



**NEAR EAST UNIVERSITY**  
**INSTITUTE OF GRADUATE STUDIES**  
**DEPARTMENT OF INTERNATIONAL LAW**

**CLIMATE CHANGE AND MIGRATION, A CASE STUDY OF NIGERIA**

**LL.M THESIS**

**Hanifa Oiza ABDULMUMIN**

**Nicosia**

**May, 2022**

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MASTER/PHD THESIS

YEAR

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**Nicosia  
May, 2022**

## Approval

We certify that we have read the thesis submitted by Hanifa Oiza Abdulmumin titled “**Climate Change and Migration, a Case Study of Nigeria**” and that in our combined opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Laws in International Law.

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## **Declaration**

I hereby declare that all information, documents, analysis and results in this thesis have been collected and presented according to the academic rules and ethical guidelines of Institute of Graduate Studies, Near East University. I also declare that as required by these rules and conduct, I have fully cited and referenced information and data that are not original to this study.

Hanifa Oiza Abdulmumin

09/05/2022

## **Acknowledgments**

I would like to thank my esteemed supervisor – Associate Professor Doctor Ozlem CANBELDEK-AKIN for her invaluable supervision and support in the course of my LLM degree. My gratitude extends to my husband Dr. Aliyu Zubair for his immense support and encouragement. Additionally, I would like to express my gratitude to my parents and siblings for their prayers and love. My appreciation also goes out to my children, Rooshda and Adnan for their encouragement and support all through my studies.

**Hanifa Oiza Abdulmumin**

### Abstract

Nigeria, has faced various environmental degradation due to climate change which results to displacement and migration. Natural disaster linked to deforestation, oil exploration and other industrial activities, lands are rendered infertile, flood, drought displacement occurs due to the impact of climate change.<sup>1</sup> The Kampala Convention recognises climate induced displacement but Nigeria is yet to domesticate it. No international instrument grants wide recognition to climate induced migrants. The Cancun convention a creation of the UNFCCC calls for member countries to create policies geared towards managing climate-induced migrants.

Nigeria a member of the Paris agreement, with its recent enactment of the climate change Act in furtherance of its commitment to reduce its GHG emission. It created other mechanisms toward environmental protection and justice, however, the context of climate migration management is lacking to a great extent. The protection of climate migrants has always faced criticism due to its multifaceted causative nature. This research work analyses the existing normative framework toward environmental and climatic states in Nigeria as well as globally. The significance of this study is to analyze the existing laws and detect the reason why the subject matter of Climate change migration received uneven attention with its other counterparts. As well as the status of climate litigation in Nigeria.

*Keywords: Migration, Internal displacement, Environmental degradation, Climate change natural disasters , Nigeria climate change.*

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<sup>1</sup> Ravi Kant, 'Markers for Global Climate Change and Its Impact on Social, Biological and Ecological Systems: A Review' (2020) 9(3) AJCC p1 <<https://m.scirp.org/papers/102270>> accessed 13 May 2022

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#### **List of Abbreviations**

**COP:** Conference of the Parties

**GHG:** Green House Gas

**UN:** United Nations

**UNFCCC:** United Nations Framework Convention on Climate Change

**NDC:** Nationally Determined Contributions

**IPCC:** Intergovernmental Panel on Climate Change

**IEA:** International Energy Agency

**UNEP:** United Nations Environmental Program

**AU:** African Union

**ICCPR:** International Covenant On Civil and Political Rights

**OAURC:** Organization of Africa Unity Refugee convention 1969

**NOSDRA:** National Oil Spill Detection and Response Agency

**NESREA:** National Environmental Standards and Regulation Enforcement Agency

**CCA:** Climate Change Act

**AEPB:** Abuja Environmental Protection Agency

**LASEPA:** Lagos State Environmental Protection Agency

**FEPA:** Federal Environmental Protection Agency

**NEMA:** National Emergency Management Agency

**SEMA:** State Emergency Management Agency

**LEMA:** Local Emergency Management Agency

**LT-LEDS:** Long Term Low Emission Development Strategy

**NDPM:** National Disaster Policy Management

**MECC:** Migration, Environment and Climate Change

**IGAD:** Intergovernmental Authority on Development

**UNEMG:** United Nations Environmental Management Group

**EGASPIN:** Environmental Guidelines and Standards for the Petroleum Industry In Nigeria

**GDP:** Gross Domestic Product

**DRR:** Disaster Risk Reduction

**CCDR:** Country Climate Development Report

**SAREEP:** Search and Rescue/Epidemic Evacuation Plan

## CHAPTER I

### Introduction

Globally, climate change is seen as a phenomenon that has penetrated all aspects of human life. It is thus, defined as the disruption of the course of temperature and weather patterns caused by natural or human activities<sup>2</sup>. Over the years, millions of people get displaced because their homes get destroyed, flood engulfs their abode, farm land are not arable, extreme heat waves, rising temperatures, etc are all impacts of climate change.<sup>3</sup> This group of people opt to migrate to better places.

These people who move within a national border are referred to as internally displaced persons<sup>4</sup>. However, the movement of these persons outside a national border does not guarantee them refugee protection, they are ordinarily referred to as migrants, although the cause of their displacement is primarily climate change.

Legal frameworks for the protection of these people are not concluded prominently, laws that cover the usual refugees do not acknowledge climate-displaced persons by its definition. Various international instruments grant human right protection to vulnerable people in any situation but a binding encompassing framework for these climate displaced persons is urgent as it has been predicted that by 2050 there would be over one billion climate-displaced people worldwide<sup>5</sup>

Africa is at risk for climate impact, the adaptation strategy of climate change is at its early stage, countries are struggling with their economy and climate

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<sup>2</sup> Sonia Seneviratne and others, 'Changes in Climate Extremes and their Impacts on the Natural Physical Environment' (2012) p115 [https://www.ipcc.ch/site/assets/uploads/2018/03/SREX-Chap3\\_FINAL-1.pdf](https://www.ipcc.ch/site/assets/uploads/2018/03/SREX-Chap3_FINAL-1.pdf) accessed 20th April 2022.

<sup>3</sup> Center for Research on the Environment and Development, 'Climate Change, Migration, and Displacement The Underestimated Disaster' (2017) p9 <https://climate-diplomacy.org/sites/default/files/2020-10/2017-05-29%20Greenpeace.pdf> accessed 21 April 2022.

<sup>4</sup> Walter Kälin and Nina Schrepfer, 'Protecting People Crossing Borders in the Context of Climate Change Normative Gaps and Possible Approaches' (2012) p4 PPLA/2012/01 UNCHR <https://www.refworld.org/docid/4f38a9422.html> accessed 12 May 2022

<sup>5</sup> Jon Henley, 'climate crises could displace 1.2 bn people by 2050, report warns' The Guardian (Paris, 9 September 2020) <https://www.theguardian.com/environment/2020/sep/09/climate-crisis-could-displace-12bn-people-by-2050-report-warns> accessed 12 May 2022.

change impacts disrupts development in countries. The Kampala Convention, an African Union creation deals with the displacement of persons internally, this Convention acknowledges climate change as a driver for migration, Nigeria is a signatory but is yet to domesticate the Kampala Convention.

Nigeria's commitment to managing climate change was expressed by the recent promulgation of the Climate Change Act into law in line with the drive to execute its international agreement required by member countries to combat and manage climate change as a whole.

Global climate change is an issue that has become more prominent in recent discussions. Climate change is the alteration in the average climatic values and variables which continues for a prolonged period <sup>6</sup>. The increased utilization of energy, as well as the growth of the global economy, has resulted in the accumulation of greenhouse gases in the atmosphere during the 20<sup>th</sup> century <sup>7</sup>.

Food security is worsened as agricultural yields are further threatened because of climate imbalance. Migration is becoming more widely recognized as a global issue that necessitates a global perspective and coordinated remedies. States are debating migration concerns not only bilaterally, but also regionally and, more recently, globally. For such coordination and international cooperation to be successful, a common language is required <sup>8</sup>.

The United Nations Framework Convention on Climate Change (UNFCCC) places that human activities should be carried out in such a way that it does not disrupt the natural environmental course. The task force on displacement is a product of the Paris Agreement of 2015, which was established to mitigate and address displacement caused by climate change. Secondly, the Global Compact for Safe, Orderly, and Regular Migration (GRM) of 2018 was the first multilateral framework on international migration which focuses on climate-induced migration.

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<sup>6</sup> Rafael Santos and Reza Bakhshoodeh, 'Climate change/global warming/climate emergency versus general climate research' (2021) 7(11) JH p1 <<https://doi.org/10.1016/j.heliyon.2021.e08219>> accessed 12 May 2022

<sup>7</sup> William Lamb and others, 'A review of trends and drivers of greenhouse gas emissions by sector from 1990 to 2018' (2021) 16(7) p2 <<https://iopscience.iop.org/article/10.1088/1748-9326/abee4e/pdf>> accessed 12 May 2022

<sup>8</sup> Alex Flavell, 'IOM Outlook on Migration, Environment and Climate Change' (2015) International Organization for Migration Publication Platform p89 <[https://file:///C:/Users/Sc/Downloads/mecc\\_outlook.pdf](https://file:///C:/Users/Sc/Downloads/mecc_outlook.pdf)> accessed 12 May 2022

The disaster caused by climate change has resulted in more persons displaced internally than the total number of refugees globally<sup>9</sup>. 1993, UN Guiding Principle on Internal Displacement provides for the protection of IDP, this is at the global level, regionally the Kampala Convention in Africa caters to the management and ensuring internally displaced individuals' protection, these cases keeps increasing and the violence erupting from the scarcity of resources and loss of livelihood leads to cross border migration, hence the link created between climate change and migration is vast, and it is essential in the course of establishing a grand legal framework for the wholesome effect is still yet to emerge. The time is ripe to establish an international framework as it is believed that it is more important than any other agenda of the United Nations. Where a migration crisis penetrates the world community without an existing law in place there would be catastrophic damage and war could emerge for survival.

The term climate migrant does not have a universal definition. But it is defined; as persons who gets displaced under unusual circumstance due to long and short-term environmental disaster caused by climate change which occurs either in their state or outside their state of habitat<sup>10</sup>. The refugee definition is different from the circumstances under climate displaced persons, thus there is no official protection under international law. "Refugee" is been defined under UNHCR emphasizing the following elements "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group or political opinion" this clearly shows that persons displaced and persons who migrate due to climate factors and disaster are not recognized under this international instrument thus are not given the status of refugee simply because the element of environmental disaster is present.

The popular landmark case of Teitiotia Ione,(Climate Refugee) who brought a case against the New Zealand government as per his asylum application was denied, he sought asylum from Kiribati to New Zealand because due to climate

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<sup>9</sup>Saeed Kamali Dehghan, 'Climate Disasters Caused More Displacement than War in 2020' The Guardian (London, 20 May 2021) < <https://www.theguardian.com/global-development/2021/may/20/climate-disasters-caused-more-internal-displacement-than-war-in-2020>> accessed 12 May 2022

<sup>10</sup> Elsadig Elseikg and Hossen Ayazi, 'Moving Targets: An Analysis of Global Forced Migration' (2017) 6 pp3 Haas Institute for a Fair and Inclusive Society, University of California [https://belonging.berkeley.edu/sites/default/files/haasinstitute\\_moving\\_targets\\_globalmigrationreport\\_public\\_web.pdf](https://belonging.berkeley.edu/sites/default/files/haasinstitute_moving_targets_globalmigrationreport_public_web.pdf) accessed 11 May 2022

change he had no access to portable water, therefore, there was a threat to his life. The UN made a ruling that states would be in breach of its human rights obligation, if the life of someone is at risk or in danger due to climate crisis and he is returned to a country where he faces such, hence states should avail persons facing these challenges as it interferes with their right to life under the International Covenant On Civil and Political Rights<sup>11</sup>. The committee emphasized that policymakers and decision-makers should always take into account threats to the right to life when faced with the determination of deportation.

The persons in this research would be referred to as climate-induced migrants. A huge number of people have resulted in leaving their abode seeking a safer environment, these group of persons who crosses the international border to another country ordinarily are referred to as migrants<sup>12</sup>. Unlike other categories of migrants who seek asylum and are granted refugee status, a migrant who is in such a host country is not granted refugee status. The protection of these people is astoundingly executed in such a way that the Convention also stresses the issue of non-refoulement where it prohibits returning a refugee to his country after crossing a national border by a host country<sup>13</sup>. These benefits are enjoyed solely by refugees. But the rising number of climate change disaster victims is so alarming that the international community ought to create a room for recognition of these groups of persons as refugees, to benefit from legal assistance and financial coverage such as the traditional refugees<sup>14</sup>.

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<sup>11</sup> Lucia Rose, 'The World After Teitiota: What the HRC Decision Means for the Future of Climate Migration' (2021) vol.12 (55) pp 1 SDCELJ < <https://digital.sandiego.edu/jcel/vol12/iss1/4> accessed 12 May 2022

<sup>12</sup> Science for Environment Policy, 'Migration in response to environmental change' (2015) Thematic issue 51. ECDG (8) [https://ec.europa.eu/environment/integration/research/newsalert/pdf/migration\\_in\\_response\\_to\\_environmental\\_change\\_51si\\_en.pdf](https://ec.europa.eu/environment/integration/research/newsalert/pdf/migration_in_response_to_environmental_change_51si_en.pdf) accessed 12 May 2022

<sup>13</sup> Phil Chan, 'The Protection of Refugees and Internally Displaced Persons: Non-refoulement under Customary International Law?' (2006) vol.10, no 3, pp 231-239 The International Journal of Human Rights [https://www.uio.no/studier/emner/jus/jus/JUS5530/v15/undervisningsmateriale/phil-c.w.-chan-\(2006\)-the-protection-of-refugees-and-internally-displaced.pdf](https://www.uio.no/studier/emner/jus/jus/JUS5530/v15/undervisningsmateriale/phil-c.w.-chan-(2006)-the-protection-of-refugees-and-internally-displaced.pdf) accessed 12 May 2022

<sup>14</sup> Joanna Apap, 'The Concept of "Climate Refugee" Towards a Possible Definition' (2019) pp8 EPRS European Parliamentary Research Service <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS\\_BRI\(2018\)621893\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS_BRI(2018)621893_EN.pdf)> accessed 12 May 2022

Advantages of recognizing climate change victims include; the movement of persons due to climate change directly showing that it is a huge problem<sup>15</sup>. Imperatively the UNFCCC under the UN commitment to climate change established a committee to govern major issues related to climate change and is mandated with the task of handling this vulnerable set of people taking account of creating workable institutions structured at catering for these persons<sup>16</sup>. If this is created effectively, a crisis of inflow of climate migrants would be better managed.

