

LEGAL FRAMEWORK FOR THE PROTECTION OF CLIMATE CHANGE-FORCEDLY DISPLACED PERSONS IN AFRICA: A POLICY PAPER

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Abstract

Climate change is now well generally known as a long-term shift in climate patterns which is associated with a rise in temperatures, whether globally or in regions. In Africa, climate change has occurred, and the consequences are disruption in 'biodiversity loss, water shortages, decreasing food production, loss of lives, and reduced economic growth. According to a report from the Internal Displacement Monitoring Center, there has been an increase in displacement caused by climate change in Africa, from 1.1 million in 2009 to 6.3 million in 2023, and this figure is expected to rise by 2030¹. In 2025, the special rapporteur on Refugees, Asylum seekers, internally displaced Persons and migrants in Africa at the 83rd ordinary session of the African Commission on Human and Peoples' Rights acknowledged that one of the factors that leads to forced displacement in Africa is climate change². She called for a development of a common African position on forceful displacement due to climate change grounded in Human rights³. This is coming after the African Union Resolution on the need for a study on the development of a specific legal framework for the protection of forcibly displaced persons in

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¹ Internal Displacement in Africa <[Internal Displacement in Africa \(2024\) | IDMC - Internal Displacement Monitoring Centre](#)> accessed 20th June 2026

² Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrant in Africa - 83OS <[Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrant in Africa - 83OS | African Commission on Human and Peoples' Rights](#)> accessed 14th March 2026

³ *ibid*

Africa because of climate change⁴. The resolution specifically stated that state and non-state actors like researchers, should carry out this study to support the resolution and the Union in general. The culmination of the points made above is the reason for this paper. This paper analyzes the existing African Union legal framework on migration, particularly forceful displacement, and evaluates its adequacy in protecting climate refugees. Appraises the existing framework, including but is not limited to the African Union 1969 Refugee Convention and the 2009 Kampala Convention and identifies the exact protection gaps in the laws and policies across the continent for climate refugees. The research is a contribution to the study and as a policy paper, through its recommendations, will influence the creation or reform of African Union legal instruments, regional instruments and domestic laws on the issue of forced displacement due to climate change.

Keywords: Climate Change, Displacement, Policy Development, African Migration, Forced Migration, Climate Refugee

1.0 INTRODUCTION

The World Bank estimates that by 2050, climate change will be the cause 216 million people to be forcibly displaced. 85.7 million will be from sub-Saharan Africa⁵. In this region particularly, structural factors compound climate displacement. Structural factors like ‘conflict,

⁴ Resolution on the need for a study on the development of a specific legal framework for the protection of forcibly displaced persons in Africa as a result of climate change, ACHPR Res 628, 2025

⁵ Clement, Viviane; Rigaud, Kanta Kumari; de Sherbinin, Alex; Jones, Bryan; Adamo, Susana; Schewe, Jacob; Sadiq, Nian; Shabahat, Elham. (2021). Groundswell Part 2: ‘Acting on Internal Climate Migration. World Bank’ < <https://openknowledge.worldbank.org/handle/10986/36248> > accessed 20th June 2026

population growth, rapid urbanization, poverty, pre-existing socio-economic and governance challenges’⁶.

In 2025, figures show that climate change compounds the issues of displacement⁷. In 2024, 45.8 million displacements caused by climate change were recorded from over 163 countries, including ‘high-income countries’ in Asia and Europe⁸.

In Africa, the Internal Displacement Monitoring Centre (IDMC) made a nexus between conflict and disaster, such as climate change, as having an overlapping effect on displacement. The report states that more than ‘three-quarters of those affected by conflict and displaced for that reason as at the end of 2024 were living in countries with climate change vulnerabilities’⁹.

