

# FEATURE

## Food Justice in Africa: Protecting the Right to Food in the Climate Crisis

*Nastasia Thebaud-Bouillon-Njenga and Michael Addaney*

### Introduction

---

*The adverse effects of climate change present a significant danger to global food security, particularly in sub-Saharan Africa (Sirba & Chimdessa 2021). The increase in the occurrence and seriousness of extreme climate events such as droughts, floods, and unpredictable weather and rainfall patterns is affecting food security and all components of the right to food in Africa (IPCC 2022). Challenges in accessing agricultural resources, protracted crises, and a lack of policies to support sustainable agricultural production (such as agroecology) inhibit the growth of climate-resilient agriculture capable of ensuring food availability and accessibility in a stable, just, and sustainable manner.*

Additionally, inadequate storage, transportation, and processing facilities have resulted in food waste and food shortages (FAO, AUC, UNECA and WFP Regional overview 2023). Gender disparities, excessive inflation, decreased crop yields, limited investment in sustainable agriculture, inadequate policy structures, insufficient infrastructure, and corruption are among the major challenges hindering food security and sustainable food availability and accessibility in Africa (Wudil et al. 2022).

The recognition and protection of the right to food in all its components (food availability, food accessibility, food adequacy, food stability, and sustainability) could foster an enabling environment for attaining sustainable food security and durably reducing hunger in Africa while protecting the environment, biodiversity, and human health. Mbazira (2004) underscored the need for effective protection of the right to food, such as by defining the right to food in the African context, giving effect to this right through legislation at the national level, and having the African Commission on Human and Peoples' Rights to monitor implementation as part of State periodic reports in accordance with the African Charter on Human and Peoples' Rights.

Nearly a decade later, the UN Special Rapporteur on the Right to Food commended the African continent's efforts to bring the right to food to life in regional and national legislative and policy frameworks, stating that "the right to food is a compass that can sit alongside existing African human rights frameworks and bring food security approaches into coherence" (OHCHR Press release 2013). Indeed, a large number of constitutions in Africa have now recognised the right to food. However, few cases have been brought before courts to realise the right to food, undermining its justiciability and its realisation at the intersection of multiple inequalities (gender, disability, migration). While there have been studies looking at food security in Africa, the relationship between food security, sustainability, and human rights standards, specifically the right to sustainable food in Africa, remains unclear.

This article guides reinforcing protection of the paramount yet fragile right to food in Africa in the context of a climate crisis that calls for a sustainable transformation of food systems. It reiterates the interconnectedness of climate change impacts and food security and analyses the legal basis on which African states have obligations to realise the right to food in the context of the climate crisis.

## Climate change and the right to food in Africa

Climate change and other intersecting factors, such as poverty, inequality, conflict, and uneven distribution of resources, are driving global hunger and malnutrition (UN High Commissioner for Human Rights 2024). The prevailing conditions are undermining the achievement of UN Sustainable Development Goal 2, on ending hunger, by 2030. An estimated 333 million people faced acute levels of food insecurity in 2023 (FAO 2023), an increase of almost 200 million people since the pre-Covid-19 era. There are projections that more than 600 million people will be affected by food insecurity in 2030 (FAO 2023) due mainly to climate change. Both sudden and slow-onset climate events, such as heatwaves, salinisation, sea-level rise, flooding, and droughts, are gradually impacting global agricultural and food systems in the context of an unequal distribution of essential resources such as land and water.

The outcome of the first global stock-take under the Paris Agreement, adopted by the Conference of the Parties to the United Nations Framework Convention on Climate Change in 2023, recognises the specific vulnerabilities of food systems to the adverse impacts of climate change and the significance of prioritising food security. The connection between climate change and food insecurity highlights the interdependence of the right to food and the right to a sustainable environment. While food security is highly threatened by climate change, especially in Africa, it is important to acknowledge that food systems (especially in high-income countries) have historically been and still are a major driver of the climate crisis.

Climate change directly and indirectly undermines food availability, accessibility, adequacy or quality, stability, and sustainability in vital ways (Mbow et

al. 2019). First, climate change manifests as changing weather patterns, including disparities in temperature and humidity and water distribution patterns. It impacts food production and storage through loss of crops, diseases, and extreme heat impacting food storage. Secondly, the impacts of climate change affect larger ecosystems, transforming long-standing biodiversity across regions globally. Climate change indirectly impacts food accessibility by exacerbating socio-economic dynamics, poverty, and existing inequalities. It impacts the sustainable and stable access to adequate and quality food, especially for people who already experience discrimination.