Currently, the focus is on aiding people to adjust to the effects of climate change rather than looking into migration as a method for adaptation. Secondly, when climate refugees are accorded a standard definition they would enjoy a wide range of benefits because the mention of vulnerability alone triggers assistance from various world programs, currently, these persons are basking under the umbrella of the traditional refugees and are not granted any protection just because they lack a legal definition<sup>17</sup>, hence if they are given this status they would enjoy protection as others depicting the equal treatment of all persons as a human right. Climate change is causing researchers, politicians, and the general public to become more worried that its effects will have a huge impact on global migration patterns in the next decades.

### **Statement of problem**

In a world where migration is a choice rather than a necessity, without recourse to climate change impacts, would cause effective strategies, in the long run. However, the current trend of the world today exposes how a huge number of people migrate due to climate change impact. Where a legal framework that addresses this issue is in place, the crises would be better managed and people's human rights would also be guaranteed.

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<sup>15</sup>Joanna Apap, 'The Concept of "Climate Refugee" Towards a Possible Definition' (2019) pp8 EPRS European Parliamentary Research Service  
<[https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS\\_BRI\(2018\)621893\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS_BRI(2018)621893_EN.pdf)>  
accessed 12 May 2022

<sup>16</sup> Bridget Anderson and Scott Blind, 'Who Counts as a Migrant? Definitions and their Consequences' (2019) 6th revision <https://migrationobservatory.ox.ac.uk/wp-content/uploads/2017/01/Briefing-Who-Counts-as-a-Migrant-Definitions-and-their-Consequences.pdf> accessed 12 May 2022

<sup>17</sup> Michelle Leighton, 'Climate Change and Migration: Key Issues for Legal Protection of Migrants and Displaced Persons' (2010) p2 GMF  
[https://seors.unfccc.int/applications/seors/attachments/get\\_attachment?code=NL2KZ9POSH0E2SR1HSP6B58BH1KCUJE3](https://seors.unfccc.int/applications/seors/attachments/get_attachment?code=NL2KZ9POSH0E2SR1HSP6B58BH1KCUJE3) accessed 12 May 2022

The rising number of climate-displaced people in all corners of the world calls for an urgent response. The world's dependence on fossil fuels for industrialization and other human activities like the use of methane in the agricultural sector etc, the disruption of climate over the years causes floods, drought, destroys homes and livelihood thus instigates the movement of persons internally and subsequently outside a national border. These new categories of persons are not protected broadly under an international legal framework, even with the iota of being outside a national border.

This is a national concern as it affects the statehood of a person, the human right, as well as the civil-political right of these people. However, the challenges in the protection of refugees are under the UNHCR, these people that migrate are not guaranteed protection due to definition restrictions. Where the primary laws governing refugees do not recognize these sets of people, ultimate protection is far from attainable. However, several policies attempted to address climate migrants through the conference of parties under the UNFCCC where member nations discuss climate change issues including displacement in climate change context.

A standard and broad legal framework for climate migrants is ultimately the solution to cater for this set of people, where the law would be direct and serve the purpose of acknowledging new trends of climate migrants, all incidental happenings of this subject matter, amongst other benefits. Some efforts have been projected for the understanding and possible creation of a legal framework; however, the subject matter is intertwined with other factors. It has been argued that the cause of migration is not just the reason of climate change.

Also, the problem of displacement touches on the sovereignty of a country as the internal affairs of a country to a great extent cannot be determined by the international community, however, the air does not have a boundary. Developing countries face the most implication of climate change, as their adaptative strategy are either poor or difficult to attain. Developed nations often are the highest emitters of GHG which is the major contributor to climate change effect, these countries implement better coping mechanisms such as adaptation and mitigation.

The financial implication of not fixing this climate-induced migration issue is so critical that host states face scarce resources and distribution levels are within



the confines of the traditional refugees, whereas these climate migrants could enjoy some benefits, they are not guaranteed or given out of compulsion and as a result, they face discrimination due to cause of migration. This fact touches upon human rights enjoyment. Countries that have achieved a measurable form of development face the challenge of maintenance as climate change causes internal migration, which leads to scarce resources and finally movement across border.

Disaster caused by climate change has resulted in more persons displaced internally than the total number of refugees globally. Currently, the focus is placed on assisting to adapt to the effect of climate change rather than exploring the option of migration. Secondly, when climate refugees are accorded a standard definition, they would enjoy a wide range of benefits because the mention of vulnerability alone triggers assistance from various world programs, currently, these persons are basking under the umbrella of the traditional refugees and are not ordinarily granted adequate protection.

Furthermore, the UNFCCC is of the view that Africa produces only 3% of the global carbon emission this is due to low technological advancement among other factors, the negative impact of climate change is almost unbearable and the worst hit as reports have shown the drastic damage cyclone hit countries such as Zimbabwe, Mozambique, rendering 1100 person homeless<sup>18</sup>.

Rainfall, flood, and drought have been the effect of climate change in Nigeria, with the Lake Chad drying up, as scientists has foreseen the total disappearance of this major source of water in the coming years<sup>19</sup>. As a response to climate change, Nigeria applies mitigation and adaptation as a mechanism for handling climate change.

The Nigerian Climate Change Act, exemplifies Nigeria's commitment to climate change management. The Act does not give recognition to persons that are rendered homeless due to climate change. Where a national law gives credence to

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<sup>18</sup> Tom Philips, 'Sao Paulo reportedly plans homeless camp following 30% rise in rough sleepers' The Guardian (Brazil, 9 May 2022) <https://www.theguardian.com/world/2022/may/09/sao-paulo-reportedly-plans-campsite-increase-homelessness> accessed 12 May 2022

<sup>19</sup> Binh Pham-Duc and others, 'The Lake Chad Hydrology under Current Climate Change' (2020) p3 10:5498 Scientific Reports Nature Research [https://www.researchgate.net/publication/340175848\\_The\\_Lake\\_Chad\\_hydrology\\_under\\_current\\_climate\\_change](https://www.researchgate.net/publication/340175848_The_Lake_Chad_hydrology_under_current_climate_change) accessed 12 May 2022.

people affected by climate change, it would be in line with the trends of the world, perhaps this is due to the unacceptance of the legal recognition of climate refugees. One would not expect a developing nation to recognize these persons too. The solution to climate migration crises is in the creation of an international legal framework that would enjoy wide membership as well as effective implementation of member states. Nigeria as a whole should proffer laws that would better address this global issue.

With sovereignty threatened, human rights affected and the economy disrupted, the need for a global legal framework is the key to solving this issue. It needs to be fixed as the number keeps rising and the existing refugee law does not grant protection to these people, which leads to sketchy and temporary protection which is usually voluntary and under humanitarian reasons. The creation of this legal framework would be beneficial to the world. The UNHCR is an example of a convention that caters to vulnerable people, the extension of the definition to include climate migrants or the creation of an entire legal framework is the key to addressing this new issue.

### **Purpose of the study**

The purpose of this study is to explore the existing laws dealing with climate change and climate-induced migration. There have been various attempts to understand the relationship between climate change and migration but gridlock is always reached. The current refugee law however does not grant recognition to climate migrants, the concept itself is still in its developmental phase as regional bodies are struggling to grapple with the relationship between them.

Some laws address environmental health in Nigeria also the Nigerian climate change Act, to a great extent did not address the issue of climate migration and the measures it would adopt for handling this menace. The purpose of this study is to further explore and analyse various legislation under the heading of environmental protection in Nigeria, as well as policies and international instruments Nigeria is a member of under the subject of climate change and displacement.

This research aims to evaluate the migration laws that have been put in place in Nigeria to protect the migrants that leave their domicile country due to the effect of climate change.

The sub-objectives of this study include:

- i. To determine if the law provides adequate safety to the migrants
- ii. To find out if climate-induced migrants exist in Nigeria
- iii. To assess the viability of their existence as well as laws that deal with environmental protection
- iv. To determine the need for climate litigation in Nigeria.

### **Research Questions**

The following research questions will be used to answer the set objectives

- i. Are there adequate safety measures that are included in the set laws to protect the lives of climate migrants?
- ii. Do these laws provide the right to basic amenities for climate migrants?
- iii. What is the significance of climate migrant protection?
- iv. What is The extent of climate litigation in Nigeria?

### **Significance of the study**

The importance of this study is to analyse the concept of climate migration globally as well as existing laws on climate change in Nigeria, the concept of climate litigation and environmental justice in Nigeria.

The analyses of the existing environmental laws in Nigeria, the oil and gas sector, and the protection level against GHG emissions as well as climate litigation would be discussed. It would be relevant for policymakers to refer to have a good grasp of an existing legal framework on climate change, and migration in Nigeria.

The significance of this study is also to understand why the concept of climate migration does not gain legal backing globally, regionally, and nationally. Also understanding the extent of refugee protection in cases of climate migration. And the human right protection of climate migrants in Nigeria.

### **Limitation of study**

The research is limited to Nigeria as a region in Africa and the Nigeria climate change law as well as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

### **Definition of terms**

**Climate change:** It is defined as the change in weather patterns over a long period of time. This shift could be natural or due to human activities, human activities refereing to the burning of fossil fuels, use of coals, mostly energy-based produce gases that hardly gets evaporated but rather gets trapped and leads to rising temperature<sup>20</sup>. It can also be defined as the modification of weather conditions caused by different ways the ecological factors within the earth system change.

**Migration:** Migration is the movement of persons from one place to another, in international parlance, it refers to the movement of persons from one country to another. The movement occurs from the usual abode of people to either within a state or across an international border<sup>21</sup>.

**Refugees:** According to the 1951 UNHCR Refugee Convention and it goes thus “A refugee is one who is unable or unwilling to return to their country of origin owing to a well-founded fear or being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion”. The refugee definition offers protection to refugees worldwide. A person seeking to be a refugee has to be given asylum pending the refugee status in a host country. A refugee is an officially recognized status for migrants who have met all the criteria to be granted such.

**Migrant:** A migrant refers to a person who moves or is in the process of moving outside a country to another country, it could also be movement within a state but the focus is more on movement outside a habitual residence. The purpose

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<sup>20</sup> Hervé Le Treut and others, ‘Historical Overview of Climate Change Science’ (2007) ch 1 100 Cambridge University Press Cambridge, United Kingdom and New York  
<<https://www.ipcc.ch/site/assets/uploads/2018/03/ar4-wg1-chapter1.pdf>> accessed 12 May 2022

<sup>21</sup> Paul Douglas and others, ‘Definitions matter: migrants, immigrants, asylum seekers and refugee’ (2019) V26 (2) JTM page 1 <https://academic.oup.com/jtm/article/26/2/taz005/5315619> accessed 12 May 2022

of migrating could be voluntary or involuntary, the decision could also be temporary or permanent movement<sup>22</sup>.

**Climate migrants:** Climate migration refers to the movement of persons outside their usual habitual abode which is caused by a disruption in environmental course caused by climate change. Climatic migrants are people who relocate as a result of climate and environmental change and degradation that negatively impacts their livelihoods or living conditions inside a state or across international borders.

**Environmental refugees:** This concept just like climate migrants is not a legal concept. Environmental migrants are individuals who have been compelled to leave their native habitat, either temporarily or permanently, due to significant environmental disturbance caused by natural or human-caused factors that have risked their survival and/or negatively impacted their quality of life.<sup>23</sup>.

**Internally displaced persons:** The displacement of people outside their residence, to avoid the effects of war, armed conflict, violations of human rights, or natural or human-made disaster is called displacement. While the affected persons are called internally displaced persons. Internally displaced persons are persons who flee their residence to avoid conflict, disaster, or human right violation and who have not crossed an international border.

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<sup>22</sup> Kok Pieter, 'The Definition of Migration And its Application: Making Sense of Recent South African Census And Survey Data' (1997) 7(1) p19 SAJD <http://www.jstor.org/stable/20853242> accessed 13 May 2022

<sup>23</sup> Sylwia Leszczuk, 'The Definition and the Issue of Climate Refugees in the Light of International Law' (2021) 5 (1) p21 EEJTR [https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/12951/1/EEJTR\\_2021\\_Vol\\_5\\_No\\_1\\_Leszczuk.pdf](https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/12951/1/EEJTR_2021_Vol_5_No_1_Leszczuk.pdf) accessed 13 May 2022

## CHAPTER II

### Literature Review

#### Historical Development and Framework of Refugees.

The League of Nations began the historical protection of refugees<sup>24</sup>. In 1921, The International Committee of the Red Cross and the League of Nations conducted a meeting with the goal of establishing an office to define who a refugee is and who qualifies to be called one.<sup>25</sup>

Offices such as the office of the High Commission of the League of Nations for Refugees (1939) Nansen Office for Refugees (1931) were created for the protection of refugees. States adopted some protection measures and saw the need for appointing a high commission relating to the status of refugees.

In 1938, the Intergovernmental Committee on Refugees (IGCR)<sup>26</sup> made possible the migration of persons from Austria and Germany who voluntarily departed their country of origin due to political opinion, religious belief, or racial origin, this accounted for the acknowledgment of persons fleeing the home country as a result of these reasons which later on was adopted the United Nations High Commissioner for Refugees 1951. The International Refugee Organization IRO of 1948, created by a UN resolution was created primarily to handle the resettlement of about 1400 refugees from the Americas and Europe.

In 1950 the UN had a conference in Geneva where it completed the drafting and signing of the Convention relating to the status of refugees. Adopted in 1951, the UN further created permanent international machinery which is known as the United Nations' High Commissioner for Refugees UNHCR which would subsequently cater to all stateless persons under no governable protection in association with host states.

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<sup>24</sup> Gilbert Jaeger, 'On the history of the international protection of refugees' (2001) 83 (843) p 729 IRRC < [https://www.icrc.org/ar/doc/assets/files/other/727\\_738\\_jaeger.pdf](https://www.icrc.org/ar/doc/assets/files/other/727_738_jaeger.pdf)> accessed 13 May 2022

<sup>25</sup> Tutku Vardađlı, 'League of Nations' Refugee Operations through Istanbul: Back to the Origins of International Refugee Question' (2020) Volume 51 p.149-173 TTYIR < <https://dergipark.org.tr/tr/download/article-file/1498698>> accessed 13 May 2022

<sup>26</sup> Janco Andrew, 'Unwilling: The One-Word Revolution in Refugee status, 1940-51 Contemporary European History' (2014) 23(3) p 429-46 <http://www.jstor.org/stable/43299681> accessed 13 May 2022

The 1951 UNHCR Convention, became popular and accepted by states globally and has since enjoyed 149 nation ratification which is in harmony and commitment with the human rights protection and non-discriminatory treatment. The Convention is the most comprehensive instrument of refugee protection, it recognises the rights of refugees, and emphasizes the importance of non-discrimination, among other legal features. Due to its wide coverage, many countries further adopted its regulations in their national refugee laws e.g the United States.

The Organization of Africa Unity Refugee convention 1969, is the first regional instrument created for the protection of refugees, its mandate is to administer protection of refugees in Africa, and has gained 46 members' ratification out of 55 states in Africa. The OAU defines refugees as “ individuals who flee from their country because of “external aggression, occupation, foreign domination or events seriously disturbing public order.” .