The main effect of climate change in Africa is extreme weather conditions, which lead to rising temperatures and changing weather that causes droughts, desertification and extreme floods¹⁰. For instance, Borno State in Northeast Nigeria, which is home to 3.4 million of population displaced by conflict and violence, experienced severe floods in the last few years that led to increased displacement despite the government's efforts to evacuate the internally displaced

⁶ Chairs Summary,’ Climate Displacement Nexus in Africa: Implementation for Sustainable Peace and Development’p.4, <www.cccpa-eg.org/publications > accessed 20th June 2026

⁷ Internal Displacement Monitoring Centre,’ (2025) Global Report on Internal Displacement’, accessed <[2025 Global Report on Internal Displacement \(GRID\) | IDMC - Internal Displacement Monitoring Centre](#)> accessed 20th June 2026

⁸ Ibid p.11

⁹ Ibid p 12

¹⁰ Nwokolo, S.C., Singh, R., Khan, S., Kumar, A., Luthra, S. (2023). Impacts of Climate Change in Africa. In: Africa's Path to Net-Zero. CSR, Sustainability, Ethics & Governance. Springer, Cham. <https://doi.org/10.1007/978-3-031-44514-9_7> accessed 20th June 2026

persons (IDP) camp by the end of 2024¹¹. In the Democratic Republic of Congo, ‘above-average’ flood compounded the displacement by conflict issue¹². The combined effect is humanitarian crises in the area and set back to resolving IDP crisis that was initially created by conflict and violence, often leading to continuous or repeated displacement¹³. In Chad, reported to be the most vulnerable country to climate change and displacement, has 1.3 million displaced due to flood in 2024¹⁴. Major setbacks on the continent that compound forceful displacement due to climate change have been identified to be fragmented policies, weak institutions, and lack of coordination and cooperation by states¹⁵

2.0 CONCEPTUAL CLARIFICATION OF TERMINOLOGIES IN CLIMATE DISPLACEMENT

Terminology is often inappropriately used in issues concerning migration and displacement generally, and it constitutes a challenge because definitions of terms in legal frameworks is pertinent to the application of provisions of the law, especially provisions that give recognition and protection. This section will clarify terms that will be used in the paper for ease of understanding the subject matter.

2.0.1 Migrants, Refugees and Internally displaced Persons

2.0.1.1 Migrants

According to the United Nations Agency on Migration, the International Organization for Migration (IOM), a migrant is ‘a person

¹¹ Ibid.

¹² ibid

¹³ ibid

¹⁴ Ibid p.24

¹⁵ Policy Responses to Climate-Induced Refugees in Sub Saharan Africa (2025), *International Journal of Strategic Research in Public Administration and Organizational Process*, Volume 5, Number 1 July, 2025, 15-28, <<https://doi.org/10.48028/iiprds/ijsrpaop.v5.i1.02> > accessed 30th June 2026

who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.’ This covers both internal and external migration. IOM defined external or international migration as ‘when a person is outside a State of which he or she is a citizen or national or, in the case of a stateless person, his or her State of birth or habitual residence.’ and is protected under international human rights law.¹⁶ Although there is no precise definition in any legal regime, the definition given by IOM seeks to differentiate a migrant from other groups that seem to migrate. A migrant moves from their habitual place or home because of several reasons, e.g economic reasons, family reunification, employment etc¹⁷. Migration could also be voluntary or involuntary depending on the circumstance; this creates a multi-layer to the issue of migration and justifies why it is used as a general term for any movement across borders¹⁸.

2.0.1.2 Refugees

A refugee has been defined under international law as a person who is outside their country of origin because of fear of persecution for reason of race, religion, nationality, membership of particular social group or political opinion and threat to life in need of international protection¹⁹. In 2017 the United Nations Office of the High Commissioner for Refugee, the office with the mandate to supervise

¹⁶ IOM UN Migration, Migration Factsheet No. 2 – Migrants, <[migration factsheet 2 migrants.pdf](#)> accessed 27th July 2026

¹⁷ Blake M (2024). Voluntary and Involuntary Migrants: On Migration, Safe Third Countries, and the Collective Unfreedom of the Proletariat. *Ethics & International Affairs*. 2023;37(4):427-451. doi:10.1017/S0892679423000436 <[Voluntary and Involuntary Migrants: On Migration, Safe Third Countries, and the Collective Unfreedom of the Proletariat | Ethics & International Affairs | Cambridge Core](#)> accessed 27th July 2026

