

# **Climate Justice for Indigenous Peoples in Africa: Enhancing Informal and Formal Legal Norms to Protect Rights**

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**Kariuki Muigua**

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**Table of Contents**

Abstract..... 3

1.0 Introduction ..... 3

2.0 Impacts of Climate Change on Indigenous Peoples in Africa..... 6

3.0 Fostering Climate Justice for Indigenous Peoples in Africa ..... 9

4.0 Conclusion ..... 11

References ..... 13

## **Climate Justice for Indigenous Peoples in Africa: Enhancing Informal and Formal Legal Norms to Protect Rights**

**Kariuki Muigua\***

### **Abstract**

*This paper critically discusses how the ideal of climate justice can be attained for indigenous peoples in Africa. The paper posits that fostering climate justice is vital towards protecting indigenous peoples in Africa and globally due to the disproportionate effects they face from the climate crisis. The paper examines the impacts of climate change on indigenous peoples in Africa. It observes that climate change is a major threat to the lives, livelihoods, health, culture and well-being of indigenous peoples in Africa and all over the world. In light of the adverse impacts they face from the climate crisis, the paper discusses how the ideal of climate justice can be achieved for indigenous peoples in Africa through informal and formal legal norms.*

### **1.0 Introduction**

Indigenous peoples, communities and nations are those who having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them<sup>1</sup>. Indigenous peoples have also been identified as distinct social and cultural groups that share collective ancestral ties to the lands and natural resources where they live, occupy or from which they have been displaced<sup>2</sup>. In addition, indigenous peoples can also be defined as people who inhabited a land before it was

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<sup>1</sup> United Nations., 'Defining Indigenous Peoples' Available at [https://www.un.org/esa/socdev/unpfii/documents/workshop\\_data\\_background.doc](https://www.un.org/esa/socdev/unpfii/documents/workshop_data_background.doc) (Accessed on 30/12/2025)

<sup>2</sup> World Bank Group., 'Indigenous Peoples' Available at <https://www.worldbank.org/en/topic/indigenouspeoples#:~:text=Indigenous%20Peoples%20are%20distinct%20social,which%20they%20have%20been%20displaced> (Accessed on 30/12/2025)

conquered by colonial societies and who consider themselves distinct from the societies currently governing those territories<sup>3</sup>.

According to the United Nations, the most appropriate approach is to identify, rather than define indigenous peoples<sup>4</sup>. This approach is based on the fundamental criterion of self-identification and right to self-determination as underlined in a number of global and regional human rights instruments including the Charter of the United Nations, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>5</sup>. The United Nations sets out the criteria for identifying indigenous peoples based on certain factors including self-identification as indigenous peoples at the individual level and accepted by the community as their member; historical continuity with pre-colonial and/or pre-settler societies; distinct economic, social, or political systems; strong link to territories and surrounding natural resources; distinct language, culture and beliefs; and the resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities<sup>6</sup>.

Indigenous peoples are found all over the world including Africa. For example, it is estimated that there are over 476 million indigenous people living in 90 countries across the world, accounting for approximately 6.2 per cent of the global population<sup>7</sup>. It has been observed that indigenous peoples in Africa include hunter-gatherers, pastoralists as well as some small-scale farmers in the continent. Indigenous peoples in Africa practice

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<sup>3</sup> The Rights of Indigenous Peoples., Available at <http://hrlibrary.umn.edu/edumat/studyguides/indigenous.html> (Accessed on 30/12/2025)

<sup>4</sup> United Nations., 'Who are Indigenous Peoples?' Available at [https://www.un.org/esa/socdev/unpfii/documents/5session\\_factsheet1.pdf](https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf) (Accessed on 11/08/2024)

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> United Nations., 'Indigenous Peoples' Available at <https://www.un.org/en/fight-racism/vulnerable-groups/indigenous-peoples#:~:text=There%20are%20over%20476%20million,more%20than%205%2C000%20distinct%20groups.> (Accessed on 30/12/2025)

different cultures, have different social institutions and religious systems<sup>8</sup>. The key characteristic of identifying indigenous peoples in Africa is that their cultures and ways of life differ considerably from the dominant society, and that their cultures are under threat, in some cases to the point of extinction<sup>9</sup>.

