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The Role of Nationally Determined Contributions in Achieving Climate Justice in Africa: A Legal Analysis under the Paris Agreement

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Abstract

Nationally Determined Contributions (NDCs) are the central implementation instruments of the Paris Agreement. This article asks whether a regime that imposes binding procedural obligations while leaving the level of ambition to each State can deliver climate justice for African States, which have contributed little to historical emissions but face severe climate impacts. Using a doctrinal and comparative method, it assesses the NDCs and implementing law of Cameroon, Kenya, South Africa, Morocco and Rwanda against five climate justice criteria: recognition, distributive equity, procedural justice, corrective justice and accountability. The analysis takes account of the third generation of NDCs, the first Global Stocktake, the 2024 New Collective Quantified Goal on climate finance, African human rights guarantees and the 2025 Advisory Opinion of the International Court of Justice. It finds that the NDC framework is procedurally strong but distributively weak: in the four case study States that separate the two, between about three fifths and nine tenths of 2035 mitigation ambition is conditional on international support, while domestic legal anchoring of NDC commitments varies considerably. The article argues that climate justice depends less on headline targets than on whether NDCs are embedded in domestic law, budgets, participatory institutions and reviewable remedies, supported by predictable and accessible international finance.

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Keywords: Nationally Determined Contributions; climate justice; Paris Agreement; Africa; climate finance; adaptation; CBDR-RC; ICJ Advisory Opinion

1. Introduction

Climate change threatens environmental sustainability, economic development and human well-being across the world, but its burdens are unevenly distributed.[1] Africa has contributed among the least to the historical greenhouse gas emissions responsible for human-induced climate change, yet it is already experiencing widespread losses from rising temperatures, drought, flooding and food insecurity.[2] For African States, climate justice is therefore a practical concern of development and survival as well as a normative principle.[3]

The Paris Agreement requires every Party to prepare, communicate and maintain successive Nationally Determined Contributions (NDCs).[4] Unlike the Kyoto Protocol, it does not prescribe the content of those contributions; each State determines its own level of ambition in light of its national circumstances, subject to expectations of progression over time.[5] For African States, NDCs are both international commitments and national development plans. Yet many African NDCs are conditional on external finance, technology and capacity, and their implementation remains uneven.[6]

These conditions raise a question that existing scholarship has not fully resolved. The architecture of the Paris Agreement, the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC) and the financial constraints facing developing countries have been examined at length,[7] and African scholars have begun to map climate litigation and the role of courts on the continent.[8] Less attention has been paid to whether an NDC regime that makes preparation, communication and maintenance binding, while leaving the level of mitigation ambition to each State, can deliver climate justice for States with low historical responsibility and high vulnerability. This article takes up that question. Its contribution is to treat NDCs not merely as policy statements but as legal instruments that operate where international procedural obligations meet domestic law, distributive equity, public participation and remedies.

To answer the question, the article combines doctrinal and comparative legal analysis. It examines the Paris Agreement, relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA), the Enhanced Transparency Framework and the first Global Stocktake, alongside judicial decisions and scholarly literature. These sources are then brought to bear on the current NDCs and implementing legislation of five States: Cameroon, Kenya, South

[1] IPCC, *Climate Change 2023: Synthesis Report* (IPCC 2023) Summary for Policymakers, A.1–A.2.

[2] Christopher H Trisos and others, 'Africa' in Hans-Otto Pörtner and others (eds), *Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (CUP 2022) ch 9, Executive Summary.

[3] African Union, *African Union Climate Change and Resilient Development Strategy and Action Plan (2022–2032)* (African Union Commission 2022).

[4] Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) 3156 UNTS 79, art 4(2).

[5] Daniel Bodansky, Jutta Brunnée and Lavanya Rajamani, *International Climate Change Law* (OUP 2017) ch 7.

[6] UNEP, *Adaptation Gap Report 2023: Underfinanced. Underprepared* (UNEP 2023) Executive Summary.

[7] Lavanya Rajamani, 'Ambition and Differentiation in the 2015 Paris Agreement: Interpretative Possibilities and Underlying Politics' (2016) 65 ICLQ 493; Bodansky, Brunnée and Rajamani (n 5) ch 7.

[8] Louis J Kotzé and Anél du Plessis, 'Putting Africa on the Stand: A Bird's Eye View of Climate Change Litigation on the Continent' (2020) 50 Environmental Law 615; Louis J Kotzé and Caiphas B Soyapi, 'African Courts and Principles of International Environmental Law: A Kenyan and South African Case Study' (2021) 33 Journal of Environmental Law, doi:10.1093/jel/eqab004.

Africa, Morocco and Rwanda. Each is assessed against five climate justice criteria, defined in section 2.2: recognition, distributive equity, procedural justice, corrective justice and accountability.

Applying this framework, the article argues that the Paris Agreement's NDC architecture can advance climate justice in Africa but cannot, on its own, guarantee it. The architecture is strongest in its procedures, which universalise participation, require successive and progressive contributions, and subject implementation to transparency and collective review. It is weakest in its distribution of burdens, since much of Africa's stated ambition depends on external support that is neither legally assured nor allocated to particular States. Climate justice therefore turns on converting NDCs from periodic international pledges into domestically embedded, participatory and reviewable implementation frameworks, and on making international support more predictable and accessible.