¹⁸ *ibid*

¹⁹ Article 1A (2), Convention Relating to the Status of Refugees (28 July 1951) 189 UNTS 137, (1951 Convention)

international law that gives protection to refugees²⁰, expanded the meaning of refugee to cover those who flee from their countries due to humanitarian crises like armed conflict, public disorder, effects of climate change, etc²¹. The definition in the convention implies there are cumulative elements that must be satisfied for a person to have the status of a refugee. The elements include;

- a. The person must be outside the country of his origin i.e the country of his/her habitual residence
- b. There is well-founded fear of being persecuted
- c. Persecution
- d. There are relevant reasons for persecution
- e. There is lack of protection by the State of his/her origin i.e the country of his/her habitual residence²²

These elements must be fulfilled at the point of deciding the status of the person as a refugee²³

Article 1 of the Organization of African Union (now African Union), also known as the 1969 OAU convention, defined a refugee as ‘individuals who fled their home country because of “external aggression, occupation, foreign domination or events seriously disturbing public order.”’²⁴. The convention captures some elements in the definition of a refugee contained in the 1951 UN Refugee Convention like ‘events disturbing public order’ and conditions under

²⁰ Preamble, *ibid*

²¹ UNHCR, (2017) Legal considerations on refugee protection for people fleeing conflict and famine affected countries, 5 April 2017, <www.refworld.org/docid/5906e0824.html> accessed 30th July 2026

²² Raicevic, Nebojsa. (2025). Definition of Refugee in International Law. 10. 8-17. <https://www.researchgate.net/publication/395103942_Definition_of_Refugee_in_International_Law> accessed 27th July 2026

²³ *ibid*

²⁴ OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969

which refugee status can end to prevent criminals from enjoying refugee status., are some similarities between the 1951 UN Refugee Convention and the 1969 OAU Refugee Convention²⁵. It is important to note here that the convention was adopted in 1969 when some African States had gained independence and some were yet to gain independence.

2.0.2 Internal Displacement

The UNHCR has described internal displacement as ‘Internally Displaced Persons, or IDPs, are people who have been forced to flee their homes because of persecution, conflict, violence or disasters but have not crossed an international border’²⁶. Article I of the Kampala Convention defined Internal displacement as ‘the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognised state borders’ while also defining a person that has been internally displaced as ‘persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border’²⁷

2.0.2.1 The Principle of Climate Change Displacement

²⁵ UNHCR Fact sheet, 1969 OAU Refugee Convention, May 2019, < [UNHCR](#) > accessed 27th July 2026

²⁶ UNHCR, (2025) Background Guide, Addressing Internal Displacement, <[Background Guide - Addressing Internal Displacement UPDATED.pdf](#)> accessed 27th July 2026

²⁷ The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention, Adopted by the Special Summit of the Union Kampala, Uganda 23rd October 2009 Entry into Force 6th December 2012

This is displacement whether within or outside the borders of a State that was induced by climate change²⁸. There are several categories of climate displacement, but for the benefit of this paper, two categories will be discussed. The first is climate-related displacement. Here, an informed and intentional decision to leave the habitat or home voluntarily due to degradation of the immediate environment caused by climate change is made. The degradation is usually slow and cumulative²⁹. On the other hand, climate-forced displacement means a situation where a sudden climate event like a natural disaster forces people to leave their homes, whether internally or across the border, often associated or caused by climate change and creating a population known as climate refugees.³⁰ In this paper, forced displacement due to climate change, which often leads to internally displaced persons, migrants or refugees, is the focus of this paper.

