between children and future generations."[49]

IV. THE RIGHT TO A HEALTHY ENVIRONMENT

In alignment with international and comparative human rights law, the African Charter and the African Children's Charter guarantee the right of everyone to a healthy and generally satisfactory environment. As such, States have a duty to protect the climate system and other parts of the environment in order to guarantee the effective enjoyment of human rights for everyone, including vulnerable populations like children.

A. Children Have the Right to a Healthy Environment

"The human right to a clean, healthy and sustainable environment is essential for the enjoyment of other human rights."[50] — The International Court of Justice

Article 24 of the African Charter states that "all peoples shall have the right to a general satisfactory environment favorable to their development."[51] Reflecting the centrality of the

General Comment No. 37 (2018) on gender-related dimensions of disaster risk reduction in a changing climate, ¶ 18, U.N. Doc. CEDAW/C/GC/37 (Mar. 13, 2018); CRC General Comment No. 26, *supra* note 22, at ¶ 14.

[46] CRC General Comment No. 26, *supra* note 22, at ¶ 14.

[47] Edith Brown Weiss, *In Fairness To Future Generations and Sustainable Development*, 8 Am. U. J. Int'l L. & Pol'y 19, 20 (1992).

[48] Including the Rio Declaration on Environment and Development, Jun. 13, 1992, Principle 3, 31 ILM 874 (1992) [hereinafter Rio Declaration]; Vienna Declaration and Programme of Action, Jun. 25, 1993, ¶ 11, U.N. Doc. A/CONF.157/23 (1993) [hereinafter Vienna Declaration]; Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, pmbl., T.I.A.S. No. 16-1104 [hereinafter Paris Agreement].

[49] Human Rights Council, Right to development of children and future generations: Report of the Special Rapporteur on the right to development, Surya Deva, ¶ 30, U.N. Doc. A/HRC/57/43 (July 24, 2024).

[50] Obligations of States in Respect of Climate Change, Advisory Opinion, 2025 I.C.J. Rep. 187, at ¶ 393 (July 23, 2025) [hereinafter ICJ Advisory Opinion].

[51] African Charter, *supra* note 30, at art. 24.

environment to the continent,[52] the African Commission has interpreted the provision progressively and expansively to mean a healthy, clean, and safe environment[53] for everyone.[54]

The ACHPR recognized the importance of this right in its resolutions and decisions,[55] and it has acknowledged the adverse effects of climate change on the fulfillment of the right to a generally satisfactory environment.[56] In *SERAC v. Nigeria*, the ACHPR held that Article 24 creates clear and specific obligations on States to protect the environment.[57] The obligations include both non-interventionist conduct that respects the right to a healthy environment, as well as positive actions that promote and fulfill this right.[58] Notably, the ACHPR held that Article 24 "requires the State to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources."[59] Further, in 2023, the ACHPR specifically referenced climate resilient development as part and parcel of a general satisfactory environment favorable to one's development.[60] The ACHPR outlined the obligations of States

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[52] *See* African Convention on the Conservation of Nature and Natural Resources, July 11, 2003, preamble, OAU Doc. Assembly/AU/Dec. 9 (II); African Youth Charter, *supra* note 32, at art. 19.

[53] Rachel Murray, The African Charter on Human and People's Rights: A Commentary 547 (2019). *See also* Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria, Afr. Comm'n H. and Peoples' R., Communication No. 155/96, at ¶¶ 51-52 (Oct. 27, 2001) [hereinafter SERAC and CESR v. Nigeria] (noting that in the drafting of Article 24 of the African Charter and subsequent interpretation by the African Commission, reference was made interchangeably to a "general satisfactory" environment and an environment that is "healthy" as well as "clean and safe.").

[54] While Article 24 refers to "peoples," the African Commission and this Court have applied the term to a variety of different entities, ranging from individuals to the entire population of a state. *See* Rachel Murray, The African Charter on Human and People's Rights: A Commentary 486 (2019) (referring to Article 19 of the African Charter, and citing Communication 147/95 and 149/96, Sir Dawda K Jawara v. The Gambia, 11 May 2000, para 72; Eighth Annual Activity Report of the African Commission on Human and Peoples' Rights, 1994–1995, ACHPR/RPT/8th, para 13; Resolution of the Peace and National Reconciliation Process in Somalia, ACHPR/Res.46, 11 May 2000.). *See also* African Commission on Human and Peoples' Rights v. Republic of Kenya, Aft. Ct. H.P.R. Application No. 006/2012, Decision, ¶ 198-99 (May 26, 2017); SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 51.

[55] *See* e.g. African Commission on Human and Peoples' Rights, Res. 153 (XLVI) on Climate Change and Human Rights and the Need to Study its Impact in Africa (November 25, 2009); African Commission on Human and Peoples' Rights, Res. 633 (LXXXIII), on Developing General Comment on the Protection and Promotion of the Right to environment in Africa (June 3, 2025) (calling for further interpretative guidance on the protection of the right to a generally satisfactory environment and recognizing the devasting effects of climate change on this right). *See also* SERAC and CESR v. Nigeria, *supra* note 53, at ¶¶ 51-52.

[56] *See e.g.* African Commission on Human and Peoples' Rights, Res. 153 (XLVI) on Climate Change and Human Rights and the Need to Study its Impact in Africa (November 25, 2009); SERAC and CESR v. Nigeria, *supra* note 53, at ¶¶ 51-52.

[57] SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 52.

[58] Id. at ¶¶ 52-53.

[59] Id. at ¶ 52.

[60] *See* Afri. Comm'n on Human and Peoples' Rights, African Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers, Principle 32 (2023) (stating "All migrants shall have the right to a general satisfactory environment favourable to their development, including climate resilient development." The language of this principle mirrors that of Article 24 of the African Charter and specifies that the term 'development' should be read to include climate resiliency.).

to include adopting measures to mitigate climate change, as well as developing adaptation and resilience strategies to sudden-onset and slow-onset disasters, the adverse effects of climate change, and environmental degradation.[61]

As the International Court of Justice ("ICJ") confirmed in its Advisory Opinion on climate change, human rights law is integral to determining States' climate obligation, emphasizing that "the full enjoyment of human rights cannot be ensured without the protection of the climate system and other parts of the environment."[62] The ICJ also referenced Article 24 of the African Charter as one of several key regional instruments that recognize this right.[63] Furthermore, the ICJ considered the UN General Assembly Resolution 76/300 that explicitly recognized the right to a clean, healthy and sustainable environment as a human right and noted its importance for the enjoyment of all other human rights.[64] The ICJ then concluded that, "[i]n order to guarantee the effective enjoyment of human rights, States must take measures to protect the climate system and other parts of the environment."[65]

Both African and international treaty bodies have further recognized that this right to a clean, healthy, and sustainable environment extends to children. The Committee on the Rights of the Child found that this right was implicit in the CRC and directly linked to a number of other substantive rights,[66] including Article 11(2)(g) of the African Children's Charter, which states that "the education of the child shall be directed to: . . . the development of respect for the environment and natural resources," as well as Article 1(2), which explicitly allows for "provisions that are more conductive to the realization of the rights and welfare of the child contained . . . in any other international convention. . . ."[67]

In the context of climate change, the ICJ,[68] the IACtHR,[69] and the Committee on the Rights of the Child[70] take the view that this right is fundamental to the enjoyment of all other human rights. In view of the above, this Honourable Court could similarly recognize the right to a healthy environment for all, including children.

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[61] Id.
[62] ICJ Advisory Opinion, *supra* note 50, at ¶403 . *See also* Id. at ¶144 (citing *La LIDHO, Le MIDH, La FIDH & others v. Republic of Côte d'Ivoire*, Application 041/2016, judgment of 5 September 2023, ¶¶ 175-186).
[63] ICJ Advisory Opinion, *supra* note 50, at ¶ 390. The Court also noted that over 100 States have enshrined this right in domestic constitutions or national legislation, underscoring the importance of this right. *See* id., at ¶ 391.
[64] Id. at ¶ 392 (referencing G.A. Res. 76/300, at ¶ 1-2 (Jul. 28, 2022)).
[65] Id. at ¶ 403.
[66] CRC General Comment No. 26, *supra* note 22, at ¶ 63, U.N. Doc. CRC/C/GC/26.
[67] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 21-22.
[68] ICJ Advisory Opinion, *supra* note 50, at ¶ 393.
[69] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 272.
[70] CRC General Comment No. 26, *supra* note 22, at ¶ 8.

B. Climate Change has Devastating Impacts on Children's Physical Environment

Climate change on the African continent is wreaking havoc on children's physical environment, making it less healthy and less safe, and leading to a wide range of human rights impacts.[71] Heatwaves, heavy rainfall events, and droughts in Africa are projected to increase considerably in frequency, intensity, and duration as global temperatures rise.[72] Scientists predict that most African countries will experience "unprecedented high temperature climates," "extreme hydrological variability," and droughts that are "100 times more likely" in the coming years.[73]

For example, West and Central Africa experienced a heatwave in spring of 2024 that saw temperatures over 45° Celsius, as well as destructive flooding in 2022—both of which were attributable to human-induced climate change.[74] As well, 2024 was Kenya's hottest year on record, and the country experienced significant variability in rainfall across locations and seasons, with widespread flash flooding in the central highlands and other regions in April.[75] Flooding in the northeastern areas of the country resulted in the destruction of 30,000 hectares of crops, the loss of 15,000 livestock, significant damage to critical infrastructure and the displacement of 20,000 people.[76] Droughts also increased in the arid and semi-arid regions of the country following a below-average short rain season, resulting in serious food insecurity, particularly in pastoralist and agro-pastoral communities.[77]

Across Africa, these extreme events caused by climate change are "contributing to land and habitat degradation and biodiversity loss."[78] Ecosystems are negatively impacted by these

[71] For example, a women's human rights advocate in Nairobi, Kenya explained that when talking about climate change, most people think about the environment but not how it intersects with other rights, including children's rights. "When climate change affects economic spaces within families, it advances poverty and it exacerbates issues such as gender-based violence. There is also wildlife and human interaction which affects children, especially those in informal settlements or those living in rural areas," she explained. *See* Interview with Beverly Mumbo, Senior Legal Programs Manager at Women's Link Worldwide, in Nairobi, Kenya, on Jan. 9, 2026 (on file with the Human Rights Institute at Georgetown Law).

[72] Request for Advisory Opinion by PALU, No. 001/2025, Advisory Opinion, Afr. Ct. H.P.R. (May 2, 2025), Amicus Brief submitted by the Sabin Center for Climate Change law on Climate Science and Human Rights Obligations, 23-24 (February 9, 2026) (citing IPCC, Climate Change 2022: Impacts, Adaptation, and Vulnerability, Working Group II Contribution to the Sixth Assessment Report of the IPCC (2022) [hereinafter IPCC AR6 WGII] at 1290) [hereinafter Sabin Center Amicus Brief].

[73] Id. (citing IPCC AR6 WGII at 1290).

[74] Id. at 23-24.

[75] Patricia Nying'uro, et al., *State of the Climate: Kenya 2024, Kenya Meteorological Department*, 7, 9 (2025), https://meteo.go.ke/documents/1353/State_of_the_Climate_Kenya_2024_v1.pdf.

[76] Id. at 15.

[77] Id.

[78] Sabin Center Amicus Brief, *supra* note 72, at 25.

extreme climate events, as well as climate-related longer-term processes such as changes in precipitation patterns, desertification, ocean acidification, and ocean deoxygenation.[79] For many African countries, these changes are having significant impacts on the population, as the health of the environment has a direct connection to food systems, crop yields, and livestock production.[80] For many communities in Kenya, for example, the health of the environment has a direct connection to their lives and livelihoods. Patricia Kameri-Mbote, a law professor at the University of Nairobi, explained that "the environment is really life and death in a direct sense because people draw on natural resources directly for sustenance."[81]

African children bear the brunt of the impacts of climate change on the environment, especially related to food systems and agriculture, due to their vulnerability and needs during early childhood development.[82] According to a study by Save the Children, Kenyan children born in 2020 will face, on average, 4.6 times more droughts during their lifetime than past generations, which are closely tied to crop failure and child malnutrition.[83] Daniel Kobei, the Founder and Executive Director of the Ogiek Peoples' Development Program, also described how increased flooding in areas unaccustomed to such weather patterns results in the "crops getting swept away," significantly affecting Ogiek children due to the lack of food.[84]

The stability of global food systems is vital to nourish children during critical physical and mental development,[85] but the climate crisis is estimated to have resulted in food insecurity from crop failure for 16 million children in East and Southern Africa.[86] In Mali, newborns born in 2020 face 9.9 times more crop failures over their lifetimes than their elders.[87] The climate-

[79] Id. (citing IPCC AR6 WGII at 1302).
[80] IPCC, *Climate Change 2022: Impacts, Adaptation, and Vulnerability, Working Group II Contribution to the Sixth Assessment Report of the IPCC*, 1291 (2022), https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_FullReport.pdf. *See also* Scott Fields, *Continental Divide: Why Africa's Climate Change Burden Is Greater*, 113 Environ. Health Perspect. 535, 536 (2005) (noting that 40% of the gross national product of African countries flows from agriculture, and approximately 70% of workers are employed in agriculture, a majority in small shareholder farms).
[81] Interview with Patricia Kameri-Mbote, Professor of Law at University of Nairobi, in Nairobi, Kenya, on Jan. 9, 2026 (on file with Human Rights Institute at Georgetown Law). *See also* Patricia Nying'uro, *supra* note 75, at 7, 9.
[82] Children are also disparately impacted by other climate-related environmental harms, including deforestation, land degradation, biodiversity loss, declining air quality, and water scarcity and salinity, due to their susceptibility to disease, educational needs, and vulnerability in conflicts, thereby threatening their wellbeing, growth, and development. *See* UNICEF, *Climate Landscape Analysis for Children in Kenya* 28 (2025), https://www.unicef.org/kenya/media/4696/file/Kenya%20CLAC%20Report%20FINAL.pdf.
[83] Save the Children, *Born into the Climate Crisis: Why we must act now to secure children's rights* 16 (2021), https://resourcecentre.savethechildren.net/pdf/born-into-the-climate-crisis.pdf.
[84] Interview with Daniel Kobei, Founder and Executive Director of the Ogiek Peoples' Development Program, in Nairobi, Kenya, on Jan. 5, 2026 (on file with the Human Rights Institute at Georgetown Law).
[85] Danielle Gallegos, et al., *Food Insecurity and Child Development: A State-of-the-Art Review,* 18 Int. J. Environ. Res. Public Health 1, 2 (2021).
[86] Save the Children, *supra* note 83, at 14.
[87] Id.

suitable areas for maize in Kenya, which is a staple crop for the country, has decreased by 28 percent from 1980 to 2020, reducing its availability, driving up its price, and forcing families to turn to less nutritious options.[88]

Climate change also exacerbates existing social inequalities, disparately impacting children facing poverty, gender discrimination, and other vulnerabilities.[89] Moreover, the climate crisis is considered a "threat multiplier" of underlying vulnerabilities,[90] multiplying the harmful effects of pre-existing poverty and resource scarcity, which are already connected to life-threatening violence.[91] Climate change has "become an existential threat to all rights because it finds you the way you are," explained Professor Kameri-Mbote.[92] "If you're a child who has no rights, or a woman who is not enjoying your rights, or a person whose health or whose right to water is not respected, climate change finds the way you are and it amplifies whatever stress you are going through," she said.[93] "Because of its octopus-like nature, it gets into every realm."[94] The ACERWC also noted that, "there is plentiful evidence to show that climate change tends to harm the 'most vulnerable children first, hardest, and longest.'"[95]

C. States are Required to Protect the Climate System and the Environment to Ensure the Effective Realization of Children's Fundamental Human Rights

In light of the substantial harms to the environment due to climate change enumerated above, this Court should advise that States have an obligation to mitigate and address climate change and environmental harm in order to protect the realization of children's rights. According to Dr. Judith Omumbo, an epidemiologist and Head of Partnerships & Resource

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[88] UNICEF, *supra* note 82, at 21.

[89] *See* Interview with Patricia Kameri-Mbote, Professor of Law at the University of Nairobi, in Nairobi, Kenya, on Jan. 9, 2026 (on file with Human Rights Institute at Georgetown Law): "If the climate changes, nature is impacted. When nature is impacted, people's food is impacted or people's water is impacted, and those impacts are also felt differently across social hierarchies."

[90] *See* Sherri Goodman & Pauline Baudu, *Climate Change as a "Threat Multiplier": History, Uses and Future of the Concept*, Center for Climate & Security 1 (2023), https://councilonstrategicrisks.org/wp-content/uploads/2023/01/38-CCThreatMultiplier.pdf. (""Threat multiplier" has become a widely used term by scholars and practitioners to describe climate change implications for security in both the policy realm and climate-security literature.").

[91] *See* United Nations Interregional Crime and Justice Research Institute, *Perceptions of climate change and violent extremism: Listening to local communities in Chad*, 73 (2022), https://unicri.org/sites/default/files/2022-10/Perceptions%20of%20climate%20change%20and%20violent%20extremism_0.pdf. *See also* Saqib Amin, *Climate Change and lethal violence: a global analysis*, 17 Int. J. Clim. Chang. Strateg. Manag., 218, 218 (2024) (finding "significant positive associations between escalating temperatures, heightened greenhouse gas emissions and lethal violence.").

[92] Interview with Patricia Kameri-Mbote, Professor of Law at the University of Nairobi, in Nairobi, Kenya, on Jan. 9, 2026 (on file with Human Rights Institute at Georgetown Law).

[93] Id.

[94] Id.

[95] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 23.

Mobilization at Science for Africa Foundation in Kenya, "[m]uch as Africa has not been responsible for a significant proportion of global green-house gas emissions, we shouldn't carry that around like a crown. This is an opportunity to actually chart a sustainable pathway into the future—by using locally grown solutions."[96]

As noted above, the ACHPR previously concluded that Article 24 of the African Charter creates clear obligations on States to protect the environment.[97] The obligations include both non-interventionist conduct that respects the right to a healthy environment, as well as positive actions that promote and fulfill this right.[98] Additionally, the ICJ, in its 2025 advisory opinion, found that "the full enjoyment of human rights cannot be ensured without the protection of the climate system and other parts of the environment."[99] As such, States are obligated to take measures that "protect the climate system and other parts of the environment," including mitigation and adaptation measures and regulation of private actors.[100] Lastly, the Committee on the Rights of the Child concluded that the "substantive elements of this right are profoundly important for children," and as such requires immediate action by States.[101]

In view of the above, the right to a healthy environment for all children is well established in the African context under Article 24 of the African Charter, in alignment with other regional and international treaties. To protect this crucial right, climate change mitigation is of vital importance to slow the harms to the environment and African children. States should be obligated to reduce global greenhouse gas emissions and take other such mitigation measures. In the context of protecting the rights of children against climate change, the primary obligations that arise from the recognition of the right to a healthy environment under the African Charter and other international or regional instruments include taking reasonable and other measures to:

- Maintain the quality of the environment, understood as an integrated whole, by ensuring conservation, protection, and restoration of biodiversity, such that the state

[96] Interview with Dr. Judith Omumbo, Epidemiologist and Head of Partnerships and Resource Mobilization, Science for Africa Foundation, in Nairobi, Kenya, on Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law).
[97] SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 52.
[98] Id. at ¶¶ 52-53.
[99] ICJ Advisory Opinion, *supra* note 50, at ¶ 403.
[100] Id.
[101] CRC General Comment No. 26, *supra* note 22, at ¶¶ 64-65.

of the environment may satisfy the human beings, and especially the children, who live there;[102]

- Equitably phase out the use of coal, oil and natural gas, ensure a fair and just transition of energy sources and invest in renewable energy, energy storage and energy efficiency to address the climate crisis and secure an ecologically sustainable use of natural resources;[103]
- "Integrate environmental health protections into national frameworks, establishing and enforcing standards consistent with best available science and international guidelines, recognizing children's heightened vulnerability;"[104] and
- Prevent air and marine pollution by banning the direct or indirect introduction of substances into the environment that are hazardous to children in order to prevent child mortality, especially among children under 5.[105]

However, climate change mitigation alone is not enough to protect future generations; States must also ensure that their populations have the capacity to adapt to the changing climate. Other courts, namely the ICJ and IACtHR, have found the right to a healthy environment to be fundamental to the enjoyment of all other human rights.[106] As such, it is equally critical for this Court to consider the numerous other rights impacted by climate change and the adaptation measures necessary to prevent violations of these rights.

V. THE RIGHT TO LIFE

The relevant provisions of the African Charter and the African Children's Charter should be interpreted by the Court expansively to recognize that the right to life is affected by climate change and that States have positive obligations to uphold it, including by taking all appropriate measures, including legislative measures, to address climate change. Such an interpretation is grounded in African human rights law and the daily realities of African

[102] *See* Socio-Economic Rights and Accountability Project (SERAP) v. Federal Republic of Nigeria, ECW/CCJ/JUD/18/12, Judgement, at ¶ 101 (Dec. 14, 2012); SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 52; CRC General Comment No. 26, *supra* note 22, at ¶ 65.
[103] CRC General Comment No. 26, *supra* note 22, at ¶65; SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 52.
[104] Request for Advisory Opinion by PALU, No. 001/2025, Advisory Opinion, Afr. Ct. H.P.R. (May 2, 2025); Observations of the African Committee of Experts on the Rights and Welfare of the Child on the Request for Advisory Opinion No 001/2025 at the African Court on Human and Peoples' Rights, State Obligations: IX (January 27, 2026) [hereinafter Observations of the ACEWRC]; *see generally* Our Children's Trust, University Network for Human Rights, and Centro Mexicano para la Defensa del Medio Ambiente A.C., Amicus Curiae Submission on the Request for the Advisory Opinion on the Climate Emergency and Human Rights to the Inter-American Court of Human Rights (supporting a 350 ppm limit).
[105] CRC General Comment No. 26, *supra* note 26, at ¶65; SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 52 (finding Nigeria had an obligation to prevent pollution and ecological degradation).
[106] ICJ Advisory Opinion, *supra* note 50, at ¶ 393; Inter-Am. Ct. H.R., *supra* note 38, at ¶ 272.

children. Second, it would harmonize the provisions on the right to life in the African Charter and the African Children's Charter with developments in international and regional human rights law.

