

Rule of Law and Climate Governance in Africa: Strengthening Legal and Policy Frameworks for Effectiveness

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Abstract

This paper discusses how the rule of law can be effectively applied to climate governance in Africa. The paper notes that due to its extreme vulnerability to climate change, strengthening climate governance in Africa is key towards protecting people and planet for Sustainable Development. In particular, the paper posits that environmental rule of law provides an effective approach that can bolster climate governance in Africa. In order to achieve sound and effective climate governance in Africa for Sustainable Development, the paper suggests how the rule of law in general and environmental rule of law in particular can be utilised by strengthening legal and policy frameworks for effectiveness.

1.0 Introduction

The United Nations defines the rule of law as a principle of governance under which all persons, institutions and entities, both public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards¹. In addition, the rule of law has also been described as a durable system of laws, institutions and norms that delivers four universal principles: accountability, just law, open government, and accessible and impartial justice². Under the rule of law, all public powers act within the constraints set out by law, in accordance with the values of democracy and human rights, and under the control of independent and impartial courts³. This concept envisages ideal, just, fair and equitable societies where no one is above the law; everyone is treated equally under the law; everyone is held accountable to the same laws; there are clear and fair processes for enforcing laws; there is an independent judiciary; and human rights are guaranteed for all persons⁴.

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¹ United Nations., 'What is the Rule of Law.' Available at <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/> (Accessed on 14/08/2026)

² World Justice Project., 'What is the Rule of Law?' Available at <https://worldjusticeproject.org/about-us/overview/what-rule-law> (Accessed on 14/08/2026)

³ European Commission., 'What is the Rule of Law?' Available at https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/what-rule-law_en (Accessed on 14/08/2026)

⁴ American Bar Association., 'Rule of Law.' Available at https://www.americanbar.org/groups/public_education/resources/rule-of-law/ (Accessed on 14/08/2026)

The rule of law plays a pertinent role in promoting Sustainable Development. For example, the United Nations notes that the rule of law is fundamental to international peace and security and political stability; to achieve economic and social progress and development; and to protect people's fundamental rights and freedoms towards development⁵. In addition, it has been observed that the rule of law is the foundation of peaceful and prosperous societies and is necessary to ensure development, accountability in government, and respect for fundamental rights and freedoms⁶. The *2030 Agenda for Sustainable Development*⁷ recognises the vital role that the rule of law plays in fostering sustainable and inclusive development. In particular, Sustainable Development Goal (SDG) 16.3 seeks to promote the rule of law at the national and international levels and ensure equal access to justice for all⁸.

It has been argued that the rule of law plays a key role in unlocking Sustainable Development across all its dimensions including in the context of environmental governance⁹. For instance, environmental rule of law is a concept that integrates environmental needs with the essential elements of the rule of law thus providing the basis for improving environmental governance towards Sustainable Development¹⁰. At its core, environmental rule of law refines the traditional notion of rule of law and extends it to environmental governance¹¹. In addition, it has been observed that environmental rule of law provides a framework for addressing the gap between environmental laws in text and in practice¹². According to the United Nations Environment Programme (UNEP), environmental rule of law is central to Sustainable Development¹³. For instance, by strengthening environmental rule of law, it is possible to ensure robust environmental governance systems through sound management and access to natural resources, gender equality in environmental governance, access to justice in environmental matters and the meaningful involvement of all people including indigenous peoples and local communities in

⁵ United Nations., 'What is the Rule of Law' Op Cit

⁶ World Justice Project., 'What is the Rule of Law?' Op Cit

⁷ United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 14/08/2026)

⁸ Ibid

⁹ United Nations Environment Programme., 'Promoting Environmental Rule of Law' Available at <https://www.unep.org/topics/environmental-law-and-governance/promoting-environmental-rule-law/promoting-environmental> (Accessed on 14/08/2026)