2.0.3 Climate Refugees

Climate Refugees are individuals who are forced to leave their place of habitat due to disasters or weather events³¹. In April 2021, the UNHCR released data showing the number of people forcibly displaced by climate-related disasters has risen since 2010 to 21.5 million people and they project 1.2 billion will be displaced by climate-related threats like droughts, hurricanes, and rising sea levels

²⁸ Optiz S. et al, (2017) Climate Change, Migration and Displacement, UNDP p.7 < [Migration_Report.pdf](#) > accessed 27th July 2026 p.7

²⁹ McAdam, J. (ed.) (2010) Climate change and displacement: multidisciplinary perspectives. Oxford: Hart.p.10-11 < <https://columbialawreview.org/content/forced-migration-afterparis-cop21-evaluating-the-climate-change-displacement-coordination-facility/> > accessed 27th July 2026

³⁰ Petraroli I. and Singer J, Displacement and Climate Change: Literature Review, p.1 < [Literature-Review.pdf](#) > accessed 27th July 2026

³¹ World Economic Forum, (2021) Climate Refugee-The Worlds Forgotten Victim, < [Climate_refugees – the world’s forgotten victims | World Economic Forum](#) > accessed 30th July 2026

by 2050³². There is no definitive definition of climate refugees nor provision of protection for them in any international or regional instruments for the protection of refugees³³. A landmark case on climate refugees is *Ioane Teitiota* from Kiribati sought refugee status in New Zealand.³⁴ The appellant was from the small island nation of Kiribati and applied for refugee status in New Zealand on the basis that climate change forced him to flee the Island. Although his claim was not successful. However, the Human Rights Committee (HRC), where he took the case to having exhausted domestic remedies, accepted that states have an obligation not to forcibly return individuals to places where climate changes pose a threat to their right to life³⁵. This creates a massive shift especially in recognizing the category of displaced persons due to climate change but also thinking policy change to protect these individuals like in this case.

At the time of this research, there is no case that has been decided nor any litigation before any African regional courts or before the African Union Commission. However, UNHCR in 2025 started a pro bono roster for litigation of forcibly displaced persons in West Africa before the Economic Community of West African States (ECOWAS) court³⁶. Although it is not specific to climate induced displacement, the concept note referred to all types of forcible displacement³⁷ which

³² *ibid.*

³³ *ibid.*

³⁴ *Teitiota v Ministry of Business Innovation and Employment* [2015] NZSC 107 (20 July 2015)

³⁵ Sinclair-Blakemore A., (2020), *Teitiota v. New Zealand: A Step Forward in the protection of Climate Refugees under International Human Rights Law?*, Oxford Human Rights Hub, < [Teitiota v New Zealand: A Step Forward in the Protection of Climate Refugees under International Human Rights Law? | OHRH](#) > accessed 30th July 2026

³⁶ Bon News, *UNHCR Launches Pro Bono Legal Roster to Strengthen Access to Justice in ECOWAS Region*, < [UNHCR Launches Pro Bono Legal Roster to Strengthen Access to Justice in ECOWAS Region](#) > accessed 30th July 2026

³⁷ *ibid.*

forcible displacement due to climate change could come under this project.

In Africa, there is no clear definition of climate refugees which leads to gaps in recognition and protection³⁸. In addition, due to limited data collection and monitoring forcibly displaced persons due to climate change, it is difficult to distinguish between voluntary migration and climate induced displacement³⁹.

3.0 ANALYSIS OF CURRENT AFRICAN REGIONAL LEGAL FRAMEWORK ON DISPLACEMENT

3.0.1 The African Union Convention (OAU 1969 Refugee Convention)

The OAU 1969 Convention was adopted in Addis Ababa on the 10th of September 1969 by member states of the Organization of Africa Unity (now African Union). It entered into force on 20th June 1974. It was drafted to complement the 1951 UN Refugee Convention and as a regional legal framework to address Africa's peculiarity in the aspect of Refugee problems and challenges⁴⁰. It has been signed by 43 countries ratified and instruments of deposited at the AU by 46 African countries⁴¹.