Indigenous peoples, both globally and in Africa, are among the most marginalized in the society. It has been observed that indigenous peoples all over the world have for a long time experienced inequality and exclusion threatening their cultural survival and vital knowledge systems<sup>10</sup>. Indigenous peoples also experience political and economic marginalization, loss of land and resources, human rights violations, discrimination and unemployment<sup>11</sup>. In addition, due to their dependence upon, and close relationship, with the environment and natural resources, indigenous peoples are disproportionately impacted by environmental challenges including the triple planetary crisis of climate change, biodiversity loss and pollution<sup>12</sup>. Safeguarding the rights of indigenous peoples is therefore a key agenda globally. In particular, fostering climate justice for indigenous peoples is important towards protecting them from the adverse impacts of the climate crisis<sup>13</sup>.

This paper critically discusses how the ideal of climate justice can be attained for indigenous peoples in Africa. The paper posits that fostering climate justice is vital towards protecting indigenous peoples in Africa and globally due to the disproportionate effects they face from the climate crisis. The paper examines the impacts of climate change on indigenous peoples in Africa. It observes that climate change is a major threat to the

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<sup>8</sup> African Commission on Human and Peoples' Rights., 'Indigenous Peoples in Africa: The Forgotten Peoples?' Available at <https://achpr.au.int/en/special-mechanisms-reports/indigenous-peoples-africa-forgotten-peoples> (Accessed on 30/12/2025)

<sup>9</sup> Ibid

<sup>10</sup> World Bank Group., 'Indigenous Peoples' Op Cit

<sup>11</sup> United Nations., 'Climate Change' Available at <https://www.un.org/development/desa/indigenouspeoples/climate-change.html> (Accessed on 30/12/2025)

<sup>12</sup> Ibid

<sup>13</sup> Ibid

lives, livelihoods, health, culture and well-being of indigenous peoples in Africa and all over the world. In light of the adverse impacts they face from the climate crisis, the paper discusses how the ideal of climate justice can be achieved for indigenous peoples in Africa through informal and formal legal norms.

## **2.0 Impacts of Climate Change on Indigenous Peoples in Africa**

Indigenous peoples, both globally and in Africa, are adversely impacted by climate change. It has been observed that indigenous peoples maintain deep cultural and spiritual relationships with nature and play a pertinent role in protecting natural resources such as land, mountains, forests, lakes and rivers<sup>14</sup>. Indigenous peoples in Africa and all over the world have been responsible stewards of their lands and resources for thousands of years<sup>15</sup>. The United Nations Environment Programme (UNEP) notes that indigenous peoples play a key role in conserving biodiversity due to their indigenous knowledge, innovations and practices and being in direct contact with nature<sup>16</sup>.

Indigenous peoples therefore have a special relationships with nature. They rely on the environment and healthy ecosystems for their livelihoods, health and spiritual and cultural well-being<sup>17</sup>. For example, most indigenous peoples in Africa are hunter-gathers, pastoralists and small-scale farmers<sup>18</sup>. Consequently, their ways of live and livelihoods depends on access to and sustainability of natural resources including land, forests and water<sup>19</sup>. In addition, indigenous peoples in Africa and globally depend on traditional

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<sup>14</sup> International Institute for Environment and Development., 'Indigenous Peoples are the real solutions to the nature and climate crises' Available at <https://www.iied.org/indigenous-peoples-are-real-solutions-nature-climate-crises> (Accessed on 31/12/2025)

<sup>15</sup> Global Environment Facility., 'Indigenous Communities and Biodiversity' Available at [https://www.thegef.org/sites/default/files/publications/indigenous-community-biodiversity\\_0.pdf](https://www.thegef.org/sites/default/files/publications/indigenous-community-biodiversity_0.pdf) (Accessed on 31/12/2025)

<sup>16</sup> United Nations Environment Programme., 'Environmental Rule of Law: Tracking Progress and Charting Future Directions.' Available at [https://wedocs.unep.org/bitstream/handle/20.500.11822/43943/Environmental\\_rule\\_of\\_law\\_progress.pdf?sequence=3](https://wedocs.unep.org/bitstream/handle/20.500.11822/43943/Environmental_rule_of_law_progress.pdf?sequence=3) (Accessed on 31/12/2025)