The argument unfolds in six further sections. Section 2 sets out the conceptual and legal framework, and section 3 examines how African NDCs address mitigation, adaptation, finance and technology in the context of the NDC 3.0 cycle. Section 4 turns to human rights, loss and damage and judicial accountability. Section 5 applies the five criteria to the country studies and draws comparative conclusions, which section 6 relates to cross-cutting implementation challenges before synthesising the legal findings. Section 7 concludes with recommendations.

2. Conceptual and Legal Framework

2.1 The Concept of Nationally Determined Contributions

NDCs are the principal mechanism through which Parties communicate their mitigation efforts and, where they choose, their adaptation priorities and support needs.[9] The concept reflects the Agreement's 'bottom-up' design: each State determines its own contribution in light of its national circumstances, capabilities and development priorities, while contributing to the collective goal of holding the increase in global average temperature well below 2℃ and pursuing efforts to limit it to 1.5℃.[10]

Article 4 is the legal foundation of the NDC regime. Each Party 'shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve' and 'shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions'.[11] Each successive NDC 'will represent a progression' beyond the previous one and reflect the Party's 'highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances'.[12] NDCs are communicated every five years.[13]

The legal character of these provisions is layered. The duties to prepare, communicate and maintain NDCs, and to pursue domestic mitigation measures, are binding obligations; the duty to pursue domestic measures is an obligation of conduct rather than of result. By contrast, achievement of the NDC target itself is not an international legal obligation.[14] This contrasts with the Kyoto Protocol, which imposed quantified emission limitation and reduction commitments on developed country

[9] Paris Agreement (n 4) arts 3, 4(2) and 7(11).
[10] Paris Agreement (n 4) art 2(1)(a); Bodansky, Brunnée and Rajamani (n 5) ch 7.
[11] Paris Agreement (n 4) art 4(2).
[12] ibid art 4(3).
[13] ibid art 4(9).
[14] Rajamani (n 7); Bodansky, Brunnée and Rajamani (n 5) ch 7.

Parties only.[15] As section 4 shows, the International Court of Justice has since clarified that the discretion States enjoy in setting their NDCs is not unlimited.

In practice, NDCs commonly address mitigation, adaptation, renewable energy, land use and forestry, finance, technology, capacity building and transparency.[16] For developing countries, including most African States, they also specify the support required for implementation and distinguish between unconditional and conditional components.[17] NDCs therefore operate as national development frameworks as well as climate pledges.

2.2 Climate Justice: Meaning and Criteria

Climate justice seeks fairness in the distribution of the burdens and benefits of climate change and of the response to it.[18] It rests on the recognition that, while climate change is a common concern of humankind, its causes and consequences are unevenly distributed: developed countries are responsible for the largest share of historical emissions, while developing regions, Africa in particular, bear a disproportionate share of the impacts.[19] The concept grew out of the environmental justice movement of the 1980s, which challenged the concentration of environmental hazards in disadvantaged communities, and was later extended to relations between States.[20]

Drawing on this literature, the article uses five criteria, which are applied consistently in sections 5 and 6:

1. **Recognition**: express acknowledgement in law and policy of differentiated vulnerability, environmental rights and the interests of historically marginalised groups, including women, youth, Indigenous Peoples and affected workers.[21]
2. **Distributive equity**: a fair allocation of mitigation, adaptation and support burdens, reflecting historical responsibility and capability, including the extent to which ambition depends on international support.[22]
3. **Procedural justice**: meaningful public participation in, and access to information about, the preparation and implementation of NDCs.[23]
4. **Corrective justice**: responses to loss and damage and access to effective remedies for those harmed.[24]
5. **Accountability**: legal duties, institutional responsibility, monitoring, reporting and review capable of holding governments to their commitments.[25]

The legal foundations of climate justice lie in the United Nations Framework Convention on Climate Change (UNFCCC), under which Parties protect the climate system 'on the basis of equity and in

[15] Kyoto Protocol to the United Nations Framework Convention on Climate Change (adopted 11 December 1997, entered into force 16 February 2005) 2303 UNTS 162, art 3(1).

[16] UNFCCC, 'Nationally Determined Contributions under the Paris Agreement: Synthesis Report by the Secretariat' (UNFCCC, 28 October 2024).

[17] ibid.

[18] Henry Shue, *Climate Justice: Vulnerability and Protection* (OUP 2014).

[19] Trisos and others (n 2) Executive Summary; IPCC (n 1) Summary for Policymakers, A.1–A.2.

[20] David Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature* (OUP 2007).

[21] Schlosberg (n 20).

[22] Shue (n 18); Paris Agreement (n 4) arts 2(2) and 9.

[23] Paris Agreement (n 4) art 12; Schlosberg (n 20).

[24] Shue (n 18); Paris Agreement (n 4) art 8.