Indeed, the climate crisis has indirect impacts that are often overlooked during policy-making, programming, and budgeting and yet affect food access. It intersects with several systemic issues and intersectional inequalities based on gender, age, disability, migration status, and ethnicity, among others. The 'structural injustices in access to food, land, and natural resources' at the core of food systems, especially deep-rooted gender inequalities and injustices faced by small-holder and peasant farmers, are exacerbated by climate change, calling for the disruption of 'unequal power relations' (Bourke-Martignoni 2020).

Changes in weather patterns and ecosystems substantially affect all components of the right to food, namely food availability, accessibility, adequacy, stability, and sustainability. Several studies have demonstrated in detail how climate change interferes with food security (FAO 2023; Saadoun & Simet 2022). For instance, drought is one of the most recognised results of climate change as it has become increasingly common, necessitating that farmers and other food producers adopt adaptation strategies or relocate to distant places, thus affecting their ability to produce livestock and crops. Floods also impact food availability, by impacting agricultural seasons and increasing food loss, as well as accessibility, by negatively affecting

**Climate change indirectly impacts food accessibility by exacerbating socio-economic dynamics, poverty, and existing inequalities.**

the ability of people, especially people with already limited access to resources and commodities, to access sufficient quality food. In addition to droughts and floods, the increased frequency and intensity of climate-related disasters, from cyclones and tropical storms, is destroying fertile lands, and altering agricultural practices and food sources, including ancestral lands of indigenous communities. In the long term, climate change and associated extreme events will continue to impact major ecosystems and food systems.

At the continental level, many parts of Africa face malnutrition, food insecurity, and rising inequalities. In 2020, 282 million of the 811 million people who experienced undernourishment due to climate-driven shocks were from Africa (FAO, IFAD, UNICEF, WFP & WHO 2021). Moreover, about 426 million Africans lack consistent access to an adequate supply of nutritious food (FAO, ECA, and AUC 2021). Without a doubt, Africa is a significant hotspot for climate risks and is highly prone to food insecurity. Climate change will continue to reduce both crop yields and economic resources, especially in sub-Saharan Africa, posing a serious risk to the welfare of communities already living with severe socio-economic disadvantages (FAO, ECA & AUC 2021). This situation justifies the need to analyse the African human rights law framework for the recognition and realisation of the right to food to question its adequacy to respond to the climate crisis, which exacerbates existing power dynamics and inequalities.

## Climate change and the right to food in Africa

The right to food is explicitly recognised in the International Covenant on Economic, Social and Cultural Rights (article 11(1)) and General Comment No. 12, which put forward a set of state obligations. It is also recognised in implicit and explicit provisions in key African human rights instruments. While the African Charter on Human and Peoples' Rights (ACHPR) does not contain an explicit article on the right to food, the African Commission on Human and Peoples' Rights, in its *SERAC* and *CESR v Nigeria* case, recognised that the right to food was implied by

article 4 on the right to life, article 16 on the right to health, and article 22 on the right to economic, social and cultural development (ACHPR Communication No. 155/96, 2001, paras 64–66).

It argued that under African and international human rights obligations, Nigeria had to 'protect and improve existing food sources and to ensure access to adequate food for all citizens', while having the legal obligation not to negatively impact the right to food through its actions or the actions of private actors (para 65, *SERAC* case). Thus, the African Commission found a violation of the right to food of the Ogoni people by the Government of Nigeria through the destruction of food sources, its enablement of food destruction by private actors, and the creation of a climate of terror that prevented Ogoni communities to exercise their right to food (para 66, *SERAC* case). As Mbazira (2004) has argued, 'by holding that this right is implicitly protected, the Commission has cured one of the Charter's glaring weaknesses'.

 **In the long term, climate change and associated extreme events will continue to impact major ecosystems and food systems.**

While the *SERAC* case defined state obligations not to interfere with the right to food, further efforts were needed to define the positive obligations of African states in regard to the right to food. In the *by the* African Commission (*African Commission v. Kenya Govt*), while not recognising a direct link between the eviction of the Ogiek community and the violation of their right to life (and therefore right to food), the decision of the African Court on Human and Peoples' Rights was framed in such a way that the documented deprivation of the right to food as a result of their eviction was characterised as instrumental in the violation of the Ogieks' right to natural resources (para 201, *Communication 006/12, African Commission v Republic of Kenya*, Judgment of 2017).

In this decision, the Court decided that Kenya ‘violated Article 21 of the Charter since the Ogieks have been deprived of the right to enjoy and freely dispose of the abundance of food produced by their ancestral lands’ (para 201). This causality effect in this decision makes it clear that both the African Commission and the African Court have derived the right to food from other enshrined rights.