A. Children Have a Right to Life and Development Under International Law that State Parties Must Protect Amid the Climate Crisis

Individuals have a right to life pursuant to Article 4 of the African Charter, which states that "every human being shall be entitled to respect for his life and the integrity of his person."[107] This right for children is enshrined in Article 5 of the African Children's Charter, which states that each child has an "inherent right to life," which "shall be protected by law."[108] The state parties also have a responsibility to ensure, "to the maximum extent possible, the survival, protection and development of the child."[109] Children's right to life can be interpreted by this Court as encompassing an obligation on States to protect children from climate-related harms that threaten their life.[110]

The African Commission has emphasized that the right to life "should be interpreted broadly,"[111] and that States are responsible for violations of the right to life.[112] This includes a particular responsibility to protect those at greatest risk, as outlined in Article 2 of the African Charter (non-discrimination).[113] Moreover, States can be responsible for violations of the right to life where they actively participate in, or fail to prevent interference by private actors, including in the context of State development activities.[114] The African Commission has also interpreted the right to life as requiring States to take preventive action to "preserve and protect the natural environment and humanitarian responses to natural disasters, famines, outbreaks of infectious diseases, or other emergencies."[115] The ACERWC has elaborated that "African States must ensure children enjoy the right to live with dignity, not merely prevent death."[116]

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[107] African Charter, *supra* note 30, at art. 4.
[108] African Children's Charter, *supra* note 28, at art. 5(1).
[109] Id., art. 5(2).
[110] *See infra* Part B.
[111] African Comm. on Human and Peoples' Rights, General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4) ¶ 41, (2015) [hereinafter African Comm. On Human and Peoples' Rights, General Comment No. 3].
[112] Id. at ¶ 7.
[113] Id. at ¶ 11.
[114] *See* SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 67 (finding that Nigeria violated the Ogoni people's right to life when it exploited oil reserves on indigenous Ogoni land without regard to environmental impact or health impacts to the Ogoni people, along with a military response against Ogoni who protested the mining).
[115] African Comm. on Human and Peoples' Rights General Comment No. 3, *supra* note 111, at ¶ 41.
[116] Observations of the ACERWC, *supra* note 104, at ¶ 104.

In interpreting the right to life,[117] the ICJ advised that "the adverse effects of climate change may impair the enjoyment of the right to life," including those of children, as enshrined in human rights instruments.[118] The ICJ noted that "protection and fulfilment of [the right to life] may depend on measures taken by States parties […] against the adverse effects of climate change."[119] Furthermore, the Committee on the Rights of the Child identified the climate crisis as "an urgent and systemic threat to children's rights globally,"[120] including to the right to life under Article 6 of the CRC.[121] The Committee emphasized that children's right to life is being "threatened by environmental degradation" and impedes the "realization of this right."[122]

B. The Climate Crisis Threatens the Lives of Millions of Children

The climate crisis directly threatens children's lives and, accordingly, prevents them from realizing their right to life and development. Children face unique risks compared to adults and are more vulnerable to the effects of climate crisis-related events, which directly threaten their survival and impede their development.[123]

High temperatures in Africa "may have already led to double the heat related child mortality compared to what would have been expected without climate change" and that, "[i]n the absence of ambitious emissions reductions targets and the introduction of adaptation measures, heat stress impacts on child mortality will increase, and … may double in Africa by 2049."[124]

In the past two decades, flood exposure—a more frequent and severe occurrence in the context of the climate crisis—has been associated with 3.42 infant deaths per 1,000 births in Africa.[125] Floods and droughts disproportionately result in the loss of children's lives.[126]

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[117] Children's right to life can be found in different sources of international law, including Convention on the Rights of the Child, Nov. 20, 1989, art. 6, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989); Universal Declaration of Human Rights, Dec. 8, 1949, art. 3, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948); International Covenant on Civil and Political Rights, Dec. 16, 1966, art. 6, 999 U.N.T.S. 171; S. Exec. Doc. E, 95-2 (1978); S. Treaty Doc. 95-20; 6 I.L.M. 368 (1967).

[118] ICJ Advisory Opinion, *supra* note 50, at ¶ 377. The ICJ opinion also reiterated the Committee on the Rights of the Child's General Comment No. 36, noting that "[e]nvironmental degradation, climate change and unsustainable development constitute[s] some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life." Id. at ¶ 377.

[119] Id.

[120] CRC General Comment No. 26, *supra* note 22, at ¶ 1.

[121] Id. at ¶¶ 20-25.

[122] Id. at ¶20.

[123] Sabin Center Amicus Brief, *supra* note 72, at ¶¶ 58, 61-62, 65-68, 176.

[124] Sarah Chapman et al., *Past and projected climate change impacts on heat-related child mortality in Africa*, 17 Environ. Res. Lett. 1, 9 (2022).

[125] Yixiang Zhu, et al., *Burden of infant mortality associated with flood in 37 African countries*, 15 Nat. Commun. 1, 4 (2024).

[126] UNICEF, *A Threat to Progress: Confronting the Effects of Climate Change on Child Health and Well-being*, 16-17 (2024), https://www.unicef.org/media/159341/file/A_Threat_to_Progress_190824%20EN.pdf.

Additionally, while water scarcity harms all children, girls disproportionately bear its burden, often having to travel long distances under unsafe conditions to collect water for their families.[127]

Moreover, the changing temperatures from the climate crisis are increasing human-wildlife conflict due to shifts in water availability, temperature, and food sources, affecting where wildlife can survive.[128] Children's smaller physical size and their limited physical defence capabilities make them more susceptible to deaths in such conflicts.[129]

In examining the consequences of climate change, the ICJ relied on the IPCC, which documented increases in the incidence of extreme weather events, flooding, climate-related diseases, and extreme heat, resulting in widespread loss of life.[130] In view of these reports, the ICJ held that the consequences of climate change are putting human life and health at risk, and characterized climate change as an "existential threat."[131] The IACtHR also found that the climate crisis interfered with the right to life because of the life-threatening effects of increasing extreme heat events and heat-related mortality, flooding, and landslides resulting from an increasing number and severity of storms, among other climate-related deaths from extreme weather events, droughts, wildfires, and pollution.[132]

C. States Must Take Child-Sensitive Measures to Address the Threats to Children's Lives from Anthropogenic Climate Change

Based on international human rights law and guidance from the African Commission and the ACERWC, States must take proactive, child-sensitive measures to address threats to children's lives posed by the climate crisis, as part of their obligation to realize children's right to life.[133] These measures should include:

- "Protect[ing] the right to life through environmental standards for air, water and emissions; addressing structural and long-term challenges through sustainable

[127] UNICEF, *supra* note 6, at 32, 36.
[128] *See* Brian Musalo, et. al., *Examining the Influence of Climate Change on Human Wildlife Conflict in Mosi-Oa-Tunya and Sioma Ngwezi*, 12 Texila Int'l. J. of Academic Research, 1, 17 (2025). *See also* Briana Abrahms, et al., *Climate change as a global amplifier of human-wildlife conflict*, 13 Nat. Clim. Change 224, 224 (2023).
[129] *See* Israel R. Blackie, *Wildlife killer instincts: human wildlife conflict and fatal incidents in Botswana*, 10 Cogent Soc. Sci. 1, 4, 10 (2024).
[130] ICJ Advisory Opinion, *supra* note 50, at ¶ 375.
[131] Id. at ¶ 73.
[132] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶¶ 90, 366.
[133] CRC General Comment No. 26, *supra* note 22, at ¶ 20 (advising states to "take positive measures to ensure that children are protected from foreseeable premature or unnatural death and threats to their lives that may be caused by acts and omissions [related to environmental degradation associated with climate change], as well as the activities of business actors, and enjoy their right to life with dignity.").

resource use and ecosystem protection; and preventing child morbidity and mortality from environmental conditions;"[134]

- Acting on water and ecosystem quality assurance and protection, infrastructure development, and the development of child-responsive systems to mitigate the impacts of extreme climate-related weather events.;[135]
- "Ensur[ing that] children live with dignity, protecting cultural practices threatened by climate change, particularly for Indigenous children."[136]

VI. THE RIGHT TO HEALTH

This Court can interpret the right to health as recognizing that the right is adversely affected by the climate crisis, and that States have positive obligations to address and mitigate the crisis, given the interconnectedness between the climate and children's health. The nexus between a healthy climate and the realization of the human right to health is well supported in African human rights law and international law, and is demonstrated by the experiences of African children, who are facing severe, ongoing, and deleterious health impacts from the climate crisis.

A. African and International Law Affirms Children's Rights to Health in the Climate Crisis

The right to health is detailed in Article 16 of the African Charter, stating that "[e]very individual shall have the right to enjoy the best attainable state of physical and mental health."[137] This right obligates "States parties to […] take the necessary measures to protect the health of their people."[138] Additionally, in Article 14 of the African Children's Charter, "every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health."[139] The provision also includes specific measures to implement this right, such as reducing infant and child mortality, providing adequate nutrition and safe drinking water, and developing preventive health care.[140]

This Court can interpret the right to health to include that States must protect children from health threats posed by the climate crisis, including threats to derivative elements of the

[134] Observations of the ACERWC, *supra* note 104.
[135] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶¶ 393-402 (on obligations arising from the substantive rights around climate adaptation).
[136] Observations of the ACERWC, *supra* note 104.
[137] African Charter, *supra* note 30, at art. 16(1).
[138] Id. at art. 16(2).
[139] African Children's Charter, *supra* note 28, art. 14(1).
[140] Id. at art. 14(2).

right to health, such as safe drinking water and nutrition. This protection includes acting on climate-resilient health care systems. This Court and the ACHPR have interpreted the right to health expansively, including environmental degradation or pollution and state inaction as violations, and incorporating derivative rights from the right to health, such as safe drinking water and nutritional security.[141] In a similar vein, the ACERWC has found that a healthy environment is a necessary condition for the exercise of the right to health.[142]

In the international context, the ICJ found that the right to health is being threatened by the climate crisis.[143] And when examining the right to health in the Inter-American context,[144] the IACtHR stated that the climate crisis poses a risk to the protection and achievement of the right to health, including children's rights to health.[145] The Committee on the Rights of the Child similarly noted that the climate crisis is an obstacle for achieving the right to health, and significantly, that the effects of climate change are "disproportionately borne by children."[146]

B. How the Climate Crisis Impedes Children's Right to Health in Africa

[141] *See* Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights, African Commission on Human and Peoples' Rights, ¶ 63 (Oct. 24, 2011) (stating that "determinants of health include access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions"). The ACHPR has called for reviewing food production, preventing soil degradation, and addressing food insecurity as a barrier to the right to health. *See* Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights, African Commission on Human and Peoples' Rights, ¶ 32 (Oct. 24, 2011); African Commission of Human and Peoples' Rights, Res. 289 (EXT.OS/XVI) on the Food Crisis in Somalia (July 29, 2014); African Commission of Human and Peoples' Rights, Res. 374 (LX) on the Right to Food and Food Insecurity in Africa (May 22, 2017). States that destroy food sources through pollution, including indirectly through private actors, violate the right to health. *See* SERAC and CESR v. Nigeria, *supra* note 53, at ¶¶ 65-67. The ACHPR has also observed that displacement from ancestral lands, and environmental pollution, can result in negative health and nutritional effects for indigenous people and depletion of resources necessary for physical and cultural survival. *See* Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya, Afr. Comm'n H. and Peoples' R., Communication No. 276/03, ¶ 293 (Nov. 25, 2009).

[142] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 40.

[143] ICJ Advisory Opinion, *supra* 50, at ¶ 379. *See also* id. at ¶ 393.

[144] Contained in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, art. 10, opened for signature Nov. 17, 1988, O.A.S.T.S. No. 69, 28 I.L.M. 156 [hereinafter Protocol of San Salvador]; American Declaration of the Rights and Duties of Man, art. XI, Res. XXX, Final Act of the Ninth International Conference of American States (Pan American Union), Bogota, Colombia, Mar. 30-May 2, 1948, at 38.

[145] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶¶ 399, 599.

[146] CRC General Comment No. 26, *supra* note 22, at ¶ 40.

1. The Climate Crisis Functions as a Direct Threat to Children's Right to Health

Unlike adults, children's bodies are growing, with developing organs and immune systems that struggle to respond to common viruses, and whose immunity is limited.[147] The climate crisis is expected to increase the number of viruses, including dengue, Zika, and Lyme disease, due to temperature changes.[148] In the absence of state-level measures to respond to the climate crisis, researchers anticipate that under-five mortality from malaria will increase by 10 to 15 percent in sub-Saharan Africa.[149]

In the Human Rights Institute's field investigation, epidemiologist Dr. Judith Omumbo stated that, amid the climate crisis, new illnesses will emerge and existing ones will worsen.[150] "The issues with climate change," she stressed, "is that it doesn't give us time to think things through. It's rapid. Emerging diseases are coming in crisis mode."[151]

One climate youth leader of the Borana people shared that in her community in northern Kenya, children are increasingly exposed to a relatively new virus to the region, visceral leishmaniasis, also known as *kala-azar,* and are dying from exposure.[152] *Kala-azar* is highly climate-sensitive, worsening with rising temperatures and droughts, and increasingly transmitted with migration,[153] making pastoral communities especially vulnerable.[154]

Viral illnesses are not the only health threats African children face as a result of the climate crisis; they are also threatened by the air they breathe.[155] The climate crisis is leading to an increasing number of dust storms and wildfires, along with the loss of processes that remove

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[147] UNICEF, *supra* note 126, at 12-13.
[148] Madeleine C. Thomson et. al, *Climate Change and Vectorborne Diseases*, 387 New Engl. J. Med. 1969, 1969-1974 (2022).
[149] UNICEF, *supra* note 126, at 12-13.
[150] Interview with Dr. Judith Omumbo, Epidemiologist and Head of Partnerships and Resource Mobilization, Science for Africa Foundation, in Nairobi, Kenya, on Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law).
[151] Id.
[152] Interview with Fardosa Isack, Youth Coordinator at Haki Nawiri Afrika, in Nairobi, Kenya, on Jan. 6, 2026 (interview on file with the Human Rights Institute at Georgetown Law). Isack also reported that most deaths from *kala-azar* in her community were among children. She explained that the incidents of kala-azar are relatively new but that the rates are increasing, with the majority of deaths being those of children who not only suffer the physical effects of pain, fever, and swelling of the spleen or liver, but also the psychological effects of depression. "They are in so much pain they do not get to go to school. They suffer from depression because they see other kids playing and they can't play. They cry. They have not slept the whole night because of the pain." Id.
[153] Bipin Kumar Acharya et. al., *Climate change and its impact on spatial and temporal distribution of visceral leishmaniasis transmission risk in Nepal*, 25 BMC Infections Diseases 1, 2 (2025).
[154] Bulle Abdullahi, et. al., *Climate Change and Environmental Influence on Prevalence of Visceral Leishmaniasis in West Pokot County, Kenya*, 2022 J. Trop Med. 1, 5 (2022).
[155] Due to high levels of air pollution, which increases the risk of asthma, lung cancers, impaired lung function, and cognitive effects (both acutely and over the course of their lives). *See* UNICEF, *supra* note 126, at 29-30.

air pollutants, such as precipitation.[156] Children inhale a higher proportion of pollutants than adults, and these pollutants can then stunt growth, lead to neurological and metabolic dysfunction, trigger cancer,[157] and reduce lung function throughout the lifespan.[158] In Africa, children with asthma and their caregivers are reporting an increased frequency of asthma episodes and more hospitalizations, greater medical expenses, and school absenteeism, with some reporting difficulty breathing to the point of unconsciousness.[159]

The extreme heat and rising temperatures of climate change also result in injuries ranging in scale, from potential long-term to short-term developmental harms. Infants and children may have increased internal heat or compromised thermal regulation.[160] Children are more vulnerable to extreme heat for behavioural reasons, such as playing outdoors or other physical activities.[161] Their relative smaller size compared to adults, namely lower body mass and higher metabolic needs, also increases children's vulnerability to heat-related illness.[162] Children are simply physiologically more at risk from the climate crisis.[163]

The IACtHR confirmed the link between the effects of climate change and harmful effects on human health.[164] It further noted that environmental degradation and pollution threaten the development of children's immune systems and contribute to a higher prevalence of autoimmune diseases.[165] The Committee on the Rights of the Child also found that environmental pollution is a significant threat to children's health, in part due to its harmful effects.[166] In its observation to this Court, the ACERWC concluded that children are projected to experience the worst impacts from climate disasters, including threats to their health, both

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[156] *See* H. Orru et. al., *The Interplay of Climate Change and Air Pollution on Health*, 4 Curr Environ Health Rep. 504, 505 (2017). *See also* Sam Heft-Neal, et al., *Robust relationship between air quality and infant mortality in Africa*, 599 Nature 254, 254, 560 (2018).
[157] UNICEF, *supra* note 126, at 29, note 105-107.
[158] *See* Zhanghua Chen, et al., *Chronic effects of air pollution on respiratory health in Southern California children: findings from the Southern California Children's Health Study*, 7 J. Thoracic Disease 46, 46-47 (2015).
[159] YA Kuyinu, et al., *'It makes us sick': experiences of air pollution among children with asthma and their caregivers in African countries*, 2 IJTLD Open 505, 509-510 (2025).
[160] UNICEF, *supra* note 126, at 22-24. *See also* UNICEF, *supra* note 19, at 12-14.
[161] Alexander Azan, et. al., *Exceeding the limits of paediatric heat stress tolerance: the risk of losing a generation to climate inaction*, 9 BMJ Peadiatr. Open 1, 2 (2025).
[162] Id. at 1.
[163] See UNITED NATIONS CHILDREN'S FUND, A THREAT TO PROGRESS: CONFRONTING THE EFFECTS OF CLIMATE CHANGE ON CHILD HEALTH AND WELL-BEING 12 (2024).
[164] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 397 (finding that climate change causes "premature deaths; […] increase in the incidence of respiratory and cardiovascular diseases, malnutrition, stunted growth, emaciation, allergies, heatstroke, injuries, waterborne and vector-borne diseases, as well as mental health problems.").
[165] Id. at ¶ 597.
[166] CRC General Comment No. 26, *supra* note 22, at ¶¶ 38-41.

directly through challenges such as pollution and vector-borne diseases, and indirectly through water scarcity and difficulties maintaining menstrual hygiene during water shortages.[167]

2. Undermining Children's Right to Health Impedes Subsidiary Rights

i Neglecting Clean Water and Adequate Nutrition

The climate crisis is threatening health directly and indirectly by impeding subsidiary rights, such as access to water and adequate nutrition. For children, climate crisis impacts begin early in life, with impacts on maternal health like antenatal undernutrition, which can be linked to poor maternal-infant health.[168] Good nutrition is most important for children in the first 1,000 days of life, with significant impacts on early brain development that has long-term consequences.[169] As noted in previous sections, children's nutrition is at risk due to extreme climatic changes that lead to food shortages, higher food prices, and crop failures.[170] In West Africa, climate change is harming essential crops such as millet and sorghum.[171] In Eastern and Southern Africa, 45 million children are at risk for malnutrition due to the climate crisis.[172] Malnutrition can increase children's susceptibility to illness and result in "changes in a child's growth or body composition."[173] Girls can be especially at risk for malnutrition, as a result of social and economic inequalities.[174] Malnutrition leads to long-lasting physiological effects like mortality, along with "poor mental development and school achievement."[175]

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[167] Observations of the ACERWC, *supra* note 104.
[168] Julia M. Bryson, et al., *Seasonality, climate change, and food security during pregnancy among indigenous and non-indigenous women in rural Uganda: Implications for maternal-infant health*, 19 PLOS ONE 1, 1-2 (2021).
[169] Sarah E. Cusick & Michael K. Georgieff, *The Role of Nutrition in Brain Development: The Golden Opportunity of the "First 1000 Days"*, 175 J. PEDIATR., 16, 16 (2016) (finding that the ramifications of poor brain development in early life include negative effects on education, job potential and adult mental health).
[170] Oche Joseph Otorkpa et al., *Climate and conflict-induced child nutrition crisis in Sub-Saharan Africa*, 18 CONFL. HEALTH 1, 2 (2024); Brian C. Thiede & Johann Strube, *Climate Variability and Child Nutrition: Findings from Sub-Saharan Africa*, 65 GLOBAL ENT'L CHANGE 1, 3 (2020); Jessica Fanzo et. al, *Climate Change, Extreme Weather Events, Food Security, and Nutrition: Evolving Relationships and Critical Challenges*, 45 ANNU. REV. NUTR. 335, 337-338 (2025).
[171] Benjamin Sultan et al., Evidence of crop production losses in West Africa due to historical global warming in two crop models, 9 SCI. REP. 1, 8 (2019).
[172] *45 million children at risk of poor health, malnutrition, displacement & learning loss in Eastern and Southern Africa due to climate crisis*, UNICEF (Dec. 19, 2023), https://www.unicef.org/esa/press-releases/45-million-children-risk.
[173] UNICEF USA, *Symptoms of Malnutrition in Children*, https://www.unicefusa.org/what-unicef-does/childrens-health/nutrition/symptoms-malnutrition (last visited Mar. 28, 2026) (including weight loss or gain, changes in blood pressure or heart rate, lack of energy and stamina, increased infections or illness, muscle deterioration, among others).
[174] *See* Food and Agriculture Organization, *The State of Food and Agriculture: Food Systems for Better Nutrition*, 5 (2013), https://www.fao.org/4/i3300e/i3300e.pdf.
[175] Vinicius J. B. Martins, et al., *Long-Lasting Effects of Undernutrition*, 8 Int. J. Environ. Res. Public Health 1817, 1818-1818 (2011).