An average of 25.4 million people are displaced by a natural disaster every year<sup>27</sup>. With industrialisation by the use of GHG emissions, peoples living conditions are affected, thus climate change is a push factor for migration flows<sup>28</sup>.

Current happenings lead to the understanding of the pattern of migration caused by natural disasters. Communities move to a safer environment in the event of a disaster, and also the movement of men to urban cities to recuperate from losses submerged by disaster to mitigate their losses. However, incidents of extreme situations ultimately lead to permanent relocation by affected persons<sup>29</sup>. Slow changes in climatic condition, a bulk of which is connected with climate change largely contributes to migration flows. Unlike sudden natural disaster which results in immediate movement of people, a gradual disaster like increasing temperature, rising sea level, etc, renders consideration of climate change been the reason for their movement because the numbers are usually small, people migrate

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<sup>27</sup> Alexandros Paraskevas and others, 'Global refugee crisis and the service industries' (2019) 39:9-10 TSIJ P663-667 <https://www.tandfonline.com/doi/full/10.1080/02642069.2019.1619381?scroll=top&needAccess=true> accessed 13 May 2022.

<sup>28</sup> Guy Abel and others, 'Climate, Conflict and Forced Migration' (2019) 54 GECJ p240 <https://doi.org/10.1016/j.gloenvcha.2018.12.003> accessed 13 May 2022

<sup>29</sup> Semenza Jan and others, 'Climate change impact on migration, travel, travel destinations and the tourism industry (2019) 26(5) p2 JTM <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7107585/> accessed 13 May 2022

alone and the decision is not triggered by slow onset disaster, unlike sudden onset disaster<sup>30</sup>.

Migration due to slow-onset disasters creates a shallow understanding of disaster displacement. Sea level rise is an effect of climate change, it is already driving migration flows to the extent of causing an entire village to consider relocation, exemplified by the reports of the Lagos coastal community in Nigeria<sup>31</sup>. Occurrences of shortage of water are linked with environmental changes and threats to livelihoods which increases the drive to migrate. Extreme drought results in very dry land that when rain falls the soil does not absorb it which results in to flood and coincides with an increased temperature that is dangerous to humans and animals<sup>32</sup>.

Extreme heat and soil degradation are a fundamental cause of migration flow which is linked with drought. The connection between environmental changes and migration is not immediately obvious for the reason of it not being sudden, therefore the number is not determined on a large scale<sup>33</sup>. The movement of people to urban cities, upon arrival, live in deplorable conditions with a poor coping mechanism in cases of disaster. The growing population in urban cities results to increase in temperature, and an increase in electricity usage which all flow from the primary cause of migration, climate change<sup>34</sup>. It was reported by the UN Office for Disaster Risk Reduction that 80% of natural disasters are broadly

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<sup>30</sup>UN High Commissioner for Refugees (UNHCR), 'In Search of Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement (2009) <https://www.refworld.org/docid/4ddb65eb2.html> accessed 12 May 2022

<sup>31</sup> Jerry Obiefuna and others, 'Flood risks to urban development on a coastal barrier landscape of Lekki Peninsula in Lagos Nigeria' (2021) 12(4) p6 SAJ < <https://doi.org/10.1016/j.sciaf.2021.e00787>> accessed 12 May 2022

<sup>32</sup> UNEP, 'Loss and Damage: The role of Ecosystem Services' (2016) United Nations Environment Programme, Nairobi, Kenya [https://wesr.unep.org/media/docs/assessments/loss\\_and\\_damage.pdf](https://wesr.unep.org/media/docs/assessments/loss_and_damage.pdf) accessed 13 May 2022

<sup>33</sup> Hugo Graeme, 'Environmental Concerns and International Migration' (1996) 30(1) p 105 IMR <https://doi.org/10.2307/2547462> accessed 13 May 2022

<sup>34</sup> Ram Avtar and others, 'Population–Urbanization–Energy Nexus: A Review' (2019) 8(1) p3 MDPI < [file:///C:/Users/Sc/Downloads/resources-08-00136%20\(1\).pdf](file:///C:/Users/Sc/Downloads/resources-08-00136%20(1).pdf)> accessed 13 May 2022



linked with climate change which leads to displacement<sup>35</sup>. Environmental change is known to be a driver of migration through interactions with other systems<sup>36</sup>.

### **Definition Of A Refugee.**

#### **Who Are Climate Refugees**

According to the IDMC report, 24.6 million persons get displaced due to floods, cyclones, earthquakes, droughts, and other environmental disasters since 2018. The UNHCR also gives its statistics of about 21.5 million persons getting displaced due to weather-related disasters since 2015<sup>37</sup>. The response level to these categories of persons displaced by climate change has not gained enough recognition, attaching the definition of refugees does not cover the definition as ascribed in the 1951 UNHCR Convention, which defines a refugee as a person who is unable or unwilling to return to his country of origin “owning a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion”.

The concept of “ climate refugees” gained popularity in 1985 after the UN Environment Programme (UNEP) resource person Essam El-Hinnawi defined environmental refugees. In 2015 the president of the European Union Jean Claude associated climate change as the primary cause of migration. In 2019 statistical reports that there are 21.5 million displaced persons as a result of climate change emphasizing immediate action to handle the challenge effectively.

The term “environmental refugee” gives an incorrect perspective as it portrays the nature of an accepted definition because of the already accepted definition of refugee by the 1951 Refugee convention<sup>38</sup>. Thus the term climate refugee is at the discretion of the user of the word in a particular context referring to a disaster caused by climate change that leads to migration internally or across the international border.

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<sup>35</sup> Margaret Grossman, ‘Climate Change and the Individual’ (2018) 66(1) p346 TJCL < <https://doi.org/10.1093/ajcl/avy018>> accessed 13 May 2022

<sup>36</sup> Kelman Ilan and others, ‘Learning from the history of disaster vulnerability and resilience research and practice for climate change’ (2016) 82(10) p131 NH [file:///C:/Users/Sc/Downloads/Learning\\_from\\_the\\_history\\_of\\_disaster\\_vulnerabilit.pdf](file:///C:/Users/Sc/Downloads/Learning_from_the_history_of_disaster_vulnerabilit.pdf) accessed 13 May 2022

<sup>37</sup> Guy Godwin and Jane McAdam, ‘UNHCR and climate change, disasters, and displacement’ (2017) 17 UNHCR <https://www.refworld.org/docid/5aa695874.html> accessed 10 May 2022

<sup>38</sup> Sheila Murray, ‘Environmental Migrants and Canada’s Refugee Policy’ (2010) 27(1) p91 RJY < [file:///C:/Users/Sc/Downloads/admin,+34351-35904-2-PB\\_E.pdf](file:///C:/Users/Sc/Downloads/admin,+34351-35904-2-PB_E.pdf)> accessed 10 May 2022

To be classified as a climate refugee, a person must meet the following criteria: temporary or permanent relocation, forced migration, cross-border movement, disruption caused by climate change, sudden or gradual environmental disruption, and a more likely standard for human contribution to disruption.<sup>39</sup>

The International Organization for Migration (IOM) attempted to define environmental migrant as the movement of a group of persons who due to progressive and sudden changes in their immediate environment impacts on their living conditions or lives are mandated to vacate their homes which could be a temporary relocation or permanent one, within their country or abroad<sup>40</sup>. This definition captures the forced nature of the movement of persons in the affected environment.

The UNHCR deliberately avoided defining this concept of environmental and climate refugees because it would compromise the definition and protection refugees are given in the UNHCR which primarily focuses on persecution by states of persons for reasons of race, social group, political opinion, religion, and nationality.

### **Historical Impact Of Climate Change In Nigeria**

It is no longer vague how climate change affects all countries worldwide, however, the impact of climate change in Nigeria is as old as the country itself. Being the most populous black nation on the planet, Nigeria enjoys its water supply from the Lake Chad region which it shares with neighboring countries like Cameroon, Niger, and Chad. Climate change is the change that occurs over properties that happen over an extended period or longer<sup>41</sup>.

An important factor of climate change feature is that it not only happens over a period but the extent of disparity and its impact of it on humans and the ecosystem is considerable. The causes of climate change have been established majorly into two broad categories, which are human activities and natural processes. Studies have shown that urbanization, use of technology, agriculture,

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<sup>39</sup> Thomas Doherty and Susan Clayton, 'The Psychological Impacts of Global Climate Change' (2011) 66(4) p265 APA <https://www.apa.org/pubs/journals/releases/amp-66-4-265.pdf> accessed 13 May 2022

<sup>40</sup> Oli Brown, 'Migration and Climate Change' (2008) 31 p13 IOM <https://olibrown.org/wp-content/uploads/2019/01/2008-Migration-and-Climate-Change-IOM.pdf> accessed 1 May 2020

<sup>41</sup> James Hansen and others, 'perception of Climate Change' (2012) 109 (37) p1 PNAN <https://www.pnas.org/doi/10.1073/pnas.1205276109>

and deforestation are among the primary causes of global warming which is used in tandem with climate change. The existence and operation of these activities by man have contributed immensely to the number of greenhouse gases in the atmosphere<sup>42</sup>.

The evidence of climate change in Nigeria is aligning with the indicators as provided by the Nigerian Environmental Study/Action Team. This was provided as a criterion to determine if climate change exists or impacts Nigeria as a whole. Decrease in rainfall, flooding, increase in temperature, drought, disruption in climate pattern, bush fire, sea-level rise, drying of rivers and lakes, and loss of biodiversity. An increase in rainfall in the western and eastern parts and a decrease in the northern part of the country is also evidence of climate change in Nigeria<sup>43</sup>.

The increase in temperature and decrease in rainfall which is evidenced by the impact of climate change. The temperature rise began at a slow level in 1960 and gradually increased in the 1970s which momentarily continued increasing till this moment<sup>44</sup>. In the last century, the average air temperature was 1/1 degree centigrade. Which is high compared to the global average temperature increase of 0.74 degrees centigrade. This means if Nigeria fails to address and counter the impacts of climate change the consequences of climate rise could be dire by 2100. In 2012 Nigeria lost about 20 billion dollars in damages as a result of the flood.

Rainfall, flood, and drought have been the effect of climate change in Nigeria with the Lake Chad drying up from 22,902 km square in 1963 to 1304 km square in 2000 this shows a difference of 90 percent disappearance of it<sup>45</sup>. Scientists has foreseen the total disappearance of this major source of water in the coming years.

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<sup>42</sup> Peter Akpodiogaga and Ovuyovwiroye Odjugo, 'General Overview of Climate Change Impacts in Nigeria' (2010) 29 (1) p48 JHE <https://www.tandfonline.com/doi/abs/10.1080/09709274.2010.11906248> accessed 1 May 2022

<sup>43</sup> Akinwale Ogunrinde, 'Analysis of recent changes in rainfall and drought indices in Nigeria' (2019) 64(14) p2 HSJ <https://www.tandfonline.com/doi/full/10.1080/02626667.2019.1673396?scroll=top&needAccess=true> accessed 1 May 2022

<sup>44</sup> Anthony Egeru and others, 'Past, Present and Future Climate Trends Under Varied Representative Concentration Pathways for a Sub-Humid Region in Uganda' (2019) 7 (3) p35 MDPI <<https://www.mdpi.com/2225-1154/7/3/35>> accessed 1 May 2022.

<sup>45</sup> Bin Pham, 'The Lake Chad hydrology under current climate change' (2020) 10(5498) p1 Sci Rep <https://www.nature.com/articles/s41598-020-62417-w#> accessed 1 May 2022

Rainfall has shown a sharp decline of 80 milliliters mm. Climate pattern disruption affects the pattern of agricultural produce, Agriculture is 70% rain-fed in Nigeria and it is the second-highest contributor to Nigeria's GDP after petroleum. It renders 50 percent of the country's population employment, and the heavy reliance on rain for crop production is affected as a result of climate change<sup>46</sup>.

An increase in temperature and disparity in weather patterns has rendered farmers unable to understand the perfect period to experience a high yield of agricultural produce and a lack of understanding and knowledge of this trend often results to flood experience and low crop harvest<sup>47</sup>. Farmers across Africa including Nigeria are constantly grappling with the current climate occurrences<sup>48</sup>.

Unfavorable weather condition generally affects agriculture, and food production hence causing food scarcity and unemployment<sup>49</sup>, decrease in rainfall in the north has resulted in less and safe access to water in households. Parts of Northern Nigeria such as Sokoto and katsina are currently experiencing desert encroachment as sand dunes forcefully cause displacement, which induces migration of the people in such areas to other arable lands, but this arrangement often leads to communal clashes as resources are being scarce and increase in the farmers-herders clash in the host communities<sup>50</sup>.

Urban development in cities as modern structures are built in line with economic developments, these cities get affected by the flood as major cities experience serious floods that damage structures and displaces people. Growth in urbanization and the influx of people in these cities increase the chances of floods. Nigeria in its recent history suffered serious flooding which rendered about 2.3

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<sup>46</sup> Ayansina Ayanlade and others, 'Rainfall Variability and Drought Characteristics in two Agro-Climatic Zones: An Assessment of Climate Change Challenges in Africa' (2018) 630 p1

<https://www.sciencedirect.com/science/article/pii/S0048969718305953> accessed 1 May 2022

<sup>47</sup> Jonathan Ogbuabor and Emmanuel Egwuchukwu, 'The Impact of Climate Change on the Nigerian Economy' (2017) 7 (2) p219 IJEEP < <https://www.econjournals.com/index.php/ijeep/article/view/3985>> accessed 1 May 2022

<sup>48</sup> Donna Green, 'The spatial distribution of extreme climate events, another climate inequity for the world's most vulnerable people' (2016) 11 p1 Environ. Res. Lett <https://iopscience.iop.org/article/10.1088/1748-9326/11/9/091002/pdf> accessed 1 May 2022

<sup>49</sup> Tshepo Masipa, 'The Impact of Climate Change on Food Security in South Africa: Current realities and Challenges Ahead' (2017) 9(1) p 2 PMC < <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6014268/>> accessed 1 May 2022

<sup>50</sup> Iloanya Kenneth and others, ' Marriage of Inconvenience Between Herders and Farmers in Nigeria: Can Elephant and Hippo Tango?' (2018) 4(1) p29 JPMR <file:///C:/Users/Sc/Desktop/phd/13330-48836-1-PB.pdf> accessed 1 May 2022

million people displaced, with about 400 lives lost as a result of the flood that happened in a space of 5 years<sup>51</sup>. In 2021 eight people lost their lives in Jigawa state as a result of flooding which rendered 57 houses damaged as well as the destruction of farmlands<sup>52</sup>.