Components of the right to food are also specifically protected by article 15 of the Maputo Protocol on the Rights of Women in Africa on the right to food security, which provides for the right to nutritious and adequate food as well as means of production including land, mainly recognising women’s significant role in food systems. Additionally, article 14 of the African Charter on the Rights and Welfare of the Child specifically recognises the importance of children’s right to nutrition as part of their right to health. These two instruments further enshrine the protection of the right to food in the African human rights corpus.

As a result, the African Commission’s *‘Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter’* provide a detailed framework for the realisation of the right to food (ACHPR 2011). For instance, these guidelines call for the development of policies that address issues across the food system from production to consumption, as well as specific ‘parallel measures’ to reinforce the enabling environment (nutrition, health, education, employment, and social security). The Guidelines call for “the most sustainable management and use of natural and other resources for food at the national, regional, local and household levels”, therefore integrating a sustainability and ecological component.

General Comment No. 12 of the International Committee on Economic, Social and Cultural Rights provides a guide to understanding the components of the right to food (availability, accessibility, adequacy, and stability). While food availability is linked mainly to food production, food accessibility is realised when economic and physical access to food is guaranteed. Food adequacy implies that the food should be of a standard that meets health and nutritional needs. This is key given that recent studies point to a decrease in the nutritional value

of food as a result of climate change effects such as heatwaves (Mbow et al. 2019). Research has established that when food crops are exposed to certain carbon dioxide levels, they lose as much as 10 per cent of their diverse protein content (Medek et al. 2017).

In recent years, the latest component of the right to food – stability – has been understood to encompass sustainability, since the realisation of the right to food should not impede the right of future generations to feed themselves. This recognition emphasises the need to realise the right to access to food in a manner that respects the environment and biodiversity. State obligations regarding the right to food imply the duty to respect, protect, and fulfill.

In the context of climate change, while the duty to respect the right to food implies that governments should not interfere with the right to food, the duty to protect should ensure that the right to food is not impacted by non-state actors such as private sector companies (for instance in the context of carbon offset deals). The duty to fulfill should be understood as the government’s duty to adapt food systems to the impacts of climate change while ensuring that these systems are respectful of the environment and biodiversity.

Apart from the right to food’s recognition in key African human rights instruments, the African Commission on Human and Peoples’ Rights passed a series of resolutions in this regard in 2017, 2019 and 2022. While the 2017 resolution focused mainly on food production and food assistance, thus leaving a gap in food accessibility (ACHPR/Res. 374(LX) 2017), the 2019 resolution is more closely aligned than it with right-to-food principles, the right’s sustainability component, and the principles of food sovereignty (ACHPR/Res. 431(LXV) 2019). This resolution includes food accessibility and quality as core elements, reinforcing the importance of local and organic farming and production while looking at the impact of protracted crises on access to food; it is also in favour of the equitable management of resources, ending resource-grabbing, and regulating imports (ACHPR/Res. 431(LXV) 2019).

In 2022, the ACHPR’s resolution focused on building resilience in nutrition, giving particular recognition

to the fact that food insecurity is often first and foremost the result of protracted crises or conflicts and climate-related shocks; in view of this, the resolution urges states to adopt an inclusive approach to ending malnutrition which recognises the intersectionality of food insecurity factors (ACHPR/Res. 514 (LXX) 2022).

At the national level, the right to food can be found explicitly in several constitutions (Democratic Republic of the Congo, Egypt, Kenya, Malawi, Niger, and South Africa), implicitly in several more (Congo, Egypt, Ethiopia, Togo, and Tunisia), and, elsewhere, in directive principles of state policy recognising access to adequate food (Burundi, Ethiopia, the Gambia, Malawi, Namibia, Niger, Nigeria, South Sudan, Uganda, Tanzania, and Zimbabwe) (FAO n. d.). However, even though it is recognised in international and African human rights law, the right to food remains one of the least implemented rights of all, considering the number of people whose right to food is undermined in Africa as a result of the inability of food systems to ensure adequate food accessibility in the context of multisectoral inequalities, protracted crises, and climate change impacts.

**“ Food insecurity remains the result of inequalities of access to resources, economic opportunities, and unequal power dynamics. The recognition of the right to food on the African continent cannot be synonymous with the increase of unsustainable food production.**

In 2022, a report by the Food and Agriculture Organization (FAO), United Nations Economic Commission for Africa, and the African Union estimated that more than 342 million people were severely food-insecure, especially in West, Central, and East Africa, and that hunger had significantly

deteriorated, especially between 2019 and 2022 (FAO, AUC, UNECA and WFP Regional overview 2023). This can be attributed not only to the Covid-19 pandemic, but also to the worsening of the climate crisis and an increased number of extreme climate events, such as floods, droughts, locust invasions, and extreme heat.