[25] Paris Agreement (n 4) arts 13–15.

accordance with their common but differentiated responsibilities and respective capabilities'.[26] The Paris Agreement reaffirms these principles and gives them operational form through its provisions on adaptation, finance, technology transfer and capacity building.[27]

2.3 The Legal Framework of NDCs under the Paris Agreement

Article 3 frames NDCs as the vehicle through which 'all Parties are to undertake and communicate ambitious efforts' towards the Agreement's purpose, with efforts representing 'a progression over time'.[28] Article 4 supplies the binding obligations discussed above and differentiates expectations: developed country Parties 'should continue taking the lead' with economy-wide absolute targets, while developing country Parties are encouraged to move towards such targets over time and are to receive support.[29]

Three mechanisms surround the NDC obligations. First, the Enhanced Transparency Framework requires each Party to report regularly on its greenhouse gas inventory and progress in implementing and achieving its NDC, and requires developed countries to report on support provided while developing countries should report on support needed and received.[30] Secondly, the Global Stocktake assesses collective progress every five years, and its outcome is to inform Parties in updating and enhancing their NDCs.[31] Thirdly, Article 15 establishes a mechanism, consisting of an expert-based committee, to facilitate implementation and promote compliance in a manner that is 'transparent, non-adversarial and non-punitive'.[32]

This framework balances flexibility with accountability. It secures broad participation but relies heavily on transparency and peer pressure rather than enforcement. For African States, its effectiveness depends on whether developed countries meet their obligations of support, a point recognised in the UNFCCC itself.[33]

2.4 Equity and Common but Differentiated Responsibilities and Respective Capabilities

The principles of equity and CBDR-RC recognise that, while all States share responsibility for addressing climate change, they differ in their contribution to the problem and in their capacity to respond.[34] The principle is expressed in Article 3(1) of the UNFCCC, adopted in May 1992,[35] and was articulated in Principle 7 of the Rio Declaration in June 1992.[36]

The Paris Agreement retains the principle but qualifies it with the phrase 'in the light of different national circumstances', adapting it to a regime in which all Parties submit NDCs.[37] For African States, the principle grounds the claim to enhanced support: low historical responsibility and high

[26] United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 3(1).

[27] Paris Agreement (n 4) arts 2(2), 7 and 9–11.

[28] Paris Agreement (n 4) art 3.

[29] ibid art 4(4)–(5).

[30] ibid art 13(7), (9) and (10).

[31] ibid art 14(1) and (3).

[32] ibid art 15(1)–(2).

[33] UNFCCC (n 26) art 4(7).

[34] Bodansky, Brunnée and Rajamani (n 5) ch 1.

[35] UNFCCC (n 26) art 3(1).

[36] Rio Declaration on Environment and Development, UN Doc A/CONF.151/26 (Vol I) (12 August 1992) annex I, principle 7.

[37] Paris Agreement (n 4) art 2(2); Rajamani (n 7).

vulnerability justify both differentiated ambition and the expectation that developed countries will provide finance, technology and capacity building.[38]

3. NDCs and Climate Justice in Africa

African Parties to the Paris Agreement have communicated NDCs setting out national priorities for mitigation, adaptation and sustainable development.[39] Most African NDCs give adaptation and resilience a prominence not found in the NDCs of most developed countries, reflecting immediate threats to livelihoods, food security, water and health.[40] This section examines the mitigation, adaptation, finance and technology dimensions of African NDCs, and the significance of the third NDC cycle.

3.1 Mitigation and Conditionality

All Parties must pursue domestic mitigation measures.[41] African mitigation commitments typically focus on renewable energy, energy efficiency, sustainable transport, reduced deforestation, climate-smart agriculture, waste management and ecosystem restoration.[42]

A defining feature of African mitigation commitments is conditionality. Many NDCs distinguish an unconditional component, financed from domestic resources, from a larger conditional component dependent on international finance, technology and capacity building.[43] The case studies in section 5 illustrate the scale: in the four States that separate the two components, between about three fifths and nine tenths of 2035 mitigation ambition is conditional (see Table 1). This reflects CBDR-RC and the Agreement's recognition that support will allow higher ambition by developing countries.[44] It also creates a justice risk: if support does not materialise, the conditional component cannot be delivered, yet the State may still be judged against its headline target.

3.2 Adaptation

Adaptation is central to most African NDCs.[45] The Paris Agreement establishes a global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability, and encourages Parties to engage in adaptation planning and to submit adaptation communications, which may form part of an NDC.[46] Agriculture is commonly the leading adaptation priority, given its importance for livelihoods and its exposure to changing rainfall and temperature, followed by water resources, health, forestry, infrastructure and disaster risk management.[47] Many NDCs also promote ecosystem-based adaptation through forest management, wetland restoration and coastal protection.[48]

[38] Trisos and others (n 2) Executive Summary; Paris Agreement (n 4) arts 9–11.

[39] UNFCCC, 'NDC Registry' https://unfccc.int/NDCREG accessed 5 November 2026.

[40] UNFCCC (n 16); Trisos and others (n 2).

[41] Paris Agreement (n 4) art 4(2).

[42] African Development Bank, *African Economic Outlook 2024: Driving Africa's Transformation: The Reform of the Global Financial Architecture* (AfDB 2024); UNFCCC (n 16).

[43] UNFCCC (n 16).