Nigeria could lose close to 500 billion dollars if climate change is not handled effectively, this prediction is in line with Nigeria's inclination to climate-driven industry (agriculture and petroleum). The Northern part of the country which is less developed than the south faces vulnerability to climate change<sup>53</sup>. Climate hazards such as droughts and erosion have been linked to dispersion and unpredictability of rainfall patterns, rainfall generally has decreased by 80 milliliters. Climate change affects several sectors in Nigeria from agriculture to infrastructure etc. The impact of climate change is evident on the economy and displacement of persons. Droughts have caused various levels of displacement across the nation from a shortage of rain that causes low crop yields<sup>54</sup>

There have reportedly been clashes between herdsmen and farmers because of scarce resources caused by climate change, herdsmen's inability to feed their cattle, and encroaching into the land of farmers to sustain their cattle with farm produce, which in turn results in discord between both parties, climate change impact e.g flood caused the elimination regular feeding source of this animals<sup>55</sup>

### **Causes of Climate-induced Displacement in Nigeria**

The causes of climate change globally are attributed to sea level rise amongst other causes as per the natural change in the natural pattern of weather nature is occurring. Global warming comes in the subject of climate change as it refers to trapped gases in the air that causes the earth to be warmer. This directly

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<sup>51</sup> Caroline Olanrewaju and others, 'Impacts of Flood Disasters in Nigeria: A Critical Evaluation of Health Implications and Management' (2019) 11(1) p1 JDRS

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6494919/>> accessed 1 May 2022

<sup>52</sup> Olagunji Temidayo and others, 'Climate Change Impacts on Environment: Human Displacement and Social Conflicts in Nigeria' (2021) 655 p2 IOP Conf. Series:EES <https://iopscience.iop.org/article/10.1088/1755-1315/655/1/012072/pdf>> accessed 1 May 2022

<sup>53</sup> Huma Haider, 'Climate Change in Nigeria: Impacts and Responses' (2019) 675 p5 Institute of Development Studies <https://opendocs.ids.ac.uk/opendocs/handle/20.500.12413/14761> accessed 1 May 2022

Huma Haider, 'Climate Change in Nigeria: Impacts and Responses'.

<sup>54</sup>Kelechi JohnMary and others, 'The of Climate Change on Food and Human Security in Nigeria' (2022) 14(2) p148-167 < <https://doi.org/10.1108/IJCCSM-11-2020-0119>> accessed 1 May 2022

<sup>55</sup> Raphael Atanga and others and others, 'Climate Change, Flood Disaster Risk and Food Security Nexus in Northern Ghana' (2021) 5 p1 FSFS <https://doi.org/10.3389/fsufs.2021.706721> accessed 1 May 2022

affects the weather upon which climate change is formed. The IPCC report has listed 5 causes of this greenhouse emission which include, fossil fuel, deforestation, increasing livestock farming, nitrogen-formed fertilizers, and fluorinated gas<sup>56</sup>.

Nigeria is located in the Gulf of Guinea in West Africa, situated west of Benin republic, Cameroon, and Chad to the east it has a landmass of 923,768 square kilometers (km<sup>2</sup>) and includes 853 km of coastline. Nigeria has a tropical climate and it suffers very high temperatures all through the year. The average temperature in Nigeria ranges from 17°C to 37°C in the south to 12°C to 45°C in the north. Over the last 30 years, there was a temperature increase of 0.19°C between 1990 and 2016<sup>57</sup>.

Nigeria being an oil-producing nation, the 15<sup>th</sup> largest in the world has a high number of gas flaring and petroleum activities. The advancement of human activities in response has led to the melting of ice and glaciers which has resulted in sea level rise. Over the years research has shown that the speed of sea level rises doubled, science predictions of Antarctica's ice projected its effect of a little degree, however, the greenhouse emission rate increase could cause uncontrollable destruction of the Antarctica ice which leads to sea-level rise in the future this is predicted to occur in 2050.

Human influences have been identified through the burning of fossil fuels for developmental activities such as the use of electricity, cars, trains, etc. Nigeria as described above is contributory to these activities which cause global warming. Also, deforestation measures that occur in response to urbanization and the use of timber for electricity projects have added pressure on the emission of greenhouse gasses. A wide expanse of environmental pollution is caused from the petroleum industry, also the burning of coal to generate electricity is another major cause of GHG emission. The possible implication of climate change in Nigeria will affect its socio-economic and environmental sectors<sup>58</sup>. For example, as Nigeria relies on

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<sup>56</sup> Gowri Koneswaran and Danielle Nierenberg, 'Global Farm Animal Production and Global Warming: Impacting and Mitigating Climate Change (2008) 116(5) p1 EHP  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2367646/> accessed 1 May 2022

<sup>57</sup> Mohammed Shiru and others, 'Projection of meteorological droughts in Nigeria during growing seasons under climate change scenarios' (2020) 10(1) p3 Scientific Reports <  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7308398/>> accessed 1 May 2022

<sup>58</sup> Jonathan Ogbuabor and Emmanuel Egwuchukwu, 'The Impact of Climate Change on the Nigerian Economy' (2017) 7 (2) p219 IJEEP <  
<https://www.econjournals.com/index.php/ijeeep/article/view/3985>> accessed 1 May 2022

hydroelectricity, which is predicted to be impacted by climate change, other consequences will result from this, which negatively affect commercial and social aspects of livelihood. The negative implication of climate change is bound to result in human migration.

### **The AU Approach to Climate-induced Migration**

West Africa is identified with climate impact for years now, such as heatwaves, intense rain, and flooding. In Somalia hundreds of its population in 2015-2017 migrated because of droughts. The International Organization for Migration Displacement Tracking Matrix (IOM-DTM) reports that Nigeria is the second-largest foreign-born population (0.7 million)<sup>59</sup>

According to the Intergovernmental Panel on Climate Change's 5th Assessment Report, Africa is extremely vulnerable to climate change (IPCC). According to the food and agriculture organization, Africa would experience intense desertification that would affect 300 million hectares of land and render some parts of the continent uninhabitable. The United Nations predict about 700 million habitants of Africa would be forced out of their homes by 2050 due to the reduction of land productive capacity<sup>60</sup>.

Currently, the FAO has reported that about 25 million persons get displaced yearly due to climate disasters. The protection of climate-induced disaster victims is not given importance as much as climate change itself gained prominence, both in the international parlance and regionally such as in Africa.

The OAU in 1969 dealt with the governance of refugees in Africa it defined a refugee as “persons who flee events seriously disturbing public order” public order by extension could mean climate-induced disaster if the OAU is determined to give protection to this set of vulnerable people regionally although further explanation could be rendered by the treaty monitoring body.

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<sup>59</sup> Stephen Unachukwu, 'An Appraisal of the Challenges and Legal protection Available for Internally Displaced Persons in Nigeria' (2022) 6(3) p91-96 IJTSRD < <https://www.ijtsrd.com/papers/ijtsrd49485.pdf> > accessed 1 May 2022

<sup>60</sup> Baher Kamal, 'Climate Migrant might reach one billion by 2050' (2017) Inter Press Service < <https://reliefweb.int/report/world/climate-migrants-might-reach-one-billion-2050>> accessed 1 May 2022



The Kampala Convention through resolution 153 in 2009, implore African states to protect vulnerable persons who are victims of natural disasters, by creating national law to manage these crises. Regional cooperation would determine the success rate of refugee protection in Africa, with the commitment to foster a love for the fellow Africans, through Pan Africanism, the concept of refugee protection from climate could be embraced with this method<sup>61</sup>

The ACHPR, the socio-cultural, civil-political economic right, individuals are entitled to the enjoyment of certain rights also under the African union, refugees are entitled to good housing, right to education, and right to movement within the territory, where this is implemented a case for climate refugee stands effective because it is clear that violation exists due to displacement from climate change but as noted earlier there is lack of institution backing this set of people.

### **Environmental Disaster and Displacement in Nigeria**

Nigeria is currently faced with millions of displaced persons like other parts of the world, but according to an IDMC report, displacement in Africa is the highest in the world currently. Political instability, war, and disaster are seen to be the most causes of displacement, a total number of 17.8 million persons is set to be displaced which accounts for 40% of the world's total number. There is a surgent rise in displacement in Nigeria which is due to environmental hazards arising from disasters such as floods<sup>62</sup> and drought, in 2018, Nigeria has 2.1 million internally displaced people, according to the internal displacement monitoring center. According to the Nigerian Red Cross Society, Nigeria faced its worst flood in 40 years, affecting 7 million people over 70 percent of the country<sup>63</sup>. According to NEMA, about 1.5 million persons get displaced due to floods, and desertification since 2009. Since the discovery of oil in the Niger-Delta there has continuously been environmental degradation through oil spillage and gas flaring, also the rivers

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<sup>61</sup> Urso G and Hakami O, 'Regional Migration Governance in Africa: AU and RECs' (2018) JRC Technical Report s, EUR 29325 EN, Publications Office of the European Union

[file:///C:/Users/Sc/Downloads/african\\_migration\\_governance\\_pubsy.pdf](file:///C:/Users/Sc/Downloads/african_migration_governance_pubsy.pdf) accessed 1 May 2022

<sup>62</sup> Sheridan Bartlett, 'Climate change and urban children Impacts and implications for adaptation in low- and middle-income countries' (2008) 20(2) p507 EU <

<https://pubs.iied.org/sites/default/files/pdfs/migrate/10556IIED.pdf>> accessed 1 May 2022

<sup>63</sup> Adaku Echendu, 'The impact of flooding on Nigeria's sustainable development goals (SDGs)' (2020) 6(1) p2 EHS < <https://doi.org/10.1080/20964129.2020.1791735>> accessed 1 May 2022



get contaminated, and marine life gets depreciated. Leaving the land to be contaminated, residents getting displaced and livelihood lost.

The legal mechanism governing these categories of persons, which are the Geneva Convention of 1949 and its protocol 1977, the United Nations Guideline on Internal Displacement 1998, while regionally the African Charter on Human and Peoples Right, The African Union Convention for the Protection and Assistance of IDPs in Africa, 2009, (Kampala Convention), while nationally. The National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) 2004, (Draft) National Policy on Internally Displaced Persons (IDPs) In Nigeria, 2012, National Disaster Management Framework (NDMF), and The National Emergency Management Agency (NEMA) Act, 1999.

Nigeria is among the 40 African states that ratified the Kampala Convention although is yet to domesticate it. The Convention urges members to make laws and policies to govern displaced persons which should be in line with the UN Guiding Principle upon which it was formed, the Kampala Convention is the world's first body created that governs Internally displaced persons regionally. The National Policy on Internal Displacement In Nigeria attempted a national policy to govern internal displacement with the primary aim to manage and prevent internal displacement in 2012 but it faces the challenge of harmonizing the Kampala Convention.

### **Climate Change Responses a Review (Mitigation and Adaptation).**

The IPCC Assessment report has established that the current mechanism for Mitigation and adaptation are two methods for dealing with climate change. Adaptation and mitigation are applied side by side as a coping strategy to climate change because adaptation can be expensive but it operates successfully when used correctly while mitigation can still be put in place but the total elimination of GHG is impossible because of the heavy reliance on fossil fuel.

Mitigation simply means activities that would reduce the rate and effect of climate change. it is already established that human activities are responsible for the emission of greenhouse gases. Mitigation measures are tied to changes in the normal course of activities for the betterment of the climatic environment. It has been discovered that creating a cooling effect that would drastically reduce and

eliminate greenhouse gases could be an option. The IPCC resolves that mitigation as a response to climate change could save the ecosystem from going extinct.

Nigeria, in its determination to counter climate change, so far has adopted the following measures as a mitigation strategy to climate change. The aim to reduce GHG by introducing renewable energy is common knowledge, however, the support for this in policy development in Nigeria is not accomplished. The innovation and development of solar energy are still new and expensive in Nigeria, companies, and industries face challenges in adopting this clean source of energy. Reforestation is currently 10% compared to the deforestation level, and tree planting has proven to mitigate disaster in terms of flooding and atmosphere cleansing, therefore Nigeria requires urgent planting of trees as a coping mitigation strategy <sup>64</sup>

Countries located in Sub-Saharan Africa (SSA) are relatively more susceptible to climate change, especially those nations that have witnessed conflict in recent times <sup>65</sup>. This automatically classified Nigeria as a ‘high-risk region as it is situated in the SSA and has witnessed a relatively high amount of conflict, specifically in recent times<sup>66</sup>. Also note that a considerable number of African countries possess a low capacity for climate change adaptation because of impoverishment, recurrent natural disasters (floods and droughts), and an over crop dependence on rainfall<sup>67</sup>.

There have been various efforts to understand and address adaptation strategies for climate change. These will be reviewed at international and national levels.

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<sup>64</sup>Momodu Suleiman and Elum Zelda, ‘Climate Change mitigation and renewable energy for sustainable development in Nigeria: A Discourse Approach’ (2017) 76 p 72-80 RSER  
<https://doi.org/10.1016/j.rser.2017.03.040> accessed 1 May 2022

<sup>65</sup> Halvard Buhaug and others, ‘Climate variability, food production shocks, and violent conflict in Sub-Saharan Africa’ (2015) 10(12) p2 Environment Research Letters Environ Res Lett  
<https://iopscience.iop.org/article/10.1088/1748-9326/10/12/125015/pdf> accessed 1 May 2022

<sup>66</sup> Micel Bako and others, ‘Climate Change 2007: Impacts, Adaptation and Vulnerability’ (2007) Contributing Working Group II to the fourth Assessment Report of the Intergovernmental Panel on Climate Change Eds, p433-467 [https://archive.ipcc.ch/publications\\_and\\_data/ar4/wg2/en/ch9.html](https://archive.ipcc.ch/publications_and_data/ar4/wg2/en/ch9.html) accessed 1 May 2022

<sup>67</sup> Bekele Shiferaw and others, ‘Managing Vulnerability to Drought and Enhancing Livelihood Resilience in Sub-Saharan Africa: Technological, Institutional and Policy Options’ (2014) 3 p67-79 69  
<https://doi.org/10.1016/j.wace.2014.04.004> accessed 1 May 2022

The United Nations Framework Convention on Climate Change (UNFCCC) is the highest governing body on climate change, it shoulders the responsibility for addressing international endeavours that relate to climate change<sup>68</sup>. As a result of the growing evidence on the impact on climate change on the environment and humans, in 1992, 154 nations responded by signing the United Nations Framework Convention on Climate Change<sup>69</sup>.

The UNFCCC has reinforced the development of the National Adaptation Programmes of Action (NAPA), It aims to assist the world's least developed countries in designing better identification response strategies for climate change adaptation<sup>70</sup>. However, out of the fourteen countries submitted so far, there have been indications of an adaptation strategy that involves migration as a possible option<sup>71</sup>.

At the end of 2010, the UNFCCC held in Mexico reached the 'largest collective effort the world has ever seen on climate change'<sup>72</sup>. This led to an agreement on a range of important decisions by the international bodies, which was called the Cancun Agreement. The aim was to reach a consensus on the long-term issues of climate change and how to address them immediately.

