

Environmental Migration: An Agenda for Legal Protection of Migrants' Rights and Sustainable Development in Africa

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Abstract

Environmental migration driven by climate change, environmental degradation and natural disasters, is becoming more and more, a critical issue in Africa. Vast populations are increasingly forced to flee their homes as a result of rising sea levels, desertification, droughts, floods and other environmental factors. The severity of environmentally induced migration is higher in Africa due to a lack of preparedness by authorities on key critical areas, including legal protection of migrants and an inclusive development agenda. While many African countries lack national legislation to address this growing challenge, existing regional frameworks, such as the Kampala Convention, provide a limited scope for dealing with cross-border environmental migration. This paper adopts a doctrinal legal research method to examine the intersection of environmental migration, human rights, and sustainable development. It finds that the absence of a clear legal status and protection for environmental migrants exposes them to human rights violations such as loss of livelihoods, inadequate shelter, and hinders their access to essential services like healthcare, education, and employment, which are key to their socio-economic integration. This situation not only inhibits migrants' potential and chances to meaningfully contribute to the development of the larger society but also exacerbates social inequality and poverty across the continent. The paper argues for a new agenda with an integrated approach, combining legal protection with sustainable development initiatives to mitigate the push factors of environmental migration. It recommends comprehensive legal protections for environmental migrants centred on human rights and socio-economic development in Africa, with more robust international cooperation and policy integration to address challenges faced by migrants and broader environmental issues.

Keywords: Africa, Environmental Migration, Legal Protection, Migrants' Rights, Sustainable Development

Migration Environnementale : Un Programme Pour La Protection Juridique Des Droits Des Migrants Et Le Développement Durable En Afrique

Résumé

Les migrations environnementales, aggravées par le changement climatique, la dégradation de l'environnement et les catastrophes naturelles, constituent un problème de plus en plus critique en Afrique. De vastes populations sont contraintes de quitter leurs lieux de résidence en raison de la montée du niveau des eaux, de la désertification, des sécheresses, des inondations et d'autres facteurs environnementaux. L'ampleur de ces migrations est particulièrement marquée sur le continent africain, en raison du manque de préparation des autorités dans des domaines clés, notamment la protection juridique des migrants et la mise en œuvre de programmes de développement inclusifs. Alors que de nombreux pays africains ne disposent pas de législations nationales adaptées pour faire face à ce défi croissant, les cadres régionaux existants, tels que la Convention de Kampala, offrent une portée limitée pour traiter les migrations environnementales transfrontalières. Cet article adopte une méthode de recherche juridique doctrinale afin d'examiner l'intersection entre la migration environnementale, les droits humains et le développement durable. L'étude révèle que l'absence d'un statut juridique clair et de mécanismes de protection adéquats pour les migrants environnementaux les expose à de multiples violations des droits humains, notamment la perte des moyens de subsistance et l'accès insuffisant à un logement décent. Elle entrave également leur accès aux services essentiels, tels que la santé, l'éducation et l'emploi, indispensables à leur intégration socio-économique. Cette situation limite non seulement leur capacité à contribuer de manière significative au développement des sociétés d'accueil, mais exacerbe également les inégalités sociales et la pauvreté sur le continent. L'étude plaide en faveur d'une approche intégrée combinant la protection juridique et les initiatives de développement durable afin de réduire les facteurs structurels à l'origine de la migration environnementale. Elle recommande l'adoption d'un cadre de protection juridique global pour les migrants environnementaux, fondé sur les droits humains et le développement socio-économique en Afrique, ainsi qu'un renforcement de la coopération internationale et de l'intégration des politiques pour répondre efficacement aux défis migratoires et environnementaux contemporains.

Mots-clés : Afrique, Migration environnementale, Protection juridique, Droits des migrants, Développement durable

INTRODUCTION

Migration is an inherent part of human existence, and goes with either economic, security or developmental undertone¹. It is, therefore, a global phenomenon where individuals respond to social, economic, or political hardships or changes by moving from one area to another in search of better opportunities². Environmental migration arising from the interplay of climate change, environmental degradation, and socio-economic factors is fast becoming a critical phenomenon in the 21st century. Across Africa, rising temperatures, desertification, flooding, and coastal erosion are displacing millions, threatening livelihoods, and exacerbating socio-economic vulnerabilities. In the last decades, the negative impacts of climate change have intensified environmental events and processes globally, including droughts, desertification, water scarcity, rising sea levels, coastal erosion and flooding³, forcing more people directly and indirectly to leave their homes. The impact is particularly severe in Africa, where communities are disproportionately vulnerable to environmental stressors, resulting in increased migration across regions with associated challenges.⁴ Addressing the legal and policy implications of environmental migration is essential not only to ensure the protection of migrants' rights but also for the promotion of sustainable development in Africa. Today, the relation between environmental factors and migration is increasingly recognised as a significant dimension of global mobility. The Intergovernmental Panel on Climate Change (IPCC) Report on climate impacts, adaptation and vulnerabilities, reveals that Africa, despite its status as one of the lowest contributors to greenhouse gas emissions, is already experiencing widespread losses and damage arising from human-induced climate change⁵. Environmental migration intersects with human rights and sustainable development, creating a complex web of legal and policy considerations. The 1951 Refugee Convention and its 1967 Protocol, specifically provide for the rights and legal protection of individuals fleeing persecution, without considering those displaced solely by environmental factors. From the definition of who a refugee

¹ Victor T. Amadi, Molya N. Vundamina, "Migration and Climate Change in Africa: A Differentiated Approach Through Legal Frameworks on the Free Movement of People," *Law, Democracy and Development* 27, (2023): 31, <https://doi.org/10.17159/2077-4907/2023/idd.v27.2>.