The increase in heatwaves is likely to lead to harms such as "electrolyte imbalance, kidney-associated diseases, and respiratory as well as infectious diseases," particularly affecting infants.[176] Drought exposure in infancy increases rates of disability later in life, concentrated in physical and mental disabilities, particularly for boys and those in low-income settings.[177] Research shows that children in Mali, Kenya, Ethiopia, and Ghana who experienced malnutrition associated with drought later experienced stunted growth and low weight.[178] The climate crisis is worsening water quality and limiting access to safe drinking water, posing a threat to children by increasing the risk of acquiring a waterborne illness and even death.[179]

The ICJ noted the link between health and climate change, citing "extreme weather events and heightened water scarcity are already major contributors to malnutrition, as well as infant and child mortality and morbidity,"[180] and the "increased incidence of heat-related illnesses and the spread of climate-related diseases."[181] It also referred to IPCC reporting on how climate extreme events "expos[e] millions of people to acute food insecurity and reduced water security [… and the loss of] human health."[182] The ICJ also noted how "the environment is the foundation for human life, upon which the health and wellbeing of both present and future generations depend."[183] The IACtHR highlighted that the climate crisis reduces nutrient

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[176] Daniel Helldén et al., *Climate change and child health: a scoping review and an expanded conceptual framework*, 5 Lancet Planet. Health 164, 166 (2021).
[177] *See* Taryn Dinkelman, *Long-run Health Repercussions of Drought Shocks: Evidence From South African Homelands*, 127 Econ. J. 1906, 1930-1931 (2017).
[178] Samuel Kwasi Opoku et al., *Climate Change and Health Preparedness in Africa: Analysing Trends in Six African Countries*, 18 Int. J. Environ. Res. Public Health 1, 4 (2021).
[179] UNICEF, *The climate-changed child: A Children's Climate Risk Index Supplement*, 11 (2023), https://www.unicef.org/media/147931/file/Theclimage-changedchild-ReportinEnglish.pdf.
See also Interview with Christine Kandie, Executive Director of Endorois Indigenous Women Empowerment Network, in Nairobi, Kenya, on Jan. 5, 2026 (on file with the Human Rights Institute at Georgetown Law) (noting that 30 or so children in the schools near Lake Bogoria were affected by both the rising water levels and high fluorescence in the water, which can lead to brittle bones). Excessive fluoride can also cause dental or skeletal fluorosis, resulting in loss of teeth, loss of bone density, deformity, calcification of ligaments or tendons, and lifelong debilitating pain. *See* Habtamu Demelash, et al., *Fluoride concentration in ground water and prevalence of dental fluorosis in Ethiopian Rift Valley: systematic review and meta-analysis*, 19 BMC Public Health 1, 2 (2019). *See also* Interview with Leonida Odongo, Founder and Executive Director of Haki Nawiri Afrika, in Nairobi, Kenya, on Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law) (Leonida Odongo commented on the children in the community: "[t]hey have weak bones because of drinking water from the lake due to excess fluoride. They have their teeth becoming brown, which also affects their self-esteem. When everybody is smiling, you don't want to smile with brown teeth…Everybody is laughing, everybody is smiling; but you cannot smile with confidence because of the impact of local water."). Research indicates that fluoride levels are rising, in part due to high evaporation rates in groundwater and other climate-sensitive factors in Africa, reaching levels that are harmful to human health and affecting 80 million people. *See* Usman Sunusi Usman, et. al., *Fluoride contamination in African groundwater: Predictive modeling using stacking ensemble techniques*, 957 Sci. Total Env't. 1(2024).
[180] ICJ Advisory Opinion, *supra* note 50, at ¶ 384.
[181] Id. at ¶ 73.
[182] Id. at ¶ 78.
[183] Id. at ¶ 373.

quality in some crops, contributing to undernutrition and malnutrition among children and further intensifying adverse effects on their physical, cognitive, and emotional development.[184]

ii Healthcare Systems & Infrastructure Are Being Destroyed in the Climate Crisis

Healthcare infrastructure, such as hospitals, are at risk from climate-related extreme weather events, which in turn threaten child health.[185] For example, in March 2019, Cyclone Idai caused widespread destruction and disruptions to healthcare services in Mozambique, resulting in a 23 percent decrease in first antenatal care visits and a 25 percent decrease in measles vaccinations that month.[186] Moreover, extreme climate events "disrupt health systems, interrupting screening, diagnosis, treatment, and care. These effects are consequential when the disruptions are prolonged."[187] The IACtHR also recognized these impacts on healthcare infrastructure, highlighting that extreme weather events induced by climate change, such as floods, cyclones, and droughts, that impede access to and compromise health infrastructure can lead to violations of the right to health.[188]

iii Traditional Medicine Is Under Threat by the Climate Crisis

Within Africa, many parents rely on traditional medicine to treat illness in children,[189] with greater reliance in rural communities,[190] for diseases ranging from COVID-19 to malaria, with some success.[191] Notably, the climate crisis has increasingly led to habitat loss for plant species used in traditional medicine, as well as biodiversity loss that affects their spread and

[184] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 30, at ¶ 597.
[185] Caradee Y. Wright et al., *Climate Change and Human Health in Africa in Relation to Opportunities to Strengthen Mitigating Potential and Adaptive Capacity: Strategies to Inform an African "Brains Trust"*, 90 ANN. GLOB. HEALTH 1, 1 (2024).
[186] Id. at 6 n. 22.
[187] World Health Organization, *Tuberculosis and climate change: analytical framework and knowledge gaps*, 10 (2025), https://iris.who.int/server/api/core/bitstreams/18799489-d54e-4b68-bf11-5fd76faf0b2b/content.
[188] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 399.
[189] *See e.g.,* Ayichew Alemu et al., *Parental traditional medicine use for children and associated factors in Harar City, Harari Regional State, Eastern Ethiopia: a community-based cross-sectional study*, 13 Front. Pediatr. 1 (2025) (a study carried out in Eastern Ethiopia with 348 parents). *See also* Masho Tigabe Tekle et al., *Parental traditional medicine use to children and its associated factors at University of Gondar Comprehensive Specialized Hospital: a cross-sectional study*, 13 Front. Public Health 1 (2025) (a study with 401 parents).
[190] Irene Eseohe Akhigbe et al., *Integration and utilization of traditional medicine in child healthcare to achieve universal health coverage: Caregivers perspectives*, 8 JIEPH 1, 5 (2025).
[191] Polydor Ngoy Mutombo, *Experiences and challenges of African traditional medicine: lessons from COVID-19 pandemic*, 8 BMJ Glob. Health 1 (2023).

alters their chemical composition and therapeutic properties, thereby jeopardizing their efficacy.[192]

iv Psychological Harms Deriving from the Climate Crisis

The IACtHR, with respect to children, addressed that the climate crisis has had a severe impact on the mental health of children, and contributed to illnesses like "eco-anxiety" and can worsen existing mental health conditions such as depression.[193] Indeed, climate-induced flooding, drought, severe illness, and displacement are resulting in adverse impacts on children's mental health, causing trauma, anxiety, depression, post-traumatic stress disorder, and suicidal thoughts.[194] Eco-anxiety—anxiety related to chronic fear of environmental degradation—is rising among youth globally.[195] One study in Madagascar noted that not only are youth experiencing high climate anxiety, some also face severe disruptions to accessing mental health resources through schools because of climate risks.[196] Another study, examining eco-anxiety among African youth, noted that "[u]nless urgent action is taken, Africa risks raising a damaged generation psychologically scarred by the impacts of the climate crisis."[197]

For many pastoral and indigenous communities in Africa, livestock plays a significant cultural role and is a source of familial pride.[198] There are not only nutritional and economic impacts from the loss of cattle, but psychological ones as well.[199]

Climate-induced natural disasters can serve as sources of adverse childhood experiences that later jeopardize a person's health.[200] According to Dr. Lopokoiyit, a pediatrician in Nairobi, Kenya, "not all disasters will result in toxic stress on all children, but it specifically impacts those children who do not have guardians—like parents—to support

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[192] Liz Kimbrough, *The vanishing pharmacy: How climate change is reshaping traditional medicine*, Mongabay (Dec. 15, 2025), https://news.mongabay.com/2025/12/natures-vanishing-pharmacy-how-climate-change-is-reshaping-traditional-medicine/.
[193] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 599.
[194] Lukoye Atwoli, et al., *Mental health and climate change in Africa*, 19 BJPSYCH INT'L 86, 87 (2022).
[195] *See* Terra Léger-Goodes, et al., *Eco-anxiety in children: A scoping review of the mental health impacts of the awareness of climate change*, 13 Front. Psychol. 1 (2022).
[196] Kristin Hadfield, et al., *"There is no hope; only strong wind": How climate change impacts adolescent mental health in southern Madagascar*, 23 J. Climate Change Health 1 (2025).
[197] Usoro Udousoro Akpan, et al., *Addressing the psychological impact of climate-induced disasters on young people in Africa: Challenges and pathways forward*, 12 Glob. Ment. Health (Camb) 1, 1 (2025).
[198] *See* Tsion Afework, *What are livestock to pastoralists? An anthropological reflection*, International Livestock Research Institute (Jan. 29, 2025), https://www.ilri.org/news/what-are-livestock-pastoralists-anthropological-reflection.
[199] Id. *See also* Syed Shaba Wahid, et. al., Ecological Grief Among Farmers and Pastoralists in Ethiopia and Kenya, SSM – MENTAL HEALTH 7, 1 (2025) (case studies discussing the negative psychological responses to the climate crisis resulting from the climate crisis among pastoralists).
[200] Subash Thapa, et al., *Extreme weather and climate-related adverse childhood experiences are a humanitarian crisis during the 21st century*, 5 Commun. Med. (Lond) 1 (2025).

them. Loving, supportive relationships act as a buffer," she added, "and they can neutralize stress."[201] However, for children living in extreme poverty or other vulnerable situations, climate-related disasters can subject them to compounding harms. "It multiples the effect," she said.[202] Dr. Rosemarie Gachie Lopokoiyit also noted that during periods of drought, a number of members of pastoralist communities will "lose their animals, lose their livelihoods, and lose their nutrition."[203] Such losses not only have direct health impacts on children and their families, but the resulting financial hardship may also delay general health-seeking behavior to the point where "things are desperate."[204]

C. State Obligations on the Right to Health

Based on guidance from the Committee on the Rights of the Child, the ACERWC, and the IACtHR, States should:

- "[I]ntegrate measures to address environmental health concerns relevant to children into their national plans, policies and strategies relating to both health and the environment;"[205]
- Ensure that [l]egislative, regulatory and institutional frameworks, including regulations dealing with the business sector, […] effectively protect children's environmental health where they live, study, play and work;"[206]
- "Promote preparedness in all areas of primary healthcare delivery and response to climate-induced diseases and pandemics and training health officials of all categories, provid[e] adequate critical health infrastructure and ensur[e] sustainable funding of the sector;[207]
- Ensure "access for children affected by environmental harm to high-quality public health and health-care facilities, goods and services, and particular attention should be given to underserved and hard-to-reach populations and to delivering high-quality prenatal maternal health care nationwide;"[208]

[201] Interview with Dr. Rosemarie Gachie Lopokoiyit, Consultant Pediatrician at Pediatric Clinic Karen, in Nairobi, Kenya, on Jan. 7, 2026 (interview on file with Human Rights Institute at Georgetown Law).
[202] Id.
[203] Id.
[204] Id.
[205] CRC General Comment No. 26, *supra* note 22, at ¶ 42.
[206] Id.
[207] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 41 (citing Nigeria's National Climate Change Policy 2021–2030).
[208] CRC General Comment No. 26, *supra* note 22, at ¶ 43.

- "[U]ndertake, and improve, data collection and research on climate change and child health" to facilitate more accurate "regional modelling of climate change such that more reliable predictions of the potential impacts on child health can be made;"[209]
- Consider environmental health risks,[210] assess how environmental harms impact children throughout the different stages of development, and conduct longitudinal studies of pregnant women, infants, and children to research climate risks at "critical windows of development;[211]
- Adopt measures to ensure children have access to health services, including those addressing climate change-related impacts such as mental health conditions associated with "eco-anxiety" and ensuring access for children belonging to marginalized groups, as well as that environmental health policies are aligned with the best available science on the impacts of climate change on children's health;[212] and
- Develop and maintain health care facilities that can respond to environmental health hazards, including for children belonging to underserved communities, access to clean drinking water and water for sanitation, and access to nutritious food.[213]

VII. THE RIGHT TO EDUCATION

The right to education under international and African human rights law requires States to ensure climate-resilient, continuous, and non-discriminatory education systems in the face of the climate crisis. Article 13 of the ICESCR and Articles 28 and 29 of the CRC require education to remain available, accessible, acceptable, and adaptable despite climate impacts, including through resilient infrastructure, continuity of learning, and climate education. Article 17 of the African Charter and Article 11 of the African Children's Charter impose obligations to safeguard children's right to education and ensure it is not impacted during climate emergencies. Climate change is already impacting the right to education directly and indirectly across Africa by destroying infrastructure and limiting access to schools, delaying enrollment, and increasing absenteeism and dropouts—effects that disproportionately harm girls and other marginalized groups of children. We respectfully urge this Honorable Court to address the impacts of climate change on the right to education and to elucidate state obligations to protect children's right to education.

[209] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 42.
[210] SERAC and CESR v. Nigeria, *supra* note 53, at 9.
[211] CRC General Comment No. 26, *supra* note 22, at ¶ 44.
[212] Inter-Am. Ct. H.R., *supra* note 38, at ¶ 599.
[213] CRC General Comment No. 26, *supra* note 22, at ¶¶ 43-44.

A. International and Regional Legal Frameworks Supporting a Right to Education in the Climate Context

i. Under International Law, Children Have the Right to an Education that Is Available, Accessible, Acceptable, and Adaptable in the Face of Climate Change

Article 13 of the ICESCR recognizes the "right of everyone to education."[214] In articles 28 and 29, the CRC addresses the relationship between the right to education and the environment.[215] The Committee on Economic, Social, and Cultural Rights and the Committee on the Rights of the Child, respectively, have interpreted these articles to obligate States parties to ensure that children's education remains available, accessible, acceptable, and adaptable in the face of climate change.[216]

Thus, the rights to education, as enshrined in the ICESCR and the CRC, create a duty on States parties to maintain physically safe, climate-resilient, and adaptable educational infrastructure;[217] to prevent climate-related disruptions that affect attendance or increase dropout rates;[218] and to ensure that education systems are strong enough to respond to and

[214] Art. 13 of the ICESCR outlines elements that must be met to fully realize the right to education, including free and compulsory primary education, generally available and accessible secondary education, equally accessible higher education, the encouragement of fundamental education, and the continuous development and improvement of all levels of school systems and material conditions of teachers. ICESCR, *supra* note 34, at art. 13.

[215] Article 28(1)(e) of the CRC requires that States Parties "take measures to encourage regular attendance at schools and the reduction of dropout rates," and article 29(1)(e) states that education must be directed to "the development of respect for the natural environment." CRC, *supra* note 35, at art. 28(1)(e), 29(1)(e). The Committee on the Rights of the Child explains that article 29(1)(e) should be read together with article 28 to "ensure that every child has the right to receive an education that reflects environmental values." CRC General Comment No. 26, *supra* note 22, at ¶ 52. The Committee also elucidates the elements of a "rights-based environmental education," touching on the tailoring of school curricula, the skills that are necessary for facing environmental challenges, and the training of education professionals. Id. at ¶¶ 53-54.

[216] Comm. on Economic, Social and Cultural Rts., General Comment No. 13 on the right to education (article 13) ¶¶ 4-6, E/C.12/1999/10 (1999) [hereinafter on Economic, Social and Cultural Rts., General Comment No. 13]. *See* CRC General comment No. 26, *supra* note 22, at ¶¶ 51-57.

[217] Comm. on Economic, Social and Cultural Rts., General Comment No. 27 (2025) on economic, social and cultural rights and the environmental dimension of sustainable development ¶ 71, E/C.12/GC/27 (2025) [hereinafter Comm. on Economic, Social and Cultural Rts., General Comment No. 27] ("Access to education, infrastructure, and learning outcomes are increasingly affected by environmental degradation. Extreme weather, sea-level rise, floods, excessive heat or cold, water scarcity and displacement significantly affect schooling, students' well-being and the quality and continuity of education. These challenges require adaptation consistent with human rights obligations, including climate-resilient infrastructure, inclusive planning and disaster preparedness.") *See* Comm. on Economic, Social and Cultural Rts., General Comment No. 13, *supra* note 218, at ¶ 6; CRC General Comment No. 26, *supra* note 22, at ¶¶ 53, 54.

[218] Article 28(1)(e) requires that States Parties "take measures to encourage regular attendance at schools and the reduction of dropout rates." CRC, art. 28(1)(e). The Committee on the Rights of the Child states that the right to education is both "one of the cornerstones of a child rights-based approach to the environment" and "highly vulnerable to the impact of environmental harm," namely that it leads to school closures, low attendance, and dropouts. CRC General Comment No. 26, *supra* note 22, ¶¶ 51, 55-56.

prepare students for evolving environmental challenges and realities.[219] Additionally, States parties must integrate environmental and climate education into curricula and equip children with the knowledge and skills necessary to face and mitigate present and future environmental challenges.[220]

The IACtHR's advisory opinion on the climate emergency and human rights has also recognized that the right to education is impacted by climate change and must be protected by States through the strengthening of educational infrastructure, ensuring continuous learning, and training students and teachers to respond to climate disasters.[221]

Taken together, these obligations under the ICESCR and the CRC establish that the right to education in the context of the climate crisis is a right to continuous, non-discriminatory,[222] and climate-resilient education systems that both withstand climate emergencies and prepare children to adapt to and to protect a changing climate.[223]

ii. Children and Youth Have the Right to Education Under African Human Rights Law that Has Been Interpreted by the ACERWC to Be Impacted by Climate Change

Under Article 17(1) of the African Charter and Article 11 of the African Children's Charter, States parties have a binding obligation to ensure that the right to education is protected against and adapted to the impacts of the climate crisis.[224] Article 11(2) of the African

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[219] *See* Economic, Social and Cultural Rts., General Comment No. 13, *supra* note 218, at ¶¶ 4-6; CRC General Comment No. 26, *supra* note 22, ¶¶51-54; Comm. on Economic, Social and Cultural Rts., General Comment No. 27, *supra* note 219, at ¶ 71 ("Access to education, infrastructure, and learning outcomes are increasingly affected by environmental degradation. Extreme weather, sea-level rise, floods, excessive heat or cold, water scarcity and displacement significantly affect schooling, students' well-being and the quality and continuity of education. These challenges require adaptation consistent with human rights obligations, including climate-resilient infrastructure, inclusive planning and disaster preparedness.").

[220] CRC General comment No. 26, *supra* note 22, at ¶¶ 53, 55 ("All children should be equipped with the skills necessary to face expected environmental challenges in life, such as disaster risks and environment-related health impacts, including the ability to critically reflect upon such challenges, solve problems, make well-balanced decisions and assume environmental responsibility, such as through sustainable lifestyles and consumption, in accordance with their evolving capacities.").

[221] The IACtHR notes that climate change has both direct and indirect impacts on the enjoyment of the right to education, and issues state obligations to protect the right to education. *See* Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶¶ 453-457. Note that the African Committee of Experts on the Rights and Welfare of the Child believes the IACtHR's advisory opinion "left significant gaps regarding Africa and African children's rights." Observations of the ACERWC, *supra* note 104, at ¶ 34.

[222] CRC, *supra* note 35, at art. 2. *See* CRC General Comment No. 26, *supra* note 22, at ¶ 14 ("Children in general, and certain groups of children in particular, face heightened barriers to the enjoyment of their rights, due to multiple and intersecting forms of discrimination...The impact of environmental harm has a discriminatory effect on certain groups of children, especially indigenous children, children belonging to minority groups, children with disabilities and children living in disaster-prone or climate-vulnerable environments.").

[223] ICESCR, *supra* note 34, at art. 13; CRC, *supra* note 35, at art. 28, 29. *See* Economic, Social and Cultural Rts., General Comment No. 13, *supra* note 218, at ¶¶ 4-6.