The IPCC identified adaptation activities in Chapter 14 of the IPCC's AR5 Climate Change 2014: Impacts, Adaptation, and Vulnerability Report (WGII AR5)<sup>73</sup>. In the AR5, adaptation was summarised into 3 main categories: (i)

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<sup>68</sup> Zangerolame Taroco and others, 'The UN Framework Convention on Climate Change and the Paris Agreement: Challenges of the Conference of the Parties, (2019) 22(43), 125-135

Prolegomenos <<https://doi.org/10.18359/prole.3449>> accessed 1 May 2022

<sup>69</sup> Daniel Bodansky, 'The United Nations Framework Convention on Climate Change: A Commentary' (1993) 18(451) p453-554 Yale Journal of International Law YJIL <

[https://openyls.law.yale.edu/bitstream/handle/20.500.13051/6301/28\\_18YaleIntlL451\\_1993\\_.pdf?sequence=2](https://openyls.law.yale.edu/bitstream/handle/20.500.13051/6301/28_18YaleIntlL451_1993_.pdf?sequence=2)> accessed 1 May 2022

<sup>70</sup> Desanker Paul, 'The NAPA Primer. United Nations Framework Convention on Climate Change (UNFCCC)(2004) Least Developed Countries Expert Group (LEG) p21 [https://unfccc.int/sites/default/files/resource/NAPA-Primer\\_2004.pdf](https://unfccc.int/sites/default/files/resource/NAPA-Primer_2004.pdf) accessed 1 May 2022

<sup>71</sup> Klein Richard, 'Identifying Countries That Are Particularly Vulnerable to the Adverse Effects of Climate Change: An Academic or a Political Challenge?' (2009) 3(3) p 284-291 *Carbon & Climate Law Review* CCLR <http://www.jstor.org/stable/24323850> accessed 2 May 2022.

<sup>72</sup> United Nations Convention for Climate Change (UNFCCC), 'Cancún Climate Change Conference' (2010) <https://unfccc.int/process-and-meetings/conferences/past-conferences/cancun-climate-change-conference-november-2010/cancun-climate-change-conference-november-2010-0> accessed 1 May 2022

<sup>73</sup> Alexandre Magnan and others, 'National adaptation is also a global concern' (2015) 4(15) IDDRI Sci po. P5 <[https://www.iddri.org/sites/default/files/import/publications/wp0415\\_am-tr-st\\_adaptation-global-concern.pdf](https://www.iddri.org/sites/default/files/import/publications/wp0415_am-tr-st_adaptation-global-concern.pdf)> accessed 1 May 2022

institutional actions (ii) social actions and behavioral changes, and (ii) physical or structural actions<sup>74</sup>. However, it was noted that risks and vulnerabilities need to be identified to be able to choose an appropriate adaptation option.

### **National Level**

An effort has been made by Nigeria to deal with the implications of climate change. An initiative was created and funded by the International Development Agency of Canada to deal with issues of climate change. This initiative was called the Canada-Nigeria Climate Change Capacity Development Project (CN-CCD). Sequel to this initiative, a committee was created by the Nigerian Environmental Study and Action Team called the ‘Building Nigerian Response to Climate Change (BNRCC)’ with the main aim of creating capacity that helps provide awareness and maintain policies that address climate change in Nigeria. This was often achieved through seminars and liaisons with research bodies. Subsequently, the CC-CCND facilitated programs that led Nigeria to submit its First National Communication to the Conference of Parties of the UNFCCC<sup>75</sup>.

NASPA was formed in 2009 after stakeholders’ initiation discussion group on the SNC<sup>76</sup>. The strategy divides its policies and strategies for climate change adaptation into the different Nigerian sectors in a total of 13 sectors, e.g agriculture, education, forests, energy, etc (see table 1 below for some strategies)<sup>77</sup>. The NASPA further identified the key stakeholders involved and defines each of their roles and responsibilities. Key stakeholders were divided into four main groups: governments, the private sector, civil society, and the international community. Moreover, the Department of Climate formed under the Ministry of

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<sup>74</sup> Alexandre Magnan and others, ‘National adaptation is also a global concern’ (2015) 4(15) IDDRI Sci po. P5 < [https://www.iddri.org/sites/default/files/import/publications/wp0415\\_am-tr-st\\_adaptation-global-concern.pdf](https://www.iddri.org/sites/default/files/import/publications/wp0415_am-tr-st_adaptation-global-concern.pdf)> accessed 1 May 2022

<sup>75</sup> United Nations Convention for Climate Change (UNFCCC), ‘ 2050 Long Term Vision For Nigeria LTV-50’ (2021) < <https://unfccc.int/documents/386681>> accessed 2 May 2022

<sup>76</sup> Anthony Onyekuru and Rob Marchant, ‘Climate Change Impact and Adaptation Pathways for Forest Depended Livelihood Systems in Nigeria’ (2014) 9 (24) p1819-1832 African Journal of Agricultural Research Afr J Agric. Res [https://academicjournals.org/article/article1402999015\\_Onyekuru%20and%20Marchant.pdf](https://academicjournals.org/article/article1402999015_Onyekuru%20and%20Marchant.pdf) accessed 1 May 2022

<sup>77</sup> Federal Ministry of Environment Department of Climate Change, ‘Nigeria’s Adaptation Communication to the United Nations Framework Convention on Climate Change’ (2021) Nigeria Adaptation Communication ADC < <https://unfccc.int/sites/default/files/resource/Nigeria%20Final%20ADCOM%20Report.pdf>> accessed 1 May 2022

Environment has also devised a National Climate Change Policy, which was formed “to implement the policies created in the NASPA<sup>78</sup>.”

<b>1. STRATEGIES FOR AGRICULTURE (CROPS AND LIVESTOCK)</b>
<ol style="list-style-type: none"> <li>1. Adopt improved agricultural systems for both crops and livestock (for example, diversify livestock and improve range management; increase access to drought resistant crops and livestock feeds; adopt better soil management practices; and provide early warning/meteorological forecasts and related information).</li> <li>2. Implement strategies for improved resource management (for example, increase use of irrigation systems that use low amounts of water; increase rainwater &amp; sustainable ground water harvesting for use in agriculture; increase planting of native vegetation cover &amp; promotion of re-greening efforts; and intensify crop and livestock production in place of slash and burn).</li> <li>3. Focus on agricultural impacts in the savanna zones, particularly the Sahel, the areas that are likely to be most affected by the impacts of climate change.</li> </ol>
<b>2. STRATEGIES FOR FRESHWATER RESOURCES, COASTAL WATER RESOURCES AND FISHERIES</b>
<ol style="list-style-type: none"> <li>1. Initiate a national programme for integrated water resource management at the watershed level</li> <li>2. Intensify programmes to survey water quality and quantity for both ground and surface water</li> <li>3. Implement programmes to sustainably extend and improve water supply and water management infrastructure</li> <li>4. Explore water efficiency and management of water demand, particularly in Sahel and Sudan savanna areas</li> <li>5. Enhance artisanal fisheries and encourage sustainable aquaculture as adaptation options for fishing communities.</li> </ol>
<b>3. STRATEGIES FOR FORESTS</b>
<ol style="list-style-type: none"> <li>1. Strengthen the implementation of the national Community-Based Forest Resources Management Programme.</li> <li>2. Support review and implementation of the National Forest Policy.</li> <li>3. Develop and maintain a frequent forest inventory system to facilitate monitoring of forest status; and initiate a research programme on a range of climate change-related topics, including long term impacts of climatic shifts on closed forests.</li> <li>4. Provide extension services to CSOs, communities and the private sector to help establish and restore community and private natural forests, plantations and nurseries.</li> <li>5. Improve management of forest reserves and enforce low impact logging practice.</li> </ol>
<b>4. STRATEGIES FOR BIODIVERSITY</b>
<ol style="list-style-type: none"> <li>1. Support the active implementation of the <i>National Biodiversity Strategy and Action Plan (NBSAP)</i>, particularly those strategic actions that address climate change impacts.</li> <li>2. Support recommended climate change adaptation policies and programmes in sectors that affect biodiversity conservation, including agriculture, forestry, energy and livelihoods.</li> <li>3. Support and implement programmes for alternative livelihoods in order to reduce unsustainable resource use that contributes to loss of biodiversity (see Sector/Theme 11. Livelihoods).</li> </ol>

<sup>78</sup> Onyeneke R.U and others, ‘National Adaptation Strategy and Plan of Action on Climate Change for Nigeria (NASPA-CCN)’ (2020) p3 African Handbook of Climate Change Adaptation.

[https://doi.org/10.1007/978-3-030-42091-8\\_125](https://doi.org/10.1007/978-3-030-42091-8_125) accessed 1 May 2022



Table 1: Sample NASPA-CCN recommended strategies for some of the 13 priority sectors identified<sup>79</sup>.

So far Nigeria has adopted measures of adaptation to climate change, such as sanitation programs, and afforestation by planting cool air trees. In the agricultural sector, farmers are better enlightened and have the knowledge of resilient crops to cultivate and at what time of the season to cultivate crops. However, these measures are incomparable with climate change. The National Policy which was that was in force resulted in the recent National Climate Act which was enacted in 2021.

Under the auspices of Nigeria's commitment to climate change, the Federal Ministry of Environment created a unit catering to research and management of climate change and to implement all Conventions of climate change Nigeria is a signatory to as well as protocols e.g the Kyoto Protocol this creation is called the Special Climate Change Unit SCCU.

### **The UN Approach to Climate Refugees**

#### **United Nations High Commissioner for Refugees (UNHCR)**

The 1951 Refugee Convention currently caters for the management and protection of refugees globally, it creates a framework for the establishment of protection mechanisms and strategies for these vulnerable people, there are over 20 million refugees worldwide, with half of the number emanating from Africa alone, it has been established by Norman Myers that the impact of climate change could displace over 200 million people<sup>80</sup>. The rights and duties of states towards refugee protection are elaborately expressed in the convention however expression of inclusion of climate refugees in this legal instrument is absent.

Although there are arguments that these climate displaced people are included under the persecution definition as expressed in its definition context, the 1951 convention defined a refugee as one who due to well-founded fear is unable or unwilling to return to his country as a result of persecution from being belonging to a particular race, political opinion, etc. currently the concept of

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<sup>79</sup> *ibid.*

<sup>80</sup> Robert McLeman, 'Climate change, migration and critical international security considerations' (2011) 42 p13 IOM Migration Research Series <https://publications.iom.int/system/files/pdf/mrs42.pdf> accessed 4 May 2022

climate refugees is absent from the definition under the United Nations Framework for Refugee Protection. During the conference in Cancun, the UNFCCC was created in a bid to address the impact of climate change as well as how movement caused by climate change gained attention. The need for harmonizing national responses to climate change as well as cooperation by states to reach a global solution. The UNFCCC's major aim is to reduce emission levels to an extent that human interferences and activities would not affect a natural ecosystem which could affect food and water amongst other adverse effects.

## CHAPTER III

### Methodology

The methodology that would be used for this research would be the analytical method, which deals with climate change and existing migration law both in Nigeria and international law. Whether it is acting to protect migrants that leave their domicile country because of the legal implications of climate change. Using primary sources such as constitution, statutes, cases, and regulations while secondary sources, such as reports, journals, articles, and textbooks. The secondary source is to analyse and review the primary source either as a critique or restating and approving it. An advantage of the analytical method is the continuity and certainty of law are essential for the growth and development of legal principles<sup>81</sup>, especially in this new world problem of climate change and refugee crises.

### Data collection

Due to the nature of the research problem and its objective, the analytical method would be used which flows from the exploration of primary research tools such as statutory materials and case reports, while secondary sources include, data collected stems from constitution, cases, and journals, legal periodicals and treatises. Most importantly the use of the analytical method in this research work could predict the future of a doctrine or principle due to the rigorous perusal and analyses<sup>82</sup>.

Using these sources, sufficient data will be collected and the findings will be synthesized. It is useful to uncover trends in thoughts and opinions which will provide an insight into the problem of climate change and refugee crises in Nigeria which would help to develop ideas for subsequent potential research using the

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<sup>81</sup>Ishwara Bhat, 'Analytical Legal Research for Expounding the Legal Wor(l)D' [2020] Idea and Methods of Legal Research 169. Chapter 6<

<https://oxford.universitypressscholarship.com/view/10.1093/oso/9780199493098.001.0001/oso-9780199493098>> accessed 27, March , 2022

<sup>82</sup>Lloyd P Provost, 'Analytical Studies: A Framework for Quality Improvement Design and Analysis' (2011) 20 Suppl 1 BMJ quality & safety.< <https://pubmed.ncbi.nlm.nih.gov/21450782/>> accessed 27 March 2022



analytical method. Also, it can provide quick results through the exposition of legislation and case laws due to its deep analyses of concepts and legal principles.

The use of the analytical method involves a critical evaluation of the Nigeria climate change law as well as the international regulation on climate change. Through critical observation, it would yield the desired outcome and result that would help us achieve the objective of the study. The data that will be collected from these reports would be used to evaluate the current situation of climate migrants and predict possible future occurrences. The Newyork Declaration of Refugees and Migrants formed in 2016, established the major cause of migration is nothing short of climate change. It further declared that migration movement as a result of environmental disaster should be given adequate attention. The Declaration included climate change and natural disasters as major elements for migration. Secondly, it stresses that migration should be a choice rather than a necessity, which is the only option during an environmental disaster. Also the need to create strategies to deal with environmental degradation as well as a response mechanism to the adverse effect of climate change. The Declaration accepts that drivers of migration amongst others include environmental disasters. And calls for collaboration with national countries in assisting these vulnerable people displaced due to climate change.<sup>83</sup> It is worthy to note that the New York declaration influenced the decision of states towards creating and acknowledging a framework that recognizes climate change as a driver for migration, which primarily led to negotiations done during the UN global compact for safe, orderly, and regular migration held in 2018 Marakesh Morocco. The guidelines included the treatment of persons displaced due to disaster and climate change.

### **International Instruments governing climate migrants**

#### **The Global Compact For Safe, Orderly, And Regular Migration (GCM).**

The Global Compact is the first inter-governmentally negotiated agreement, created in 2018 under the UN by heads of states, dealing with migration issues and emphasizing that states' sovereignty translated to the rights of a state to determine

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<sup>83</sup>IOM UN Migration, 'CLIMATE CHANGE AND MIGRATION IN VULNERABLE COUNTRIES A Snapshot of Least Developed Countries, Landlocked Developing Countries and Small Island Developing States'(2019) page 56 ENG0731< <https://publications.iom.int/books/climate-change-and-migration-vulnerable-countries>> accessed 27 May 2022.

who and who should not be in their territory because the compact is not legally binding it only shows cooperation generally towards migration.