³⁸ Khaled A. (2025), Environmental Refugee Protection in African Union Law, *ELWAHAT Journal for Research and Studies* p. 240 <<https://www.asjp.cerist.dz/en/PresentationRevue/2> > accessed 30th July 2026

³⁹ *ibid.*

⁴⁰ Adeola, A. (2022). Protecting 'Climate Refugees' Under the OAU 1969 Refugee Convention. In: Adeola, A., Mutua, M.W. (eds) *The Palgrave Handbook of Democracy, Governance and Justice in Africa*. Palgrave Macmillan, Cham <https://doi.org/10.1007/978-3-030-74014-6_19 > accessed 27th July, 2026

⁴¹ List Of Countries Which Have Signed, Ratified/Acceded To The Oau Convention Governing The Specific Aspects Of Refugee Problems in Africa <[36400-sl-OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.pdf](#) > accessed 27th July 2026

The Convention defines refugees as those persecuted for race, religion, nationality, social group, or political opinion⁴². This is like the 1951 UN Refugee Convention. It, however, expanded the definition to include people fleeing external aggression, occupation, foreign domination, or events seriously disturbing public order⁴³. Some other notable provisions of the convention are that granting asylum is a humanitarian act, not hostile. Refugees cannot be rejected at borders, expelled, or returned to danger. States may appeal to others for support in hosting refugees.⁴⁴ Refugees must respect host country laws and avoid destabilizing activities against OAU member states⁴⁵. Refugees cannot be forced to return. Safe, dignified, and voluntary return must be facilitated.⁴⁶ Refugees should be issued travel documents for movement outside host countries.⁴⁷ Member States must collaborate with the OAU and UNHCR. Disputes are referred to the OAU's mediation and arbitration mechanisms⁴⁸.

The convention expanded definition to include external aggression, foreign domination and events seriously disturbing public order, environmental factors that could lead to forcible displacement were not included. One key reason to justify the omission is that the convention was drafted before climate change and its effect or consequences became a global phenomenon. However, it has been suggested that the phrase 'events seriously disturbing public order' forming part of the definition of refugee in the convention can be

⁴² Article I, OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969

⁴³ *ibid*

⁴⁴ Article II, OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969

⁴⁵ Article III, *ibid*

⁴⁶ Article IV, *ibid*

⁴⁷ Article V, *ibid*

⁴⁸ Article VI, *ibid*

expanded to serve as a legal basis for protection of persons displaced by climate-related events⁴⁹.

3.0.2 The African Charter on Human and Peoples Rights

This question was adopted in 1981 by the Organization of African Unity (OAU), entered into force in 1986⁵⁰. It was inspired by African traditions, values, and the need to eradicate colonialism, apartheid, and discrimination. It recognises both individual rights and peoples' rights, linking civil-political rights with economic, social, and cultural rights.⁵¹ 54 African Countries out of 55 have signed and ratified this charter⁵²

Notable provisions of the convention are All individuals are equal before the law⁵³, Protection against arbitrary deprivation of life, torture, slavery, and degrading treatment ⁵⁴Freedom from arbitrary arrest or detention ⁵⁵Presumption of innocence, right to defense, impartial courts⁵⁶,Conscience, religion, expression, association,

⁴⁹ Kemishomo R., To what extent can the African Union's expanded refugee definition serve as a legal basis for recognising and protecting persons displaced by climate-related events? p.2 <https://gulfmigration.grc.net/wp-content/uploads/2026/01/Humanitarians_at_Law_Paper-1.pdf > accessed 27th July 2026

⁵⁰ African (Banjul) Charter on Human and Peoples' Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986)

⁵¹ *ibid*

⁵² African Charter on Human and Peoples' Rights <[African Charter on Human and Peoples' Rights | African Commission on Human and Peoples' Rights](#) > accessed 27th July 2026

⁵³ Article 2-3, African (Banjul) Charter on Human and Peoples' Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986)

⁵⁴ Article 4-5, *ibid*

⁵⁵ Article 6, *ibid*

⁵⁶ Article 7, *ibid*

assembly, movement⁵⁷ Right to take part in government and access public services⁵⁸, Property, work, health, education, cultural participation⁵⁹, Protection of family, women, children, elderly, and disabled⁶⁰ and Equality of peoples, self-determination, control over natural resources, development, peace, and a satisfactory environment⁶¹

The African Charter does not have any provision for protection of forcibly displaced persons in Africa. It, however, made provision for the right to a satisfactory environment.