[44] Paris Agreement (n 4) art 4(5).

[45] UNFCCC (n 16).

[46] Paris Agreement (n 4) art 7(1), (9) and (10)–(11).

[47] Trisos and others (n 2); FAO, *The State of Food and Agriculture 2021: Making Agrifood Systems More Resilient to Shocks and Stresses* (FAO 2021).

[48] Trisos and others (n 2).

From a climate justice perspective, adaptation directly addresses the needs of populations that are least responsible for climate change and most affected by it. Its implementation, however, is constrained by an adaptation finance gap that UNEP estimated at between 10 and 18 times current international public adaptation finance flows to developing countries.[49]

3.3 Climate Finance

Under Article 9, developed country Parties 'shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation' and should continue to take the lead in mobilising climate finance from a wide variety of sources.[50] The scale of need in Africa is considerable: African countries' NDCs indicate cumulative needs of about USD 2.8 trillion between 2020 and 2030.[51] Against this, developed countries reported providing and mobilising USD 115.9 billion globally in 2022, the first year in which the USD 100 billion goal was met.[52]

The New Collective Quantified Goal adopted at the sixth session of the CMA in 2024 sets a goal of at least USD 300 billion per year by 2035 for developing countries, with developed countries taking the lead, and calls on all actors to scale up financing from all sources to at least USD 1.3 trillion per year by 2035.[53] These are global mobilisation objectives; they do not allocate amounts to particular States. Their justice implications depend on access, concessionality, predictability and the balance between grants and loans.

Several multilateral funds support implementation, including the Green Climate Fund, the Global Environment Facility and the Adaptation Fund.[54] A fund for responding to loss and damage was agreed at the twenty-seventh Conference of the Parties (COP27) in 2022 and operationalised at COP28 in 2023.[55] Many African countries nevertheless face difficulties in accessing these funds because of complex procedures, limited project preparation capacity and lengthy approval processes.[56]

3.4 Technology Transfer and Capacity Building

Article 10 records the Parties' shared long-term vision on technology development and transfer and establishes a technology framework to provide overarching guidance to the Technology Mechanism.[57] The Technology Mechanism itself was established under the UNFCCC in 2010 and serves the Agreement.[58] Article 11 requires cooperation to enhance the capacity of developing countries, particularly the least developed and most vulnerable.[59]

African NDCs identify needs for renewable energy technologies, climate-smart agricultural innovations, efficient irrigation, early warning systems and climate data services, and for institutional

[49] UNEP (n 6) Executive Summary.

[50] Paris Agreement (n 4) art 9(1) and (3).

[51] Climate Policy Initiative, *Climate Finance Needs of African Countries* (CPI 2022).

[52] OECD, *Climate Finance Provided and Mobilised by Developed Countries in 2013–2022* (OECD Publishing 2024).

[53] Decision 1/CMA.6, 'New Collective Quantified Goal on Climate Finance' (2024) paras 7–8.

[54] Green Climate Fund, *Programming Manual* (GCF 2024).

[55] Decision 2/CP.27 and Decision 2/CMA.4, 'Funding Arrangements for Responding to Loss and Damage Associated with the Adverse Effects of Climate Change' (2022); Decision 1/CP.28 and Decision 5/CMA.5, 'Operationalization of the New Funding Arrangements' (2023).

[56] Green Climate Fund (n 54); African Union (n 3).

[57] Paris Agreement (n 4) art 10(1) and (4).

[58] Decision 1/CP.16, 'The Cancun Agreements' (2010) FCCC/CP/2010/7/Add.1, para 117; Paris Agreement (n 4) art 10(3).

[59] Paris Agreement (n 4) art 11(1).

capacity to prepare projects, access finance and meet transparency requirements.[60] High costs, limited research capacity and weak institutional coordination continue to impede access.[61]

3.5 The NDC 3.0 Cycle and the Global Stocktake

The first Global Stocktake concluded in 2023 that, although the Paris Agreement has driven near-universal climate action, Parties are not yet collectively on track to meet its long-term goals.[62] The third generation of NDCs, communicated from 2025, is expected to be informed by that outcome and to reflect progression.[63] This creates a climate justice test: enhanced ambition by African States must be matched by credible implementation pathways and corresponding support, rather than shifting a disproportionate burden onto countries with limited historical responsibility and constrained fiscal space. All five States examined in section 5 have now communicated their 2035 NDCs, and the analysis below is based on those documents.

4. Human Rights, Loss and Damage and Judicial Accountability

The African Charter on Human and Peoples' Rights guarantees the right of all peoples 'to a general satisfactory environment favourable to their development'.[64] The African Commission has held that this right imposes obligations on States to take reasonable measures to prevent pollution and ecological degradation.[65] The preamble to the Paris Agreement also acknowledges that Parties should, when taking climate action, respect, promote and consider their human rights obligations.[66] Domestic constitutions in several of the case study States provide further entry points, as section 5 shows.

Corrective justice is addressed in the Paris Agreement through Article 8, which recognises the importance of averting, minimising and addressing loss and damage. The Agreement does not, however, create a general compensation entitlement; the decision adopting it states that Article 8 'does not involve or provide a basis for any liability or compensation'.[67] The loss and damage fund described in section 3.3 is therefore a cooperative rather than a liability-based response.