It requires members of the New York Declaration to include the subject of natural disaster and climate change in all steps of regulation of migrants activities, it was in this context that states raised the issue of the protection of cross-border movements caused by climate change. The GCM concludes that there is no global protection of refugees because the causative factor of migration is linked with other causes and not only climate-related disasters. African States as per their peculiar status rose the issue that climate change should be included in global migration policy. Matters raised concerning environmental migration included regional and Subregional procedures to address migrants' risks as a result of climate change and ecological disasters.

In summary, the GCM propels the identification of migrants caused by natural disasters as well as interaction with national states because the existence of the GCM relies on the UNFCCC and the Paris agreement.

### **International Organization Of Migration**

IOM since its creation in 1990 has been faced with the challenges of creating a mechanism for climate migration through the creation of policies, research programs as well as measures for implementing global objectives of climate migration enhancement. It further embraces available measures that would cater for this set of vulnerable people. IOM in its bid to strategize carefully the issue of climate refugees liaised with key international agencies and institutions because of the need for a global approach to cater to climate migrants, institutions such as the UNSSACC and the UNEMG. The following organizations are in partnership with the IOM regarding climate migration, the World Bank, FAO, WFP, ILO, OCHA Etc. The collaboration with these entities is in cognizance with its mandate to create effective policies of climate migration as well as through events and research.

The IOM and the UNFCCC developed a strong bond in line with climate change and migration it is to this end that the MECC was formed<sup>84</sup>. Thus the

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<sup>84</sup>IOM UN Migration, 'International Dialogue on Migration and MECC' (2022)<  
<https://environmentalmigration.iom.int/international-dialogue-migration-and-mecc>> accessed 27 March 2022

UNFCCC under this arrangement organized the first-ever conference to create a work plan targeted at the movement of persons caused by climate change, with all these strategies the IOM has been adopting it also aims to induce environmental migration to the limelight of national, regional, and international attention. IOM created a working group referred to as Migration, Environment, and Climate Change (MECC) is obligated as its mandate to deal with migration crises caused by climate change under the IOM specifically.

IOM support for climate-induced displacement goes beyond the international level, through the Regional Consultative Processes (RCP) the IOM grants assistance in this context, and the RCP deals with migration matters that emphasize cooperation amongst states in specific regions. By creating informal methods which could be non-binding because these regions face specific peculiarities and know what suits them best, the IOM acknowledges and support whatever decision is made in regions related to migration. It is to this end that in West Africa, the migration dialogue West Africa was created targeting the issue of climate change and movement of persons, the Intergovernmental Authority on Development IGAD (RCP) In the horn of Africa<sup>85</sup>.

### **The Global Compact on Refugees**

Created under the UNHCR through consultation meetings and discussions of governments and stakeholders. The GCR encourages acts by states to help vulnerable people as they would ordinary refugees since they share a common feature and there is lacking an international regime for their protection. Even with this action, the UNHCR did not embrace the concept by granting a framework for the protection of climate-displaced persons. The GCR includes climate change as an influential part of migration and assistance would be granted to them by important stakeholders including the IOM, It also identified the need for cooperation with the national government to create policies to address climate-induced disaster victims.

### **The United Nations High Commissioner for Refugees**

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<sup>85</sup>Altai Consulting, 'IGAD Case Study Focus on IGAD's work on migration in the Horn of Africa'(2021)page 10-35[https://ec.europa.eu/trustfundforafrica/sites/default/files/eutf\\_igad\\_case\\_study\\_final\\_0.pdf](https://ec.europa.eu/trustfundforafrica/sites/default/files/eutf_igad_case_study_final_0.pdf) accessed 27 May 2022

The UNHCR's primary function is to protect and assist people who have been granted a refugee status to integrate and resettle, with emphasis on the right of everyone seeking asylum to be granted in another state. Article 8 of the UNHCR requires protection for only refugees as defined in its statute, however, this mandate gradually included internally displaced persons to extent of being subject to a vote by the general assembly when required.

Originally, the UNHCR does not give acceptance to persons evacuated due to climate change but recently it has exemplified features towards possible recognition of these categories of persons. The UNHCR as part of its operational initiative to strengthen the capacity of states calls for cooperation between states and international organizations toward the protection of climate disaster victims. It was under this guise it formed a task team called the Global Protection cluster task team aimed at assisting states' capacity and international organizations towards protecting disaster displaced persons. At the regional level in Africa, the UNHCR acknowledged the operational function of the Kampala Convention concerning internally displaced persons as a result of climate disaster.

### **The Nansen Initiative**

The Nansen initiative of 2011 deals primarily with how to create measures to address all of the needs of persons who have been relocated across borders as a result of climate change disasters. It was formed due to the protection gap that exists, whereas the Refugee Convention grants protection and assistance to regular refugees under its framework, this does not go the same for climate displaced persons, they are left at the mercy of national laws and other forms of arrangements not purely defined and obligated to protection. Paragraph 14 (f) was adopted in the Cancun agreement (2010)<sup>86</sup>, where states declared recognition and expressed cooperation toward climate-displaced persons across the border. Migration of persons due to climate change was first given status for discussion in 2010 COP 26, this was when members of the UNFCCC decided to adopt the

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<sup>86</sup>UNFCCC, *'the Cancun Agreements'* (United Nations Climate change 2010) <<https://unfccc.int/process/conferences/the-big-picture/milestones/the-cancun-agreements#:~:text=What%20are%20the%20Cancun%20Agreements,the>> accessed 27 March 2022

Cancun Adaptation Framework inclining that this movement involves international agenda as it deals with cross border movement<sup>87</sup>. The platform on Disaster Displacement replaced the Nansen initiative and continued all implementation measures.

### **The Paris Agreement**

The Paris Agreement was created to reduce climate change impact by cutting the average global temperature by 1.5 degrees by states. The IPCC report in 2018 reports that a rise in temperature would increase flood, displacement, drought, etc To uphold the Paris agreement, high emitting were enjoined to submit carbon reduction targets which are referred to as “Intended Nationally Determined Contributions “ NDC, also included in the creation of carbon sinks by these countries, which would be reported according to been members. Emission reduction is not quantified bearing in mind the capability of a country as well as its political and economic strength, the NDC however enjoins these high emitting countries to submit their target which should be done every 5 years. The Paris Agreement calls for recommendations for persons displaced as a result of climate disaster. Generally, the preamble of the Paris Agreement requires members to adopt strategies for the protection of certain categories of persons including vulnerable populations, and climate-induced persons are referred to as vulnerable people. The Paris Agreement replaced the Kyoto protocol and had a wider scope, Kyoto protocol refers to developed countries reducing their GHG emissions.

### **The UNFCCC United Nations Framework Convention On Climate Change**

The UNFCCC was created in 1994, it aims to stabilize greenhouse gas emissions to the extent of it not interfering with the natural ecosystem. It primarily focuses on developed countries to cut down GHG emissions and providing assistance to developing countries in managing the impact of climate change because of low adaptative capacity and produce a low level of GHG, yet the huge burden laying on them in their fragile economy due to climate change caused by emissions. The conference of parties commonly referred to as COP created by the

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<sup>87</sup>GHRD ‘Climate Change Induced Migration, Conceptual and Legal Overview. An Update in the Light of COP26’ Global HumanRight Defence(2021)< <https://ghrd.org/climate-change-induced-migration-conceptual-and-legal-overview/>> accessed 27 May2022

UNFCCC is a law-making body with the aim of the members to deal with climate change development.

During COP19, the Warsaw International Mechanism was formed to compensate underdeveloped nations for losses and damage caused by climate changes, this was a creation of the commitment of UNFCCC expressed under paragraph 4 as explained above for assisting developing nations in handling climate change adaptation. It further calls for parties to observe and create measures referring to climate-induced displacement. WIM Focuses on creating governance of climate-induced displacement. Recommendations of including climate displaced persons during policy-making decisions on global climate change response were submitted but it's important to note that this recommendation is non-binding.

#### **The African Union (AU) Convention for the Protection and Assistance of Internally-Displaced Persons in Africa (Kampala Convention)**

The first world legal instrument granting protection to internally displaced persons is the Africa's regional instrument created in 2009, popularly referred to as the Kampala Convention. It is officially known as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. The creation has a foundation under the 1998 UN Guiding Principles on internal displacement. Africa took the step to create rights for displaced persons, thus encouraging its ratification and domestication by members, a large angle of the UN Guiding Principle on internal displacement is contained in the Kampala Convention. Therefore, this Guiding Principle became binding in Africa.

The Kampala Convention places climate change as a reason for the movement of persons either voluntary or involuntary which constitutes a disaster. Article 5(4) enjoins member states to give immediate support and safety to those who have been affected as a result of climate change. Article 6 of the Kampala Convention covers the humanitarian protection of IDP in territories of signatory states.

In an event where prevention methods fail, the Kampala Convention enjoins states to uphold the right of displaced persons, the right to dignity and humanity in seeking protection elsewhere by resettlement. Accordingly, Article 5 of the

Kampala Convention gives the ability for states to cooperate in addressing cross-border migration caused by environmental disasters<sup>88</sup>.

A great number of African states have ratified the Kampala Convention. The Kampala Convention provides for the responsibility of states in which displacement occurs. Within the framework of the African Union, member states have decided to take collective responsibility to take regional intervention action in case of displacement associated with grave breaches of human rights and humanitarian law<sup>89</sup>. Nigeria ratified the Kampala Convention in 2012 but is yet to domesticate it.

### **The Guiding Principle of Displacement**

Protection of internal displacement globally is provided for by the UN Guiding Principle of 1998 popularly referred to as (the Guiding Principle). The Guiding Principle stipulates a standard for all states in the protection of internally displaced persons created under the umbrella of natural disasters, amongst others. This Guiding Principle, forms part of customary international law, due to its background, the Guiding Principle is not legally binding, the concept of the Guiding Principle flows from humanitarian, refugee, and human rights motives in creation.

In 2005, the World Summit 2005 concludes The United Nations Guiding Principles as a core principle for IDP protection<sup>90</sup>. Some regional bodies adopted its principles and instrumentalized them in their local laws.

### **Human Rights Approach To Climate-Induced Disaster**

The protection of vulnerable people in the aftermath of natural disasters is critical for the execution of disaster-related human rights protection in any part of

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<sup>88</sup>Allehone Mulugeta Abebe 'The Kampala Convention and environmentally induced displacement in Africa'(2011) page 5-

<sup>9</sup><https://www.iom.int/sites/g/files/tmzbd1486/files/jahia/webdav/shared/shared/mainsite/microsites/IDM/workshops/climate-change-2011/SessionIII-Paper-Allehone-Mulugeta-Abebe.pdf> accessed 27 May 2022

<sup>89</sup>African Union, 'African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) (2012) <https://au.int/en/overview> accessed 27 May 2022

<sup>90</sup> United Nations 'World Summit'(2005)<  
<https://www.un.org/en/conferences/environment/newyork2005#:~:text=The%202005%20World%20Summit%2C%20which,his%20report%20in%20Larger%20Freedom.>> accessed 27 March 2022

the globe. Various instrument has set a standard for the protection of these set of persons, although there is no wholesome framework in the international context that places primary protection on this set of people. However, the Guiding Principle on internal displacement for IDP outlines protection avenues it is a non-binding instrument. The Guiding Principle enjoins protection at all times for vulnerable people including climate-induced migrants.

The current international legislation deals with the protection of refugees. The Nansen Principle of the UN requires states to adopt the 1998 Guiding Principle in their national law with the primary aim of addressing climate-induced internal displacement. States are enjoined to give effect to the concepts created for the protection of displaced persons in the 1998 guiding principle by domestication.

The HRC and the OHCHR addresses climate change through the right-based approach and outline adopting measures in the planning process, subjects of justice, equity and accountability for a climate-resilient goal. The requirement of states to cater to vulnerable persons goes down to the foundation of states' legal obligation to protect, honour and maintain human rights. It is undisputed to conclude that vulnerable persons are prone to non-enjoyment of their human rights and violation easily are meted on them. Therefore, states in addressing climate displaced persons ought to classify these persons in the creation of policies to protect and respect them.

The ratification of human rights instruments at all levels made towards respect, protection, and upholding of human rights measures without any form of discrimination. It requires non-discrimination of migrants irrespective of their reason for migration across border. It also provides for the protection against life-threatening issues of migrants and the importance of granting prompt assistance to migrants.

Essentially, the right against discrimination, the right to address migration issues from a human rights perspective as well as the right of states in creating policies placed at the human rights protection level. Human rights are universal



and inalienable, states and stakeholders are to uphold them in a non-discriminatory manner and also to determine each case of human rights protection objectively<sup>91</sup>.

### **Existing Legislations Of Climate Change In Nigeria**

The following bodies are responsible for environmental protection in Nigeria, all the creations are under the performance of the Nigerian government to achieve a clean and safe environment of sustainable development and for its determination to keep to its commitment to international agreements to reduce pollution and reduce its GHG Emission. These agencies are created at the federal and state level to act per all Nigerian environmental law agencies of environmental protection in all 36 states also a federal agency tasked with environmental safeguards called the Federal Environmental Protection Agency FEPA amongst these bodies include NOSDRA, NESREA, CCA, AEPB, LASEPA FEPA, Etc

Nigeria, located in West Africa, gained independence in 1960 and is a developing nation with over 200 million people<sup>92</sup>. Projected to be the second-largest economy, Africa's major oil producer and the world's 15th largest. According to the IPCC, Nigeria among other nations in Africa have a high exposure rise due to climate change. Nigeria with its grappling economy struggles to ensure the economy is stabilized and fair for its citizenry, but with the advent of climate change, sustainable goals would be difficult to achieve or reversed as an outcome of the effects of climate change. It is to this end that it creates policies and measures to address this reality the whole world is facing. Nigeria creates a lot of legislation on climate change governance in recent years and so far, it has been achieving its mission of reducing the global average temperature which is the main subject of climate change, and also in line with international agreements and pacts e.g the Paris Agreement. However various legislation has emanated to deal with the climate crises in Nigeria among which is the climate change Act, the National Environmental Standards, and Regulations Enforcement Agency.

### **The National Environmental Standards and Regulations Enforcement Agency**

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<sup>91</sup>UN Human Right office of the High Comissioner, 'Human Rights Handbook for Parliaments' (2016)<  
[file:///C:/Users/ACER%20USER/Downloads/ipu\\_handbook\\_human\\_rights\\_en-web.pdf](file:///C:/Users/ACER%20USER/Downloads/ipu_handbook_human_rights_en-web.pdf)> accessed 27 May 2022

<sup>92</sup>Vitalis Jafra Pontianus and Oruonye E.D., 'The Nigerian Population: A Treasure for National Development or an Unsurmountable National Challenge' (2021) 2 International Journal of Science and Research Archive 136.<  
<10.30574/ijrsra.2021.2.1.0026>> accessed 27 May 2022

An encompassing and wide-scope legislation dealing with climate change is the Nigeria National Environmental Standards and Regulations Enforcement Agency 2007. This establishment aims to ensure compliance of the Nigerian government on the subject of climate change with international instruments, it also focuses on legislation enforcement and conservation of the ecosystem. All sectors of the economy are under the power of NESREA in creating, regulating, and enforcing environmental standards which involve pollution levels, energy usage thresholds as well as management and exploration of clean energy<sup>93</sup>. However, this organizational power does not extend to the petroleum sector, the petroleum sector contributes the highest GDP in Nigeria. Gas flaring has been the most impactful in the petroleum sector, which leaves farmlands polluted and the air contaminated because the continuous occurrence of this over the years contributes to environmental hazards<sup>94</sup>.