3.0.3 Convention for the Protection and Assistance of IDPs in Africa (Kampala Convention)

The convention was adopted in Kampala, Uganda on 23 October 2009, entered into force on **6 December 2012**⁶². As at 2024, out of 55 African Countries, 40 countries have signed the convention, 34 of the 40 have ratified and deposited their instrument of ratification at the African Union⁶³. It is the First legally binding regional instrument in the world focused specifically on internally displaced persons (IDPs).

⁵⁷ Article 8-12, *ibid*

⁵⁸ Article 13, *ibid*

⁵⁹ Article 14-17, *ibid*

⁶⁰ Article 18, *ibid*

⁶¹ Article 19-24, *ibid*

⁶² African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) Adopted by the Special Summit of the Union Kampala, Uganda 23rd October 2009 Entry into Force 6th December 2012

⁶³ List Of Countries Which Have Signed, Ratified/Acceded To The African Union Convention For The Protection And Assistance Of Internally Displaced Persons In Africa (Kampala Convention) 2024, < [36846-sl-AFRICAN_UNION_CONVENTION_FOR_THE_PROTECTION_AND_ASSISTANCE_OF_INTERNALLY_DISPLACED_PERSONS_IN_AFRICA_KAMPALA_CONVENTION.pdf](#) > accessed 30th July 2026

Rooted in African traditions of hospitality and solidarity, while drawing on international human rights and humanitarian law.

The Kampala Convention defines IDPs as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.”⁶⁴

There are two elements that must be satisfied before a person can fall under the definition of an IDP in the convention:

- a. the individual must be involuntarily displaced
- b. the individual must not have crossed an international border⁶⁵.

The convention calls on states to enact domestic legislation and establish a national authority or body to coordinate efforts related to IDPs⁶⁶. In addressing climate-induced internal displacement, the Kampala Convention explicitly instructs states to “take actions to safeguard and support individuals internally displaced as a result of natural or human-made disasters, including climate change.”⁶⁷

3.0.4 Other laws and policies

⁶⁴ Article I, *ibid*.

⁶⁵ Kassab I. (2024), A Synergetic Approach to the OAU Refugee Convention and the Kampala Convention < [A Synergistic Approach to the OAU Refugee Convention and the Kampala Convention | Baker Institute](#) > accessed 30th July 2026

⁶⁶ Article III, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) Adopted by the Special Summit of the Union Kampala, Uganda 23rd October 2009 Entry into Force 6th December 2012

⁶⁷ Article V, *ibid*

a. African Union Migration Policy Framework for Africa (2018-2030)

The Migration Policy Framework for Africa (MPFA) and its Plan of Action were adopted in 2018 as a revision of the 2006 AU Migration Policy Framework. This updated framework reflects the current migration dynamics in Africa and provides a strategic guide for AU Member States and Regional Economic Communities (RECs) in managing migration effectively⁶⁸. This policy framework identifies climate change as a one of the major catalysts of migration in Africa⁶⁹

b. Protocol to the Treaty Establishing Free Movement of Persons, Right of Residence and Right to Establishment

The Protocol to the Treaty Establishing Free Movement of Persons, Right of Residence and Right to Establishment aims to facilitate the implementation of the African Economic Community by providing for the progressive implementation of free movement of persons, right of residence, and right of establishment in Africa. It is guided by the principles of transparency and non-discrimination, ensuring that nationals of another Member State entering, residing, or establishing in their territory enjoy the protection of the law of the host States Party. The protocol also includes provisions for the movement of specific vulnerable groups, such as refugees, victims of human trafficking, and asylum seekers, to ensure their rights are protected and their movement is facilitated⁷⁰. This protocol made provisions for

⁶⁸ African Union, (2020) The Migration Policy Framework for Africa (MPFA), < [The Migration Policy Framework for Africa \(MPFA\) | Pan-African Parliament](#) > accessed 30th July 2026

⁶⁹ ibid

⁷⁰ African Union, Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment < [36403-sl-PROTOCOL_TO_THE_TREATY_ESTABLISHING_THE_AFRICAN_ECONOMIC_COMMUNITY_RELATING_TO_FREE_MOVEMENT_OF_PERSONS-1.pdf](#) > accessed 30th July 2026

facilitation of cross border migration including movement of persons caused by the slow onset of environmental changes⁷¹