[224] *See* African Charter, *supra* note 30, at art. 17(1); African Children's Charter, *supra* note 28, at art. 11(2)(g), 11(3)(d); ACERWC, General Comment No. 9 on Article 11 of the African Charter on the Rights and the Welfare

Children's Charter elaborates on the right to education, and mandates that among other considerations, the education of the child must be directed to "the development of respect for the environment and natural resources."[225] Article 11(3)(d) of the African Children's Charter requires State parties to "take measures to encourage regular attendance at schools and the reduction of drop-out rate."[226]

According to the ACERWC, the right to education in the context of climate change requires State parties to guarantee access to education during climate disasters and equip children with the knowledge, skills, and values necessary to protect the environment and respond to the climate crisis.[227] In particular, State parties must reduce absenteeism and drop-out rates by ensuring the continuity of education during climate-related emergencies, including by providing alternative facilities where schools are damaged or destroyed,[228] and must address climate-related barriers to attendance.[229]

These obligations establish that the right to education under the African human rights system includes the State parties' duty to provide a continuous, non-discriminatory,[230] and climate-resilient education, ensuring that climate change does not deprive children of their right to education.[231]

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of the Child on the Right to Education, ¶¶ 35, 84, ACERWC/GC/9/25 (2025) [hereinafter ACERWC General Comment No. 9].

[225] African Children's Charter, *supra* note 28, at art. 11(2)(g).

[226] Id. at art. 11(3)(d).

[227] The Committee instructs State Parties to "enact laws" that require schools to instruct on how to "care for and protect the environment and natural resources" and to reform curricula accordingly, and to "equip" students with the "knowledge, values, and skills" necessary to be stewards of the environment and natural resources for future generations. ACERWC General Comment No. 9, *supra* note 226, at ¶¶ 21, 35.

[228] In order to ensure regular attendance and to reduce school dropouts, States must "ensure the continuity of education during and after climate disasters by ensuring the implementation of child-sensitive climate policies with a focus on adaptation, strengthening climate resilient school infrastructure, and strengthening child sensitive early warning and emergency response systems." ACERWC General Comment No. 9, *supra* note 226, at ¶ 59.

[229] ACERWC General Comment No. 9, *supra* note 226, at ¶ 84.

[230] The ACERWC writes that "climate impacts intersect with existing vulnerabilities," and cites Plan International's Sahel region study which shows the gendered impacts of climate change. Observations of the ACEWRC, *supra* note 104, at ¶ 10. And according to Article 3 of the ACRWC, State Parties "shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind." Legal memorandum on the most crucial aspects of the rights and welfare of the child which shape the obligations of states in respect of climate change under international law, African Committee of Experts on the Rights and Welfare of the Child: Working Group on Climate Change and Children's Rights, ¶ 19 (Feb. 11, 2025), https://www.acerwc.africa/sites/default/files/2025-02/ACERWC%20WG%20Climate%20change_%20AO%20Legal%20Memo.pdf.

[231] African Charter, *supra* note 30, at art. 17(1); African Children's Charter, *supra* note 28, at art. 11(2)(g). *See* ACERWC General Comment No. 9, *supra* note 226, at ¶¶ 35, 58, 84.

B. Climate Change Directly and Indirectly Impacts the Ability of African Children to Receive an Education

Climate change is intensifying an already prevalent education crisis across Africa. According to UNICEF, "over 107 million children are currently out of school [in Africa]… and climate-related disruptions in 2024 may put an additional 20 million children at risk of dropping out."[232] Across the continent, "cyclones in Madagascar and Mozambique have destroyed school buildings; floods in Kenya and Somalia make routes to schools impassable...; and prolonged droughts in Ethiopia and Zimbabwe have disrupted learning for millions."[233] Climate change is systematically undermining children's right to education across Africa. As one UNICEF report succinctly states, "[c]limate change disrupts education at all levels… These challenges deprive children of their right to learn."[234] As detailed in the sections below, climate change directly affects education by damaging and destroying schools access, and indirectly affects education by impacting attendance and performance, all while compounding existing inequalities.

i. Climate Change Delays Access to Education from an Early Age

The impacts of climate change on education begin before children even enter the classroom. Heatwaves alone have made children's learning environments physically unfit. According to UNICEF, heatwaves have had massive impacts, causing "the most disruptions, with over 118 million students impacted in April [2024] alone…. Hot temperatures and reduced hydration levels can hinder children's ability to focus and retain information."[235] Extreme heat is already delaying school enrollment in some regions, as younger children are

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[232] *Strategy for Climate-Resilient Education Systems in Eastern and Southern Africa: Supporting children's education amidst climate crises*, UNICEF 3 (2025), https://www.unicef.org/esa/reports/strategy-climate-resilient-education-systems [hereinafter UNICEF, Strategy for Climate-Resilient Education Systems in Eastern and Southern Africa].

[233] *Climate and Education in Eastern and Southern Africa: An Investment Case*, UNICEF 2 (2025), https://www.unicef.org/esa/media/16031/file/Climate-Education-ESA-Investment-Case.pdf.

[234] *Global Snapshot of Climate-Related School Disruptions in 2024*, UNICEF 2 (2025), https://www.unicef.org/media/170626/file/Global-snapshot-climate-related-school-disruptions-2024.pdf. ("Climate change disrupts education at all levels, having a devastating impact on children, communities, and societies. Extreme climate events shatter education systems and hinder teaching, exacerbating the global learning crisis. At the community level, climate hazards damage school infrastructure, often forcing schools to serve as shelters for displaced families, further limiting access to education. Individually, children bear the heaviest burden, facing not only disrupted learning but also increased risks of physical harm and mental health issues. These challenges deprive children of their right to learn, and place added stress on parents, caregivers and teachers, further deepening vulnerabilities in communities impacted by conflict, displacement and migration.").

[235] Id. at 3.

unable to safely participate in early education.[236] As Pricilah Tumeso, Youth Coordinator of the Rural Women Network in Kajiado, Kenya, explains: "[b]ecause of the heat stress levels, you find that toddlers or these young ones have to wait until later years to start school so that they don't start at an early age—the normal school years."[237]

ii. Climate Impacts Drive Absenteeism, Drop-outs, and Poor Academic Performance in Children

Climate change undermines children's ability to learn even when they are physically present in school.[238] Food and water insecurity—both of which are exacerbated by climate change—directly and negatively impact developmental outcomes, and therefore, their academic performance.[239]

Jedidah Lemaron, Executive Director of the Malkia Initiative, a community-based organization that empowers Maasai girls in Kenya, noted that in many rural communities, declining agricultural productivity leaves children without adequate nutrition: "We've had a child fainting in school because of lack of food. If this child comes to school and they are unable to get a meal, it affects everything for that child—it affects their education and it affects how they perform in their everyday life."[240] A member of the Rural Women's Network in Kajiado, Kenya echoed this concern, stating, "[t]heir concentration level in class normally goes down because of hunger. And they will really depend on this one meal that they will get in school and still have to go back home, which is miles away. So the energy that maybe you get from the little food that you get is normally finished with the walking that you do."[241] The connection between hunger and academic performance can be severe and lead to widespread absenteeism. At one school, "there was an absenteeism rate of up to 55 percent," says Mary Muthoni Wangari, Youth Coordinator at Haki Nawiri Afrika in Nairobi, Kenya.[242]

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[236] Gloria Dickie, *After missing school due to extreme heat, African children push for climate action,* Reuters (Nov. 16, 2024), https://www.reuters.com/world/africa/after-missing-school-due-extreme-heat-african-children-push-climate-action-2024-11-16/.
[237] Interview with Pricilah Tumeso, Youth Coordinator of the Rural Women Network, in Kajiado, Kenya, on Jan. 8, 2026 (on file with the Human Rights Institute at Georgetown Law).
[238] UNICEF, *supra* note 19, at 12.
[239] Id. at 11, 12.
[240] Interview with Jedidah Lemaron, Executive Director of the Malkia Initiative, in Nairobi, Kenya, on Jan. 9, 2026 (on file with the Human Rights Institute at Georgetown Law). On the contrary, Lemaron noted that in schools where there are guaranteed feeding programs, the retention of children in school is very high. Id.
[241] Interview with Grace Naishipae, member of the Rural Women Network in Kajiado, Kenya, on Jan. 8, 2026 (on file with the Human Rights Institute at Georgetown Law).
[242] Interview with Mary Muthoni Wangari, Youth Coordinator at Haki Nawiri Afrika, in Nairobi, Kenya, on Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law).

Furthermore, water scarcity and drought increase the time children must spend getting water or supporting their families economically when they should be in school. "In Ethiopia, for example, around 20 percent of girls and 5 percent of boys miss time in school to fetch water in normal circumstances. During droughts, this amount of time increases significantly, with a much larger toll on girls…Even where schools remain open and children continue to attend, the impacts of climate change can affect children's ability to learn."[243]

iii. Climate Change is Undermining Physical Access to Education by Destroying Schools and Infrastructure

A central problem is that "education systems lack the necessary resilience to withstand climate shocks and guarantee continuity of learning,"[244] and "climate finance investments in education remain strikingly low."[245] As a result, even predictable climate risks can lead to systemic failure.

The scale of destruction leading to lack of accessible schools is substantial. In Mozambique, for example, "Cyclone Chido, in December 2024, resulted in the damage or destruction of at least 1,126 classrooms in 250 schools, affecting the return to school of around 110,000 students."[246] Similarly, rising lake levels in Kenya have destroyed entire schools and displaced thousands of students.[247]

In some cases, school infrastructure is built with materials that are especially vulnerable to recurring disasters.[248] As Mary Muthoni Wangari emphasizes, the solution requires structural change: "We need to build schools that are actually climate proof—that whether it

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[243] UNICEF, *supra* note 19, at 12, 22. Although all children are affected, climate change exacerbates gender inequalities. Id. at 12; *Explainer: how gender inequality and climate change are interconnected, UN Women* (Feb. 27, 2022), https://wrd.unwomen.org/explore/insights/explainer-how-gender-inequality-and-climate-change-are-interconnected.

[244] UNICEF, *supra* note 234, at 2.

[245] Id.

[246] Id. at 6.

[247] *See Kenya: Schools Submerged in Swelling Waters of Rift Valley Lakes*, CGTN Africa (Jan. 21, 2021), available at youtube.com/watch?v=xRsawNeLaiQ (reporting that "after a year out of school due to the covid-19 pandemic, hundreds of students returned to find flooded classrooms and floating school facilities. There was nowhere to learn and they had to find new schools.").

[248] The expectation for a child learner affected by high heat in a semi-arid rural area is to "perform the same way as one who is sitting in an air-conditioned room." Additionally, heavy rains rip iron sheets off of school buildings or submerge footbridges or roads that lead to school. "There was a school that we renovated last year, but the desks were made of metal... You can imagine a child that has to sit at that uncomfortable desk under the sun—what happens to that child?" Interview with Jedidah Lemaron, Executive Director of the Malkia Initiative, in Nairobi, Kenya, on Jan. 9, 2026 (on file with the Human Rights Institute at Georgetown Law).

rains or not, these children will come to school, they will eat, they will get books. Our States need to be held accountable and they need to know that these things are not optional."[249]

C. States are Obligated to Take Child-Sensitive Measures to Address the Threats of Climate Change to the Right to Education

Thus, Article 17(1) of the African Charter and Article 11 of the African Children's Charter should be read in conjunction and expansively to include state obligations to:

- Build safe, healthy, and resilient infrastructures for effective learning;[250]
- Ensure physical access to schools, especially for children in remote or rural communities, or consider alternative teaching methods, such as mobile educational facilities and distance-learning during and after water scarcity, sandstorms, heatwaves, and other severe weather events;[251]
- Recognize and address the disproportionate indirect and knock-on effects of environmental degradation on children's education, paying special attention to gender situations, such as children leaving school due to additional domestic and economic burdens in households facing environment-related shocks and stress;[252]
- Include strategies and mechanisms for responding to and dealing with climate disasters in training plans for students and teachers;[253]
- Incorporate climate change education into school curriculums, with a focus on country-specific climate impacts and necessary climate action;[254] and,
- Promote environmentally sustainable practices in educational facilities by implementing green schools, enhancing institutional readiness for climate challenges, and fostering eco-friendly communities.[255]

[249] Interview with Mary Muthoni Wangari, Youth Coordinator at Haki Nawiri Afrika, in Nairobi, Kenya, on Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law).
[250] CRC General Comment No. 26, *supra* note 22, at ¶ 55.
[251] Id. at ¶ 56.
[252] Id. at ¶ 57.
[253] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 456.
[254] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 70.
[255] Id.

VIII. NON-DISCRIMINATION AND EQUALITY

In addition to the rights and obligations outlined above, Article 3[256] of the African Children's Charter and Articles 2, 3,[257] 18,[258] 19–24[259] of the African Charter, enshrining the rights of non-discrimination and equality, as well as peoples' rights,[260] create further obligations on States to protect children, especially girl children and indigenous children, from the disparate impacts of climate change. Because climate change is a "threat multiplier," girl children and indigenous children often face exacerbated discrimination, vulnerability, and violence due to water scarcity, food insecurity, extreme weather events, and other climate-induced harms.[261] Requiring States to consider intersectional vulnerabilities in the context of climate change reflects the specific realities of the African continent and parallels existing legal interpretations from African and international courts and treaty bodies, such as The Protocol

[256] African Children's Charter, *supra* note 28, at art. 3 ("Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.").

[257] African Charter, *supra* note 30, art. 3(1), 3(2).

[258] African Charter, *supra* note 30, art. 18(3).

[259] These rights include freedom from dominion (Article 19), the right to existence and self-determination (Article 20), right to freely dispose of wealth and natural resources (Article 21), the right to economic, social and cultural development (Article 22), the right to peace and security (Article 23), and the right to a general satisfactory environment (Article 24). African Charter, *supra* note 30, art. 19-24.

[260] *See* SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 56. *See also* African Commission on Human and Peoples' Rights v. Kenya, Decision, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.], 2 AfCLR 9, ¶ 57 (May, 16, 2017). The term "peoples" was explored by the Court in African Commission on Human and Peoples' Rights v. Kenya in 2012. The Court first noted that "the drafters of the Charter deliberately omitted to define the notion [of peoples] in order to 'permit a certain flexibility in the application and subsequent interpretation by future users… ' through the interpretation of the human rights protection bodies." It then affirms that sub-state ethnic groups and communities, including indigenous peoples, are covered by the term peoples, provided that such groups do not question the territorial integrity of the State. See African Commission on Human and Peoples' Rights (ACHPR) v Kenya, Decision, Afr. Ct. H.P.R., 2 AfCLR 9, ¶ 56-7 (May 16, 2917). Further, based on criteria established by the African Commission and the UN Special Rapporteur on Minorities, the Court sets forth four factors to consider in the identification of indigenous populations: priority in time, voluntary perpetuation of cultural distinctiveness, self-identification, and experience of subjugation, marginalization, dispossession, exclusion or discrimination. In ACHPR, the Court held that the Ogiek Community is an indigenous community that is part of the Kenyan people and deserving of special protections. *See* ACHPR v Kenya, Decision, Afr. Ct. H.P.R., 2 AfCLR 9, ¶ 33 (May 16, 2917).

[261] *See* e.g. IPCC Working Group II, Climate Change 2022, 1053 (Hans-Otto Portner & Debra Roberts eds., 2022), https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_FullReport.pdf (detailing substantial current and future harms for indigenous peoples);Byrony Fox, A Children's Rights Approach to the Climate Crisis in Africa, Africa Law Matters (Dec. 14, 2025), https://www.africanlawmatters.com/blog/a-childrens-rights-approach-to-the-climate-crisis-in-africa (concluding that African children are the most vulnerable to the impacts of climate change); Aarti Lila Ram & Eric Shahzar, *Land, loss and liberation: Indigenous struggles amid the climate crisis*, *supra* note 23 (noting that indigenous peoples are disproportionately impacted by climate change harms, facing higher poverty rates and rates of displacement); Walter Leal Filho et. al., Impacts of Climate Change to African Indigenous Communities and Examples of Adaptation Responses, Nature (Oct. 28, 2001), https://www.nature.com/articles/s41467-021-26540-0#:~:text=Challenges%20and%20opportunities%20for%20the,the%20changes%20through%20different%20mechanisms (illustrating the impacts of climate change on five specific indigenous communities).

to the African Charter on the Rights of Women in Africa ("Maputo Protocol"), the Committee on the Rights of the Child, and the ICJ.

A. Children's Rights to Equality and Non-Discrimination Create an Obligation on States to Effectively Address the Disparate Harms of Climate Change Faced by Girl Children and Indigenous Children

The African human rights courts, treaty bodies, and regional governments have acknowledged the obligations flowing from the rights to non-discrimination and equality in the context of climate change. The African Union, in its written statement to the ICJ for the advisory opinion on climate change, noted that in applying the general right to non-discrimination, States "have a heightened duty to protect those in vulnerable situations from climate impacts."[262] The AU identified indigenous peoples, women, and children as among those groups "most exposed to and most affected by sudden and slow-onset forms of climate disruption, while generally being the most able to offer innovative solutions to the climate crisis."[263]

In Resolution 342 on Climate Change and Human Rights in Africa, the African Commission urgently requested Member States to "adopt and implement the special measures of protection for vulnerable groups such as children, women, [and] indigenous communities" in the implementation of the UNFCCC and the Paris Agreement in order to adequately reflect the African perspective on human and peoples' rights.[264]

The Maputo Protocol, which includes the rights of girls by definition and represents the *lex specialis* for protection of African women and girls, calls on States to combat all forms of discrimination against women.[265] It requires States to affirm gender equality before the law and to reform existing discriminatory laws to protect the rights of women. Further, it states that women "shall have the right to live in a healthy and sustainable environment"[266] and "the right to fully enjoy their right to sustainable development."[267]

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[262] Written statement of the African Union, Obligations of States in Respect of Climate Change, Advisory Opinion, 2025 I.C.J. no. 187 at ¶ 196(c) (Mar. 21, 2024).
[263] Id.
[264] Afri. Comm'n on Human and Peoples' Rights, ACHPR/Res.342(LVIII) (Apr. 20, 2016) https://achpr.au.int/en/adopted-resolutions/342-resolution-climate-change-and-human-rights-africa-achprres342lviii2.
[265] Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 2(1), July 11, 2003, CAB/LEG/66.6, 1 Afr. Hum. Rts. L.J. 40 (2003) [hereinafter Maputo Protocol].
[266] Id. art. 18(1).
[267] Id. art. 19.

International bodies and courts have also addressed the right to non-discrimination and equality in the context of the climate crisis. The Committee on the Rights of the Child interpreted Article 2 of the CRC as obligating States to "effectively prevent, protect against and provide remedies for both direct and indirect environmental discrimination."[268] The Committee found that children face heightened barriers to the enjoyment of their rights due to intersecting forms of discrimination, including on the basis of sex as well as other statutes, like indigeneity.[269]

In its 2025 Advisory Opinion, the ICJ held that climate change hinders the enjoyment of the rights of women and children and noted that States must consider the rights of children, as well as the principle of gender equality, when taking action to address climate change.[270] The ICJ also noted that "mitigation and adaptation measures with respect to climate change 'should be designed and implemented in accordance with the human rights principles of substantive equality and non-discrimination.'"[271] Although the ICJ did not identify specific state obligations with regards to rights of non-discrimination and equality, the recognition of these principles underscores the importance of intersectional and gender-responsive legal interpretations in the context of climate change.

The IACtHR has interpreted the right to equality and non-discrimination to create State obligations to both 1) refrain from arbitrary differences in treatment, and 2) adopt positive measures to reverse or modify any discriminatory situations in society.[272] In the context of the climate crisis, the IACtHR found specific obligations for States to protect children from discriminatory and disparate impacts, primarily in regards to health and procedural rights.[273]

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[268] Article 2 of the Convention on the Rights of the Child calls on States to "respect and ensure the rights … to each child within their jurisdiction without discrimination of any kind" and to "take all appropriate measures to ensure that the child is protected against all forms of discrimination." CRC General Comment No. 26, *supra* note 22, at ¶ 14.

[269] CRC General Comment No. 26, *supra* note 22, at ¶ 14.

[270] This is provided for in the preamble of the Paris Agreement. ICJ Advisory Opinion, *supra* note 50, at ¶ 382.

[271] *See* Obligations of States in Respect of Climate Change, Advisory Opinion, 2025 I.C.J. no. 187 at ¶ 383 (July 23, 2025) (quoting General recommendation No. 37 on the gender related dimensions of disaster risk reduction in the context of climate change, 7 March 2018, UN doc. CEDAW/C/GC/37, ¶ 14).

[272] Inter-Amer. Ct. H.R. Advisory Opinion, *supra* note 38.