² F. Nwonwu, "The neo-liberal policy, free movement of people and migration: Patterns in the Southern African Development Community," *African Insight* 40, no.1 (2010): 149, <https://hdl.handle.net/10520/EJC17624>.

³ S Bolan *et al*, 'Impacts of climate change on the fate of contaminants through extreme weather events' (2024) *Science of the Total Environment*, Vol.909. <https://www.sciencedirect.com/science/article/pii/S004896972307016X>, accessed December 5 2025.

⁴ D Chigudu, 'Human security and mobility in the context of climate change in Africa' (2024) *Watershed Ecology and Environment*, Vol. 6, Pages 242-251.

⁵ "Climate Change 2022: Impacts Adaptation and Vulnerability," *IPCC Sixth Assessment Report*, February 27, 2022, <https://www.ipcc.ch/report/ar6/wg2/>, accessed December 10, 2024.

is⁶, it is obvious that environmental migrants do not fall within the ambit of the Convention. In the same way, although the African Union (AU) Convention Governing the Specific Aspects of Refugee Problems in Africa tends to expand⁷ on the definition of refugees, it still does not explicitly encompass environmental migrants. This legal lacuna leaves environmental migrants without clear legal status or protection, exposing them to risks of exploitation, discrimination, and lack of access to essential services.

Although there are more recent legal and policy frameworks that could serve as foundations for addressing the challenges associated with environmental migration in Africa, these are not without some inherent limitations. The Kampala Convention⁸ for instance, while providing for the protection of internally displaced people, its scope does not cover cross-border migrants. Also, the Paris Agreement 2015⁹, though highlights the importance of addressing climate-induced displacement, it lacks the required enforcement mechanisms. The intersection of environmental migration and sustainable development is equally underscored in the UN Sustainable Development Goals (SDGs), particularly *Goal 13* on climate action and *Goal 10.7*, which calls for the facilitation of safe, orderly, and regular migration. These global commitments provide a normative framework for addressing the issues of environmental migration and development, but require harmonisation of national laws, regional adaptation and enforcement to be effective in Africa. This paper aims to explore these pathways, emphasising the role of African states, regional bodies, and the international community in creating a comprehensive and rights-based strategy for tackling environmental migration and its related challenges.

OBJECTIVES

The core objectives of this paper include:

- i. To analyse the impact of environmental changes on migration patterns in Africa.
- ii. To evaluate the existing legal frameworks governing environmental migration at national, regional and international levels. Identifying deficiencies in the protection of migrants' rights.

⁶ The 1951 Refugee Convention, Art. 1

⁷ OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 2016. Art. 1 para.2.

⁸ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), 2012.

⁹ Adopted by 196 Parties at the UN Climate Change Conference (COP21) in Paris, France, December 12, 2015.

- iii. To propose a legal and policy agenda for the protection of environmental migrants' rights.
- iv. To examine the link between environmental migration, rights protections and sustainable development.
- v. To recommend actionable steps for African governments, regional bodies and international organisations in addressing environmental migration challenges.

MATERIALS AND METHODS

This paper/study employs a doctrinal research approach, incorporating mainly legal analysis and policy evaluation to explore the intersection of environmental migration, migrant rights protection, and sustainable development in Africa. Legal materials are used to guide the analysis. It utilises secondary data from peer-reviewed journals, books, conference papers, legal documents, government reports, and case studies on environmental migration in Africa. A comparative analysis of legal frameworks such as the UN Convention Relating to the Status of Refugees, United Nations Framework Convention on Climate Change (UNFCCC), the African Union (AU) policies, and international migration treaties is conducted to evaluate their effectiveness in addressing environmental migration issues. Furthermore, case studies from regions severely affected by environmental migration, such as the Sub-Sahara Africa, West and Central Africa, and coastal West Africa (WCA) provide insights into real-world implications. The work focuses primarily on policy and legal analysis rather than large-scale empirical surveys. Findings are based on secondary sources.

RESULTS

The work confirms a significant rise in environmental migration across Africa due to climate change-induced events like droughts, floods, desertification, and coastal erosion. Key findings indicate that:

- i. Climate change-induced migration is on the rise, with severe impacts on food security, livelihoods, and socio-economic stability in Africa.
- ii. Existing legal frameworks are inadequate in addressing the complexities of environmental migration, leaving many migrants in legal limbo.
- iii. Lack of clear legal definitions, recognition and protection mechanisms for environmental migrants leads to their exclusion from international refugee and asylum laws and makes them vulnerable to rights violations.