The Advisory Opinion of the International Court of Justice of 23 July 2025 has significantly clarified the legal character of NDCs. The Court found that Parties do not enjoy unfettered discretion in preparing their NDCs: they must exercise due diligence so that their NDCs, taken together, are capable of achieving the 1.5℃ temperature goal.[68] This qualifies any simple description of the substance of NDCs as 'non-binding': while achieving a particular emissions outcome is not itself required, the setting and implementation of NDCs are subject to a stringent standard of due diligence. The Court also described a clean, healthy and sustainable environment as a precondition for the enjoyment of

[60] UNFCCC (n 16); African Union (n 3).

[61] African Union (n 3).

[62] Decision 1/CMA.5, 'Outcome of the First Global Stocktake' (2023) FCCC/PA/CMA/2023/16/Add.1.

[63] ibid; Paris Agreement (n 4) arts 4(3) and 14(3).

[64] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, art 24.

[65] *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria*, Communication 155/96 (African Commission on Human and Peoples' Rights, 27 October 2001) para 52.

[66] Paris Agreement (n 4) preamble.

[67] Paris Agreement (n 4) art 8(1); Decision 1/CP.21, 'Adoption of the Paris Agreement' (2015) FCCC/CP/2015/10/Add.1, para 51.

[68] *Obligations of States in respect of Climate Change* (Advisory Opinion) [2025] ICJ General List No 187, paras 237–249, especially para 245.

many human rights.[69] For African States, the Opinion strengthens arguments both for ambition by major emitters and for scrutiny of domestic implementation. Comparable developments include the 2024 Advisory Opinion of the International Tribunal for the Law of the Sea and the 2025 Advisory Opinion of the Inter-American Court of Human Rights.[70]

At the domestic level, courts can provide avenues of accountability even where NDC targets are not themselves justiciable. In *Earthlife Africa Johannesburg v Minister of Environmental Affairs*, the High Court of South Africa held that climate change impacts were a relevant consideration in the environmental authorisation of a coal-fired power station, drawing in part on South Africa's commitments under the Paris Agreement.[71] African courts have increasingly been asked to engage with climate questions in this way.[72]

5. Comparative Case Studies

5.1 Method and Case Selection

The five countries represent different legal systems, emissions profiles, institutional capacities and approaches to climate governance. Cameroon provides a Central African, forest-rich example; Kenya illustrates a dedicated climate statute and justiciable constitutional environmental rights; South Africa offers a major-emitter context with climate legislation and litigation; Morocco illustrates large-scale renewable energy investment; and Rwanda represents an adaptation-oriented, planning-led approach. Selection is purposive rather than statistically representative: the sample does not include a Sahelian, small island or conflict-affected State, which limits how far the findings can be generalised.

Each country is assessed against the five criteria defined in section 2.2. Table 1 summarises the headline mitigation commitments in each country's 2035 NDC. The targets use different baselines, base years and scopes and should not be ranked as though directly comparable.

Table 1: Headline 2035 mitigation commitments of the five case study States

Country	NDC	Target to 2035	Reference	Unconditional	Conditional share of target
Cameroon	NDC 3.0 (2026)	41% reduction	Business as usual	14%	About two thirds
Kenya	Second NDC (2025)	35% reduction	Business as usual (215 $MtCO_2e$)	20% of the reduction	About four fifths
South Africa	Second NDC (2025)	320–380 $MtCO_2e$	Absolute emissions range	Not split	Not split
Morocco	NDC 3.0 (2025)	53% reduction	Reference scenario	21.6%	About three fifths

[69] ibid para 393.

[70] *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law* (Advisory Opinion, 21 May 2024) ITLOS Case No 31; *Climate Emergency and Human Rights* (Advisory Opinion OC-32/25, 29 May 2025) Inter-American Court of Human Rights.

[71] *Earthlife Africa Johannesburg v Minister of Environmental Affairs and Others* [2017] ZAGPPHC 58, [2017] 2 All SA 519 (GP).

[72] Kotzé and du Plessis (n 8).

Country	NDC	Target to 2035	Reference	Unconditional	Conditional share of target
Rwanda	NDC 3.0 (2025)	53% reduction	Business as usual (27.9 $MtCO_2e$)	7%	About nine tenths

Sources: see notes to sections 5.2 to 5.6. Conditional shares are the author's calculations from the figures stated in each NDC.