<sup>17</sup> Ibid

<sup>18</sup> African Commission on Human and Peoples' Rights., 'Indigenous Peoples in Africa: The Forgotten Peoples?' Op Cit

<sup>19</sup> Ibid

medicines for their health and well-being<sup>20</sup>. It has been observed that indigenous peoples in Africa depend on certain plants, herbs, roots, leaves, tree barks and specific types of soil to cure pain and illnesses<sup>21</sup>. The availability of these products relies on rich and vibrant ecosystems including forests<sup>22</sup>.

It has been observed that due to their close relationship with nature, indigenous peoples are among the first to face the direct consequences of climate change<sup>23</sup>. For example, indigenous peoples living in mountainous and high altitude areas are severely impacted by melting glaciers which affect season flow of water leading to water scarcity<sup>24</sup>. In addition, the impacts of climate change on forest ecosystems affect the livelihoods and health of indigenous peoples who depend on forests for food, water and medicines<sup>25</sup>. Further, severe droughts threaten the lives and livelihoods of indigenous peoples in Africa especially pastoralists and hunter-gatherer communities<sup>26</sup>.

Indigenous peoples in Africa and all over the world are therefore disproportionately impacted by the climate crisis. Indigenous peoples live sustainably and in harmony with nature and are thus not responsible for the climate crisis<sup>27</sup>. It has been observed that many indigenous and traditional practices are rooted in a deep understanding of and respect

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<sup>20</sup> Indigenous Medicine., Available at <https://www.sciencedirect.com/topics/psychology/indigenous-medicine#:~:text=Indigenous%20medicines%20refer%20to%20traditional,environmental%20contexts%20of%20Indigenous%20communities> (Accessed on 31/12/2025)

<sup>21</sup> Kilimwiko. L., 'Why Indigenous knowledge must be preserved' Available at <https://www.dandc.eu/en/article/maasai-know-how-treat-malaria-bark-many-other-indigenous-groups-they-have-immense-medical#:~:text=For%20the%20Maasai%2C%20the%20Earth,aid%20recovery%20from%20blood%20loss> (Accessed on 31/12/2025)

<sup>22</sup> Ibid

<sup>23</sup> United Nations., 'Climate Change' Op Cit

<sup>24</sup> Ibid

<sup>25</sup> Ibid

<sup>26</sup> Ibid

<sup>27</sup> United Nations Development Programme., 'Indigenous knowledge is crucial in the fight against climate change - here's why' Available at <https://climatepromise.undp.org/news-and-stories/indigenous-knowledge-crucial-fight-against-climate-change-heres-why> (Accessed on 31/12/2025)

for ecological systems and promote sustainable resource use<sup>28</sup>. These practices have a minimal impact on the environment and are highly adaptive to ecological changes, fostering healthy and resilient ecosystems<sup>29</sup>. Despite playing little to no role in the worsening climate crisis, indigenous peoples are adversely impacted by climate change.

According to the United Nations, climate change worsens the difficulties already faced by indigenous peoples including political and economic marginalization, loss of land and resources, human rights violations, discrimination and unemployment<sup>30</sup>. It has been observed that climate change and climatic extremes adversely affect the adaptive capacity of indigenous peoples and communities in Africa and across the world, particularly those who rely on rainfed agriculture for their livelihoods<sup>31</sup>. Indigenous peoples depend on natural resources for their livelihoods and they often inhabit diverse but fragile ecosystems which are threatened by the impacts of climate change<sup>32</sup>. The consequences of ecosystem changes have implications for the use, protection and management of water, wildlife, fisheries and forests among other natural resources, affecting the economic, cultural, spiritual and customary significance of these resources to indigenous peoples in Africa<sup>33</sup>.

In light of their extreme vulnerability to climate change, fostering climate justice for indigenous peoples in Africa is a fundamental objective towards protecting human rights.