We observe a disconnect between African human rights instruments, which call for the holistic and inclusive realization of all components of the right to food, including sustainability through sustainable agricultural practices, and current African Union policies on food security and agriculture, which are more focused on food productivity. The Malabo Declaration (2014) is often cited as the main commitment from African States regarding food security (2015–2025). They aim to accelerate agricultural productivity and emphasise food production and the productivity of African agriculture. The primary focus of these Declarations is placed on increasing mechanisation, productivity, and wealth creation.

Focusing solely on accelerating productivity is not consistent with the components of the right to food going beyond food availability, especially in a context where deeply rooted inequalities and climate change affect food accessibility and sustainability. Rather, this focus creates an imbalance between production, on the one hand, and sustainability, on the other. This vision of the African agricultural model and food system mainly based on productivity and mechanisation poses a potential threat to sustainable food security as it does not reflect key aspects of food accessibility and sustainability.

Beyond the Malabo Declaration, policies were passed at the African Union level on issues related to food security, giving increasing attention to climate-related issues, including the Comprehensive Africa Agriculture Development Programme (CAADP). The question remains on which agricultural model and food system are prioritised in African Union policies in order to respond to the climate and food crises through a sustainable and rights-based approach.

The post-Malabo framework will be launched by the African Union in 2025 as the Kampala Declaration and Action Plan (2026-2035). In a position statement from

a civil society consultation held in Kampala in October 2024, nearly 350 civil society organisations called for food sovereignty and equitable food systems to be recognised as core elements of the future Kampala Declaration, ensuring that Africa's food and agricultural model prioritises sustainable, inclusive, and agroecological practices that respect human rights and the environment (AFSA et al. 2024). The Declaration and action plan promote agroecological approaches that move away from dependency on corporations in the seed and input sectors, and rejected the inclusion of genetic modifications and technologies controlled by the private sector; overall, the call was for food sovereignty and just food systems that recognise the needs and rights of diverse groups and that put African food producers at the centre (AFSA et al. 2024).

## Conclusion

The risks posed by the climate crisis and intersectional inequalities are significant threats to food justice in Africa. While there has been some improvement in recognising and protecting the right to food under the African human rights system and national laws, there is a significant gap between these standards and African Union policies on food security, further impeding the realisation of food security. The African human rights system has put forward guidelines for the effective realisation of the right to food through several inclusive resolutions toward food sovereignty. However, an analysis of the agricultural model informing African policies on food security shows a focus on an agricultural model based on mechanisation, intensification of production, and corporate models which are not compatible with the sustainable realisation of the right to food in its individual and collective dimensions.

Increasing food availability without looking at food accessibility (both physically and economically), as well as food quality and sustainability, will not solve the issue in the current climate crisis. Food insecurity remains the result of inequalities of access to resources, economic opportunities, and unequal power dynamics. The recognition of the right to food

on the African continent cannot be synonymous with the increase of unsustainable food production. These challenges underscore the critical importance of investing in human-rights-based, sovereign and resilient food systems to ensure the sustainable production, accessibility, supply, utilisation, and stability of nutritious food.

This calls for effective justiciability in courts across the continent. Addressing food security issues requires a holistic approach that considers the interconnectedness of food systems, livelihoods, biodiversity, and environmental sustainability. It also means recognising the importance of efforts by smallholder farmers and peasants' organisations to redefine the right to food. Food sovereignty provides an alternative structure to the current framing of food systems and holds the potential to redefine power dynamics around food justice in Africa. The realisation of the right to food implies recognising key systemic inequalities created by the current unequal agricultural and food systems and their inadequacy to ensure access to food for the most marginalised populations.

Emphasising the human rights components of the right to food should be prioritised to make African Union policies real tools to realise the right to food and food justice across the continent. Faced with the climate crisis and systemic inequalities, the future African Union Declaration and Action plan (2026–2035) should aim to adequately realise the right to food, building on the African human rights system's ambitions while embracing an approach that values the environment, food and seed sovereignty, traditional knowledge, and the eradication of intersectional inequalities in food systems and beyond.

*Nastasia Thebaud-Bouillon-Njenga is a human rights jurist, researcher, and founder of Ujasiri Human Rights, Kenya.*

*Dr Michael Addaney is a post-doctoral researcher with the Department of Public, Constitutional and International Law, College of Law, University of South Africa.*



**Addressing food security issues requires a holistic approach that considers the interconnectedness of food systems, livelihoods, biodiversity, and environmental sustainability.**

## References

African Commission on Human and Peoples' Rights (ACHPR) (2001) *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria* (Communication No. 155/96).