There exist a regulatory body tasked with environmental safety and guidelines of the petroleum and energy sector in Nigeria (EGASPIN) created under the Ministry of petroleum the Environmental Guidelines and standard for the petroleum industry EGASPIN has so far been ensuring the best practice toward the environment operated by the energy sector is in line with the international best standard<sup>95</sup>. The petroleum sector like in other countries globally contributes to environmental hazards mostly because of non-workable institutions. The UN projected that it would take Nigeria 30 years to reverse and maintain all environmental degradation that took place in the Niger delta. (Niger-delta is an oil-producing community in Nigeria).

EGASPIN function is overlapping with the NOSDRA however it requires the oil sector to ensure best practices with international standards, reports have shown the weaknesses of this regulatory creation. And this is a threat to environmental protection as well as not being in line with international best

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<sup>93</sup>Muhammed Tawfiq Ladan, 'REVIEW OF NESREA ACT 2007 AND REGULATIONS 2009-2011: A NEW DAWN IN ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT IN NIGERIA'. *Environment and Development Journal* (2012), p. 116, <https://lead-journal.org/content/12116.pdf> accessed 27 May 2022

<sup>94</sup>Oluwasoye P Mafimisebi and Odinaka C Ogbonna, 'Environmental Risk of Gas Flaring In Nigeria: Lessons from Chevron Nigeria and Ilaje Crisis' (2016) 6< . <https://core.ac.uk/download/pdf/234664537.pdf>> accessed 27 May 2022

<sup>95</sup> IEA, 'Environmental Guidelines and Standards for the Petroleum Industry In Nigeria (EGASPIN). (2022)< <https://www.iea.org/policies/8676-environmental-guidelines-and-standards-for-the-petroleum-industry-in-nigeria-egaspin>> accessed 27 May 2022

practices. The National Oil Spill Detection and Response Agency (NOSDRA) is a creation of the government, it is primarily tasked with dealing with oil spills and other forms of pollution by oil companies.

All these regulatory agencies in Nigeria regarding oil pollution have a single goal, which is to deter oil spillage and prevent environmental degradation. It is important to consider communities affected by oil spills and plans to restore the land to its former competence but for oil exploration activities. These bodies should keep to their mandate of aligning themselves with international best practices. EGASPIN, NOSDRA, NESREA, DPR, and Petroleum Act ought to create a standard encompassing pact that would address these pollution matters because the cases of environmental degradation have a direct impact on the displacement of people.

Other commitment to climate reduction menaces Nigeria has created include, Nigeria's strategic action plan to decrease climate pollutants with a limited lifespan. The method of controlling pollution in the petroleum sector is said to be by stopping gas flaring, and preventing oil contamination on oil fields during exploration. The Montreal Protocol as well as the Paris Agreement which Nigeria submitted its NDC to indicate Nigeria's commitment to reducing GHG emissions. Being a member of the CCAC, NDC, Nigeria is in motion toward reducing its greenhouse emission.

### **The Climate Change Act**

As Nigeria's commitment to creating measures to cater to climate change strategy as its other counterparts in the world, it exhibits the role a national policy has to play in combatting climate change menace. It is towards this end Nigeria enacted the 2021 Climate Change Act, indicating the step toward achieving its compact with the Paris Agreement. This enactment is applauded for being the first legislation in West Africa that functions as a comprehensive climate change legislation. The Act harmonizes all pre-existing programs directed toward climate change governance, such as (the revised climate change policy), the 2050 long-term low emission vision, and national climate programs. The climate action tracker rates Nigeria's compliance with emission level as “almost sufficient” this is a result of not being exactly in line with the Paris agreement emission level of 1.5

degrees. Although with international support and reduction of fossil fuel exploration this would be achieved, however Nigeria a growing economy seeks to expand its energy sector to boost its revenue as its GDP of 60% is derived from petroleum. To place Nigeria's commitment in line with international agreements simply concludes the exposition of clean energy use as well as curtailing the exploration and expansion of petroleum exploration activities.

According to the International Energy Agency, mining and exploration of oil fields deter all states from reaching their goal of cutting down emissions,<sup>96</sup> even if it increases the countries' revenue, on the long run, climate change impact would reverse developmental achievements and possible destruction of vision and also a waste of revenue and national asset.

The Act deals with harmonizing its energy target emission level to net zero for 2050-2070 which should go hand in hand with the national development agenda. Nigeria's ministry of environment in cooperation with other stakeholders is tasked with limiting the global average temperature to 2 degrees. It also requires carbon budget goals to be in line with the global emission level which would be carried out every 5 years by the national climate action plan.

The Act also generates adaptation and mitigation measures for climate change impact. All sects of the government are included to achieve the goal of the Act, and public and private entities were focused on particularly calling for activities of these entities to be geared towards a cleaner environment by adapting to measures to reduce any kind of emission caused by these entities, the Act further prescribes cooperation and coordination towards education and sensitization of climate change in institutions across the country<sup>97</sup>.

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<sup>96</sup>IEA, 'Net Zero by 2050, IEA, Paris(2021), <https://www.iea.org/reports/net-zero-by-2050> accessed 27 May 2022

<sup>97</sup>IUCN 'A Review of Nigeria's 2021 Climate Change Act: Potential for Increased Climate Litigation'(2022)<

<https://www.iucn.org/news/commission-environmental-economic-and-social-policy/202203/a-review->

[nigerias-2021-climate-change-act-potential-increased-climate-litigation](https://www.iucn.org/news/commission-environmental-economic-and-social-policy/202203/a-review-nigerias-2021-climate-change-act-potential-increased-climate-litigation)> accessed 27 May 2022

The Act establishes the climate change fund which deals with a carbon budget and carbon financing. Carbon finance is the level carbon should be produced over a time which would be created by the ministry of environment. The creation of the National Council on climate change which would be the governing body of climate change action is established by the Act. The fundamental cause of climate change, as stated in the subhead above, is human-caused emissions of greenhouse gases through industrialization. Towards achievement of the Climate Change Act, the Act moves for the adoption of a natural-based solution to reduce emission levels. The Act mandates all ministries and organizations of public and private entities to ensure compliance with its climate action plan.

Climate litigation gained credence under the Climate Change Act as impositions and fines can be sought if there is a failure of compliance from obligations stipulated towards carbon emission cutting as well as other non-compliance obligations, sanctioning of organization heads amongst other penalties. A cause of action can be established through a federal or state high court which can give an order for stoppage or harmful acts as well as hindrance of a public official harmful environmental practices also, the payment of compensation to victims of environmental hazards in a community.

Nigeria is a member and signatory of the Paris Agreement and is moving towards the goal of reducing emission levels to an average of lower than 2 degrees. It is under this notion that Parties are required to formulate LT-LEDS under Article 4.19 of the Paris Agreement. LT-LEDS means Long-Term Low Emissions Development Strategy. Nigeria developed its LT-LEDS which contains ways to reduce greenhouse gas emissions as well as reduce the global average temperature. It enjoins states to submit their LT LEDES to show their determination to limit the global average temperature<sup>98</sup> Nigeria LT-LEDS projects a vision in 2050 of Nigeria becoming a climate-resilient economy with the stability of clean energy as well as its mission of having a net-zero emission in all sectors of the economy. The LT-LEDS creates measures in which the economy would grow through the use of renewable energy. This shows a good commitment to achieving the global aspirations of reducing the average temperature level. The LTS generally would

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<sup>98</sup> United Nations Framework Convention for Climate Change, '2050 Long-term vision for Nigeria (LTV-2050)' (2021) [https://unfccc.int/sites/default/files/resource/Nigeria\\_LTS1.pdf](https://unfccc.int/sites/default/files/resource/Nigeria_LTS1.pdf) accessed 29 April 2022

help achieve the goal of reducing the global average temperature Nigeria's LT-LEDS aims the achievement of zero carbon emissions target by 2050<sup>99</sup>.

### **Recent Developments of Climate Change-Related Displacement**

Back in 1906 was the first official management of disaster crises in Nigeria, with the establishment of a fire brigade which is tasked with providing humanitarian services during emergencies. After Nigeria's independence in 1960, this establishment was diluted into the functions of heads of states through Adhoc committees. In 1972, Nigeria experienced a drought which was followed by adverse effects that cast loss of lives and property. This experience led to the creation of the National Emergency Relief Agency in 1976 tasked with sourcing and sharing relief materials to disaster victims, later on, in 1999, the scope of this creation was enlarged to include all forms of disaster, thereby NEMA was formed. The National Emergency Management Agency NEMA was promulgated in 1999 ways to deal with crises in Nigeria. With the realities of global warming as well as climate change, NEMA aims to identify and monitor causes of disaster in the country as well as reduce all forms of risk factors. Due to the incessant flood menace in Nigeria, studies have shown the victims of floods are reportedly stranded as a result of poor execution of responsibilities under the NEMA.

A national policy on Disaster Management framework was created to deal with emerging environmental issues in Nigeria through NEMA<sup>100</sup>. This creation executes functions related to environmental hazards such as ensuring a succinct and clear legislative framework outlining the roles of all levels of government in disaster management. The federal government of Nigeria through NEMA plays the role of assisting IDPs and refugees affected due to disaster. Also, it makes provisions for relief material distribution to IDPs and refugees among others.

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<sup>99</sup>Department of Climate Change 'Nigeria's long-term vision, demonstrates its commitment to Paris Agreement implementation – fg (2022)< <https://climatechange.gov.ng/2022/01/09/nigerias-long-term-vision-demonstrates-its-commitment-to-paris-agreement-implementation-fg/>> accessed 27 May 2022

<sup>100</sup>Prevention web 'Nigeria: Disaster Management, What Can NEMA Offer?' (2009)< <https://www.preventionweb.net/news/nigeria-disaster-management-what-can-nema-offer>> accessed 27 May 2022

This framework holistically provides for the creation of institutions for the management of disasters at all levels of the government. Secondly, the disaster risk assessment function deals with the adaptation formula in monitoring hazards and vulnerability capacity. Under this policy the disaster assessment risk provides for the following routine, identifying the hazard-related cause, such as human activities on land, agricultural methods as well as industrial activities that are hazardous injectors. Also, it makes available the mode and strategy to be adopted so that the impact disaster has on people would be effectively managed. This framework gives cognizance to the creation of policy that would deal with swift response to cases of disaster crises in Nigeria. It requires a unit called the disaster response unit with the power to handle any disaster crisis by providing a relief camp, rendering assistance in the evacuation, and relocation of people to better places, amongst other functions.

The National Disaster Policy Management (NDPM) also attributes the importance of sensitization and reviews amongst stakeholders, it creates workshops and meetings amongst relevant stakeholders with the aim of continuous monitoring to determine how its objective is ben achieved and implemented.

Another important principle of the Disaster Management Adaptation policy is providing and ensuring a detailed well-structured involvement of the grassroots in climate change adaptation as well as evolving conditions that determine how communities react to disasters caused by climate change.

In case of sudden disaster e.g flooding and strong winds, the disaster adaptation policy makes provision for evacuation of residences after placing information to these communities about imminent threats and risks they may face as a result of climate change, this is forecasted in some cases when the factors available are obvious. The NDMP also provides guidelines and measures for the creation of a warning system to cater to drought and desertification as well as national flood and erosion policy management. the establishment of a healthy and safe environment is a top priority of the NDMP as it enjoins the creation of a policy for this vision.

All these establishments created at the national, state level, local and community level (NEMA, SEMA, LEMA) of the NDMP has the intent of creating a safe disaster risk environment as well as providing measures as a response capability in the incident of unavoidable situations of environmental crises, through making evacuation and relocation -plan for victims, it is to this end it creates shelter homes for victims of flood and other kinds of environmental crises. In the event of displacement of people, the Search and Rescue/Epidemic Evacuation Plan (SAREEP) is to take adequate measures to restore stability.

The relevance of reforestation by government agencies and the relevance of creating strategic and viable rivers and streams to prevent floods through a poor drainage system. It ensures that all the activities by public and private entities operating in Nigeria are in line with the Environmental Impact Assessment (EIA). Through participation in international conferences related to the environment, Nigeria joined other 114 participants in the 1972 Stockholm conference which sat to discuss all the problems of human-environment and ways to curtail pollution levels, it was to this end a division under the ministry of land was established named the Urban Development and Environment Division and included that activities environmental impact evaluations should be done for both private and governmental organizations. In 1987, the Nigerian government enacted the Harmful waste decree as a response to curtail the dumping of toxic waste products in the confines of Nigeria, this was immediately followed by the creation FEPA<sup>101</sup>, charged with protecting the Nigerian environment amongst other functions FEPA works in line with the EIA and compulsorily requires all entities to provide an EIA for assurance and commitment in its operational activities. Amongst other benefits of the EIA, it stipulates the importance of placing environment preservation as a priority when making decisions by the Nigerian government as well as private entities. The function of the EIA is applaudable, however, it has some shortfalls such as a lack of knowledge of the populace of the right to objection to the commencement of projects that would impact the environment negatively.

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<sup>101</sup>Hakeem Ijaiya and others, 'Rethinking Environmental Law Enforcement in Nigeria' (2014) vol5 no 4 Beijing Law Review 306 . <https://www.scirp.org/journal/paperinformation.aspx?paperid=52770> accessed 27 May 2022



## **Human Rights Principles and Climate Change Displacement**

The Human Right Council is a United Nations body charged with the protection of human rights of persons worldwide. The HRC in its resolution 26/33 justified a link between climate change and human rights.

The African Union (AU) Convention for the Protection and Assistance of Internally-Displaced Persons in Africa (Kampala Convention) deals with the protection of internally displaced persons in the African region. Article 20(3) of the Kampala convention permits IDP locus standi in enforcing their rights in the African court of justice and human rights as well as in the African Commission on Human and PeoplesRight. By resolution 153 of 2009.

There exist a series of rights under various international human rights instruments and regional instruments that persons displaced in the climate change scenario are required to enjoy and not be violated. According to Article 11 of the ICESCR, it is concluded that climate change can impact the purposeful enjoyment of the water right, this is also given value in General Comment 15 of the ESCR Economic Social and Cultural Rights Committee which refers to state obligation in taking charge of climate change activities as it disrupts the achievement of the water right.

An important subject matter arises from displacement caused by climate change, houses and places of abode are been destroyed in an event of a flood, or cyclone, the ESCR Committee in general comment 4 concludes that the right to housing could be affected as an effect of climate impact. Whereas in Africa, the African Commission resolves that forced evictions from homes constitute derogation of the socio-economic rights under the ACHPR.