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<sup>28</sup> Ibid

<sup>29</sup> Ibid

<sup>30</sup> United Nations., 'Climate Change' Op Cit

<sup>31</sup> Filho. W et al., 'The Role of Indigenous Knowledge in Climate Change Adaptation in Africa' Available at <https://doi.org/10.1016/j.envsci.2022.06.004> (Accessed on 31/12/2025)

<sup>32</sup> Nilsson. C., 'Climate Change from an Indigenous Perspective: Key Issues and Challenges' Available at [https://www.iwgia.org/images/publications/IA%201-2\\_08\\_Climate\\_Change\\_from\\_ind\\_perspective.pdf](https://www.iwgia.org/images/publications/IA%201-2_08_Climate_Change_from_ind_perspective.pdf) (Accessed on 31/12/2025)

<sup>33</sup> Ibid

### **3.0 Fostering Climate Justice for Indigenous Peoples in Africa**

Indigenous peoples in Africa are adversely impacted by the climate crisis. It has been observed that climate change negatively impacts the livelihoods and culture of indigenous peoples and communities all over the world, including those located in Africa<sup>34</sup>. Due to historical, political and economic marginalisation, indigenous peoples in Africa have been confined to delicate territories and ecosystems making them extremely vulnerable to climate change and its impacts<sup>35</sup>. Adverse climatic events such as droughts, water scarcity, severe flooding, biodiversity loss, food insecurity and ecosystem degradation are fuelling injustices against the indigenous peoples of Africa<sup>36</sup>.

In light of the foregoing, fostering climate justice is vital in upholding the right of indigenous peoples in Africa. Climate justice involves focusing on how climate change impacts people differently, unevenly, and disproportionately, as well as redressing the resultant injustices in fair and equitable ways<sup>37</sup>. Climate justice therefore acknowledges the uneven nature of the climate crisis and its adverse impacts on vulnerable groups including indigenous peoples, women, the youth, persons with disabilities and communities in developing nations<sup>38</sup>. By acknowledging these inequalities, climate justice seeks solutions that address the root causes of climate change and in doing so, simultaneously address a broad range of social, racial, and environmental injustices<sup>39</sup>. It has been argued that climate justice links climate change to human rights and development and seeks to achieve a human-centred approach, safeguarding the rights of

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<sup>34</sup> Filho. W.L et al., 'Impacts of climate change to African indigenous communities and examples of adaptation responses' *Nature Communications.*, Volume 12, No. 6224 (2021)

<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Sultana. F., 'Critical Climate Justice.' Available at <https://www.farhanasultana.com/wp-content/uploads/Sultana-Critical-climate-justice.pdf> (Accessed on 31/12/2025)

<sup>38</sup> Center for Climate Justice., 'What is Climate Justice?' Available at <https://centerclimatejustice.universityofcalifornia.edu/what-is-climate-justice/> (Accessed on 31/12/2025)

<sup>39</sup> Ibid

the most vulnerable people and sharing the burdens and benefits of climate change and its impacts equitably and fairly<sup>40</sup>.

Fostering climate justice is therefore vital towards protecting the rights of vulnerable groups including indigenous peoples in Africa who are adversely and unfairly impacted by climate change. In order to achieve this goal, it is vital to enhance both informal and formal legal norms. For example, utilising informal legal norms including through harnessing indigenous knowledge can foster climate justice for indigenous peoples in Africa<sup>41</sup>. It has been observed that the knowledge and practices of indigenous peoples provide valuable climate solutions that can advance mitigation efforts, enhance adaptation strategies and build resilience towards climate justice<sup>42</sup>. For many centuries, indigenous peoples have lived in harmony with nature and utilise their wisdom to tackle climate change among other environmental threats through sustainable practices including climate-resilient agriculture and sound ecosystem management<sup>43</sup>. In addition, by protecting key ecosystems including forests, which act as carbon sinks, indigenous peoples can make a valuable contribution in tackling the climate crisis<sup>44</sup>. Harnessing indigenous knowledge is therefore important towards fostering climate justice for indigenous peoples in Africa.