[273] These obligations include assuring access to differentiated healthcare, ensuring policies and laws are adapted to the distinct healthcare needs of vulnerable groups, guaranteeing access to information for children, and assuring children's direct participation in climate decisions. First, children must have guaranteed access to the health services required "to attend to the different health problems linked to climate change, including mental illnesses associated with 'eco-anxiety'..." Second, States must align environmental health policy, laws, and programs with the available science on the impacts of climate change on children. Third, States must establish the necessary policies and strategies to ensure attention reaches groups that are socioeconomically excluded, including indigenous children. With regards to procedural rights, the Court found that States have an obligation to ensure access to accurate and reliable information about the causes and effects of climate emergency on children, taking into account barriers to information such as illiteracy, disability, and language. States also have an obligation to

Noting that girls face particular disparate impacts of climate change and specific patterns of discrimination, the IACtHR articulated additional obligations on States to protect them. For example, due to increased risk of gender-based violence for girls following climate-related disasters due to stigmatization and discrimination, States have an obligation to prevent, investigate, and punish any acts of violence.[274]

Furthermore, opinions from the African Commission and this Court have found that States have specific obligations related to indigenous peoples' rights. In the 2017 case of *African Commission on Human and Peoples' Rights v Kenya*,[275] this Court found that because of indigenous peoples' strong attachment with land and the natural environment, "[t]heir survival in a particular way depends on unhindered access to and use of their traditional land and the natural resources thereon."[276] As such, this Court suggested that indigenous populations may have special protections under the collective rights set out in the African Charter "deriving from their vulnerability."[277] Similarly, in the 2001 case *Social and Economic Rights Action Centre (SERAC) v. Nigeria*, the African Commission established and affirmed States' obligations to respect, protect, and promote the rights of indigenous groups in the context of environmental degradation under Article 21, 22, and 24 of the African Charter.[278]

B. African Girls and Indigenous Communities Face Disparate Impacts of Climate Change

In the recent advisory opinions, the ICJ and IACtHR relied on evidence that women and girls experience the adverse impacts of climate change more severely.[279] For instance,

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ensure children's views are heard regularly and children are able to participate directly in decisions on climate change. Lastly, States have an obligation to promote and facilitate children's climate action. Id. ¶¶ 599-602.

[274] Id. at ¶ 614.

[275] *See ACHPR v Kenya*, Decision, Afr. Ct. H.P.R., 2 AfCLR 9, ¶ 209 (May, 16, 2017) (holding that the Kenyan government had violated the Ogiek people's collective rights by expelling them from the Mau Forest). In order to analyze the specific protections due to the Ogiek Community under Articles 21 and 22 of the African Charter, this Court looked to the UN Declaration on the Rights of Indigenous Peoples: "In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions. G.A. Res 61/295 United Nations Declaration on the Rights of Indigenous Peoples art. 23 (Sept. 13, 2007).

[276] *ACHPR v Kenya*, Decision, Afr. Ct. H.P.R., 2 AfCLR 9, ¶ 109 (May 16, 2017).

[277] Id. at ¶ 112.

[278] *See generally* SERAC and CESR v. Nigeria, *supra* note 53, at ¶ 54-55, 58 (holding that the Ogoni Community had the right to freely dispose of their wealth and natural resources and to a general satisfactory environment and that the military government of Nigeria violated these rights). The positive obligations on the State included the facilitation of independent scientific monitoring, dissemination of environmental and social impact studies, provision of information to those impacted communities, and provision of meaningful opportunities to be heard. Id. at ¶ 52-53.

[279] ICJ Advisory Opinion, *supra* note 50, at ¶ 384 (noting that the "IPCC has found that women and indigenous peoples may be more severely affected by the impacts of climate change."). Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 614. The ICJ heard evidence of the unequal impacts of climate change on women and girls in

women's and girls' health on the continent is significantly affected by malnutrition, increased exposure to vector-borne disease, reduced water quality and increased vulnerability during pregnancy and breastfeeding, caused from or worsened by climate change.[280] Additionally, climate-induced food insecurity and resulting poverty has led to increases in early child marriage and sexual violence.[281] A 2022 UNICEF report found a doubling of female child marriages on average in just one year in drought-affected regions, with the number increasing by 119 percent in Ethiopia.[282] A 2025 study on girls in the Sahel found that 20 percent of respondents in Mali reported an increase in child marriage, with similar increases reported in Nigeria.[283] In Somaliland, the same UNICEF study found that nearly 25 percent of people reported an increase in gender-based violence due to drought, with increases of 50 percent in some locations.[284] These impacts also reveal unequal access by women and girls to resources following extreme weather events.[285]

In Kenya, for instance, girls face a number of disparate hardships due to climate change. Like the countries mentioned above, child marriage is on the rise.[286] A number of community activists interviewed attested to the continued challenge of child marriage resulting from food insecurity, poverty, and loss of livestock.[287] Jedidah Lemaron, the Executive Director of the Malkia Initiative, a community-based organization that empowers Maasai girls in Kenya, approximated that a third of the girls in her village were married as children.[288] "When there is drought in semi-arid Kajiado, girls are the ones who are most at risk because every family wants a lesser mouth to feed," she said, and "the girls become that conduit to bride price."[289]

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small island states and countries impacted by the climate crisis and armed conflict. For example, in Vanuatu, the erosion of traditional knowledge and predictable climate events has had significant impacts on the women and girls who rely on this knowledge for their livelihoods and subsistence activities. The Epau women and girls on the island are also faced with diminishing natural resources and deteriorating crop yields, which has significant detriment to livelihoods. Written statement of the Republic of Vanuatu, Obligations of States in Respect of Climate Change, Advisory Opinion, 2025 I.C.J. no. 187 at ¶¶ 392, 394 (Mar. 21, 2024).

[280] Olalekan John Okesanya et. al., *The Intersectional Impact of Climate Change and Gender Inequalities in Africa,* 3 Public Health Challenges 2 (2024) at https://pmc.ncbi.nlm.nih.gov/articles/PMC12060766/pdf/PUH2-3-e169.pdf.

[281] Id. at 2–3.

[282] *Child Marriage on the Rise in Horn of Africa as Drought Crisis Intensifies*, UNICEF (Jun. 28, 2022), https://www.unicef.org/press-releases/child-marriage-rise-horn-africa-drought-crisis-intensifies.

[283] Nastasia Thebaud-Bouillon-Njenga et. al., *A Gathering Storm*, at 59 (Oct. 2024), https://plan-international.org/uploads/2025/02/A-Gathering-Storm-Full-Report-Eng.pdf.

[284] *Child Marriage on the Rise in Horn of Africa as Drought Crisis Intensifies*, *supra* note 284.

[285] Olalekan John Okesanya et. al., *The Intersectional Impact of Climate Change and Gender Inequalities in Africa*, *supra* note 280 at 2 (noting the experience of the 1984/1985 Ethiopian famine).

[286] *Child Marriage on the Rise in Horn of Africa as Drought Crisis Intensifies*, *supra* note 284.

[287] *See e.g.* Interview with Jedidah Lemaron, Executive Director at Malkia Initiative, Jan. 9, 2026 (interview on file with the Human Rights Institute at Georgetown Law).

[288] Id.

[289] Id.

She explained that this common approach of trading young girls for livestock "comes with climate change."[290]

Women and girls also face security concerns and gender-based violence related to increased travel times to collect water due to climate-induced drought. According to an analysis by the Kenya Red Cross, girls are walking up to 30 kilometers in some areas to collect water.[291] A number of interviewees from the HRI field investigation noted that girls traveling long distance for water and firewood are at higher risk for sexual violence, insecurity, and banditry.[292] Women and girls are also at risk of domestic violence if they do not return home from fetching water and firewood in a timely manner, regardless of the extended travel distance due to climate change.[293]

Disparate health concerns for girls in Kenya were noted related to rising temperatures and drought. Dr. Rosemarie Gachie Lopokoiyit, a Kenyan pediatrician, spoke to the gender disparities of heat stress, noting that women and girls after puberty have lower blood pressure and are more affected by increased temperatures.[294] Water scarcity was also cited as a reason for sexual and reproductive health concerns resulting from poor hygiene during menstruation.[295] Ms. Lemaron noted that when women and girls have to walk miles to collect water for cooking and livestock, "hygiene is one of things that is not a priority."[296]

Indigenous communities around the world find themselves at the forefront of climate change impacts due to their geographical location, reliance on traditional subsistence practices, and marginalized status or limited participation in governmental decision-making processes.[297] Indigenous groups are also displaced by climate change at seven times the rate of the global

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[290] Id.
[291] *Child Marriage on the Rise in Horn of Africa as Drought Crisis Intensifies*, *supra* note 284.
[292] Interview with Leonida Odongo, Founder and Executive Director of Haki Nawiri Afrika, Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law); Interview with Faith Nataya, Project Manager at Indigenous Information Network, Jan. 7, 2026 (on file with the Human Rights Institute at Georgetown Law). *See also Child Marriage on the Rise in Horn of Africa as Drought Crisis Intensifies*, *supra* note 284.
[293] Interview with Leonida Odongo, Founder and Executive Director of Haki Nawiri Afrika, Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law). Ms. Odongo explained the concerns related to water scarcity in climate-induced drought: "Culturally, it's women who are supposed to do domestic work in the African context. . . . So women end up spending more time looking for water and spending more time traveling to look for water. . . . This also has gender-based violence implications because you go to the water point, you queue, you come back home. Your husband asks you, 'Whom are you talking to?'" Id.
[294] Interview with Dr. Rosemarie Gachie Lopokoiyit, Consultant Pediatrician at Pediatric Clinic Karen, on Jan. 7, 2026 (interview on file with Human Rights Institute at Georgetown Law).
[295] Interview with Jedidah Lemaron, Executive Director at Malkia Initiative, on Jan. 9, 2026 (interview on file with the Human Rights Institute at Georgetown Law).
[296] Id.
[297] Aarti Lila Ram & Eric Shahzar, *Land, loss and liberation: Indigenous struggles amid the climate crisis*, *supra* note 23.

population.[298] The IACtHR found that indigenous peoples face disproportionate harm due to climate change and extreme weather events because they often reside in "marginal lands and fragile ecosystems," which impacts food and livelihood resources, as well as connections to cultural heritage.[299]

Indigenous peoples of the African continent similarly face exacerbated, and in some cases exacerbated, challenges related to climate change. Although difficult to accurately quantify due to differences in classification criteria and the principle of self-identification, in 2013 it was estimated that 50 million indigenous people live in Africa, approximately 4.5 percent of the total population that year.[300] This population is especially impacted by climate change due to vulnerable homelands, reliance on traditional subsistence practices and limited participation in decision-making.[301] In the Democratic Republic of Congo, for example, drought and heatwaves turn formerly arable lands into unproductive savannahs, causing increased food insecurity among the indigenous groups that traditionally rely on hunting, gathering, fishing and pastoralism.[302] As a result, the communities engage in increased nomadism and itinerant lifestyles, which can in turn increase conflict between tribes, poverty, and negative health outcomes.[303]

In Kenya, some of the regions most impacted by climate change are areas inhabited by indigenous groups. Indigenous activists spoke on the impacts of flooding in both Northern Kenya, such as Turkana, and in central areas near the Mau Forest, sharing stories of children swept away by flooded rivers and poorly constructed schools that are washed away with the rising water.[304] In telling the story of two Ogiek children killed while trying to cross over a flooded river, Daniel Kobei, Founder and Executive Director of the Ogiek Peoples' Development Program, noted that many people "don't realize the direct impact of climate-

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[298] Id.

[299] See ICJ Advisory Opinion, *supra* note 50, at ¶ 204. The Working Group of the Protocol of San Salvador reported that the "pressure that exists on [the] natural resources [of the indigenous peoples], the legal insecurity regarding their lands and the territory, and the consequences of climate change result in a loss of control of the land and their traditional territory." Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at n. 1047.

[300] Indigenous Peoples in the African Region, UN Permanent Forum on Indigenous Issues 12th session (May 23, 2013), https://www.un.org/esa/socdev/unpfii/documents/2013/Media/Fact%20Sheet_Africa_%20UNPFII-12.pdf.

[301] Aarti Lila Ram & Eric Shahzar, *Land, loss and liberation: Indigenous struggles amid the climate crisis*, *supra* note 23.

[302] Climate change impacts on indigenous peoples of the DRC, UNDP (Aug. 5, 2020), https://www.adaptation-undp.org/climate-change-impacts-indigenous-peoples-drc.

[303] Id.

[304] Interview with Daniel Kobei, Founder and Executive Director of the Ogiek Peoples' Development Program, on Jan. 5, 2026 (interview on file with Human Rights Institute at Georgetown Law).

related issues on children. They see it in a wider scale, more than seeing the specifics."[305] He then added, "[c]limate change impacts more on the indigenous peoples, or people who are in the indigenous communities who may be living in poverty."[306]

In addition to disparate direct impacts of climate change on indigenous communities, the transmission of indigenous knowledge and cultural practice is also hindered by climate change. For example, climate change and changing precipitation patterns has resulted in a loss of traditional knowledge on weather patterns.[307] Mr. Kobei explained that elders in the Ogiek community used to be able to reliably predict the arrival of rainy seasons, allowing for more efficient planting and productive crop yields, but now they "find rains any time of the year, even during January."[308] Other interviewees in Kenya attested to the loss of indigenous culture due to the climate impacts on traditional foods and herbal medicines.[309] Relatedly, indigenous language is being lost as more children in rural communities attend boarding schools, due in part as a response to climate impacts of increased extreme weather events and rising temperatures.[310] When describing her own delay in learning her indigenous language due to boarding school, Faith Nataya, a Project Manager with Indigenous Information Network, explained that the passing down of indigenous language is crucial, "not just because it is passing down knowledge, but it is our survival. This is how we've lived, and we need to know and be able to pass that to generations to come."[311]

[305] Id.
[306] Id.
[307] Id.
[308] Id.
[309] Interview with Mary Muthoni Wangari, Youth Coordinator at Haki Nawiri Afrika, on Jan. 6, 2026 (interview on file with Human Rights Institute at Georgetown Law); Interview with Daniel Kobei, Founder and Executive Director of the Ogiek Peoples' Development Program, on Jan. 5, 2026 (interview on file with Human Rights Institute at Georgetown Law). In some regions, traditional food festivals are no longer held because communities can no longer grow food at home due to climate change. Deforestation has also led to decreased yields of herbs used in traditional medicine. See e.g. Interview with Mary Muthoni Wangari, Youth Coordinator at Haki Nawiri Afrika, Jan. 6, 2026 (interview on file with Human Rights Institute at Georgetown Law).
[310] Interview with Faith Nataya, Project Manager at Indigenous Information Network, on Jan. 7, 2026 (on file with Human Rights Institute at Georgetown Law).
[311] Id.

C. This Court Should Affirm African and International Interpretations on the Rights to Non-discrimination and Equality to Recognize Special Measures of Protection for Girl Children and Indigenous Children in the Context of Climate Change

We respectfully urge this Honourable Court to advise that African States take special measures of protection to ensure that girl children and indigenous children are able to fully enjoy their human rights on an equal basis with others and without distinction on the basis of sex or other status. As well, because of the progressive nature of the African Charter with regards to collective rights, this Court is uniquely placed to strengthen and build upon the State obligations outlined in African and international courts to guarantee rights for African indigenous children in the context of climate change.

One such critical obligation that should be considered by this Court is recognition. Indigenous activists in Kenya highlighted that indigenous recognition, including recognition of indigenous youth, was paramount to ensuring their rights.[312] There was also consensus on the need to meaningfully include indigenous people, and youth particularly, in decisions related to their development and the legislative process through the principle of free prior and informed consent ("FPIC").[313] As noted by Mr. Kobei, "It is the wish of the community that they should be involved in decision-making on issues related to their community. So that people should not decide for us, we decide."[314]

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[312] Interview with Lucy Mulenkei, Executive Director at Indigenous Information Network, on Jan. 7, 2026 (on file with the Human Rights Institute at Georgetown Law); Interview with Fardosa Isack, Youth Coordinator at Haki Nawiri Afrika, on Jan. 6, 2026 (interview on file with Human Rights Institute at Georgetown Law). Recognition of indigenous peoples by states is a process that distinguishes indigenous peoples from other local communities and acknowledges them as a specific group of rights holders under international law. It was noted by interviewees that many African countries do not recognize indigenous communities in their territory. This has also been found by the UN Special Rapporteur on the rights of Indigenous Peoples, noting that despite the African Commission's definitional works, many African countries maintain the position that they do not have indigenous peoples. See Albert Barume (Special Rapporteur on the right of Indigenous Peoples), Recognition of Indigenous Peoples, Rep. of the Hum. Rts. Council, at ¶¶ 22, 33, 40, U.N. Doc. A/HRC/60/29 (2025).

[313]The Declaration on the Rights of Indigenous Peoples requires states to consult with indigenous peoples in good faith to obtain their free, prior and informed consent (FPIC) before adopting and implementing legislative measures that may affect them. This principle is rooted in other human rights treaty norms including the right to self-determination and the principle of non-discrimination, both of which are enshrined in African human rights law. See e.g. Free, Prior and Informed Consent of Indigenous Peoples, UNOHCHR (Sept. 2013), https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/FreePriorandInformedConsent.pdf; G.A. Res 61/295 United Nations Declaration on the Rights of Indigenous Peoples art. 19 (Sept. 13, 2007). *See also* Interview with Faith Nataya, Project Manager at Indigenous Information Network, on Jan. 7, 2026 (on file with the Human Rights Institute at Georgetown Law); Interview with Daniel Kobei, Founder and Executive Director of the Ogiek Peoples' Development Program, on Jan. 5, 2026 (on file with the Human Rights Institute at Georgetown Law).

[314] Interview with Daniel Kobei, Founder and Executive Director of the Ogiek Peoples' Development Program, on Jan. 5, 2026 (interview on file with Human Rights Institute at Georgetown Law).

Furthermore, States should be obligated to:

- Collect disaggregated data in order to adopt an intersectional analytical approach and to inform law, policy, and program development "aimed at addressing the differential effects of climate change on various categories of children";[315]
- Integrate a gender perspective in policy decisions, legislation, development plans, programmes and activities related to climate;[316]
- Ensure greater participation of women and girls in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;[317]
- Assess situations of disparate access to information on mitigation measures through a discrimination lens, and establish adequate educational and other appropriate structures with consideration to the needs of women and girls;[318]
- Promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies, and facilitate women's and girls' access to, and participation in their control;[319]
- Take corrective and positive action in those areas where discrimination against women and girls in law and in fact continues to exist related to environmental issues;[320]
- Ensure meaningful opportunities to be heard, representation, and participation of indigenous groups, especially children and youth, in governmental decision-making related to climate issues aligned with the principles of FPIC;[321]
- Integrate indigenous and local knowledge in climate mitigation and adaptation strategies, enabling women and girls' indigenous knowledge systems;[322]

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[315] See e.g. AFRI. COMM'N OF EXPERTS ON THE RTS. AND WELFARE OF THE CHILD, STUDY ON CLIMATE CHANGE & CHILDREN'S RIGHTS IN AFRICA, 23 (2025); CRC General Comment No. 26, *supra* note 22, at ¶ 14.
[316] Maputo Protocol, *supra* note 265, art. 2(1).
[317] Id., art. 18(2), July 11, 2003, CAB/LEG/66.6, 1 Afr. Hum. Rts. L.J. 40 (2003).
[318] *See e.g.* Maputo Protocol, *supra* note 267, at art. 8(d); AFRI. COMM'N OF EXPERTS ON THE RTS. AND WELFARE OF THE CHILD, STUDY ON CLIMATE CHANGE & CHILDREN'S RIGHTS IN AFRICA, 23 (2025).
[319] Maputo Protocol, *supra* note 267, at art. 18(2).
[320] *See e.g.* id. at art. 2(1), July 11, 2003, CAB/LEG/66.6, 1 Afr. Hum. Rts. L.J. 40 (2003); General Comment No. 26, *supra* note 22, at ¶ 14.
[321] See e.g. SERAC v. Nigeria, *supra* note 53, at ¶ 53; Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 205; G.A. Res 61/295 United Nations Declaration on the Rights of Indigenous Peoples art. 19 (Sept. 13, 2007).
[322] *See e.g.* Walter Leal Filho et. al., Impacts of Climate Change to African Indigenous Communities and Examples of Adaptation Responses, NATURE (Oct. 28, 2001), https://www.nature.com/articles/s41467-021-26540-0#:~:text=Challenges%20and%20opportunities%20for%20the,the%20changes%20through%20different%20mechanisms; Maputo Protocol, *supra* note 267, at art. 18(2).

- Disseminate environmental and social impact studies and climate change information to impacted indigenous communities in local languages and in child-friendly mediums, aligned with the principles of FPIC;[323]
- Obtain FPIC for any development projects impacting indigenous lands;[324]
- Consider the rights of indigenous children to ancestral land and cultural heritage in the context of climate loss and damage finance in order to protect future generations and ensure intergenerational equity;[325] and
- Acknowledge indigenous peoples' land rights and guarantee the protection of territory in order "to enhance rights-based, sustainable climate mitigation and adaptation measures that safeguard children's well-being."[326]

IX. AN OPPORTUNITY FOR EMPOWERMENT

The above sections illustrate the myriad ways in which climate change is threatening children and impeding the guarantee of their fundamental rights. However, only focusing on the violation of children's substantive rights "overlooks children's empowering rights—access to information, expression of views, participation in decision-making, and access to justice—that recognize them as climate leaders and duty bearers."[327] Noting that the existing climate advisory opinions from international and human rights tribunals have done precisely this, the ACERWC states that "the African Court can make its most significant contribution [in Advisory Opinion 001/2025], particularly given the African Children's Charter's unique recognition in Article 31 that children's dignity includes meaningful contribution to their communities."[328]

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[323] *See also* Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 205-6. *See e.g.* SERAC and CESR v. Nigeria, *supra* note 53, ¶ 53; G.A. Res 61/295 United Nations Declaration on the Rights of Indigenous Peoples, art. 19 (Sept. 13, 2007).

[324] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 206.

[325] AFRI. COMM'N OF EXPERTS ON THE RTS. AND WELFARE OF THE CHILD, STUDY ON CLIMATE CHANGE & CHILDREN'S RIGHTS IN AFRICA, 67 (2025). Climate financing in Africa must also take into account complications related to community, or customary, land and the relevant land law of the country. Interview with Julius Mbatia, Climate Justice Manager at ACT Alliance, on Jan. 7, 2026 (on file with the Human Rights Institute at Georgetown Law).