- iv. Sustainable development initiatives, such as climate adaptation and resilience-building programmes, play a crucial role in reducing forced migration
- v. Limited and inconsistent national policies addressing environmental migration result in fragmented and ad-hoc responses

DISCUSSION

Environmental migration in Africa presents a multidimensional challenge requiring legal, economic, and social interventions. While existing migration policies focus on conflict-induced and economic migration, environmental migration remains under-addressed.

The Concept of Environmental Migration

There is yet no internationally accepted legal definition for persons compelled to leave their homes as a result of environmental events. The reasons for this lack of a single, universally accepted definition are not far-fetched. Firstly, it is due to the difficulty of detaching environmental factors from other drivers of migration¹⁰. Another problem stems from the confusion of forced versus voluntary migration, as to whether environmental migration is inherently a form of forced displacement, or it also covers voluntary relocation. For instance, what happens where the government decides to resettle a community in anticipation, or as a result of an environmental disruption? Does the distinction between forced and voluntary matter in arriving at what environmental migration really is? These questions impact on typologies of environmental migration and must be put into consideration. Environmental migration can take on different forms; it can be voluntary or forced, temporary or permanent, within or across borders¹¹. Apart from clear instances where sudden-onset environmental changes such as those caused by earthquakes or floods lead to forced displacement, the issue is that environmental migration commonly occurs in response to a slow-onset environmental change or degradation process like desertification due to its impacts on people's livelihood¹². The complexity surrounding environmental migration patterns plays a part in the existing difficulty of finding a consensus over definitions. The term 'environmental migrant' is also referred to as 'climate migrant' or 'climate refugee' and used interchangeably with a range of similar terms, including ecological refugee, environmental refugee, environmentally displaced person (EDP),

¹⁰ "Defining 'environmental migration'." *Forced Migration Review*, <https://www.fmreview.org/dun-gemenne/>.

¹¹ C. Corendea, "Migration and Human Rights in the Wake of Climate Change," *A Policy Perspective over the Pacific* 2, (2017): 14.

¹² *Ibid.*

etc¹³. Experts are, however, very cautious of using the term 'refugee' because of the connotation it evokes in the context of refugee law.

The International Organisation for Migration (IOM)¹⁴ has developed conceptual frameworks to work with regarding an encompassing definition of this concept. This was done by bringing forward a broad working definition for environmental migration, which seeks to capture the complexity of the issues in question. It defines environmental migration as the movement of persons or groups of persons who, predominantly due to sudden or progressive changes in the environment that adversely affect their lives or living conditions, are forced to leave their places of habitual residence. Such movement may either be temporary or permanent, and either within their country or across the border¹⁵. This definition responds to different types of environmental factors and reveals that environmental migration can take different complex forms: forced and voluntary, temporary and permanent, internal and international, individual and collective, of proximity and of long distance¹⁶. The nature, duration and scale of environmental migration also depend on whether it takes place in response to slow-onset events and processes, such as sea level rise, increasing temperatures, land degradation, etc., or sudden-onset events and processes like floods, cyclones, storms, etc. Also, the interaction with other socio-economic, cultural and political factors that influence the decision or necessity to move determines the form of environmental migration that will occur. Due to its multicausality and complexity, environmental migration should not be regarded as a wholly negative or positive outcome, since migration has the potential both to exacerbate existing vulnerabilities and prompt individuals or communities to build resilience.

The desire and need to develop a clear-cut definition lies in understanding the basic factors underlying migration decisions. A precise definition is important and will assist in the conceptualisation of environmental migration and the development of policy responses to address the growing environmentally induced human mobility. Environmental migration, therefore, refers to the forced or voluntary movement of individuals or communities from one area to another because of adverse environmental events such as droughts, desertification, floods, or other ecological disruptions.

¹³ C. Boano, R. Zelter and T. Morris, "Environmentally Displaced People: Understanding the Linkages between Environmental Change, Livelihood and Forced Migration," *Refugee Studies Centre* (2008):.4.

¹⁴ Established in 1951, IOM is the leading Intergovernmental Organisation in the field of migration.

¹⁵ 'Discussion Note: Migration and Environment' (Nov. 2007) https://www.iom.int/sites/g/files/tmzbd1486/files/jahia/webdav/shared/shared/mainsite/about_iom/en/council/94/MC_INF_288.pdf.

¹⁶ *Ibid.*

Understanding Environmental Migration in Africa

Although environmental migration is a global phenomenon, there are factors that make it more challenging in Africa. African peoples are largely dependent on agriculture and subsistence farming and, are susceptible to the deleterious effects of climate change on the environment¹⁷. Climate change produces extreme weather events, which negatively impact food production, storage and transportation globally¹⁸. Environmental migration is, therefore, an adaptive response to climate change and environmental challenges. But those migrating are usually exposed to some risks. In Africa, where the essential survival resources are grossly inadequate, environmental migration makes life more miserable for already vulnerable groups. Even though Africa has the lowest greenhouse gas emissions and has contributed the least to global warming¹⁹, the region has been the most vulnerable in the world regarding climate change and its impact on livelihoods²⁰.