¹⁰ Ibid

¹¹ International Union for Conservation of Nature., 'Environmental Rule of Law' Available at <https://iucn.org/our-union/commissions/world-commission-environmental-law/ourwork/history/foundational-documents-4> (Accessed on 14/08/2026)

¹² Environment Law Institute., 'Environmental Rule of Law' Available at <https://www.eli.org/environmental-rule-law> (Accessed on 14/08/2026)

¹³ United Nations Environment Programme., 'Environmental Rule of Law' Available at <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/promoting-environmental-rule-law-0> (Accessed on 14/08/2026)

environmental decision-making processes¹⁴. In addition, it has been observed that environmental rule of law is essential to achieving environmental goals and developing effective responses to pressing environmental crises including climate change, environmental degradation, biodiversity loss and pollution¹⁵. Promoting environmental rule of law is therefore key towards tackling climate change among other environmental threats towards Sustainable Development.

This paper discusses how the rule of law can be effectively applied to climate governance in Africa. The paper notes that due to its extreme vulnerability to climate change, strengthening climate governance in Africa is key towards protecting people and planet for Sustainable Development. In particular, the paper posits that environmental rule of law provides an effective approach that can bolster climate governance in Africa. In order to achieve sound and effective climate governance in Africa for Sustainable Development, the paper suggests how the rule of law in general and environmental rule of law in particular can be utilised by strengthening legal and policy frameworks for effectiveness.

2.0 The Need for Sound Climate Governance in Africa

Climate governance is a term that covers laws, rules, policies, institutions and actors at the global, regional, national and local levels with the aim of preventing, mitigating and adapting to climate change and its impacts¹⁶. It has been observed that climate governance encompasses rules, policies, practices, institutions and actors at both the international and national levels and in both public and private spheres with the goal of preventing, reducing or adapting to climate change¹⁷. In addition, climate governance has been described as a framework that covers the institutions, laws, rules and processes that guide collective efforts at all levels to mitigate greenhouse gas emissions and adapt to effects of climate change¹⁸. It has been correctly observed that strong climate governance systems and processes are central in helping countries achieve their climate goals towards Sustainable Development¹⁹. In particular, through effective approaches, climate governance can strengthen action to address climate change through coordination among

¹⁴ International Union for Conservation of Nature., 'IUCN World Declaration on the Environmental Rule of Law' Available at https://iucn.org/sites/default/files/2022-10/world_declaration_on_the_environmental_rule_of_law_final_2017-3-17.pdf (Accessed on 14/08/2026)

¹⁵ 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 (Accessed on 14/08/2026)

¹⁶ European Environment Agency., 'Governance of climate change mitigation and adaptation' Available at <https://www.eea.europa.eu/en/europe-environment-2025/thematic-briefings/climate-change/governance-of-climate-change-mitigation-and-adaptation> (Accessed on 14/08/2026)

¹⁷ What is Climate Governance?., Available at <https://climatecheck.com/risks/governance> (Accessed on 14/08/2026)

¹⁸ Climate Governance and Policy Frameworks., Available at <https://www.nature.com/nature-index/topics/14/climate-governance-and-policy-frameworks> (Accessed on 14/08/2026)

¹⁹ World Bank Group., 'Climate Change Governance' Available at <https://www.worldbank.org/en/news/feature/2021/12/06/climate-change-governance> (Accessed on 14/08/2026)

multiple stakeholders including governments, regional communities, the private sector and the public²⁰.