[326] See e.g. AFRI. COMM'N OF EXPERTS ON THE RTS. AND WELFARE OF THE CHILD, STUDY ON CLIMATE CHANGE & CHILDREN'S RIGHTS IN AFRICA, 69-70 (2025); Climate Emergency and Human Rights, Advisory Opinion AO-32/25, Inter-Am. Ct. H.R. at ¶205 (May 29, 2025), https://www.corteidh.or.cr/docs/opiniones/seriea_32_es.pdf. These recommendations are echoed by indigenous activists in Kenya who highlighted the importance of FPIC, targeted data collection related to indigenous communities, and indigenous-led research. *See e.g.* Interview with Daniel Kobei, Founder and Executive Director of the Ogiek Peoples' Development Program, on Jan. 5, 2026 (on file with the Human Rights Institute at Georgetown Law); Interview with Faith Nataya, Project Manager at Indigenous Information Network, on Jan. 7, 2026 (on file with the Human Rights Institute at Georgetown Law).

[327] Observations of the ACERWC, *supra* note 104, at ¶ 34.

[328] Id.

Given that children are not merely victims of climate change but also the next generation of climate leaders and changemakers, their civic, procedural rights must be protected and promoted in the context of the climate crisis. Not only will the guarantee of these rights allow children to shape the policies that will shape the health of the planet they will soon inherit, but it will also contribute to the safeguarding of their other fundamental rights. The procedural rights indispensable to children amid the climate crisis, and to be discussed in the following sections, are: (1) the right to information; (2) the right of political participation, *i.e.*, the right to be heard; and (3) the freedom of expression, association, and assembly.

X. RIGHT TO INFORMATION

This Honourable Court should interpret the African Charter and the African Children's Charter expansively to guarantee children's rights to access climate and environment-related information. Such an interpretation would lend support to guidance provided by the ACERWC and the Committee on the Rights of the Child, align the protective provisions in both instruments with international human rights law, and promote the continued development of national-level laws that recognize such a right. Furthermore, such an interpretation is necessary when considered within the African continent's unique factual situation and the particular vulnerabilities of African children. Not only does a lack of child-friendly environmental and climate-related information "severely hamper[] children's ability to adapt to climate change," it also robs them of the opportunity to "be active agents of change in climate action."[329]

A. The Right to Information is Guaranteed for Children in the Context of Climate Change in African and International Human Rights Law

Article 9(1) of the African Charter guarantees every individual "the right to receive information."[330] In addition to its guarantee under the African Charter, the right to information is protected within international human rights law. The ICCPR enshrines the right for the general public,[331] and Article 13(1) of the CRC explicitly guarantees the right for children.[332] Article 17 of the CRC outlines State parties' specific obligations to protect this right, including to "ensure that the child has access to information and material…aimed at the promotion of his

[329] Submission by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC): Working Group on Climate Change and Children in Africa To The United Nations Special Rapporteur on Climate Change and Human Rights, Call for Inputs: On Access to Information on Climate Change and Human Rights, 2 (Feb. 11, 2025), https://www.acerwc.africa/en/article/activity/submission-acerwc-working-group-climate-change-and-children-africa-un-special.
[330] African Charter, *supra* note 30, at art. 9(1).
[331] ICCPR, *supra* note 33, at art. 19.
[332] CRC, *supra* note 35, at art. 13(1).

or her…physical and mental health."[333] State parties are also called to "encourage the mass media to disseminate information and material of social and cultural benefit to the child in accordance with the spirit of article 29 [on the education of the child]"[334] and "to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous."[335]

Articles 13 and 17 of the CRC have been specifically interpreted by the UN Committee on the Rights of the Child within the context of the climate crisis. The Committee states that children have the right to access "accurate and reliable environmental information, including about the causes, effects and actual and potential sources of climate and environmental harm, adaptive responses, relevant climate and environmental legislation, regulations, findings from climate and environmental impact assessments, policies and plans and sustainable lifestyle choices."[336] The Committee further outlines that States have obligations to make environmental information available to children in a format and medium tailored to their ages and capacity and "aimed at overcoming obstacles, such as illiteracy, disability, language barriers, distance and limited access to information and communications technology."[337] States should further encourage the media to communicate accurate climate information and materials regarding measures that children and their families can take to safeguard against climate change-induced disasters.[338]

The Committee on the Rights of the Child explains that "[a]ccess to information is essential for enabling children and their parents or caregivers to comprehend the potential effects of environmental harm on children's rights."[339] The Committee also asserts that the right to information forms the basis for the enjoyment of other key procedural rights in the climate context, such as the right to participation and the right to expression.[340] Further, access to climate information "empowers children to learn what they can do in their immediate environment related to waste management, recycling, and consumption behaviors," allowing them to play a direct role in mitigating the adverse impacts of the climate crisis upon their larger community and themselves.[341]

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[333] Id. at art. 17.
[334] Id. at art. 17(a).
[335] Id. at art. 17(d).
[336] CRC General Comment No. 26, *supra* note 22, at ¶ 33.
[337] Id. at ¶ 34.
[338] Id.
[339] Id. at ¶ 32.
[340] Id. at ¶ 32 ("[Climate information] is also a crucial prerequisite for realizing the rights of children to express their views, to be heard, and to effective remedy regarding environmental matters.").
[341] Id. at ¶ 33.

This Court has yet to interpret the right to information specifically and explicitly for children and young people amid the climate crisis.[342] However, in the *Declaration of Principles on Freedom of Expression and Access to Information in Africa*, the ACHPR explicitly states that the right of access to information applies to children.[343] Additionally, the Declaration stipulates that States must take "specific measures to address the needs of marginalised groups," including children, "in a manner that guarantees the full enjoyment of their right[]...[of] access to information on equal basis with others."[344]

Though the African Children's Charter does not contain a provision explicitly guaranteeing children's right to information, the ACERWC has interpreted children's right to information within the context of the climate crisis extensively.[345] More specifically, the ACERWC's *2024 Study on Climate Change & Children's Rights in Africa* stipulates that climate information, "at a minimum, should raise children's awareness of the effects of climate change on their rights, inform them of mitigation and adaptation measures, and facilitate access to remedies."[346] This ACERWC Study also reiterated many of the state obligations outlined in the Committee on the Right of the Child's General Comment No. 26.[347]

The state obligations outlined in the Committee on the Rights of the Child's General Comment No. 26 were again emphasized within the African context in the ACERWC Working Group on the Rights and Welfare of the Child's legal memorandum on the most crucial aspects of the rights of the child which shape the obligations of States in respect of climate change under international law.[348]

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[342] *See* XYZ v. Benin, No. 010/2020, Decision, Afr. Ct. H.P.R., ¶ 113 (Nov. 27, 2020), African Court Law Report Vol. 4 (2020) (holding that "every citizen in a democratic country has the right to access information held by the State.").

[343] Decl. of Principles on Freedom of Expression and Access to Information in Africa 8, Preamble, (Apr. 17, 2020), https://achpr.au.int/en/node/902 (("Recognizing the need to protect and promote the right to…access to information of marginalized groups and groups that face multiple discrimination, including women, children, persons with disabilities, older persons, sexual and gender minorities, refugees and internally displaced persons…").

[344] Id. at 11.

[345] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 28 (stating that while there is no right to information in the Charter, the ACERWC will need to rely on legal interpretation, via the best interest of the child principle, or to invoke the "more conducive environment" clause in article 1(2) of the Charter to recognize the right in national legislation or in an international treaty in force in an AU state. Additionally, "[c]ountries in Africa with a constitutional right of access to information include Burkina Faso, Cabo Verde, Ghana, Madagascar, Central African Republic, DRC, Egypt, Eritrea, Guinea-Bissau, Malawi, Morocco, Republic of the Congo, Seychelles, Somalia, and Zambia. Countries with other legal provisions for access to information include Cote d'Ivoire, Liberia, Nigeria, Sierra Leone, Sudan, and Togo.").

[346] Id.

[347] *See e.g.,* id. (outlining that state parties to the African Children's Charter "should…seek to disseminate accurate information on the environment, including, for example, information on measures that children and their families can take to manage risks in the context of climate change-related disasters.").

[348] *Legal memorandum on the most crucial aspects of the rights and welfare of the child which shape the obligations of states in respect of climate change under international law*, African Committee of Experts on the

Last, in a submission to the UN Special Rapporteur on climate change and human rights, the ACERWC Working Group on Climate Change and Children in Africa highlighted the unique importance of access to information regarding climate mitigation and adaptation efforts for African children and their caregivers: "[t]he majority of African children live in communities with little resilience to adapt to climate-induced emergencies, posing significant challenges to their well-being and development."[349] The submission thus called for improved access to information detailing climate change projections, vulnerability assessments, and evaluations of climate adaptation strategies, as well as improved research to address the deficit of evidence on the effect of climate change on especially vulnerable groups of African children, such as those with disabilities, conflict-affected children, displaced children, children living in low-lying coastal areas, and children living in extreme poverty.[350]

Other regional human rights systems, such as the Inter-American jurisdiction, have expansively interpreted the right to information in the context of the climate crisis.[351] Nevertheless, these interpretations contained little to no mention of children and youth. As mentioned above, this honorable Court can make strides towards the fulsome protection and promotion of children rights amid the climate crisis in Advisory Opinion 001/2025 by discussing the importance of safeguarding children's procedural, civic rights *in addition* to their substantive rights, particularly their right to access environmental and climate-related information.

Rights and Welfare of the Child ¶ 39 (Feb. 11, 2025), https://www.acerwc.africa/en/article/activity/legal-memorandum-most-crucial-aspects-rights-and-welfare-child-which-shape (emphasizing that AU states have "an obligation to ensure the child's right to access to information by making environmental information available in child appropriate dissemination methods taking into account children's ages and capacities 'aimed at overcoming obstacles, such as illiteracy, disability, language barriers, distance and limited access to information and communications technology'.") (citing CRC General Comment No. 26, *supra* note 22, at ¶ 34).

[349] Submission by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC): Working Group on Climate Change and Children in Africa To The United Nations Special Rapporteur on Climate Change and Human Rights, Call for Inputs: On Access to Information on Climate Change and Human Rights, 3 (Feb. 11, 2025), https://www.acerwc.africa/en/article/activity/submission-acerwc-working-group-climate-change-and-children-africa-un-special.

[350] Id. at 3-4. The submission acknowledges existing sources of and mechanisms for collecting climate information—such as National Determined Contributions (NDCs) under the Paris Agreement, Environmental Impact Assessments (EIAs), and UNICEF's Children's Climate Risk Index—yet states they are "too broad" and "fail to directly measure the specific negative effects on children in all their diversities and localities." Id. at 4.

[351] *See* Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Mar. 4, 2018, art. 5, 6, 3388 U.N.T.S. *See also* Organization of American States, American Convention on Human Rights, Nov. 22, 1969, art. 13, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 (enshrining the right to freedom of thought and expression, which includes the "freedom to seek [and] receive…information and ideas of all kinds."); Inter-Am. Ct. H. R. Advisory Opinion, *supra* note 38, at ¶¶ 488-529 (discussing The Right to Access Information in the context of the Climate Emergency, including the Production of Climate Information, the Disclosure of Information, and the Adoption of Measures Against Disinformation).

B. The Factual Context of the African Continent Compels that the Right to Information Be Interpreted Expansively to Include African Children and Youth

The diversity of languages spoken across the African continent poses unique challenges for access and comprehension of environmental information to children.[352] Additionally, limited access to education, technology, and the internet in some regions hinder children's ability to obtain and digest climate and environmental information.[353] In fact, Africa is home to eight out of the ten global countries with the lowest youth literacy rates.[354] These difficulties are further exacerbated for children with disabilities, children from marginalized ethnic groups, and indigenous children.[355]

According to Elisa Morgera, the UN Special Rapporteur on the promotion and protection of human rights in the context of climate change, "the right to information . . . is a precondition for the protection and exercise of other human rights. . . . Access to information is also linked to the human right to science: it helps to guarantee the right to life, . . . health and public participation to the best science available. . . ."[356]

Thus, States must take steps to empower children in their own right to access information, principally by providing environmental and climate-related information to children in accessible fora and formats.[357]

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[352] Submission by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC): Working Group on Climate Change and Children in Africa To The United Nations Special Rapporteur on Climate Change and Human Rights, Call for Inputs: On Access to Information on Climate Change and Human Rights 5 (Feb. 11, 2025), https://www.acerwc.africa/en/article/activity/submission-acerwc-working-group-climate-change-and-children-africa-un-special.

[353] Id.

[354] Busisekile Khumalo, *Reading is Currently Unattainable to the Majority of the Children in South Africa*, R: Ed - Right for Education Africa (Nov. 18, 2025), https://rightforeducation.org/2025/11/18/reading-is-currently-unattainable-to-the-majority-of-the-children-in-south-africa/.

[355] Submission by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC): Working Group on Climate Change and Children in Africa To The United Nations Special Rapporteur on Climate Change and Human Rights, Call for Inputs: On Access to Information on Climate Change and Human Rights, 5 (Feb. 11, 2025), https://www.acerwc.africa/en/article/activity/submission-acerwc-working-group-climate-change-and-children-africa-un-special.

[356] Elisa Morgera, Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, ¶¶ 3–4, A/79/176 (2024).

[357] When asked to describe what a right to information for children and young people that does not involve the complete mediation of information by parents and other caretakers could look like, law professor Patricia Kameri-Mbote responded, "It is having information that children can understand—putting information in ways that children can get." She suggested that states and educational ministries develop curricula that includes information about climate and the environment that children can access and understand on their own. Interview with Patricia Kameri-Mbote, Professor of Law at University of Nairobi, in Nairobi, Kenya, on Jan. 9, 2026 (on file with Human Rights Institute at Georgetown Law). Julius Mbatia, the Global Climate Justice Manager at ACT Alliance elaborated, "If you're thinking about children, the only place you can get them beyond the family-level household is the education system." Thus, according to Mbatia, states must consider "how to organize the education system to support climate empowerment for children, what information will be helpful for children, how should policymakers organize that information into a curriculum, and what will be the *modus operandi* for a

C. States Must Take Steps to Fulfill Children's Right to Access Environmental and Climate-Related Information Amid the Climate Crisis

For all the foregoing reasons, Article 9(1) of the African Charter should be interpreted expansively to guarantee the right to access climate and environment-related information for children, and to, *inter alia*, require States parties to the Charter to:

- "Incorporate quality, trustworthy and evidence-based information on climate change and human rights into educational curricula at all levels, with additional measures to fulfil children's right of access to information, while preventing and responding to eco-anxiety:"[358]
- "[S]hare accurate, reliable and age-appropriate information and education that is accessible according to the different stages of children's development on: the causes of climate harm and its effects; adaptive responses; relevant legislation; policies and plans; [and]findings from impacts assessments;[359]
- "[I]ntegrat[e] climate change and human rights education into: school curricula co-developed with children, employing hope-based communication and focusing on resilience and child participation in climate action;"[360]
- Disseminate accurate environmental and climate-related information that informs children and their caretakers of the effects of climate change on their rights and how to adapt to and mitigate the effects of climate change;[361]
- Make environmental information accessible—in both format and medium—to children, taking into account barriers such as illiteracy, disability, language diversity, geographic distance, and limited access to communications technology;[362]
- Encourage the mass media to communicate accurate environmental and climate-related information which is accessible to children, including those from minority or indigenous communities;[363] and
- Improve research on climate change projections, evaluation of climate adaptation strategies, and the effect of climate change on vulnerable groups of African children.[364]

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system that responds and delivers for children?" Interview with Julius Mbatia, Climate Justice Manager at ACT Alliance, in Nairobi, Kenya, on Jan. 7, 2026 (on file with the Human Rights Institute at Georgetown Law).

[358] Morgera, *supra* note 356, at ¶ 6.

[359] Id. at ¶ 32

[360] Id. at ¶ 43.

[361] CRC General Comment No. 26, *supra* note 22, at ¶¶ 32, 34.

[362] Id. at 34.

[363] Id. at 34.

[364] Morgera, *supra* note 356, at ¶ 32.

The ACHPR and the ACERWC have already demonstrated a significant commitment to safeguarding the right to information within the context of climate change, especially with respect to children; however, we urge this Court to expand the scope of the right as provided for in the African Charter by drawing on guidance from international treaty monitoring bodies such as the UN Committee on the Rights of the Child and specifically detail AU States' numerous obligations to take measures to guarantee and promote this right for children.

XI. THE RIGHT TO POLITICAL PARTICIPATION AND THE RIGHT TO BE HEARD

"If we don't empower those who come after us, then it's almost like we are working towards the decimation of our communities."[365] *— Patricia Kameri-Mbote*

This Honourable Court should interpret Article 13(1) of the African Charter on the right to participate in government and Article 4(2) of the African Children's Charter on the best interests of the child expansively to guarantee children the right to participate in environmental and climate-related decision-making processes in local, national, regional, and international fora. Such an interpretation would lend support to guidance provided by the ACERWC and the Committee on the Rights of the Child, as well as align the protective provisions in both instruments with international human rights law. Such an interpretation is also necessitated by certain factual features of the African context, such as the large proportion of the population that is under the age of 30, cultural contexts of certain communities that privilege the views of elders over all others, and by the current financial and bureaucratic challenges faced by youth-led NGOs.

A. Children's Right to be Heard is Guaranteed under African and International Human Rights Law

Article 13(1) of the African Charter guarantees that "[e]very citizen shall have the right to participate freely in the government of his country."[366] This right is also enshrined in international human rights legal instruments, such as the ICCPR.[367] This Court has interpreted Article extensively in cases addressing electoral politics.[368] However, the Court has noted that

[365] Interview with Patricia Kameri-Mbote, Professor of Law at University of Nairobi, in Nairobi, Kenya, on Jan. 9, 2026 (on file with Human Rights Institute at Georgetown Law).
[366] African Charter on Human and Peoples' Rights, June 27, 1981, art. 13(1), 1520 U.N.T.S. 217.
[367] ICCPR, *supra* note 33, art. 25(a).
[368] *See* Actions Pour la Protection des Droits de l'Homme (APDH) v. Côte d'Ivoire (merits) (2016) 1 AfCLR 668; Tanganyika Law Society, Legal and Human Rights Centre and Reverend Christopher R. Mtikila v Tanzania (merits) (2013) 1 AfCLR 34; Suy Bi Gohore Emile & ors v Côte d'Ivoire (judgment) (2020) 4 AfCLR 406; XYZ

"the citizens' right to participate freely in the government of their countries is very broad," and "does not cover only direct and indirect participation in the government of their countries through elections."[369] Nevertheless, this Court has yet to define the scope of the right particularly as it relates to climate change.

Under international human rights law, particularly the CRC as interpreted by the Committee on the Rights of the Child, children's right to be heard within the climate context is read into into the provision guaranteeing that children be provided "the opportunity to be heard in any judicial and administrative proceedings affecting the[m], either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."[370] Such a provision is found in Article 12(2) of the CRC, as well as in Article 4(2) of the African Children's Charter.[371]

The Committee on the Rights of the Child has interpreted this right to be heard, within the context of the climate crisis to include state obligations to "proactively [seek] and give[] due weight" to children's views in the "design and implementation of measures aimed at addressing the significant and long-term environmental challenges that are fundamentally shaping their lives."[372] States must "ensure that age-appropriate, safe and accessible mechanisms are in place for children's views to be heard regularly and at all stages of environmental decision-making processes for legislation, policies, regulations, projects and activities that may affect them, at the local, national and international levels."[373] At the international level, "[s]tates, intergovernmental organizations and international non-governmental organizations should facilitate the involvement of children's associations and child-led organizations or groups in environmental decision-making processes" such as "negotiations and the implementation of instruments of international environmental law."[374] States should further guarantee that children "receive information about the outcomes of environment-related consultations and feedback on how their views were taken into account and have access to child-sensitive complaint procedures and remedies when their right to be heard in the environmental context is disregarded."[375] Lastly, the Committee recognizes that

v Benin (judgment) (2020) 4 AfCLR 49; Ajavon v Benin (judgment) (2020) 4 AfCLR 133; Request for Advisory Opinion by the Pan African Lawyers Union (PALU) (Advisory Opinion) (2021) 5 AfCLR 863.

[369] Request for Advisory Opinion by the Pan African Lawyers Union (PALU) (Advisory Opinion) (2021) 5 AfCLR 863.

[370] CRC, *supra* note 35, at art. 12(2).

[371] African Children's Charter, *supra* note 28, at art. 4(2).

[372] CRC Gen. Comment No. 26, *supra* note 22, at ¶ 26.

[373] Id. at ¶ 27.

[374] Id. at ¶ 28.

[375] Id. at ¶ 27.