5.2 Cameroon

Cameroon communicated its NDC 3.0 on 17 June 2026, superseding the updated NDC of 2021.[73] The new NDC targets a 41 per cent reduction in emissions by 2035 relative to a business-as-usual scenario, of which 14 per cent is unconditional and 27 per cent conditional on international support, with an interim target of 38 per cent by 2030 (13 per cent unconditional).[74] This raises the 2021 target of 35 per cent by 2030, of which 12 per cent was unconditional.[75] The energy and forestry sectors account for most of the planned 2035 reductions, about 54 and 32 per cent respectively, reflecting Cameroon's position within the Congo Basin forest.[76] The NDC estimates total implementation costs to 2035 at about USD 40.9 billion.[77]

Recognition. The Preamble to the Constitution affirms that every person has a right to a healthy environment, and the framework law on environmental management gives it statutory expression.[78] The NDC 3.0 includes a just transition component prioritising green jobs, training for youth and women and support for vulnerable workers, and a gender action section.[79] *Distributive equity.* Two thirds of the 2035 ambition depends on external support, and the NDC does not state what share of its cost estimate it expects to be met internationally. *Procedural justice.* The NDC reports an inclusive stakeholder consultation, but public access to implementation information remains limited.[80] *Corrective justice.* The NDC does not address loss and damage or remedies. *Accountability.* Implementation is coordinated by the Ministry of Environment, Nature Protection and Sustainable Development under a multisectoral committee, with an MRV system still being strengthened; the 2022 greenhouse gas inventory on which the targets rest had not been validated at the time of submission.[81] Cameroon has no dedicated climate statute, so NDC commitments rely on executive coordination rather than legal duties.

5.3 Kenya

Kenya's second NDC, for 2031–2035, commits to a 35 per cent reduction in emissions by 2035 relative to a business-as-usual scenario of 215 $MtCO_2e$. About 20 per cent of the reduction is to be financed domestically, subject to national circumstances, and the remaining 80 per cent depends on inter-

[73] Republic of Cameroon, *Contribution Déterminée au Niveau National Actualisée (CDN 3.0)* (2026) https://unfccc.int/sites/default/files/2026-06/CDN%203.0%20CMR%20FINAL.pdf accessed 5 November 2026.

[74] ibid 4–5 and 26.

[75] ibid 5; Republic of Cameroon, *Contribution Déterminée au Niveau National Actualisée* (2021).

[76] Republic of Cameroon (n 73) 26; Central African Forest Commission (COMIFAC), *The Forests of the Congo Basin: State of the Forests 2021* (COMIFAC 2022).

[77] Republic of Cameroon (n 73) 4.

[78] Constitution of the Republic of Cameroon 1972 (as amended by Law No 96/06 of 18 January 1996), Preamble; Law No 96/12 of 5 August 1996 relating to Environmental Management.

[79] Republic of Cameroon (n 73) 31 and 42.

[80] ibid 5 and 27–30.

[81] ibid 4 and 27–30.

national support.[82] Its priorities include renewable energy, climate-smart agriculture, sustainable transport, forestry and resilience for vulnerable communities.[83]

Recognition. The Constitution guarantees the right to a clean and healthy environment, enforceable through the courts.[84] *Distributive equity.* Kenya's domestically funded share is among the smallest of the five States, which makes the predictability of international finance decisive. *Procedural justice and accountability.* The Climate Change Act 2016 establishes a National Climate Change Council chaired by the President, requires national action plans, and imposes climate change duties on public and private entities; its 2023 amendment added a framework for carbon markets.[85] Kenya therefore illustrates how a statute can convert NDC commitments into institutional duties. Whether finance and participation reach vulnerable communities remains a separate test. *Corrective justice.* Constitutional rights provide a basis for remedies, and Kenyan courts have applied environmental principles in development disputes, although outcomes vary.[86]

5.4 South Africa

South Africa is the continent's largest greenhouse gas emitter and one of its most industrialised economies.[87] Its second NDC sets an absolute emissions range of 320–380 $MtCO_2e$ by 2035 and retains a long-term goal of net zero carbon dioxide emissions by 2050.[88] It explicitly links implementation to the Climate Change Act 2024 and national adaptation planning.[89]

Recognition and accountability. Section 24 of the Constitution guarantees an environmental right.[90] The Climate Change Act 2024 establishes the Presidential Climate Commission, provides for sectoral emissions targets and carbon budgets, and requires provincial and municipal climate response measures.[91] This is the most developed statutory architecture of the five States. *Distributive equity.* The transition away from coal raises questions of fairness for workers and coal-dependent communities, which the just transition framework and the Just Energy Transition Partnership agreed in 2021 seek to address.[92] *Corrective justice and procedural justice. Earthlife Africa* demonstrates that environmental authorisation processes can be reviewed for failure to consider climate impacts, although it does not establish that NDC pledges are directly justiciable.[93]

5.5 Morocco

Morocco's NDC 3.0 commits to a 53 per cent reduction in emissions by 2035 relative to a reference scenario, of which 21.6 per cent is unconditional, up from 45.5 per cent and 18.3 per cent respectively

[82] Republic of Kenya, *Kenya's Second Nationally Determined Contribution 2031–2035* (2025) https://unfccc.int/sites/default/files/2025-05/KENYAS%20SECOND%20NATIONALLY%20DETERMINED%20CONTRIBUTION%202031_2035.pdf accessed 5 November 2026.

[83] ibid.

[84] Constitution of Kenya 2010, arts 42 and 70.

[85] Climate Change Act 2016 (Kenya), No 11 of 2016; Climate Change (Amendment) Act 2023 (Kenya).

[86] Kotzé and Soyapi (n 8).

[87] Republic of South Africa, *South Africa's Second Nationally Determined Contribution (2031–2035)* (2025).