Sound climate governance is a key priority for Africa. According to the United Nations, Africa is not a significant source of greenhouse gas emissions since the continent accounts for only 2–3 per cent of the world’s carbon dioxide emissions from energy and industrial sources²¹. However, UNEP observes that despite Africa’s negligible contribution to climate change, the continent stands out disproportionately as the most vulnerable region in the world²². When compared to other continents, Africa has the lowest amount of greenhouse gas emissions responsible for climate change, yet it remains the most affected continent by adverse climatic events²³. Due to its extreme vulnerability, Africa faces disproportionate burdens and risks arising from climate change related weather events and patterns, which lead to massive humanitarian crises with adverse impacts on agriculture, food and water security, education, energy, infrastructure, peace and security and public health²⁴. It has been observed that climate change related weather events and patterns including rising temperatures, droughts and floods are worsening in Africa with severe consequences for the continent’s population especially the vulnerable including women and girls, the youth and indigenous and local communities²⁵. In addition to its impacts on human health, livelihoods and development, it has been observed that climate change also has adverse environmental impacts in Africa since it causes desertification, biodiversity loss and changes in natural ecosystems²⁶.

In light of its extreme vulnerability to climate change, promoting sound climate governance in Africa is necessary towards protecting people and planet for Sustainable Development. However, it has been observed that despite Africa’s high vulnerability to climate change, the continent has

²⁰ Ibid

²¹ United Nations Climate Change., ‘Africa is particularly vulnerable to the expected impacts of global warming’ Available at https://unfccc.int/files/press/backgrounders/application/pdf/factsheet_africa.pdf (Accessed on 14/08/2026)

²² United Nations Environment Programme., ‘Responding to climate change’ Available at <https://www.unep.org/regions/africa/regional-initiatives/responding-climate-change> (Accessed on 14/08/2026)

²³ African Development Bank Group., ‘Climate Change in Africa’ Available at <https://www.afdb.org/en/cop25/climate-change-africa> (Accessed on 14/08/2026)

²⁴ World Meteorological Organization., ‘Africa faces disproportionate burden from climate change and adaptation costs’ Available at <https://wmo.int/news/media-centre/africa-faces-disproportionate-burden-from-climate-change-and-adaptation-costs> (Accessed on 14/08/2026)

²⁵ United Nations Climate Change., ‘Africa is particularly vulnerable to the expected impacts of global warming’ Op Cit

²⁶ United Nations Climate Change., ‘Africa is particularly vulnerable to the expected impacts of global warming’ Op Cit

limited capacity to cope with the mounting impacts of the climate crisis²⁷. Climate governance in Africa faces several challenges. For instance, it has been pointed out that despite most African countries having developed climate policy frameworks such as National Adaptation Programmes of Action (NAPAs) and Nationally Appropriate Mitigation Actions (NAMAs) in line with the provisions of the United Nations Framework Convention on Climate Change (UNFCCC), they have not implemented them in meaningful ways, or developed national institutional capacities to effectively respond to climate change²⁸. In addition, financial constraints including inadequate and inequitable access to climate finance undermines effective climate governance in Africa since it limits the ability of African countries to implement climate change mitigation and adaptation measures²⁹. Further, failure to involve key stakeholders including women, the youth, indigenous peoples and local communities in decision-making processes on climate change undermines sound climate governance in Africa³⁰.

In light of the foregoing concerns, it is imperative to strengthen climate governance in Africa in order to promote Sustainable Development.

3.0 Strengthening the Rule of Law for Sound Climate Governance in Africa

Due to Africa's extreme vulnerability to climate change, strengthening climate governance is a key continental priority in the pursuit of Sustainable Development. In particular, the rule of law provides an effective solution towards strengthening climate governance both globally and in Africa towards Sustainable Development. For instance, by promoting the rule of law, it is possible to strengthen legal, policy and institutional capacities required to foster sound environmental governance, effective governance of natural resources, climate-resilient development and climate justice towards tackling climate change³¹.