"additional support and special strategies may be required to empower children in disadvantaged situations, such as children with disabilities, children belonging to minority groups and children living in vulnerable areas, to exercise their right to be heard."[376]

The Committee also explains that safeguarding children's right to be heard within the context of the climate crisis is necessary because children consider environmental issues, including climate change, to be "highly important" to their lives.[377] Outside of the immediate benefit to themselves, children's voices are also "a powerful global force for environmental protection" and "their views add relevant perspectives and experience with respect to decision-making on environmental matters at all levels."[378] Indeed, In its sixth Assessment report on Impacts, adaptation and vulnerability, the Intergovernmental Panel on Climate Change (IPCC) found, with high confidence, that inclusive governance processes are critical to "implementing, accelerating and sustaining adaptation in human systems and ecosystems."[379]

The ACERWC has also specifically interpreted the African Children's Charter Article 4(2) right to be heard within the context of climate change. In an ACERWC Study on Climate Change and Children's Rights in Africa, the ACERWC characterizes Article 4(2) as "limited" and encourages that the provision be read expansively, so as not to limit children's voices to being heard only in "judicial or administrative proceedings affecting the child."[380] In fact, the ACERWC advocates for an interpretation of children's right to participate in areas such as "the development and implementation of child-rights policies or national climate adaptation plans."[381] Like the Committee on the Rights of the Child, the ACERWC outlines that States should proactively seek children's views and give them due weight.[382]

Additionally, the ACERWC identified two central avenues through which state parties to the African Children's Charter can satisfy their positive obligation to facilitate children's participation in climate change issues: (1) provide platforms to CSOs and other child-centered human rights institutions who, in turn, uplift children's voices; and/or (2) create institutional mechanisms that facilitate children's direct representation in negotiations at bilateral and multilateral climate change conferences.[383]

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[376] Id. at ¶ 26.
[377] Id.
[378] Id.
[379] *Summary for policymakers*, Intergovernmental Panel on Climate Change (IPCC), (2022), https://www.ipcc.ch/report/ar6/wg2/chapter/summary-for-policymakers/.
[380] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 27.
[381] Id.
[382] Id.
[383] Id. at ¶ 28.

The ACERWC Working Group on Climate Change and Children's Rights also interprets children's right to participation, emphasizing the Committee on the Rights of the Child's instruction to States to proactively seek and give due consideration to children's views in the development of mechanisms to address climate and environmental challenges.[384] The ACERWC working group also reiterates the Committee on the Rights of the Child, finding that at the international level, States and international organizations must create avenues for children and child-led organizations to participate in the negotiation and implementation of international environmental law instruments.[385]

Similar to the right to information, the Latin American and Caribbean jurisdiction has taken extensive measures to protect individuals' right to participate in environmental and climate change governance; however, its discussions do not make reference to the privileges and unique circumstances of children and youth.[386] An advisory opinion referencing children's right to participate in environmental and climate-related decision-making and outlining States' associated obligations will be a significant step towards protecting and promoting children's safety and wellbeing amid the climate crisis and align African human rights law with the authoritative interpretations of international human rights treaty bodies.

B. The Factual Context of the African Continent Compels that the Right to Be Heard Be Interpreted Expansively for Children and Youth Amid the Climate Crisis

Many aspects of the African continent's factual context make the guarantee of children's right to participate in environmental and climate-related decision-making crucial. Primarily, Africa has a median age of nineteen, while seventy percent of Africans are under the age of thirty.[387] If the right to participation is not interpreted more expansively than the right of adults to vote and the right of children to be heard in judicial and administrative proceedings, a majority of the African population will be left without representation in the vital decision-making processes surrounding the climate crisis. Additionally, African children are

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[384] *Legal memorandum on the most crucial aspects of the rights and welfare of the child which shape the obligations of states in respect of climate change under international law*, African Committee of Experts on the Rights and Welfare of the Child ¶ 32 (Feb. 11, 2025), https://www.acerwc.africa/en/article/activity/legal-memorandum-most-crucial-aspects-rights-and-welfare-child-which-shape.
[385] Id. at ¶ 33.
[386] *See* Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean art. 7, Mar. 4, 2018, 3388 U.N.T.S.; *Climate Emergency and Human Rights*, Advisory Opinion AO-32/25, Inter-Am. Ct. H.R. ¶¶ 530-539 (May 29, 2025).
[387] Mvemba Phezo Dizolele, *Rethinking African Youth, Center for Strategic & International Studies* (Sept. 23, 2024), https://www.csis.org/analysis/rethinking-african-youth.

not generally perceived as autonomous; in some communities, decisions concerning children are made by male elders.[388]

Stakeholders from the Human Rights Institute's field investigation also spoke to some of the barriers young people face in achieving meaningful participation in environmental and climate-related decision-making processes. Jedidah Lemaron, the Founder and Executive Director of the Malkia Initiative and a Maasai community leader, recounted how her expertise and authority as a younger, woman leader continues to be questioned, even in meetings or events she has organized herself: "I would be in spaces and I would be treated as the child in the room, told to 'go get water.' You know, the things other than being treated as a normal leader. I have been in spaces where I am the one who's supporting the meeting, but someone else, because they're older, would be brought in…as the keynote speaker, yet I am there. It's my event…. But they are looking for someone else who's older—and maybe even a man."[389] Lemaron attributes this exclusion to the deep-rooted cultural value of respect for elders: "The elder word is gospel. You cannot voice out. Especially if you're a woman. It's worse."[390]

States cannot be confident that children and young people's perspectives or best interests are always being represented by their caregivers or community leaders. As such, States must keep such cultural contexts in mind while creating opportunities for young people, especially vulnerable or marginalized youth, to participate in environmental and climate-related decision-making.

The ACERWC Study on Climate Change and Children's Rights in Africa illustrated an example of children's perspectives not receiving due consideration during climate change policymaking processes: though the Africa Climate Summit in 2023 involved the participation of children, the resulting document—The African Leaders Nairobi Declaration on Climate Change and Call to Action—did not reflect the children's participation.[391] Though children participated in this regional climate summit, scholars highlight that, in addition to political barriers, "factors such as…the highly technical procedures enabling participation at COP meetings and the high costs of attending the meetings," resulted in children's formal

[388] Mildred Bekink, *The Fundamental Right of Children to Participate in Climate Change Decision-Making Processes: A South African Perspective*, 27 Potchefstroom Electronic L. J. 1, 6 (Nov. 22, 2024), https://doi.org/10.17159/1727-3781/2024/v27i0a18350.
[389] Interview with Jedidah Lemaron, Executive Director at Malkia Initiative, in Nairobi, Kenya, on Jan. 9, 2026 (interview on file with the Human Rights Institute at Georgetown Law).
[390] Id.
[391] African Committee of Experts on the Rights and Welfare of the Child, *supra* note 43, at 28.

participation at climate change events being "limited and challenging."[392] This is further exacerbated for children from the Global South.[393]

The Centre for Child Law at the University of Pretoria in South Africa has expressed concern that "states tend to ignore their obligation to facilitate child participation in climate change decision-making processes, relying rather on civil organisations to fulfil this obligation on their behalf."[394] While collaboration with civil society organizations is essential to guaranteeing children's rights, "such donor-funded initiatives do not have the benefit of long-term security," and as such, the Centre for Child Law recommended that "states should be obliged to facilitate the direct involvement of children in climate-related decision-making processes."[395]

C. States have Obligations to Guarantee Children's Right to Be Heard Amid the Climate Crisis

Thus, Article 13(1) of the African Charter and Article 4(2) of the African Children's Charter should be read in conjunction and expansively to include state obligations to:

- Proactively seek and consider children's views in the design and implementation of environmental and climate-adaptation measures;[396]
- Guarantee age-appropriate, safe and accessible mechanisms for children's participation at all stages of environmental decision-making processes that affect them, including at local, national, regional, and international levels;[397]
- Guarantee that children are informed of the results of environmental decision-making processes and receive feedback regarding how their views were incorporated into such decisions;[398]

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[392] Mildred Bekink, *The Fundamental Right of Children to Participate in Climate Change Decision-Making Processes: A South African Perspective*, 27 Potchefstroom Electronic L. J. 1, 5 (Nov. 22, 2024), https://doi.org/10.17159/1727-3781/2024/v27i0a18350.

[393] Id.

[394] Karabo Ozah, Lebohang Dube & Amy Tuchten, *Comments on Draft General Comment No. 26, Children's Rights and the Environment with a Special Focus on Climate Change*, Centre for Child Law 8 (2023), https://centreforchildlaw.co.za/wordpress21/wp-content/uploads/2023/04/Submission-on-CRC-Draft-General-Comment-No.26_2023.pdf.

[395] Id. at 11. There are barriers to ensuring students are involved in climate-related decision processes. For example, A report examining youth climate action occurring in three North African countries—Egypt, Morocco, and Tunisia—affirmed that access to consistent funding was an issue for many youth-led NGOs. These organizations also faced challenges from domestic laws aimed at imposing governmental restrictions on NGOs. *See* Sarah Yerkes & Saad Uakkas, *Youth and Climate Change in the Middle East and North Africa*, Carnegie Endowment for International Peace (Feb. 13, 2025), https://carnegieendowment.org/research/2025/02/youth-and-climate-change-in-the-middle-east-and-north-africa?lang=en.

[396] CRC General Comment No. 26, *supra* note 22, at ¶ 26.

[397] Id. at ¶ 27.

[398] Id.

- Take additional measures and employ tailored strategies to empower disadvantaged children, such as children from minority groups, children with disabilities, and children living in environmentally vulnerable regions;[399] and
- When measures for children's direct participation are not provided, provide platforms to CSOs and other child-centered human rights institutions who, in turn, uplift children's voices.[400]

XII. FREEDOM OF EXPRESSION, ASSOCIATION, AND ASSEMBLY

Both international and African human rights law provide for children's freedom of expression, association, and assembly. States must take measures to guarantee these rights amid the climate crisis. Such action is necessary, especially when considered within the African continent's unique vulnerability to climate change and the important role that youth human rights and environmental defenders play in attempting to combat the climate crisis.

A. Children and Young People Have the Rights to Free Expression, Association, and Assembly Under African and International Human Rights Law

The African Charter guarantees individuals the rights of free association, assembly, and expression. Article 9(2) of the African Charter states that "[e]very individual shall have the right to express and disseminate his opinions within the law."[401]Article 10 specifies "every individual shall have the right to free association provided that [they] abide[] by the law,"[402] and Article 11 guarantees the right to "assemble freely with others."[403] The African Children's Charter also protects children's right to expression and association. Specifically, Article 7 provides "[e]very child who is capable of communicating his or her own views shall be assured the right to express his opinions freely,"[404] while Article 8 guarantees every child the right to "free association and freedom of peaceful assembly."[405]

The rights of expression, association, and assembly have been enshrined in international human rights instruments, such as the ICCPR.[406] International human rights law

[399] Id. at ¶ 26.
[400] *See* id.
[401] African Charter, *supra* note 30, at art. 9(2).
[402] Id. at art. 10(1).
[403] Id. at art. 11.
[404] African Children's Charter, *supra* note 28, at art. 7.
[405] Id. at art. 8.
[406] ICCPR, *supra* note 33, at art. 19(2), 21, 22(1).

also recognizes the rights of expression, association, and assembly for children in the CRC.[407] Both the ICCPR and CRC state that the only restrictions that may be imposed on individuals' rights of expression, association, and assembly are those that are "provided by law," "necessary," or are "for the protection of national security or public order or of public health or morals."[408]

Children's rights of expression, association, and assembly have been interpreted by the Committee on the Rights of the Child within the context of the climate crisis.[409] The Committee provides that "States shall respect and protect children's rights to freedom of expression, association and peaceful assembly in relation to the environment, including by providing a safe and enabling environment and a legal institutional framework within which children can effectively exercise their rights."[410] In addition, "States are required to protect [children human rights and environmental defenders'] rights, including by providing a safe and empowering context for initiatives organized by children to defend human rights in schools and other settings."[411] Relevant stakeholders such as States, state law enforcement, and teachers "should receive training on children's civil and political rights, including measures to ensure that children can enjoy them safely."[412] Any such laws or measures implemented to protect children's rights of expression, association, and assembly must meet international human rights standards, and effective remedies must be provided for violations.[413] Last, "States should foster, recognize, and support the positive contribution of children to environmental sustainability and climate justice, as an important means of civil and political engagement through which children can negotiate and advocate for the realization of their rights, including their right to a healthy environment, and hold States accountable."[414]

The Committee on the Rights of the Child explains that interpreting States' obligations to guarantee young people's rights to expression, association, and assembly expansively and robustly is crucial because "[c]hildren across the world are taking action, individually and collectively, to protect the environment, including by highlighting the consequences of climate

[407] CRC, *supra* note 35, at art. 13(1), 15. (providing "the child shall have the right to freedom of expression; this right shall include freedom to…impart information and ideas of all kinds" and "State Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.").
[408] ICCPR, *supra* note 33, at art. 19(3), 21, 22(2); CRC, *supra* note 35, at art. 13(2), 15(2).
[409] CRC Gen. Comment No. 26, *supra* note 22, at ¶¶ 29-31.
[410] Id. at ¶ 29.
[411] Id. at ¶ 30.
[412] Id.
[413] Id.
[414] Id. at ¶ 31.

change,"[415] but young human rights and environmental defenders "often face threats, intimidation, harassment and other serious reprisals."[416]

The African Commission on Human and Peoples' Rights and this Court have robustly interpreted the African Charter rights of expression, association, and assembly in the context of political speech and action,[417] and for individuals and organizations who speak out and demonstrate in defense of human rights.[418] Nevertheless, apart from brief reference in the Guidelines on Freedom of Association and Assembly in Africa and a 2014 Report of the Study Group on Freedom of Association & Assembly in Africa,[419] freedom of expression, association, and assembly have yet to be comprehensively interpreted by the Commission and this Court in the context of children's and youth's rights and have not been interpreted at all in the context of the climate crisis. Similarly, the ACERWC has only briefly discussed children's right to free expression amid climate change.[420] This court can make strides in promoting

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[415] Id. at ¶ 29.
[416] Id. at ¶ 30.
[417] *See e.g.*, Communication 323/06, Egyptian Initiative for Personal Rights and INTERIGHTS v. Egypt, 12 October 2013, para. 246 (specifying that freedom of expression is so "essential to an individual['s] personal development, political consciousness and participation in the public affairs of a country."); Communication 313/05, Kenneth Good v. Botswana, 26 May 2010, ¶ 198 (finding that "[a] higher degree of tolerance is expected when it is political speech and an even higher threshold is required when it is directed towards the government and government officials.").
[418] *See e.g.,* Communication 228/99, Law Offices of Ghazi Suleiman v. Sudan, 29 May 2003, ¶¶ 52, 56 (finding that preventing and later arresting Mr. Ghazi Suleiman for gathering with others to discuss human rights and publicly criticizing the Sudanese government's human rights record violated his Article 9, Article 10, and Article 11 rights to expression, association, and assembly, respectively); Press release on the upcoming verdict in the trial against Ms Sana Seif, Ms YaraSallam, together with twenty-one other individuals, ACHPR, 24 October 2014, https://achpr.au.int/en/news/press-releases/2014-10-24/press-release-upcoming-verdict-trial-against-ms-sana-seif-ms-ya (drawing attention to the restrictions, harassment and arbitrary detention of human rights defenders and others participating in peaceful protests and demonstrations and calling on states to protect the rights to expression, association, and assembly as well as to end the judicial harassment of defenders); Resolution on the extension of the deadline for the study on freedom of association in Africa, ACHPR/Res.229, (Oct. 22, 2012).
[419] Guidelines on Freedom of Association and Assembly in Africa, 22 May 2017, ¶ 9 n.6, 28, https://achpr.au.int/en/special-mechanisms-reports/guidelines-freedom-association-and-assembly-africa (stating "Every person has the right to establish an association together with another," "[i]ncluding inter alia children and non-nationals," and "[t]he right to freedom of association protects, *inter alia*, expression; criticism of state action; advancement of the rights of discriminated-against, marginalized and socially vulnerable communities, including the rights of women and children."); Report of the Study Group on Freedom of Association & Assembly in Africa, 'Freedom of Association, as Pertaining to Civil Society, and Freedom of Assembly in Africa: A Consideration of Selected Cases and Recommendations', African Union Commission on Human & Peoples' Rights 1, 31 (Apr. 7, 2014) (specifying that the right to form associations must be open to children, in addition to "non-nationals in de facto residence").
[420] *Legal memorandum on the most crucial aspects of the rights and welfare of the child which shape the obligations of states in respect of climate change under international law*, African Committee of Experts on the Rights and Welfare of the Child: Working Group on Climate Change and Children's Rights ¶ 31 (Feb. 11, 2025) https://www.acerwc.africa/sites/default/files/2025-02/ACERWC%20WG%20Climate%20change_%20AO%20Legal%20Memo.pdf (stating that "State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child.") (quoting CRC, *supra* note 22, at art. 12).

children people's rights to free expression, association, and assembly amid the climate crisis by recognizing such rights in Advisory Opinion 001/2025 and outlining States' obligations to guarantee them.

B. The Factual Context of the African Continent Compels that the Rights of Expression, Association, and Assembly be Guaranteed for Children and Youth Amid the Climate Crisis

Enumerating States' obligations to guarantee rights to expression, association, and assembly in the context of the climate crisis is essential, especially considering the context of reprisals and retaliation against environmental and human rights defenders on the African continent.[421]

For example, eight youth climate activists were arrested, detained, and questioned for upwards of eight hours for participating in a global climate strike in Kampala, Uganda on September 25, 2020.[422] Six of the eight individuals arrested were minors.[423] In Nigeria, youth activists that participated in the organization of the October 2020 #EndSARS protests were forced to leave the country by the Nigerian government.[424] Additionally, Nisreen Elsaim, a Sudanese youth climate activist, has faced travel bans and threats against herself and her family as a result of her climate activism.[425]

Children whose freedom of expression, association, and assembly are respected and promoted amid the climate crisis are capable of remarkable things. For example, nine-year-old Romario Valentine from Durban, South Africa, raised over R15,000 to protect endangered African bird species located in the Umgeni River Bird Park.[426] By the time he was ten, Valentine had hosted upwards of 160 beach cleanups.[427] At eleven years old, Yola Mgogwana "helped to lead a protest for the environment that led to South Africa's parliament buildings

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[421] *See Submission on the Challenges and Threats Facing Climate Defenders: To the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, Human Rights Watch (June 1, 2021), https://www.hrw.org/news/2021/06/01/submission-challenges-and-threats-facing-climate-defenders.
[422] Id.
[423] Id.
[424] *Oral statements delivered by AfricanDefenders and DefendDefenders at the 68th session of the African Commission on Human and Peoples' Rights*, African Defenders: Pan-African Human Rights Defenders Network (Apr. 21, 2021), https://africandefenders.org/achpr68/.
[425] Isabella Roberts, *Rising Voices: The African Youth's Fight for a Sustainable Future*, African Pol'y Rsch. Institute (Dec. 1, 2023), https://afripoli.org/rising-voices-the-african-youths-fight-for-a-sustainable-future.
[426] Khanyi Mlaba, *5 Incredible Youth South Africans Who Are Taking Climate Change into Their Own Hands*, Global Citizen (Jul. 1, 2021), https://www.globalcitizen.org/en/content/amazing-young-south-africans-fight-climate-change/#:~:text=Young%20Yola%20Mgogwana's%20activism%20started,clean%20up%20beaches%20and%20communities.
[427] Id.

and challenged President Ramaphosa to step up in the fight against climate change."[428] Subsequently, Mgogwana "kick-started a petition to enforce a plastic bag ban in Uganda."[429] Leah Namugerwa spent her fifteenth birthday planting over 200 trees in Uganda, which led to her founding Leah Initiative: Birthday Trees Project.[430] These examples illustrate that guaranteeing children's civic rights amid the climate crisis can achieve more than merely promoting individual benefit; they can serve as a catalyst for meaningful change.

C. States Must Take Steps to Guarantee Children's Freedom of Expression, Association, and Assembly Amid the Climate Crisis

For all the foregoing reasons, Articles 9, 10, and 11 of the African Charter should be interpreted expansively to obligate States to, *inter alia*:

- Recognize and foster the important contribution children and young people contribute to climate justice;[431]
- Provide children and youth with a safe and enabling environment and legal and institutional framework, meeting international human rights standards, that promotes the exercise of their expression, association, and assembly rights;[432]
- Provide opportunities for children and young people to organize initiatives to advocate for climate and human rights in school and other settings;[433]
- Train law enforcement, teachers, and other relevant state and non-state actors on children's civil and political rights, and how to ensure that they can exercise them safely;[434] and
- Provide effective remedies for violations of the rights to free expression, association, and assembly.[435]

The Committee on the Rights of the Child has already expansively interpreted children and young people's rights of expression, association, and assembly amid the climate crisis;

[428] Id.
[429] Id.
[430] *See 12 climate activists inspiring us to fight for climate change*, International Rescue Committee (Nov. 21, 2024), https://www.rescue.org/article/12-climate-activists-inspiring-us-fight-climate-change; *About Us*, Leah's Initiative, https://leahinitiative.org/about-us/ (last visited Mar. 27, 2026).
[431] CRC General Comment No. 26, *supra* note 22, at ¶ 31.
[432] Id. at ¶ 30.
[433] Id.
[434] Id.
[435] Id.

thus, we urge the Court to bring the interpretation of Articles 9, 10, and 11 of the African Charter and Articles 7 and 8 of the African Children's Charter in line with international law.