3.1 Analysis of the Legal Framework

There is absence of provision to protect climate change refugees in Africa. The 1969 OAU convention, though historic and seen as progressive because it expanded the meaning of refugee to capture those that are affected by conflict, did not envisage climate induced displacement. The Kampala convention did mention climate induced displacement, but the convention is limited in the sense that it recognises and gives protection to internally displaced persons. This leaves a gap for the recognition and protection of climate induced externally displaced persons and refugees in host countries who are displaced internally. It was suggested that since any individuals may meet criteria of IDP in the Kampala Convention displaced by natural disasters, then a nuanced interpretation can be given to include refugees displaced within host countries⁷². Moreover, there is no provision of citizenship in the Kampala convention. It merely states or refers to persons who ‘flee or leave their homes or places of habitual residence’ which indicates some permanency but not citizenship⁷³. While this position could help address refugees displaced within the host country by climate related issues, it does not however, address persons that are externally displaced. Suggesting the use of the two conventions in synergy could be a way forward but some countries that are not party to the convention will still leave a gap in protection especially for cases across borders.

5.0 INTERNATIONAL AND REGIONAL RESPONSE

⁷¹ *ibid*

⁷² Kassab I., (2024), A Synergistic Approach to the OAU Refugee Convention and the Kampala Convention, < [A Synergistic Approach to the OAU Refugee Convention and the Kampala Convention | Baker Institute](#) > accessed 31st July 2026

⁷³ *ibid*.

The United Nations General Assembly requested the International Court of Justice to clarify States' legal obligations regarding climate change and the legal consequences of breaches⁷⁴. The court was not formally requested to advise on States' obligations concerning displacement in the context of climate change, but a preambular paragraph to the resolution requesting the Advisory Opinion notes that 'countries 'particularly vulnerable to the adverse effects of climate change', including 'small island developing States', are already experiencing increased 'drought and extreme weather events, land loss and degradation, sea level rise, coastal erosion, ocean acidification and the retreat of mountain glaciers, *leading to displacement of affected persons* and further threatening food security, water availability and livelihoods' ⁷⁵

The ICJ's Advisory Opinion confirms that **climate change impacts can trigger international protection obligations**. People exposed to life-threatening risks due to climate change may qualify as refugees or beneficiaries of complementary protection⁷⁶. It went further to state that 'States should establish an adequate normative framework that provides for effective domestic legal and/or administrative mechanisms to ensure the legal and humanitarian protection of persons displaced across international borders due to the effects of climate change. States should establish effective mechanisms to guarantee the humanitarian protection of these persons through the establishment of appropriate migratory categories such as humanitarian visas,

⁷⁴ International Court of Justice Advisory Opinion on Obligations of States In Respect of Climate Change, 23rd July 2025, para 457 <[Advisory Opinion of 23 July 2025](#)> accessed 30th July 2026

⁷⁵ United Nations Resolution 77/276 adopted by the United Nations General Assembly (hereinafter the "General Assembly") on 29 March 2023.

⁷⁶ International Court of Justice Advisory Opinion on Obligations of States in Respect of Climate Change, 23rd July 2025, para 378 <[Advisory Opinion of 23 July 2025](#)> accessed 30th July 2026

authorisation to stay, and the establishment of a legal framework for the protection of persons displaced across international borders due to the effects of climate change, temporary, and/or protection under refugee or other similar status which can provide them with protection against refoulement⁷⁷. The Court affirmed the principle of non-refoulement applies when returning individuals would expose them to irreparable harm⁷⁸ and Climate-related displacement interacts with social, economic, and political vulnerabilities, requiring a holistic and intersectional approach⁷⁹.