[88] ibid.

[89] ibid.

[90] Constitution of the Republic of South Africa 1996, s 24.

[91] Climate Change Act 22 of 2024 (South Africa).

[92] Presidential Climate Commission, *A Framework for a Just Transition in South Africa* (PCC 2022).

[93] *Earthlife Africa* (n 71).

in its 2021 NDC.[94] It also signals a conditional phase-out of coal-fired power by 2040.[95] Its mitigation priorities include renewable energy, energy efficiency and transport, and its adaptation priorities include water and agriculture.[96]

Recognition. The 2011 Constitution recognises the right of citizens to a healthy environment and to sustainable development, and the Framework Law on the National Charter for the Environment and Sustainable Development gives these principles legislative form.[97] *Distributive equity.* Morocco's large-scale renewable investment, including the Noor Ouarzazate solar complex of about 580 MW, shows what sustained public investment can achieve.[98] Such investment is not, however, in itself proof that benefits and burdens have been equitably distributed; assessment requires attention to land and water use, local access to energy and the terms of finance. *Procedural justice, corrective justice and accountability.* Project-level consultation and remedies require specific examination, and delivery indicators for the NDC require independent verification.

5.6 Rwanda

Rwanda's NDC 3.0 sets an unconditional reduction of about 7 per cent below business-as-usual emissions by 2035, rising to 53 per cent with international support, against projected business-as-usual emissions of 27.9 $MtCO_2e$.[99] Its previous NDC targeted 38 per cent by 2030.[100] Adaptation priorities include agriculture, water, human settlements and health.[101]

Recognition and accountability. Rwanda has integrated climate action into national planning since its Green Growth and Climate Resilience Strategy of 2011, and its environment law provides the main statutory framework.[102] *Distributive equity.* With about nine tenths of its 2035 ambition conditional, Rwanda illustrates most clearly how the credibility of an African NDC can depend on international support. *Procedural and corrective justice.* Recognition and adaptation planning should be tested against actual inclusion, budget allocation and access to remedies, on which the NDC itself provides limited evidence.

5.7 Comparative Assessment

Table 2 applies the five criteria to each country. It records legal and policy indications rather than measured implementation outcomes. 'Limited evidence' means that the materials examined do not establish effective delivery, not that the country has no relevant measure.

Table 2: Assessment of the five States against the climate justice criteria

[94] Kingdom of Morocco, *Contribution Déterminée au Niveau National 3.0* (2025); Kingdom of Morocco, *Contribution Déterminée au Niveau National Actualisée* (2021).

[95] Kingdom of Morocco (n 94).

[96] ibid.

[97] Constitution of the Kingdom of Morocco 2011, art 31; Framework Law No 99-12 on the National Charter for the Environment and Sustainable Development (2014).

[98] Moroccan Agency for Sustainable Energy (MASEN), 'Noor Ouarzazate Complex' https://www.masen.ma accessed 5 November 2026.

[99] Republic of Rwanda, *Updated Nationally Determined Contribution (NDC 3.0)* (2025) https://unfccc.int/sites/default/files/2025-12/Rwanda%20NDC3.0%20Final.pdf accessed 5 November 2026.

[100] Republic of Rwanda, *Updated Nationally Determined Contribution* (2020).

[101] Republic of Rwanda (n 99).

[102] Republic of Rwanda, *Green Growth and Climate Resilience: National Strategy for Climate Change and Low Carbon Development* (2011); Law No 48/2018 of 13 August 2018 on Environment (Rwanda).

Country	Recognition	Distributive equity	Procedural justice	Corrective justice	Accountability
Cameroon	Constitutional preamble; just transition and gender sections in NDC 3.0	About two thirds of 2035 ambition conditional	Consultation reported; limited public information	Not addressed in NDC	Executive coordination; no climate statute; MRV being built
Kenya	Justiciable environmental right (arts 42, 70)	About four fifths of reduction depends on support	Statutory institutions; participation evidence limited	Constitutional remedies available	Climate Change Act 2016 imposes duties
South Africa	Environmental right (s 24); just transition framework	Coal transition raises worker and community equity issues	Authorisation processes open to review	*Earthlife Africa* shows judicial scrutiny	Climate Change Act 2024: carbon budgets, sectoral targets
Morocco	Constitutional right (art 31); framework law	About three fifths of ambition conditional	Project consultation: limited evidence	Project remedies: limited evidence	Strong investment programme; delivery indicators need verification
Rwanda	Long-standing planning integration	About nine tenths of ambition conditional	Local inclusion: limited evidence	Remedies: limited evidence	Planning-based; environment law; reporting needs verification

Three comparative findings follow. First, NDC ambition alone is an incomplete measure of climate justice: Morocco and Rwanda share the same 53 per cent headline target, yet Rwanda's unconditional commitment is a third of Morocco's, reflecting very different fiscal capacities. Secondly, the degree of domestic legal anchoring varies more than the targets do. South Africa and Kenya have climate statutes that convert NDC commitments into institutional duties, while Cameroon relies on executive coordination. Thirdly, corrective justice is the least developed criterion across all five States: none of the NDCs establishes accessible remedies or a domestic loss and damage response. The decisive question is therefore whether commitments are connected to budgets, sectoral regulation, public participation, monitoring, remedies and accessible international support.