XIII. THE RIGHTS OF FUTURE GENERATIONS

"We, who are on the planet at this moment, are really custodians of this planet. If we don't act in our role as custodians, then the next generation will be coming into a world that will be very difficult for them to adapt. There are things we need to think about for the future; and we must hold our leadership responsible." [436] *— Judith Omumbo, PhD*

The principle of intergenerational equity, which is partly grounded in the customary laws and practices of African communities,[437] reflects the notion that "[we] hold the natural environment of our planet in common with other species [and] other people," including past, present, and future generations.[438] As the brief makes clear, climate impacts are escalating,[439] with Africa's children and future generations bearing a disproportionate brunt of climate change.[440] Thus, while the climate crisis is "a multi-generational problem,"[441] the future generation will bear the most severe consequences of a climate crisis they did not create.[442] Here, the principle of intergenerational equity, reflected in African thought,[443] requires the

[436] Interview with Dr. Judith Omumbo, Epidemiologist and Head of Partnerships and Resource Mobilization, Science for Africa Foundation, in Nairobi, Kenya, on Jan. 6, 2026 (on file with the Human Rights Institute at Georgetown Law).
[437] *See* Daniel Yam Oppong & William Boateng, *Intergenerational Versus Intragenerational Equities and the Development of Resource-Rich But Poor Countries: The Case of Ghana*, 28 J. Law Pol'y Glob. 155, 158 (2014). *See also* Edith Brown Weiss, *In Fairness To Future Generations and Sustainable Development*, 8 Am. U. J. Int'l L. & Pol'y 19, 20 (1992).
[438] Edith Brown Weiss, *supra* note 47, at 19-20.
[439] Climate Promise, *The climate crisis is a health crisis – here's why*, United Nations Developmnt Programme (Aug. 30, 2024), https://climatepromise.undp.org/news-and-stories/climate-crisis-health-crisis-heres-why.
[440] *See* 'III. Climate Impacts by Sub-region and on Children.' For the purposes of the brief, the term future generations follows the definition laid out in Principle 1 of Maastricht Principle on the Human Rights of Future generations: "future generations are those generations that do not yet exist but will exist and who will inherit the Earth. Future generations include persons, groups and peoples."
[441] Dan Farber, *Climate Perspectives Across the Generations*, 60 Nat. Res. J. 293, 293 (2020).
[442] Committee on the Elimination of Discrimination against Women, General Recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change, ¶ 1, CEDAW/C/GC/37 (Mar. 13, 2018). *See also* Written Statement of the African Union, Obligations of States in respect of Climate Change, Advisory Opinion, 2025 I.C.J. 1, ¶ 8 (Mar. 22, 2024).
[443] Kwasi Wiredu, *Philosophy, Humankind and the Environment*, *in* Philosophy, Humanity and Ecology: Philosophy of Nature and Env't Ethics, 30, 46 (H. Odera Oruka, ed. 1994) (noting that "[o]f all the duties owed to the ancestors none is more imperious than that of husbanding the resources of the land so as to leave it in good shape for posterity."). *See also* Kevin Gary Behrens, *Moral obligations towards future generations in African thought*, 8 J. Glob. Ethics, 179, 181 (2012). *See also* African Committee of Experts on the Rights and Welfare of the Child, General Comment No. 2 (2017) on Article 31 of the African Charter on the Rights and Welfare of the Child on "The Responsibilities of the Child," ¶ 71 (noting that "[solidarity amongst generations] is a notion founded on the understanding that every individual is an extension of others and is a central theme in African philosophy.").

present generation to take measures to protect and preserve the environment for the benefit of future generations.[444]

With an increased "aware[ness] of important challenges to our stewardship of the global heritage,"[445] and demographic projections suggesting that the future generation will, to a significant extent, consist of Africans,[446] we respectfully urge this Court to adopt a forward-thinking approach when examining state obligations regarding climate change and human rights, so as to ensure due consideration of the interests of Africa's future generations. We also encourage the recognition of the legal standing of children and youth as a means of safeguarding the rights of future generations.

A. Intergenerational Equity is a Legally Recognized Principle that Empowers this Court to Clarify States' Obligations Toward Future Generations of Africans

The principle of intergenerational equity is deeply embedded in the African legal tradition, as reflected in African legal instruments recognizing the need to protect the climate system for the benefit of future generations.[447] African human rights legal authorities have also underscored that responses to climate change must "tak[e] full account of the human and peoples' rights considerations of present *and future generations*."[448] Similarly, at the domestic level, many AU members recognize that the environment must be protected for the benefit of future generations, having enshrined the principle constitutionally.[449] Within some States, the

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[444] Edith Brown Weiss, *The Planetary Trust: Conservation and Intergenerational Equity*, 11 Ecology L. Q. 495, 507 (1984).
[445] Id. at 496.
[446] *See* Saurabh Sinha & Melat Getachew, *As Africa's Population Crosses 1.5 Billion*, *The Demographic Window Is Opening; Getting The Dividend Requires More Time and Stronger Effort*, UN ECA Q. Bulletin (July 12, 2024), https://www.uneca.org/stories/%28blog%29-as-africa%E2%80%99s-population-crosses-1.5-billion%2C-the-demographic-window-is-opening-getting. *See also Human Development*, African Dev. Bank Group, https://www.afdb.org/en/knowledge/publications/tracking-africa%E2%80%99s-progress-in-figures/human-development (last visited Mar. 17, 2024).
[447] *See* Revised African Convention on the Conservation of Nature and Natural Resources, art. IV, July 11, 2003, O.A.U. Doc. CAB/LEG/24.1. *See also* African Youth Charter, art. XIX; Nairobi Declaration on the African Process for Combating Climate Change, https://allafrica.com/download/resource/main/main/idatcs/00011975:7fea6da7d6826946f975c392f881c116.pdf (last visited Mar. 24, 2026).
[448] *See* ACHPR, Res. 417 (LXIV) on the Human Rights Impacts of Extreme Weather in Eastern and Southern Africa Due to Climate Change (May 19, 2019) (emphasis added). See also ACHPR, Res. 342 (LVIII) on Human Rights and Climate Change in Africa (April 20, 2016). The ACERWC has also emphasized the need to interpret children's rights through an inter-temporal lens. *See* ACERWC, General Comment No. 5 (2018) on State Party Obligations under the African Charter on the Rights and Welfare of the Child (Article 1) and Systems Strengthening for Child Protection, 11-12 ACERWC/GC/5 (2018).
[449] Whether expressly or implicitly. *See Constitution of the Republic of South Africa*, Dec. 4, 1996, s. 24(b); *Constitution of the Republic of Zimbabwe*, May 22, 2013 (as amended up to Jun. 2023), art. 73; *Constitution of the Republic of Burundi*, Jun. 7, 2018, art. 35; *Constitution of the State of Eritrea*, 1997, art. 8(3); *Constitution of the Republic of Kenya*, 2010, art. 42(a); *Constitution of Madagascar*, 2010, preamble; *Constitution of the Republic of Seychelles* (1993) (rev. 2017), preamble; *Constitution of the Republic of South Sudan*, 2011 (rev.

protection of future generations from environmental harm has also been raised before domestic courts,[450] including how future generations' interests must be considered in climate-related government decision-making.[451]

Comparatively, on an international level, numerous instruments of international environmental law refer to future generations, and our responsibilities owed towards them.[452] International human rights treaty bodies have also underscored the protection of the climate system for the benefit of future generations,[453] as has the Human Rights Council.[454] Notably, the ICJ has stated that "the interests of future generations […] are equitable considerations that need to be taken into account where States contemplate, decide on and implement policies and measures in fulfilment of their obligations under the relevant treaties and customary international law."[455] The IACtHR has taken an expansive approach with regard to the

2013), preamble & art. 41; *Constitution of the Republic of Sudan* (2019), s. 14; *Constitution of the Republic of Uganda* (1995) (rev. 2017), s. XXVII; *Constitution of the People's Democratic Republic of Algeria* (2020), preamble; *Constitution of the Arab Republic of Egypt* (2014), art. 32; *Constitution of the Kingdom of Morocco* (2011), art. 35; *Constitution of the Republic of Tunisia* (2014), preamble; *Constitution of the Republic of Angola* (2010), art. 39(2); *Constitution of Eswatini* (2005), s. 210(2), 216(1); *Constitution of the Kingdom of Lesotho* (1993) (rev. 2018), art. 36; *Constitution of the Republic of Malawi* (1994) (rev. 2017), art. 13; *Constitution of the Republic of Mozambique* (2018), art. 117(2); *Constitution of the Republic of Namibia* (1990) (rev. 2014), art. 95; *Constitution of the Republic of Côte d'Ivoire* (2016), preamble; *Constitution of the Republic of Niger* (2010), preamble. *See also* Baadi v. Att'y Gen., Decision 22/12 (High Ct. 2012) (Kenya), para. 272-274.

[450] *See* EarthLife Africa Johannesburg v. Minister of Env't Affairs and Others, 21559/2018, 33 (High Ct., Gauteng Div., Pretoria 2020) (S. Africa). *See also* Trustees for the Time Being of Groundwork Trust & Another v. Minister of Env't Affairs and Others, 39724/2019, 21 (High Ct., Gauteng Div., Pretoria 2022) (S. Africa) (*citing* Company Secretary, ArcelorMittal South Africa Lt'd and Another v. Vaal Env't Justice Alliance, 69/2014, 4 (Supreme Court of Appeal) (South Africa); EPZA & 10 Others v. NEMA & 3 Others, KESC 75, 4 (Supreme Ct. 2024) (Kenya); Waweru v. Republic, KEHC 3202, ¶ 57 (High Ct. 2006) (Kenya).

[451] Trustees for the Time Being of Groundwork Trust & Another v. Minister of Env't Affairs and Others, 39724/2019, 21 (High Ct., Gauteng Div., Pretoria 2022) (S. Africa).

[452] UN Framework Convention on Climate Change, art. 3(1), May 9, 1992, S., Treaty Doc No. 102-38, 1771 U.N.T.S. 107. *See also* Paris Agreement to the United Nations Framework Convention on Climate Change, pmbl., Dec. 12, 2015, T.I.A.S. No. 16-1104. For non-binding environmental instruments, *see* Declaration of the United Nations Conference on the Human Environment, June 16, 1972, A/CONF.48/14/Rev.1. *See also* Rio Declaration on Environment and Development, June 13, 1992, 31 I.L.M. 874.

[453] *See* CRC General Comment No. 26, *supra* note 22, at ¶ 11; Comm. on. the Rts. of the Child, General Comment No. 19 (2016) on Public Budgeting for the Realization of Children's Rights (art. 4), ¶ 62, U.N. Doc. CRC/C/GC/19 (Jul. 20, 2016). On how human rights do not limit themselves to present generations, *see* Comm. on Civil and Political Rts, General Comment No. 36 (2019) on Article 6: Right to Life, ¶ 62, U.N. Doc. CCPR/C/GC/36 (Sep. 3, 2019); Comm. on Econ., Social, and Cultural Rts., General Comment No. 25 (2020) on science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights), ¶ 56, U.N. Doc. E/C.12/GC/25 (Apr. 30, 2020); Comm. on Econ, Social and Cultural Rts., General Comment No. 21 (2009) on the Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights), ¶ 50, U.N. Doc. E/C.12/GC/21 (Dec. 21, 2009).

[454] *See* Human rights and climate change, Mar. 28, 2008, HRC Res/ 7/23; Human rights and climate change, Mar. 25, 2009, HRC Res. 10/4; Human rights and climate change, Sept. 30, 2011, HRC Res. 18/22.

[455] *See* Legality of the Threat or use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, ¶ 29 (July 8, 1996).

autonomous right to a healthy environment, having explicitly recognized its protection of future generations.[456]

In light of this legal framework, this Honourable Court is empowered to adopt a forward-looking approach in clarifying States' obligations in the context of climate change, ensuring due consideration for future generations, particularly in interpreting the right to a satisfactory environment enshrined in Article 24 of the African Charter and the corresponding obligations of AU Member States contained therein.[457]

B. The Principle of Sustainability Should Guide the Court in Clarifying how African States Must Balance the Needs of Current Populations with the Rights of Future Generations

In light of the recognition of the rights of future generations within the aforementioned legal landscape, we respectfully urge this Honourable Court to interpret "a general satisfactory environment favourable to their development" in line with the principle of sustainability.[458] "I look out the window now, and I wonder, what kind of environment will we be bequeathing to those who come after us?" asked law professor Patricia Kameri-Mbote, adding, "The Court needs to now look at the safeguards and mitigation."[459]

As the African Commission has explained, sustainability "entails that the environment should be used in a sustainable manner, which fulfills the needs of the present generation, without compromising the ability of future generations to meet their own needs."[460] As climate risks are inherited and compounded over time,[461] the sustainable use of the environment and its resources ensures the fair distribution of climate mitigation burdens across generations,

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[456] *See* Climate Emergency and Human Rights, Advisory Opinion AO-32/25, Inter-Am. Ct. H.R., ¶ 272 (May 29, 2025). *See also* The Environment and Human Rights, Advisory Opinion OC-23/17, 2017 Inter-Am. Ct. Of H. R., ¶ 59 (Nov. 15, 2017); Special Rapporteur on the human right to a clean, healthy and sustainable environment, Overview of the implementation of the human right to a clean, healthy and sustainable environment, U.N. Doc. A/79/270 (Aug. 2, 2024).

[457] The AU has already emphasized that the implementation of the right to a satisfactory environment articulated in art. 24 of the African Charter requires due consideration of future generations. *See* Written Statement of the African Union Obligations of States in respect of Climate Change, Advisory Opinion, 2025. I.C.J. 1, ¶ 122 (Aug. 15, 2024).

[458] African Charter, *supra* note 30, at art. 24.

[459] Interview with Patricia Kameri-Mbote, Professor of Law at University of Nairobi, in Nairobi, Kenya, on Jan. 9, 2026 (on file with Human Rights Institute at Georgetown Law)

[460] *State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment*, African Comm. On Human and Peoples' Rights, ¶ 28 (May 22, 2017).

[461] *See* Written Statement of the African Union Obligations of States in respect of Climate Change, Advisory Opinion, 2025 I.C.J. ¶ 7 (Mar. 22, 2024) (*citing IPCC,* '2023: Sections' in Core Writing Team, H. Lee and J. Romero (eds.), *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the IPCC 2023, pp.* 57, 62).

without shifting them fully onto future generations.[462] The need to balance Africa's current development with the right of future generations to enjoy a satisfactory environment has already been underscored by some AU Member States.[463] This Court's advisory opinion could thus clarify how States are to effectively balance meeting their own needs while safeguarding the ability of future generations to meet theirs.[464]

C. The Legal Standing of African Children to Uphold the Rights of Future Generations

Lastly, to ensure that the interests of future generations are adequately represented in a legal forum, we respectfully encourage this Honourable Court to recognize the standing of children to assert the right to a healthy environment, both for themselves and future generations, as has been done in other jurisdictions.[465]

Given children's limited ability to influence political processes, [466] the rise of youth-led climate litigation worldwide had enabled them to utilize courts as a means of safeguarding their interests.[467] Yet, as the ACERWC observes, "significant barriers [for children to] access[] courts on climate issues" persist,[468] one of which is the issue of standing.[469] In light of the considerable difficulty in establishing a sufficient causal link between the acts that perpetuate the climate crisis and the harms suffered by children, much less unnamed future generations,[470] more relaxed standing requirements for environmental claims would enable African courts to

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[462] Id. at 1, ¶ 116.
[463] Written Statement of the Democratic Republic of the Congo, Advisory Opinion, 2025 I.C.J., ¶¶ 161-62 (Mar. 4, 2024); Written Statement of South Africa, Advisory Opinion, 2025 I.C.J., ¶ 50 (Mar. 22, 2024); Written Statement of Kenya, Advisory Opinion, 2025 I.C.J., ¶ 5.26 (Mar. 22, 2024); Written Statement of Burkina Faso, Advisory Opinion, 2025 I.C.J., ¶ 80-81 (Apr. 2, 2024).
[464] As was done by the African Commission with regard to the Right to Water in Africa. *See Guidelines on the Right to Water*, African Comm. On Human and Peoples' Rights, ¶ 29 (July 30, 2019).
[465] *See* Oposa v. Factoran, G.R. No. 101083 (Supreme Court) (Philippines). *See also To Save the Philippines' Forests, He Sued for Future Generations*, The Asia Foundation (Jul. 26, 2023), https://asiafoundation.org/to-save-the-philippines-forests-he-sued-for-future-generations/ (on the Oposa Doctrine which "grants current generations legal standing to bring actions on behalf of future with respect to environmental rights").
[466] Observations of the ACERWC, *supra* note 104, at ¶ 21 (noting that children cannot vote and have minimal participation in government decision-making).
[467] *See* Megan Bowman, et al., *Accelerating Climate Justice: Key Lessons from Roundtables with Experts in Youth-Focused Litigation*, British Institute of International and Comparative Law Insights (May 22, 2025), https://www.biicl.org/blog/111/accelerating-climate-justice-key-lessons-from-roundtables-with-experts-in-youth-focused-litigation.
[468] Observations of the ACERWC, *supra* note 104, at ¶ 61. *See also* Liesl Heila Muller, *Children at the lekgotla: African child-led litigation for remedies in the climate crisis*, 2 AJCLJ 59, 61 (2025).
[469] Aoife Daly & Liesl Muller, *Child/Youth Climate Litigation: Tracking Children's Rights and Children's Impact*, 82 Wash. & Lee L. Rev. 1049, 1063 (2025). See also *See also* Liesl Heila Muller, *Children at the lekgotla: African child-led litigation for remedies in the climate crisis*, 2 AJCLJ 59, 70 (2025).
[470] Larissa Parket, et al., *When the kids put climate change on trial: youth-focused rights-based climate litigation around the world*, 13 JHRE 64, 86 (2022).

hear and address these grievances,[471] rather than "shield[ing] the behavior of governments in an important area of public policy from judicial scrutiny."[472] Indeed, when youth-focused climate cases are dismissed on admissibility grounds, accountability for the climate crisis is effectively postponed, leaving children and youth to continue experiencing imminent and compounding climate harms.[473]

As the IACtHR noted in its advisory opinion, "States have the obligation to […] identify and eliminate legislative or operational barriers that prevent children from filing complaints or initiating proceedings before public authorities by themselves [and] adopt the necessary measures to guarantee that children can have resource to effective judicial remedies for the protection of their human rights," among other measures,[474] that this Court can affirm and advance within an African context.

With the African Youth Charter recognizing the African youth's "vested interest […] in protecting the natural environment,"[475] and the constitutions of select AU Member States empowering individuals to promote the protection of the environment for present and future generations,[476] children's climate litigation can serve as an avenue to seek remedies for the climate crisis, which already disproportionately affects them and their future.[477]

Notably, in the case of *Oposa v. Factoran*, the Supreme Court of the Philippines noted that "the minors' assertion of their right to a sound environment constitutes, at the same time, the performance of their obligation to ensure the protection of that right for the generations to come."[478] Such a recognition would undoubtedly be beneficial for the protection of the interests of Africa's future generations and could further reinforce the emerging recognition in the continent's jurisprudence that "children have standing to bring a case before the court even if

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[471] Liesl Heila Muller, *Children at the lekgotla: African child-led litigation for remedies in the climate crisis*, 2 AJCLJ 59, 79 (2025).
[472] Id. at 86-87.
[473] Larissa Parket, et al., *When the kids put climate change on trial: youth-focused rights-based climate litigation around the world*, 13 JHRE 64, 86 (2022).
[474] Inter-Am. Ct. H.R. Advisory Opinion, *supra* note 38, at ¶ 604.
[475] African Youth Charter, *supra* note 32, at art. 19.
[476] *See Constitution of Eswatini*, Jul. 26, 2005, s. 216(1); *Constitution of the Republic of Guinea*, May 7, 2010, art. 16; *Constitution of the Republic of Niger*, Nov. 25, 2010, art. 35.
[477] Liesl Heila Muller, *Children at the lekgotla: African child-led litigation for remedies in the climate crisis*, 2 AJCLJ 59, 59 (2025).
[478] Oposa v. Factoran, G.R. No. 101083 (Supreme Court) (Philippines), page 8, at https://hrlibrary.umn.edu/research/Philippines/Oposa%20v%20Factoran,%20GR%20No.%20101083,%20July%2030,%201993,%20on%20the%20State's%20Responsibility%20To%20Protect%20the%20Right%20To%20Live%20in%20a%20Healthy%20Environment.pdf.

they had no personal damage but are acting solely in the interests of future generations."[479] Indeed, as Namibia emphasized in its statement before the ICJ, as "the impacts of climate change are not bounded by time […] future generations must also have the right to invoke the responsibility of States that have breached their climate change obligations."[480] In this regard, the present generation of Africans can vindicate their rights to "promote the growth of the continent and secure its future."[481]

As Africa's youth is already at the forefront of climate action,[482] this Honourable Court can further empower "the largest child population among all continents" by positioning them as key players in challenging conduct that harms the communal asset, that is the environment.[483]

[479] Liesl Heila Muller, *Children at the lekgotla: African child-led litigation for remedies in the climate crisis*, 2 AJCLJ 59, 59 (2025) (referencing the South African case of *Deadly Air*: Minister of Environmental Affairs v. Trustees for the Time Being of Groundwork Trust & Others 2025 (4) SA 98 SCA).

[480] Written Statement of the Namibia, Obligations of States in respect of Climate Change, Advisory Opinion, 2025. I.C.J. 1, ¶ 152 (Mar. 19, 2024).

[481] *Agenda 2040: 10 Aspirations for an Africa Fit for Children*, African Comm. Of Expert on the Rights and Welfare of the Child 7 (2022), https://www.acerwc.africa/sites/default/files/2022-11/Agenda%202040_For_An_Africa_Fit_4_Children.pdf.

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[483] *Children in Africa: Caught in crisis, deserving of hope*, SOS Children's Villages, https://www.sos-usa.org/about-us/where-we-work/africa/children-in-africa (last visited Mar. 25, 2026).