



Fact Sheet 3/2023

KEY LAWS AND POLICIES: REFUGEE LAW

There is no legal definition of a 'climate refugee'. However, some of those displaced across borders in the context of climate change may qualify for refugee protection under international or regional refugee law.

Who is a 'climate refugee'?

The term 'climate refugee' has been used in the media and elsewhere to describe people on the move in the context of climate change and to attract attention to the fact that climate change is driving people from their homes. However, the term 'climate refugee' has no internationally accepted legal meaning.

As a matter of law, a refugee is a person who is displaced across an international border and meets the legal definition of a 'refugee' under relevant international, regional or domestic law. While climate change alone is not a basis for refugee protection, according to UNHCR's 2020 '[Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters](#)' (Legal Considerations):

The adverse effects of climate change and disasters are often exacerbated by other factors such as poor governance, undermining public order; scarce natural resources, fragile ecosystems, demographic changes, socio-economic inequality, xenophobia, and political and religious tensions, in some cases leading to violence. As a result of these negative impacts of climate change and disasters, combined with social vulnerabilities, people may be compelled to leave their country and seek international protection.ⁱ

People displaced in the context of climate change may therefore qualify for refugee protection if they meet the relevant criteria under the 1951 [Convention relating to the Status of Refugees](#) (1951 Convention) or the 1969 [OAU Convention Governing the Specific Aspects of Refugee Problems in Africa](#) (1969 OAU Convention).

Will people displaced in the context of climate change qualify for refugee protection under the 1951 Convention?

The 1951 Convention defines a refugee as:

any person who ... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.ⁱⁱ

While climate change impacts alone do not amount to persecution, in situations where climate change impacts interact with conflict, violence, weak governance and/or discriminatory practices, the

cumulative risks to affected populations could bring them within the scope of the 1951 Convention's refugee definition. For example, if a particular ethnic group is excluded from receiving government aid following a disaster, the resulting human rights violations could amount to persecution for reasons of race, nationality or membership of a particular social group.

Will people displaced in the context of climate change qualify for refugee protection under the 1969 OAU Convention?

The 1969 OAU Convention provides Africa's regional definition of a refugee:

The term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.ⁱⁱⁱ

Africa's regional refugee definition may extend to people displaced in the context of climate change in situations where the impacts of climate change amount to 'events seriously disturbing public order'. For example, several African states have [recognised as refugees people fleeing drought and famine](#).

The key issue is whether, or when, the impacts of climate change will amount to 'events seriously disturbing public order'. According to UNHCR's Legal Considerations, this depends on the impacts of climate change on the effective functioning of the State and 'respect for the rule of law and human dignity to such an extent that the life, security and freedom of people are protected'.^{iv}

How are refugees protected?

Refugees are entitled not to be forcibly returned (*refouled*) to a place where they are a risk of persecution or other serious harm. They are also entitled to a [range of rights](#) in the country of refuge, including freedom from discrimination, freedom of religion, access to domestic courts, and rights to employment, housing and public education.

As a matter of international law, refugee status is 'declaratory', meaning that refugees are entitled to protection as soon as they meet the refugee definition in fact, and irrespective of formal recognition as such. However, in practice, access to refugee protection generally depends on recognition by the host government or UNHCR via [refugee status determination](#) procedures.

About Climate Mobility Africa Insights

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ⁱ UNHCR Legal Considerations, para 2.

ⁱⁱ 1951 Convention, Art 1A(2).

ⁱⁱⁱ 1969 OAU Convention, Art I(2).

^{iv} UNHCR Legal Considerations, para 16.