6. Implementation Challenges and Synthesis

6.1 Cross-Cutting Challenges

The case studies and the literature point to four recurrent constraints on implementation.

Finance. Conditional commitments account for most of the stated ambition in four of the five States examined, while international finance remains well below Africa's estimated needs.[103] The New Collective Quantified Goal raises the global target but does not allocate resources to particular countries, so the gap between conditional ambition and assured support is likely to persist.[104]

Institutions and law. Where NDC priorities lack a statutory basis, institutional mandates are often fragmented and implementation depends on executive discretion. Kenya and South Africa show

[103] Climate Policy Initiative (n 51); OECD (n 52).
[104] Decision 1/CMA.6 (n 53) paras 7–8.

that climate legislation can assign duties and create coordinating bodies; Cameroon and, to a lesser extent, Morocco and Rwanda rely on policy instruments.[105]

Transparency and data. The Enhanced Transparency Framework depends on reliable inventories and reporting systems.[106] Cameroon's NDC 3.0, for example, rests on an inventory that had not been validated when it was submitted, illustrating the capacity constraints that limit accountability.[107]

Competing development pressures. Governments must address poverty, urbanisation, public health and infrastructure deficits alongside climate action, often with limited fiscal space.[108]

6.2 Synthesis of Legal Findings

The analysis yields four principal legal findings. First, the Paris Agreement creates stronger procedural than substantive duties in relation to NDCs, although the ICJ's Advisory Opinion confirms that the setting and implementation of NDCs are subject to stringent due diligence.[109] Secondly, this design enhances participation and sovereignty but creates a climate justice risk where vulnerable African States assume ambitious conditional commitments without reliable means of implementation. Thirdly, Articles 9, 10 and 11 on finance, technology and capacity building are therefore integral to the equitable operation of the regime rather than peripheral to it. Fourthly, domestic law is the principal bridge between international NDC commitments and accountable implementation: where NDC priorities are incorporated into legislation, budgets, sectoral plans, reporting duties and participatory institutions, they are more capable of producing concrete and reviewable outcomes.

7. Conclusion and Recommendations

7.1 Conclusion

NDCs are indispensable instruments for climate justice in Africa, but they are not sufficient on their own. The five States examined have all strengthened their ambition in the third NDC cycle, and several have built domestic legal and institutional frameworks for implementation. Yet much of their ambition remains conditional on support that is neither legally assured nor allocated to them, and corrective justice remains largely unaddressed. The effectiveness of NDCs in advancing climate justice therefore depends on stronger domestic legal anchoring, predictable and accessible international finance, meaningful participation, robust transparency and access to remedies, grounded in the principles of equity and CBDR-RC.

7.2 Recommendations

1. **Domestic legal incorporation and accountability.** African States should translate NDC priorities into climate legislation, sectoral regulations, budgetary obligations and measurable implementation plans, with clear institutional responsibility, timelines and oversight. Kenya's and South Africa's climate statutes offer models that can be adapted to national contexts.
2. **Predictable and accessible climate finance.** Developed country Parties should strengthen the

[105] Climate Change Act 2016 (n 85); Climate Change Act 22 of 2024 (n 91); African Union (n 3).
[106] Paris Agreement (n 4) art 13(7).
[107] Republic of Cameroon (n 73) 4.
[108] Trisos and others (n 2) Executive Summary; African Development Bank (n 42).
[109] *Obligations of States in respect of Climate Change* (n 68) paras 237–249.

predictability, adequacy and accessibility of finance under Article 9 and the New Collective Quantified Goal, while African States strengthen climate finance institutions, project preparation and direct access capacity.

3. **Adaptation and loss and damage**. NDC implementation should prioritise food and water security, climate-resilient infrastructure, public health, ecosystem protection and disaster risk reduction, and should set out national approaches to loss and damage under Article 8, with resources directed transparently to the most vulnerable communities.
4. **Procedural climate justice**. Governments should institutionalise meaningful participation by local communities, women, youth, Indigenous Peoples, civil society, local authorities and affected workers in NDC preparation, implementation and review, supported by access to information in line with Article 12.
5. **Technology transfer and institutional capacity**. Cooperation under Articles 10 and 11 should focus on practical access to renewable energy systems, climate-smart agriculture, early warning systems, climate data and monitoring technologies, alongside domestic scientific, legal and technical expertise.
6. **Transparency linked to domestic oversight**. Reporting under Article 13 should connect with national monitoring systems, public climate data platforms, legislative oversight and periodic implementation reviews, so that transparency functions as domestic accountability as well as international reporting.
7. **NDC 3.0 and Global Stocktake alignment**. Successive African NDCs should demonstrate progression while explaining how enhanced ambition relates to development needs, adaptation priorities and the support required, and should clearly separate unconditional and conditional components.
8. **Regional coordination**. The African Union and Regional Economic Communities should promote shared expertise, regional climate finance capacity and coordinated positions on finance, adaptation, technology and just transition, building on the African Union Climate Change and Resilient Development Strategy.

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