The African Union (AU), through its Office of the Legal Counsel (OLC), convened on 3 November 2025 a Post-Advisory Opinion Workshop on the International Court of Justice (ICJ) Advisory Opinion on the Obligations of States in respect of Climate Change at the AU Headquarters in Addis Ababa, Ethiopia. Member States' representatives, AU organs, and international legal experts were also allowed to join virtually⁸⁰. The workshop concluded with the validation of a Post-Advisory Opinion Action Plan, outlining immediate, medium-term and long-term priorities for AU–Member States collaboration and engagement with international partners. Once finalised, the Assessment Report on the ICJ Advisory Opinion will be shared with all AU Member States to guide follow-up actions.⁸¹

⁷⁷ Ibid., para 433

⁷⁸ Ibid., para 378

⁷⁹ Mcadam J., (2025) How the ICJ's Advisory Opinion on Climate Change Addresses Displacement, International Protection and Ongoing Statehood, Researching Internal Displacement, < [McADAM-ICJ-AO-final.pdf](#) > accessed 30th July 2026

⁸⁰ African Union Advances Climate Justice Agenda Following ICJ Advisory Opinion on the Obligations of States in Respect of Climate Change (2025) < [African Union Advances Climate Justice Agenda Following ICJ Advisory Opinion on the Obligations of States in Respect of Climate Change | African Union](#) > accessed 30th July 2026

⁸¹ *ibid*

5.0 SUMMARY OF FINDINGS

After discussing the climate change-induced displacement situation in Africa, looking at the existing legal frameworks and policies on migration in Africa, the following findings were made:

- a. The figures of climate change-induced displacement are alarmingly high, and the estimate of 85.7 million in sub-Saharan Africa alone by 2050 is even more alarming.
- b. There are protection gaps in existing legal frameworks for persons forcibly displaced by climate change, especially those that are cross-border or are refugees in host countries.
- c. Litigation and interpretation of the law by human rights bodies, like in the case of Ioane Teitiota and the advisory opinion of the ICJ, lead to recognition and in turn, protection of climate change displacement.

6.0 CONCLUSION

Climate change displacement is a global phenomenon and has affected the African continent. African legal frameworks and policies are praised for being progressive. The gaps exposed due to the emergence of this global phenomenon should be motivation to improve the law. On the other hand, laws are not self-implementing; implementation of any improvement in the law or creation of policies and laws can only happen with political will, coordination and cooperation among African States.

7.0 POLICY RECOMMENDATIONS

The special rapporteur on Refugees, Asylum seekers, internally displaced Persons and Migrant in Africa called for a development of a common African position on forceful displacement due to climate change grounded in Human rights. This is coming after the African Union Resolution on the need for a study on the development of a

specific legal framework for the protection of forcibly displaced persons in Africa because of climate change. Therefore, based on this, this paper recommends the following policy change that could lead to development of a specific framework on the issue:

- a. **Data Collection and Mapping:** As a policy, there must be data collection and mapping of the continent to determine the different categories of migrants, differentiate them and understand their status. This will allow for better recognition and protection of climate change induced displacement. This will be capital intensive, but because it is a global phenomenon, the African Union can capitalise on this and seek funding from donors whether international non-profit organizations or programs under international organizations. This exercise should be continuous through borders by way of policy across the continent.
- b. **Domestication Of Existing Legal Framework and New Policies:** Synergy of existing framework like the Kampala convention and 1969 OAU Convention, as suggested by scholarly works will bridge some gaps in protection of forcibly displaced persons. However, other subcategories like cross border displacement and refugees in host countries displaced by climate change may not be protected as such. This is why the continent has two options; creation of a new legal framework that will consider these nuances or create a policy that will form a legal basis for domestic legislatures. In addition, because of the urgency and global phenomenal nature of climate change displacement, this will be an opportunity for the AU to push for the ratification of both conventions, just like the African charter on Human and peoples' rights had a continental acceptance.

- c. **Strategic litigation using Human Rights Approach:** The African charter on human and peoples' rights is the most ratified and domesticated regional instrument in Africa. It states that a healthy environment is a human right in Africa. Pro bono Litigation, like the UNHCR West Africa pro bono roaster for forcibly displaced persons, should by way of policy be encouraged and sustained. Domestic and regional courts like the ECOWAS court and African Courts of Human Right should not shy away from entertaining this type of litigation as it creates an opportunity for the courts to develop the law through interpretation which could give precedence on forcible displacement due to climate change in Africa