Sub-Saharan Africa is experiencing changes in precipitation patterns. In March 2019, Zimbabwe was struck by Cyclone Idai, which affected parts of Chimanimani and Chipinge, resulting in pre-migration to safer areas. The cyclone affected 270,000 people, and at least 51,000 migrated, causing over 340 deaths and some going missing²¹. A study has revealed that three East African countries, including Tanzania, Kenya, and Uganda, are among the most affected countries in Africa with the highest number of environmental migrants²². Kenya has experienced a high drought frequency rate that led the Kenyan government to declare drought a national disaster from 2010 to 2011, 2016 to 2017, and 2021 to 2022²³. Ethiopia has also been bedevilled by environmental challenges and has been experiencing severe drought for the past 40 years. It has witnessed four consecutive failed rainy seasons since 2020, resulting in a profound loss in livestock, loss of income, especially by farmers, food insecurity and increased poverty²⁴. Western Uganda was affected by flooding in 2020, forcing over

¹⁷ J. M. Blocher, R. Hoffmann, and H. Weisz, "the effects of environmental and non-environmental shocks on livelihoods and migration in Tanzania," *Population and environment* 46, no.7 (2024): <https://link.springer.com/article/10.1007/s11111-024-00449-4>.

¹⁸ J. Fanzo and L. Miachon, "Harnessing the connectivity of climate change, food systems and diets: taking action to improve human and planetary health," *Anthropocene* 42 (2023): <https://doi.org/10.1016/j.ancene.2023.100381>.

¹⁹ COP25, "Climate Change in Africa" (2019): <https://www.afdb.org/en/cop25>.

²⁰ Kwanhi *et al*, "Conceptualising Climate-Induced Migration in Africa," *Environmental Development* 52 (2024): <https://doi.org/10.1016/j.envdev.2024.101049>.

²¹ Trummer *et al*, "Climate change aggravating migration and health issues in the African context: the views and direct experiences of a community of interest in the field," *Journal of Migration and Health* 7 (2023): [10.1016/j.jmh.2023.100151](https://doi.org/10.1016/j.jmh.2023.100151)

²² R. Chetto, M. Mdemu and J. Kihila, "Climate change-related drivers of migration in East Africa: an integrative review of the literature," *Environmental Science & Sustainable Development* (2024): 42, [10.21625/essd.v9i1.1005](https://doi.org/10.21625/essd.v9i1.1005).

²³ O.O. Samuel and T.S. Sylvia, "Establishing the nexus between climate change adaptation strategy and smallholder farmers' food security status in South Africa: a bi-casual effect using instrumental variable approach," *Cogent Soc Sci.* 5, no.1 (2019): [10.1080/23311886.2019.1656402](https://doi.org/10.1080/23311886.2019.1656402).

²⁴ Ibid

120,000 people who lived near the riverbanks in urban areas to migrate²⁵. Heavy storms and prolonged droughts affected agricultural productivity, resulting in migration, especially by rural dwellers. West and Central Africa (WCA) is especially vulnerable to sudden onset events like floods, with frequent experience of land degradation, water scarcity and coastal erosion. In Nigeria, for instance, flooding has become a yearly occurrence that claims lives and destroys many properties. Flooding resulting from protracted rains causes deaths, destruction of property and disruption of businesses, further crippling the already fragile economy, where rising food costs are making life difficult for Nigerians²⁶. West Africa has the highest projected number of environmental-related internal migrants²⁷. It is projected that migrants will potentially exceed 50 million by 2050 for 2.5 °C global warming,²⁸ suggesting that environmental impacts will have a particularly profound effect on future regional migration. In spite of these migration patterns and trends in Africa, the region has low adaptive capacity and still lacks mitigation capabilities in terms of technology, infrastructure and financial power to adequately address the growing challenges²⁹.

Legal Frameworks for Environmental Migrants in Africa

Aside from the various international, regional, and national legal frameworks³⁰ that ensure the protection of the rights of all individuals, there is no global or regional legal instrument specifically providing for the rights of environmental migrants in Africa. The UN Convention Relating to the Status of Refugees (UN Refugee Convention) offers protection to people fleeing their homes due to emergencies caused by violence and or fear of political persecution,³¹ but does not extend to environmental migrants. On the regional level, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa³², seems to have provided a legal succour to environmental migrants by including migrants forced to flee their homes as a result of natural disasters in its definition of internally displaced persons³³. However, it lacks

25. R. Twinomuhangi, H. Sseviiri, A.M. Kato, "Contextualising environmental and climate change migration in Uganda," *The International Journal of Justice and Sustainability* 28 (2023): [10.1080/13549839.2023.2165641](https://doi.org/10.1080/13549839.2023.2165641).

26. G Ewepu, "Deadly Outpour: More Floods coming, Nowhere to Run," *Vanguard*, July 14, 2024.

27. C. Horwood, B. Frouws, R. Forin (Eds.), "Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation," *mixed-migration-review*, 2022.

