



# Protecting climate change refugees in the 21st century: A call to action for African leaders

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**Abstract:** In Southern Africa and other regions alike the majority of refugees are fleeing from climate disasters. Yet, international refugee law is silent on the matter. This leaves vulnerable groups at greater risk of human rights violations including statelessness and persecution.

For many years, scientists and climate activists [have been warning](#) of impending environmental catastrophe which they cautioned would disrupt all areas of life as we know it. Recently, it has become increasingly clear that such an environmental catastrophe they warned of is no longer an impending one. The climate crisis [has begun](#). As they predicted, the effects of climate change have started to disrupt lives and livelihoods and often result in fatalities throughout the world, with millions of people beginning to experience the forewarned impact of climate change in various ways. Some are suffering its consequences [more than others](#) and a new demographic is emerging within such a crisis: climate refugees. A refugee is defined in the [Refugee Convention](#) as a 'person who has fled war, violence, conflict or persecution and has crossed an international border to find safety in another country'. Being officially recognised as a refugee affords the

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person various international and domestic protections under the 1951 Convention and under other civil liberties sources in the host state. This is generally the case for traditional refugees, but it is hardly the case for climate refugees who face systemic exclusion from this legal status.

### **From guns and bombs to floods and droughts**

In many parts of the world more people are fleeing due to climate disasters, while in [some regions](#) climate change has overtaken conflict as the biggest push factor behind forced migration. A [report on Somalia](#) revealed that in 2020 climate change accounted for a staggering 75 percent of new cases of forced displacement in comparison to the 25 percent fleeing due to conflict.

It is relatively easier for conflict refugees to make their case for seeking refugee status under the 1951 Refugee Convention than it is for climate refugees. This is because this treaty requires some form of political and/or social persecution which can easily be tied to an aggressor. Whether it is the weapon wielding agents of the state's military or rebels and insurgent groups, the human actor in the alleged persecution can be identified. However, when it comes to climate refugees there is no immediate human aggressor. Instead, there are degraded soil, extremely high temperatures, floods, etc., all of which are phenomena thought to be 'acts of nature' for which no human can be blamed.

This conceptualisation is being rejected by many who are arguing that climate change at the current levels is the result of human actions. For example, a [2017 report](#) identified that just 100 corporations are responsible for 71 percent of industrial greenhouse gas emissions. Greenhouse gas of such a scale goes on to cause environmental harm often culminating in natural disasters and, consequently, forced displacement. Thus, it is clear that, once the veil is removed, there is a human aggressor behind climate displacement, contrary to what traditionalists in the climate refugees debate might argue.

### **'There are no climate refugees, only climate migrants'**

It is often said that there are [no climate refugees](#), implying that, although they exist, they do not have the legal status of refugees under the 1951 Convention.

The expectation is that people should employ various adaptation and mitigation measures to shield themselves from the effects of climate change and by doing so circumvent the need to leave their usual place of habitation.

However, this is simply impossible for many people suffering the consequences of climate change. In considering the realities of many South Sudanese refugees in Uganda, which is Africa's most progressive and highest refugee-hosting state, the following scenario can be addressed. A subsistence farmer has lived on her rural native land all her life. She and generations before her have practised subsistence farming as a way of life and as a livelihood. Her crops are rain-fed and her livestock is grass-fed. Due to the effects of climate change her land begins to experience unpredictable weather patterns, extremely high

temperatures and flash flooding. Trying to mitigate its harmful effects, she digs gullies on the edge of her farm to drain excess flood water. As the flooding becomes more frequent, the area's saturated water table can no longer contain the excess water. At some point, the flooding becomes so severe that it even sweeps away her home. Eventually the entire area becomes submerged under water, and she goes to find some place safer to live.

Can we conclude that she has willingly migrated to another place or that she has been forced out of her land? Clearly the conditions in her area have become so uninhabitable at this point that they have forced her off her land and she has been rendered a refugee by circumstances beyond her control. The narrative that climate refugees do not exist relegates legitimate and deserving persons from refugee status to economic migrant status, thus excluding them from protection under international and domestic refugee law in African states. What this sentiment fails to appreciate is the fact that economic migrants willingly migrate while refugees are forcibly displaced.

Furthermore, in traditional refugee law – which informs much of African countries' domestic laws – under the [principle of non-refoulement](#) asylum seekers' continued stay in their country of origin will be detrimental to their freedom or life. The same threat of harm exists for those experiencing climate disaster too, as their continued stay in a location could have detrimental and even fatal consequences. The only difference is that the final catastrophe for traditional refugees may be death caused by war, while for climate refugees it is death by starvation or drowning. However, it is death in either case. Given such dire consequences of climate disaster, it cannot be said that these are simply climate migrants and not climate refugees. Although a [recent ruling](#) of the United Nations Human Rights Committee has expanded the principle of non-refoulement to climate-displaced persons, displaced persons would first need to be granted refugee status to reap the protections of this principle. Thus, this kind of expansion of the principle of non-refoulement alone is insufficient for the adequate protection of affected persons.

### **A call to action for African leaders**

While the 20<sup>th</sup> century's refugees were mostly 'products' of conflicts and wars as reflected in the language of the 1951 Convention, most of the 21<sup>st</sup> century's refugees are not fleeing from weapons and soldiers but rather from climate disasters. In Southern Africa and other regions alike, climate displacement and the [rising number of climate refugees](#) are extremely serious issues. Despite such a concerning reality, many African states, institutions, legal frameworks and refugee law experts continue to bury their heads and fold their arms on the matter. Today's realities show the protection provided by the cited Convention and its traditional conceptualisation of a refugee is incomplete in relation to the challenges posed by climate change in the African continent.

[Some jurisdictions](#) such as Uganda are progressively taking measures aimed at protecting the rights of climate refugees through policy, legislative and judicial means. However, regional and domestic legal frameworks of other African countries must still be reformed to recognise climate refugees. Although climate refugees currently have no right to a refugee status, there is a right to apply for it, and they must have that right realised.

With every passing day that the *status quo* continues, thousands of people in the African continent are being subjected to [persecution](#), statelessness and numerous other human rights violations due to climate change. In this regard, in 2020 the UN High Commissioner for Refugees (UNHCR) already established links between climate change and persecution, finding that when a state is unwilling to respond to humanitarian needs that are the result of climate change, there is a 'risk of human rights violations amounting to persecution.'

There has been some recognition of the plight of climate refugees by [international institutions](#) and [global leaders](#). However, climate refugee denialism and xenophobia are still rife in several African states, such as South Africa, Zimbabwe and Mozambique. Sensitisation and awareness-raising on the need for protection of climate refugees must be expediently carried out by governments and institutions in African states. African leaders should establish clear relationships among law, humans and the environment, also pushing for the recognition that people displaced by climate change are, in fact, refugees.