In order to effectively apply the rule of law for sound climate governance in Africa, it is imperative to strengthen legal and policy frameworks for effectiveness. For example, it has been

²⁷ Africa Climate Insights., 'How Climate Change is Pushing Africa to the Brink' Available at <https://africacclimateinsights.org/how-climate-change-is-pushing-africa-to-the-brink/> (Accessed on 14/08/2026)

²⁸ United Nations Economic Commission for Africa., 'Climate Governance and Climate Policy in Africa' Available at <https://www.uneca.org/african-climate-policy-centre/climate-governance-and-climate-policy-in-africa> (Accessed on 14/08/2026)

²⁹ African Union., 'Climate Finance in Africa: An overview of climate finance flows, challenges and opportunities' Available at https://au.int/sites/default/files/documents/44101-doc-Climate_Finance_in_Africa_Report.pdf (Accessed on 14/08/2026)

³⁰ United Nations Development Programme., 'Gender-Responsive Climate Change Actions in Africa' Available at https://climatepromise.undp.org/sites/default/files/research_report_document/57405%20-%20Technical%20paper%20-%20EN%20Final%20-%20web.pdf (Accessed on 14/08/2026)

³¹ International Development Law Organization., 'Climate Justice: A Rule of Law Approach for Transformative Climate Action.' Available at https://www.idlo.int/sites/default/files/pdfs/publications/climate_justice_policy_paper_-_climate_action_-_final.pdf (Accessed on 15/08/2026)

observed that one of the key ways of embracing the rule of sustainability is by enacting and implementing clear, strict, enforceable, and effective laws, regulations, and policies that are efficiently administered through fair and inclusive institutions and processes in order to foster economic development, social justice and achieve the highest standards of environmental quality; and respect for human rights, including the right to a safe, clean, healthy, and sustainable environment³². In particular, by strengthening environmental rule of law, it is possible to design effective, equitable and accountable environmental laws, policies and institutions which are essential to achieving environmental goals and developing effective responses to mounting environmental crises including climate change and biodiversity loss³³. It has been observed that environmental rule of law can fortify the application, strengthen enforcement, and ensure better environmental actions for the planet for both present and future generations³⁴.

Due to its key role in strengthening environmental and climate governance, African countries have been urged to embrace environmental rule of law by enacting robust environmental laws and policies, building effective environmental institutions and ministries, and ensuring adequate funding for environmental and climate governance³⁵. In particular, by strengthening legal and policy frameworks on climate change, it is possible mainstream climate change responses into development planning, build national resilience and enhance adaptive capacity to the impacts of climate change, strengthen measures to unlock climate finance for development, and identify opportunities to pursue low-carbon and climate-resilient development³⁶. In addition, effective legal and policy frameworks can provide a framework for inclusive participation in climate governance with emphasis on indigenous peoples and local communities who are holders of valuable knowledge systems that improve Africa's response to climate change³⁷.

4.0 Conclusion

There is need to improve climate governance in Africa in order to effectively respond to the mounting impacts of climate change in the continent. In particular, the rule of law in general and environmental rule of law in specific provides effective solutions that can strengthen climate

³² Leogrande. A., 'The Rule of Law in the ESG Framework in the World Economy.' Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4355016 (Accessed on 15/08/2026)

³³ United Nations Environment Programme., 'Environmental Rule of Law: Tracking Progress and Charting Future Directions' Op Cit

³⁴ Ibid

³⁵ The Access Initiative., 'The Road to Realizing Environmental Rights In Africa: Moving From Principles to Practice' Available at https://accessinitiative.org/wpcontent/uploads/2022/10/22.01_rep_access_initiative_v583-4.pdf (Accessed on 15/08/2026)

³⁶ Climate Change Act., No. 11 of 2016, Government Printer, Nairobi

³⁷ Egeruoh-Adindu. I., 'Leveraging Indigenous Knowledge for Effective Environmental Governance in West Africa.' Available at <https://www.scirp.org/journal/paperinformation?paperid=121949#:~:text=Indigenous%20knowledge%20systems%20such%20as,effective%20in%20promoting%20environmental%20sustainability> (Accessed on 15/08/2026)

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governance in Africa for sustainability. Achieving this goal involves strengthening legal and policy frameworks for effectiveness.

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