28. R. Twinomuhangi, *et al* (n22).

29. *Ibid.*

30. Applicable legal instruments and protection norms derive mainly from international customary law, human rights law, refugee law, nationality law, labour law, humanitarian law, environmental law and disaster response law and environmental migrants are equally protected by their provisions.

31. J. I. Goldenziel, "The Curse of the nation-state: Refugees, migration and security in international law," *Arizona State Law Journal* 48 (2016): 581, <https://ssrn.com/abstract=2684903>.

32. Kampala Convention adopted by the Special Summit of the Union Kampala, Uganda 23rd October 2009.

33. *Ibid.* Art. 1, Para. K

effective implementation mechanisms. Under the ambit of international and regional refugee laws, individuals are offered refugee protection only if they fall within the five listed grounds for refugee protection³⁴. According to *Article 1A(2) of the 1951 Convention Relating to the Status of Refugees*, displaced persons must meet certain condition to be accorded a protection (i) they must be outside their country of origin or nationality; (ii) their displacement must be caused by a well-founded fear of persecution; (iii) the persecution must be based on race, religion, nationality, or political opinion; and (iv) they must be unable or unwilling to avail themselves of the protection their country of origin. Environmental migrants, conversely, are typically compelled to leave their homes due to sudden or gradual environmental changes. Therefore, they do not fall within the scope of refugee protection under international law³⁵.

The United Nations Human Rights Committee (UNHRC) took note of this lacuna in the protection of environmentally displaced persons in *Ioane Teitiota v New Zealand (Kiribati case)*³⁶. The Committee identified the gaps in international human rights and humanitarian laws relating to people displaced by other factors, including environmental degradation and called for urgent attention. In the *Kiribati case*³⁷, the HRC established a precedent by recognising that forcing people to return to a place where their lives would be at risk from climate change might violate the right to life under *Article 6* of the International Covenant on Civil and Political Rights (ICCPR)³⁸. Although the applicant's claim in the case was unsuccessful, the ruling was, however, commended as a 'landmark' because it recognised that the States have an obligation not to return citizens to places where climate change poses a real threat to their lives³⁹. Internationally, the Paris Agreement of COP21⁴⁰ is the first legally binding international treaty on climate change, which formally includes 'migrants' in the Preamble. The first direct mention of human rights in the context of the UN Framework Convention on Climate Change (UNFCCC) about climate change was in HRC Resolution 10/4⁴¹, which recognises the negative impacts of climate change on

³⁴ V. T. Amadi, MN Vundamina (n1).

³⁵ L. A. Ndimurwimo and L. C. Opara, "Access to justice for internally displaced persons: The global legal order," *Journal of Law Society and Development* 6, no.1 (2019): 15. <https://doi.org/10.25159/2520-9515/6901>.

³⁶ UN Human Rights Committee (HRC), CCPR/C/127/D/2728/2016.

³⁷ *Ioane Teitiota v New Zealand (Kiribati case)* CCPR/C/127/D/2728/2016, UN Human Rights Committee (HRC) January 7, 2020.

³⁸ Paragraph 1 states that 'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life'.

³⁹ V. T. Amadi, MN Vundamina (n33).

⁴⁰ Cn7)

⁴¹ Human Rights Council Tenth Session, Resolution 10/4. Human Rights and Climate Change. https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_4.pdf. Accessed on 31 December, 2024.

the effective enjoyment of human rights and urges States to ensure respect for human rights in their climate actions. The Preamble to the Paris Agreement to the UNFCCC has also advised States, when taking action to address climate change, to "respect, promote and consider their respective obligations on human rights. The Office of the High Commissioner for Human Rights (OHCHR) and the Human Rights Council (HRC) call for a rights-based approach to guide global climate change policies and action⁴². The HRC emphasises the importance of addressing human rights in the context of discussions related to UNFCCC and the 2030 Agenda for Sustainable Development⁴³. Although several legal frameworks exist under different branches of international law⁴⁴, including international human rights law, which offer protection for the rights of environmental migrants,⁴⁵ there is yet no single international legal instrument dedicated specifically to the protection of the rights of individuals in this group.

Linking Environmental Migration, Rights Protection and Sustainable Development

The prospects for sustainable development in Africa are affected by the increasing environmentally induced migration within and across State borders. Migration, human rights protection and sustainable development intersect in various ways. Environmental migration interacts with all the elements of sustainable development by impacting the lives and well-being of the people, natural resources and creating the avenue for adaptation and innovations⁴⁶. Disasters and disruptions created by climate change force people to migrate, which increases protection risks and ultimately prevents the effective enjoyment of a range of human rights. Environmental migration equally has diverse implications for sustainable development by impacting the underlying social or environmental resources that form the basis for long-term development and, more directly, through immediate changes in people's well-being⁴⁷. Environmental migration is a response to adverse environmental situations that threaten people's livelihood security. The decisions to migrate are considered as

⁴² OHCHR and Climate Change, 'Integrating Human Rights at the UNFCCC'. < <https://www.ohchr.org/en/climate-change/integrating-human-rights-unfccc>>. Accessed on 31 December, 2024.

⁴³ The agenda was adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future.