Enhancing formal legal norms can also protect the rights of indigenous peoples in Africa for climate justice. For example, it has been observed that strengthening access to justice can enable vulnerable groups including indigenous peoples to protect their rights in the wake of the climate crisis<sup>45</sup>. Through access to justice, indigenous peoples among other

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<sup>40</sup> Mary Robinson Foundation Climate Justice., 'Principles of Climate Justice.' Available at <https://www.mrfcj.org/principles-of-climate-justice/> (Accessed on 31/12/2025)

<sup>41</sup> Filho. W et al., 'The Role of Indigenous Knowledge in Climate Change Adaptation in Africa' Op Cit

<sup>42</sup> United Nations Development Programme., 'Indigenous knowledge is crucial in the fight against climate change - here's why' Op Cit

<sup>43</sup> Ibid

<sup>44</sup> Ibid

<sup>45</sup> Mary Robinson Foundation Climate Justice., 'Principles of Climate Justice.' Op Cit

vulnerable groups can challenge ecologically-destructive practices, hold decision-makers accountable for their climate commitments and obtain remedies for climate injustices<sup>46</sup>. In addition, appropriate legal frameworks can ensure the meaningful involvement of indigenous peoples in climate decision-making processes in Africa for climate justice<sup>47</sup>. By involving indigenous peoples in climate decision-making processes, it is possible to harness their wisdom and integrate it with modern mitigation and adaptation strategies for sound climate action in Africa<sup>48</sup>. Enhancing formal legal frameworks is also important towards unlocking climate finance for indigenous peoples in Africa. Climate finance is necessary in promoting climate justice for indigenous peoples in Africa by enabling effective climate change mitigation and adaptation strategies such as ecosystem restoration while also providing compensation to those affected by the adverse impacts of climate change<sup>49</sup>.

Through the foregoing, it is possible to foster climate justice for indigenous peoples in Africa.

#### **4.0 Conclusion**

Despite their little to no contribution to the climate crisis, indigenous peoples in Africa and all over the world are disproportionately impacted by the climate change<sup>50</sup>. The climate crisis is affecting the lives, livelihoods, health, culture and spiritual well-being of indigenous peoples which are closely tied to their lands, territories and ecosystems<sup>51</sup>.

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<sup>46</sup> Ibid

<sup>47</sup> Brown. C., 'Sustainable Solutions for Climate Change Adaptation in Africa: Combining Indigenous Knowledge and Modern Technology' Available at <https://sdgs.un.org/sites/default/files/2023-05/B38%20-%20Brown%20-%20Assessing%20African%20Led%20Science-Technological%20Innovation%20Approaches%20to%20Climate%20Change%20Adaptation.pdf> (Accessed on 31/12/2025)

<sup>48</sup> Ibid

<sup>49</sup> United Nations., 'Finance & Justice' Available at <https://www.un.org/en/climatechange/raising-ambition/climate-finance#:~:text=Justice%20also%20depends%20on%20wealthier,a%20path%20to%20climate%20justice> (Accessed on 31/12/2025)

<sup>50</sup> United Nations., 'Climate Change' Op Cit

<sup>51</sup> Ibid

*Climate Justice for Indigenous Peoples in Africa: Enhancing Informal and Formal Legal Norms to Protect Rights*

Fostering climate justice is therefore necessary towards protecting the rights of indigenous peoples in Africa. Achieving this ideal involves enhancing informal legal norms by harnessing indigenous knowledge for sound climate action in Africa<sup>52</sup>. It also involves strengthening formal legal norms through access to justice in climate matters, the meaningful involvement of indigenous peoples in climate policies and decision-making processes and unlocking climate finance for indigenous peoples<sup>53</sup>. Achieving climate justice for indigenous peoples in Africa is therefore possible. It is imperative to enhance informal and formal legal norms towards protecting the rights of indigenous peoples in Africa in the quest for climate justice.

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<sup>52</sup> Filho. W et al., 'The Role of Indigenous Knowledge in Climate Change Adaptation in Africa' Op Cit

<sup>53</sup> Mary Robinson Foundation Climate Justice., 'Principles of Climate Justice.' Op Cit

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*Climate Justice for Indigenous Peoples in Africa: Enhancing Informal and Formal Legal Norms to Protect Rights*

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