African Commission on Human and Peoples' Rights (2011) 'Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights'. Available at: <https://achpr.au.int/en/node/871>.

African Commission on Human and Peoples' Rights (2017) 'Resolution on the Right to Food and Food Insecurity in Africa' (ACHPR/Res. 374(LX)).

African Commission on Human and Peoples' Rights (2019) 'Resolution on the Right to Food and Nutrition in Africa' (ACHPR/Res. 431(LXV)).

African Commission on Human and Peoples' Rights (2022) 'Resolution on the Right to Food and Building Resilience and Nutrition across Africa' (ACHPR/Res. 514 (LXX)).

African Court on Human and Peoples' Rights (2017) *African Commission on Human and Peoples' Rights v Republic of Kenya*, 2017 (Communication 006/12).

African Union (2014) 'Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods'. Available at: <https://tinyurl.com/46wdtjpy>.

Alliance for Food Sovereignty in Africa (AFSA) et al. (2024) 'Position statement: A call for a true agroecology-based food systems transformation to ensure food sovereignty and resilience in the CAADP Strategy and Action Plan 2026-2035'. Available at: <https://tinyurl.com/2kkkdybx>

Bourke-Martignoni, J. (2020) 'The right to food' in Dugard, J. et al. (eds) *Research Handbook on Economic, Social and Cultural Rights as Human Rights*. Cheltenham: Edward Elgar.

Food and Agricultural Organisation (FAO) (2023) *Loss and Damage in Agrifood Systems: Addressing Gaps and Challenges*. Rome: FAO.

FAO (2023) et al. *The State of Food Security and Nutrition in the World 2023: Urbanization, Agrifood Systems Transformation and Healthy Diets across the Rural-Urban Continuum*. Rome: FAO.

FAO (2023) et al. *The State of Food Security and Nutrition in the World 2021: Transforming food systems for food security, improved nutrition and affordable healthy diets for all*. Rome: FAO.

FAO (n. d.) 'The right to food around the globe'. Available at <https://bit.ly/3Cx54aZ>.

FAO, AUC, UNECA & WFP (2023) *Africa: Regional Overview of Food Security and Nutrition 2023: Statistics and Trends*. Available at <https://doi.org/10.4060/cc8743en>.

Intergovernmental Panel on Climate Change (IPCC) (2021) 'Summary for policymakers' in Zhai, P. et al. (eds) *Climate Change 2021: The Physical Science Basis*. Cambridge: Cambridge University Press.

International Committee on Economic, Social and Cultural Rights (1999) 'General Comment No. 12 on the Right to Adequate Food' E/C.12/1999/5. Available at: <https://tinyurl.com/2vtd88pp>.

Mbazira, C. (2004) 'Reading the right to food into the African Charter on Human and Peoples' Rights: Africa's regional developments', *Economic and Social Rights Review* 5(1).

Mbow, C. et al. (2019) 'Food security' in Shukla, P. R. et al. (eds) *Climate Change and Land: An IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems*. Available at <https://www.ipcc.ch/srccl/>.

Medek, D.E. et al. (2017) "Estimated Effects of Future Atmospheric CO<sub>2</sub> Concentrations on Protein Intake and the Risk of Protein Deficiency by Country and Region" *Environmental Health Perspectives* Vol 125(8). Available at: <https://doi.org/10.1289/EHP4>.

Office of the High Commissioner for Human Rights (OHCHR) (2013) 'UN expert praises Africa's commitment to "the right to adequate food"' Press release. Available at: <https://tinyurl.com/3fjav6ya>.

Saadoun, S. & Simet, L. (2022) 'Reimagine global food systems to prevent hunger and protect rights', *Human Rights Watch*. Available at <https://bit.ly/4hWdsRF>.

Sirba, H. Y. & Chimdessa, T. B. (2021) 'Review of Impact of Climate Change on Food Security in Africa', *International Journal of Research and Innovations in Earth Science (IJRIES)* 8 (3). Available at: <https://tinyurl.com/2sdfdwz>.

United Nations High Commissioner for Human Rights (2024) 'Measures for minimizing the adverse impact of climate change on the full realization of the right to food', available at: <https://tinyurl.com/5fdw2c5z>.

Wudil A. H. et al. (2022) 'Reversing Years for Global Food Security: A Review of the Food Security Situation in Sub-Saharan Africa (SSA)' *International Journal of Environmental Research and Public Health (IJERPH)* 19(22):23, available at : [10.3390/ijerph192214836](https://doi.org/10.3390/ijerph192214836).