⁴⁴ Das *et al.*, "Environmental Migrants: Challenges and Opportunities for the Protection of their Rights," *Legal Framework Manual and Activity Packet* (2021): <https://www.sipa.columbia.edu/sites/default/files/migrated/downloads/Columbia%2520SIPA%2520Capstone%2520Report%2520-%2520IOM%2520Env%2520Mig%2520Protection.pdf>.

⁴⁵ Including right to life, right to health, etc

⁴⁶ Adger *et al.*, "Migration and Sustainable development," *Sustainability Science* 121, no.3 (2024): <https://doi.org/10.1073/pnas.2206193121>.

⁴⁷ *Ibid.*

adaptation responses to potentially disruptive change in the environment⁴⁸. The economic challenge compounded by environmental degradation can force people to pursue risky livelihood strategies, including irregular migration⁴⁹. This can expose them to levels of abuse, deprivations, trafficking, discrimination and other forms of rights violations. Environmentally induced migration may exacerbate competition over land and other scarce resources, increasing the chance of conflict, eroding social cohesion, and leading to further violations of rights. All these intersecting dynamics ultimately increase protection risks for those in vulnerable situations,⁵⁰ especially the poor migrants. Climate change and environmental degradation can result in forced or voluntary migration, worsen pre-existing vulnerabilities and weaken resilience. People and communities already exposed to protection risks, including those who are marginalised, live in precarious conditions, have fewer resources, or limited access to services and social protection, are most acutely affected⁵¹

Factors such as restrictions on mobility, limited access to essential services and social protection, language barriers and irregular immigration status in case of cross-border movements often make life miserable for environmental migrants. The situation is worse for women and girls, due to pre-existing gender inequalities, leaving them vulnerable to gender-based violence, early/forced marriage and human trafficking.⁵² Environmental migration equally has adverse effects on children's well-being and healthy development and restricts their access to core essential services like health and education. Potential family separation arising from environmental migration can heighten the risk of children's exposure to violence, coercion, and other forms of child abuse including trafficking, early marriage and child labour.⁵³ There is also this challenge of social and economic integration into the host community by environmental migrants. These described situations surrounding environmental migrants are inimical to their personal, economic and social development which eventually affect the larger society, depending on how well environmental migrants are integrated into the economic, social and civic life in destination regions.⁵⁴ Accordingly, States as duty-bearers are saddled with the responsibility to uphold and protect the rights of environmental migrants, as well as prevent and redress any violations of their rights. While efforts at averting and minimising migration are very

⁴⁸ *Ibid.*

⁴⁹ International Organisation for Migration, 'Legal Aspects of Protecting Migrants' Rights in the Context of Disaster, Climate Change and Environmental Degradation' (n46).

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ W N Adger *et al.*, (n49).

crucial, another important component of this is providing adequate mechanisms that enable people to move to, enter, and settle in each location in ways that are authorised by the law of the state and international agreements to which it is a signatory.

Although, the topic of migration was not contemplated in the Millennium Development Goals in 2000, it has become apparent in the recent years that migration generally is inextricably linked to development, as evidenced in documents such as the New York Declaration⁵⁵ and the Global Compact for Safe, Orderly and Regular Migration.⁵⁶ Migration has potential both to impede or improve development, can inform and strengthen development frameworks. However, to achieve the Sustainable Development Goals and ensure that they are implemented inclusively, environmental migration must be acknowledged and treated as a complex and multifaceted phenomenon that impacts every area of governance⁵⁷.

Challenges in Protecting Environmental Migrants' Rights in Africa

Protecting environmental migrants' rights in Africa presents several challenges due to a combination of socio-political, legal, environmental, and economic factors. Human rights of environmental migrants are more prone to violation in Africa due to the existing legal gaps and lack of clear legal frameworks on the protection of these rights. The legal gaps and protection challenges in the existing refugee protection regime for environmental migrants are historical. It resulted from the structure and normative content of the international refugee protection system, which was significantly influenced by the system for protecting foreigners and national minorities by the League of Nations⁵⁸. Accordingly, the international and regional legal instruments developed under the auspices of the United Nations and the African Union cannot adequately protect environmental migrants, leaving apparent gaps in the international framework. This is identifiable in international instruments, including the *1951 Refugee Convention*⁵⁹, which do not recognise environmental migrants as a distinct category, inadvertently excluding them from protection mechanisms. This lack of legal recognition and protection of climate migrants was obvious in the case of *Loane Teitiota v. New Zealand*⁶⁰, where the New Zealand government refused to grant Mr.

⁵⁵ New York Declaration for Refugees and Migrants, adopted on September 19, 2016.

⁵⁶ Adopted in 2018.

⁵⁷ IOM, "Migration, Environment and Climate Change in the Sustainable Development Goals". <https://environmentalmigration.iom.int/migration-environment-and-climate-change-sustainable-development-goals>.

⁵⁸ M. Addaney, A. O. Jegede, and M. Z. Matinda, "The Protection of Climate Refugees under the African Human Rights System: Proposing a Value-Driven Approach," *African Human Rights Yearbook* 3 (2019).

⁵⁹ Relating to the Status of Refugees.

⁶⁰ *Teitiota v Chief Executive of the Ministry of Business, Innovation and Employment* [2013] NZHC 3125 (26 November 2013).

Teitiota and his family asylum but deported them back to *Kiribati*, a small island state despite the plea that the place was bedevilled by the rising sea level, storms and flooding, making the living conditions so untenable. The reason for refusal was that Mr *Teitiota* did not face a real risk of being persecuted, as is required in the traditional refugee definition.

The existing regional instrument, like *Kampala Convention*⁶¹ seems to be relevant in this discourse, but instead, it aims at addressing displacement within Africa, with limited and often 'not-fully implemented' provisions. Moreover, many African States still lack national laws specifically addressing environmental migration, resulting in inconsistent and inadequate responses to the overall needs of migrants. This lacuna leaves environmental migrants without recognition or access to basic rights, including social protection, security and other essential services. Environmental migration implies many human rights and humanitarian standards. However, the extent of the rights of environmental migrants and the corresponding obligations of States is dynamic and evolves as the global community gains more experience and insight in addressing the needs of disaster victims⁶². The general understanding of the impact of climate change is relatively new, and legal standards are not yet at par with scientific predictions, leaving conclusions regarding the application of human rights law a bit speculative⁶³.

The limited resources and capacity of African countries to address the complexities of environmental migration present another challenge in protecting environmental migrants. Such a lack of capacity stems from economic constraints, political instability, and weak governance systems, which often hinder the development and enforcement of policies to safeguard the rights of environmental migrants. Furthermore, most African States face resource scarcity that limits their ability to address migration caused by environmental factors⁶⁴. There is limited funding, infrastructure, and institutional capacity to properly handle migration flows and provide adequate protection for environmental migrants. Because African countries still struggle with resource shortages, they may choose to prioritise economic development or political stability over issues of environmental migration. This makes it difficult for environmental migrants to access essential services such as shelter,

⁶¹ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. 2009.

⁶² M. Leighton, "Climate Change and Migration: Key Issues for Legal Protection of Migrants and Displaced Persons," 2010. file:///C:/Users/user/Downloads/Leighton_MAH_EditsV2-1.pdf, accessed January 14, 2025.

⁶³ *Ibid.*

⁶⁴ Trummer *et al.*, (n23).

healthcare, education and further prevents their meaningful involvement in, and contribution to the overall development of society.

Environmental migration usually intersects with other drivers, such as conflict and economic hardship, complicating efforts to provide tailored protection for the migrants. Often, migration in Africa is driven by a combination of factors, including ethnic tension, economic instability, environmental degradation and low adaptive capacity⁶⁵. This makes it harder to separate environmental causes from other drivers of displacement, complicating attempts to address the specific needs of environmental migrants. Under the African Charter on Human and Peoples' Rights,⁶⁶ African States are saddled with the responsibility of protecting the rights of individuals within their borders, including migrants, but the challenge is amplified by overlapping forms of displacement. Moreover, where the environmental migration results in cross-border movement, it is often greeted with legal barriers as African countries lack specific provisions for people displaced by environmental changes. This leaves migrants to face legal limbo or deportation. Environmental migration in Africa is also often intertwined with pre-existing social, economic, and ethnic tensions. This situation often leads to competition over scarce resources between migrants and host communities, resulting in conflict and security risks, as demonstrated by the recurrent herder–farmer conflicts in Africa.⁶⁷

Addressing environmental migration requires collaboration between various sectors, including environmental, migration, development, and human rights institutions. There is a need for coordination and collaboration between governmental and non-governmental actors for the development of comprehensive solutions. For effective protection of the rights of environmental migrants in Africa, it is essential to enhance legal frameworks, improve data collection, address the root causes of environmental migration, and promote international cooperation.

⁶⁵ IOM, "Migration and Migrants: Regional Dimensions and Developments," *World Migration Report*, 2024. <https://worldmigrationreport.iom.int/what-we-do/world-migration-report-2024-chapter-3/africa>.

⁶⁶ Particularly, Art. 9.

⁶⁷ M Nassef, 'Causes of Farmer-Herder Conflicts in Africa: A Systemic Scoping review' (2023) *SPARC*, <https://www.sparc-knowledge.org/sites/default/files/documents/resources/causes-of-farmer-herder-conflicts-report.pdf>, pg.22. Accessed on 5 December, 2025.

Adopting Rights-Based Approaches to Addressing Environmental Migrants' Protection Needs in Africa

ActionAid has suggested the urgent need for African States to strengthen protection policies for individuals fleeing their residences due to disasters, climate change, and environmental degradation⁶⁸. In doing this, authorities must incorporate human rights principles into strategies for addressing the challenges faced by environmental migrants in the region. Climate change has grossly disrupted the relationship between mankind and the planet. Environmental migration, which is one of the upshots of such alterations created by climate change, is a cross-border challenge that no single country can address independently. Hence, the civil society, policymakers, organisations, practitioners, and the private sector must unite at all levels to address the alarming effects of climate change and environmental degradation. As the causes and effects of climate events continue to heighten, Africa and the rest of the world should expect a tremendous increase in the number of environmental migrants, thereby raising the need to protect these migrant populations and their rights, particularly those in vulnerable situations. The existing national, regional and international legal instruments, particularly the human rights frameworks, protect the rights of environmental migrants, as it does for any human being. However, the major challenge lies in the legal gaps/lacuna at all levels, the lack of implementation and political will to address the underlying interaction among environmental migration, human rights protection and sustainable development. Environmental migration engenders socio-economic, political, and human rights challenges, bringing the need for further efforts and cooperation to create policies that support the affected populations while fostering sustainable development.

Despite their growing challenges, environmental migrants often fall through the cracks of legal frameworks, as international refugee law does not explicitly recognise or cover them. In the legal perspective of addressing the needs of individuals within this group, there is yet no single legal framework explicitly providing for their rights. Accordingly, the protection needs of environmental migrants often slip through the cracks, even though international human rights law and international migration law can generally apply to their situations⁶⁹. The complexity of environmental migration as regards the root causes, intervening factors and outcomes complicates the creation

⁶⁸ "EU should adopt a human rights-based approach to migrants forced out of their countries by the climate crisis, ActionAid says," (Sept. 2024). <https://actionaid.org/publications/2024/eu-should-adopt-human-rights-based-approach-migrants-forced-out-their-countries>.

⁶⁹ IMO, "Climate Change, Environmental Degradation and Migration," 2012. <https://www.iom.int/sites/g/files/tmzbd12616/files/2018-07/Report-EN.pdf>.

of a clear-cut definition and legislative frameworks⁷⁰. A rights-based approach must emphasise the protection of environmental migrants' fundamental human rights, ensure access to essential services such as healthcare, education, and legal recognition. This approach would align with international human rights instruments, such as the African Charter on Human and Peoples' Rights, which underscores the importance of dignity and equal right of protection by the law⁷¹. However, for effective implementation of rights-based approaches in Africa, the region must first of all overcome the hurdles of weak governance structures, limited financial resources and lack of political will. Many African States still struggle with economic and infrastructural challenges that make it difficult to prioritise the needs of environmental migrants. This is in addition to the lack of comprehensive legal and policy frameworks at national and regional levels to effectively tackle the environmental migration issue. This calls for collaborative efforts involving governments, regional organisations such as the African Union, and international partners in developing policies that integrate human rights principles into climate migration responses. This would ensure adequate protection of environmental migrants, irrespective of the class or type.

CONCLUSION

The findings of this study highlight the urgent need for legal protection and sustainable policy responses to environmental migration in Africa. The scope, scale and urgency of environmental migration pose multiple challenges both to the environmental migrants and to States entrusted with the duty to ensure the protection of their human rights. As climate change and environmental degradation continue to drive human mobility both within and across borders, a coordinated, rights-based, and development-oriented approach is essential. By integrating migration into sustainable development frameworks and creating robust legal protections for environmental migrants, African nations can effectively address every challenge posed by environmental migration, transforming them from a crisis into an opportunity for resilience, adaptation and innovation in the region.

RECOMMENDATIONS

This work recommends, first, the adoption of sustainable development solutions to environmental migration in Africa. This can be done through the strengthening and expansion of regional legal frameworks, including the African Union's Kampala

⁷⁰ *Ibid.*

⁷¹ African Charter on Human and Peoples' Rights (Banjul Charter), 1981. Art.3(2).

Convention, to explicitly include environmental migration with a clear legal definition, such as the one provided in this study, alongside appropriate protection measures within their relevant provisions. Regional economic communities such as ECOWAS and SADC should adopt binding agreements that protect environmental migrants' rights. In the legal perspective of environmental migrants' rights protection, the study recommends the development of legal definitions and recognition of environmental migrants, particularly in national policies, to grant them access to essential services and protection.

The work emphasises the need for inclusion of environmental migration considerations in national adaptation plans (NAPs) and sustainable development strategies. Environmental migration policies must align with the UN Sustainable Development Goals (SDGs), focusing on poverty reduction and resilience. The work further recommends the creation and development of bilateral and multilateral agreements to facilitate safe, legal, and voluntary migration pathways and the promotion of burden-sharing mechanisms among African States to support the populations affected by environmental disasters. The rights-based agenda for environmental migrants requires effective mechanisms that ensure their access to legal recourse and protection from discrimination, exploitation, and human rights violations. Equally, international collaboration and funding are crucial in addressing the challenges faced by environmental migrants in Africa. African nations should, therefore, leverage international support from organisations like the United Nations High Commission for Refugees (UNHCR), International Organisation for Migration (IOM), and development banks, to provide funding for legal frameworks and adaptation projects in support of environmental migrants.

These approaches require coordinated efforts at national, regional, and international levels to provide comprehensive legal protection and promote sustainable development. If these recommendations are carefully adopted and implemented, they will go a long way to improve the lot of environmental migrants and foster sustainable development in Africa.

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CONFLICT OF INTEREST (COI)

The author declares no conflicts of interest related to this work.



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