## **The 1999 Nigerian Constitution(As Amended) And Environmental Justice**

The Nigerian constitution was enacted in 1999, following a military rule, the constitution served as a declaration of change of government into a democratic

system. It contains a series of rights and powers, divided into 8 chapters, 320 paragraphs, sections, and subsections. Any law that is created and is not in line with the provisions of the constitution is null and void in the perspective that it is conflicting

The relevant chapters for this study are chapters 2 and chapter 4 of the constitution, chapter 2 contains rights that are viewed and termed as visionary which are referred to as Fundamental Rights and Directive Principles of State Policy, these rights are not subject to judicial review, this means provisions in chapter 2 needs support from other parts of the constitution. Hence a legal action cannot exist alone relying on rights in chapter 2.

The right to protection and provision of a clean and healthy environment is contained in section 20 of chapter 2 in the constitution. The section reads thus “states shall protect and improve the environment and safeguard the water, air, forest and wildlife of Nigeria” the right to a clean environment on its own does not require a locus standi of any person seeking justice due to unhealthy and unsafe environment. The primary purpose of section 20 is to ensure a clean and healthy environment to be enjoyed by all citizens. Unlike other rights contained in the constitution, such as the right to life, in chapter 4, the right to life is justiciable on its own without any extra criteria for enforcement<sup>102</sup>.

The environment as one can perceive, faces a lot of threats due to human activities and as a result courts around the world, the right to a healthy environment is incorporated into the right to life. Also, The right to life has been expanded to encompass the right to protection against pollution and other actions that endanger life.

### **A Human Right to A Clean Environment**

Environmental regulation in Nigeria is executed through federal and state legislation. The creation of important agencies to suit this need was carried out, and various states operated their local environmental protection body. These agencies at all levels regulate waste products, emissions, oil pipelines, and other environmentally hazardous subjects. The right to a clean environment in Nigeria is

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<sup>102</sup>‘Constitution of the Federal Republic of Nigeria’ (1999) chapters 2,4,8<<http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>> accessed 13 May 2022.

essential as lots of persons get affected due to displacement during floods or drought amongst other climate change causes. It is in the achievement of controlling environmental hazards that the Cross-river state government created a program known as the REDD+. Under the FREP Rule, human rights are enforceable in Nigeria and nothing shall preclude a person of locus standi if the action is a fundamental right, the court should always consider regional as well as international instruments, Nigeria is a signatory to when faced with the decision to determine cases of locus standi. A case of environmental justice could be achieved through the interpretation of chapter 20 of the Fundamental Objective and Directive principle of state policy, the African charter on human and people rights as well as from a broad interpretation of the right to life.

In *Centre for Oil Pollution Watch v The Nigerian National Petroleum Corporation(NNPC)*<sup>103</sup>, the learned justices, in this case, granted recognition to the right to a healthy environment by Section 33 of the Nigerian constitution, Article 24 of the African Charter on Human and Peoples Rights, and Section 17(4) of the Oil Pipelines Act were used to make conclusions. The right to life is protected under Section 33 of the Nigerian constitution, and any act or omission that endangers people's health is a violation of that right, section 20 chapter 2 of the Constitution stipulates the right to a clean environment (although non-justiciable, save of exception). Secondly, the African Charter provides for a healthy and clean environment. All these laws read together according to the presiding judge of the supreme court can create a cause of action and possible determination of a right to clean environment suit in Nigeria.

### **The Role of Law in Responding to Climate Change**

Legal instruments are proven to be the best method for solving worldwide matters, the issue of climate change and displacement would enjoy the swift governance and value if legal institutions are created in global parlance, there exist laws that govern this issue but it faces non-implementation as well as lack of global mechanism as other subjects enjoy. However, where a mechanism isn't granted a solid foundation through legal instruments it would be rendered non-functional. Law can include sensitization of climate change in educational

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<sup>103</sup>Kaniye SA Ebeku, 'The Right to a Satisfactory Environment and the African Commission'(2003) .1 page 8-18 AHRJ< <https://www.corteidh.or.cr/tablas/R21584.pdf>> accessed 27 May 2022

institutions, accountability of resource allocation towards combating climate change, the penalty for non-compliance with regulatory authority as well as climate litigation cause of action. The Nigerian Constitution places importance on a healthy environment, in section 20 of chapter 2 of the 1999 constitution as amended, it contains visionary rights for Nigeria as a state<sup>104</sup>. Although unjusticiable, these rights have been expressed by courts to be in line with the functionality of the right to life which is a fundamental right and an enforceable right in the constitution. Human rights can only be enjoyed in an environment free of pollution.

The Nigerian Constitution in chapter 6 (6)(c) states that the judicial powers vested in this section do not extend to any issue or question as to whether any act or omission by any judicial decision is consistent with the Fundamental Objectives and Directive Principles of State Policy set forth in Chapter II of this Constitution, except as otherwise provided by this constitution., the court in *Okogie (Trustees of Roman Catholic Schools) and other v Attorney-General, Lagos State*, interpreted this provision to mean that no court can exercise the jurisdiction to preside on any issue emanating from the enforceability of any section in chapter 2 of the constitution as well as section 20.

Interpreting together section 20 and section 6(6)(c) creates an assumption that the right to a healthy and clean environment is not guaranteed because the judiciary that is to interpret the law is not granted the power to do so, hence to achieve a sustainable clean environment free from pollution is to the extent of the constitution impossible on its own, however, there are other ways for this to be achieved.

Considering the African Charter on Human and People's Rights provision to which Nigeria is a signatory. The Charter is part of the law of Nigeria according to the domestication of African Charter on Human and Peoples' Rights (Application and enforcement) Act Cap 10, Laws of Federation of Nigeria 1990. The Charter contains provisions on civil and political rights, economic, social, and cultural rights as well as the right to a safe environment. Referring to the domestication of

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<sup>104</sup>Falana 'Justiciability of Chapter 2 of 1999 Constitution'. (vanguard 2022) <<https://www.vanguardngr.com/2022/03/justiciability-of-chapter-2-of-1999-constitution-need-for-the-nigerian-judicial-system-to-be-more-proactive-4/>> accessed 27 May 2022

this charter, the charter has a force of law in any Nigerian court. This qualifies justiciability of protection of human life as well as environmental preservation, chapter 6 does not preclude interpretation and enforceability of the rights by the judiciary from provisions of the African Charter. In *Fawehinmi versus Abacha*<sup>105</sup>, it was declared that the ACHPR having been domesticated has a force of law and its provision is enforceable in Nigeria's domestic court. Thus, the African Charter affirms the right to a healthy environment in Article 24 (right of peoples to a satisfactory environment) is justiciable in a Nigerian court through the power this charter has granted. Also in *Gbemre vs. Shell Petroleum Development Company of Nigeria Limited*<sup>106</sup>, the court attached the right to life with enjoyment of life which can only be realized in a pollution-free environment, as well as a violation of the right to dignity of a human person guaranteed under the constitution the court further ordered the immediate ceasure of further gas flaring activities in the environment by the oil company. In Nigeria, this lawsuit constituted a significant milestone for environmental justice.

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<sup>105</sup> Chief Gani Fawehinmi v General Sani Abacha & Others[1996] 9 NWLR (Pt 475) 710

<sup>106</sup> *Gbembre v Shell Petroleum Development Company Nigeria Limited and Others* (2005) AHRLR 151, Nigeria:Federal High Court of Nigeria, 30 November 2005

## CHAPTER IV

### Findings and Discussion

#### **The Extent of Applicability of Refugee Law (UNHCR 1951) and other Extant Laws**

Climate displacement and migration are often interlinked with substantial challenges like weak administration and limited natural resources, political instability, etc. Due to the impact of climate change as well as other social problems, people are driven to escape their country to other countries with the hope of international protection. The ambit of legal protection in the refugee law according to the UNHCR, covers persons facing “persecution” due to religion, nationality, political opinion, social group, and race is unwilling or unable to return to their country because of a well-founded fear<sup>107</sup>

Considerations has to be taken of the specific climate disaster that has led to the fear of being persecuted along with the national government response level towards this situation. The actions of the state towards response in the event of a climate-related disaster could tilt towards favoritism and discriminatory manner which comes under the ambit of discrimination in the 1951 Refugee Convention.

The refugee law creates an avenue for states mandatorily to grant asylum to people seeking protection in their territorial space for these reasons.<sup>108</sup> Therefore, persons escaping from their habitual residence due to climate change impacts do not come under the meaning of a refugee according to the UNHCR. Due to the circumstances of the Refugee Convention. Environmental refugees lack assistance relying on the Refugee Convention. However, there exist available laws governing climate displacement internationally but it does not enjoy a broad framework that would encompass and have an effect on all causes and levels of displacement caused by climate change.

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<sup>107</sup> Frances Nicholson and Judith Kumin, ‘A guide to international refugee protection and building state asylum systems Handbook for Parliamentarians’ (2017) p37 UNCHR The UN Refugee Agency <https://www.unhcr.org/3d4aba564.pdf> accessed 3 May 2022

<sup>108</sup> Bacaian Loyd ‘The protection of refugees and their right to seek asylum in the European Union’ (2011) 70 p35 Collection Europa < <https://www.unige.ch/gsi/files/6614/0351/6348/Bacaian.pdf>> accessed 3 May 2022

It is to this end it was determined that people migrate out of a location for a wide range of reasons, thus making a clear relationship between climate change and migration is challenging, however, this has been the case for the reason of environmental degradation by a sudden disaster e.g flood it triggers migration flow. Perhaps it is unarguable that an economy might be poor or there is insecurity but people adapt and measures are taken to manage the situation, but what happens when a flood occurs and homes are rendered uninhabitable, lives are taken, and people are living in fear, the simple answer is migration, therefore the link is apparent that climate change causes displacement.

“Environmental refugee” is an inexistent legal term, there are other terms that refer to the same subject matter such as forced climate migrants, environmentally displaced persons, climate refugees, and climate-induced migrants. The existence of all these terms primarily determines one single element (weather degradation). As a result of no international encompassing legal framework for addressing this issue as its other counterpart such as “refugee protection” the applicable framework relies heavily on the term used.

The International Federation of the Red Cross and the Red Crescent Society attributes a large chunk percentage of 98% of 30.7 million displaced persons in 2020 to be climate-induced displacement as a result of difficult weather, flood, storms, etc.<sup>109</sup> The World Bank has projected that by 2050 there would be more than 216 million climate migrants<sup>110</sup>. Various bodies develop statistics projecting the extreme effect climate change would have on migration ranging from drought, flood, food insecurity as well as other causes, but the response given to this subject matter is not effective.

Due to the persistent impact of climate change the world community is concerned as to the future of the law concerning these sets of vulnerable people. The UNFCCC during COP 26, various decisions were made regarding climate-

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<sup>109</sup> International Federation of Red Cross and Red Crescent Societies, ‘Displacement in a Changing Climate’ (2021) IFRC p9 Climate-Displacement Report < <file:///C:/Users/Sc/Downloads/2021-Climate-Displacement-Report-Final.pdf>> accessed 3 May 2022

<sup>110</sup> Juergen Voegelé, ‘Millions on the move: What climate change could mean for internal migration’ (World Bank Blogs, 1 November 2021) < <https://blogs.worldbank.org/voices/millions-move-what-climate-change-could-mean-internal-migration#:~:text=The%20findings%20of%20our%20new,to%20areas%20that%20offer%20opportunities.>>> accessed 1 May 2021

induced migration such as; the re-identification of human migration caused by climate change which includes; displacement, migration and planned relocation<sup>111</sup>. During COP 26, in 2021, the issue of disaster, land degradation, and water scarcity was linked to the issue of climate migration and it was proposed that the issue is to be better handled better than its current recognition level.<sup>112</sup> For whatever reason one decides to migrate for a climate-related reason such person comes under the context of climate displaced persons, be it fear from a future storm, flood, which determines whether the reason is voluntary or not still in it is imbibed the main subject matter (weather-related).

The UNFCCC on its own does not create provisions for the protection of climate displaced persons but through its other creations such as the Cancun Adaptation Framework, and the Paris Agreement, it subjects the obligation and response of states towards dealing with climate-induced migrants. Thus in 2010 the Cancun Adaptation Framework during the COP 16, world leaders recognized climate-induced movement which involves international status because it is transboundary and cut across states<sup>113</sup>

Paris Agreement of 2015 referred to as COP21, promotes for states to protect the human rights of vulnerable people<sup>114</sup>. And it is already established that climate-induced migrants are vulnerable people, thus by extension, it requires protection under the Paris agreement. All these international commitment results in one thing, looking at it in one direction, these persons deserves protection under one instrument. Perhaps if an instrument cannot be created to cater for them as the numbers of climate-induced persons keep increasing the United Nations Convention on Refugees be amended to provide adequate protection.

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<sup>111</sup> United Nations Human Rights Office of the High Commissioner for human rights, 'UNFCCC COP 26 Side Event: Climate Impacts as Drivers of Migration: Science, Human Rights and Policy Responses' < <https://www.ohchr.org/en/2021/11/unfccc-cop-26-side-event-climate-impacts-drivers-migration-science-human-rights-and-policy>> accessed 4 May 2022

<sup>112</sup> Koko Warner, 'Human Migration and Displacement in the Context of Adaptation to Climate Change: The Cancun Adaptation Framework and Potential for Future Action' (2012) 30(6) p1061-1077 *Econ-Papers* < <https://journals.sagepub.com/doi/10.1068/c1209j>> accessed 4 May 2022

<sup>113</sup> Ibid

<sup>114</sup> Sébastien Duyck, 'The Paris Climate Agreement and the Protection of Human Rights in a Changing Climate' (2015) 26 p3-45 *Yearbook of International Environmental Law* <https://doi.org/10.1093/yiel/yvx011> accessed 4 May 2022



The ambit of “persecution” in the UNHCR could be given a wider meaning, in the sense that persecution could include high GHG emitting countries, and then climate migrants would be under the umbrella of the UNHCR<sup>115</sup>. Currently, the term “persecution” is not defined under the UNHCR, this indicates that the creators of this draft convention intend expansion of the meaning to include emerging trends that cover the ordinary meaning of persecution. Furthermore, international human rights law extends understanding of persecution to include human rights abuses or other serious harm.

The word “persecution” has been given an extended meaning, as in when disasters are associated with violence, victims may be considered under the 1951 Refugee Convention. Also, when an ethnic group is affected by disaster due to indiscriminate actions by the state such instances could fall under the 1951 Refugee Convention. An instance exemplifying this finding occurred during a famine in 2011-2012 in Somalia, which caused a large number of people to migrate to Kenya's refugee camp, the refugee status was granted to them because when a sovereign government could persecute its citizens under the pretext of disaster it causes prima facie evidence of persecution which is under the ambit of protection in the 1951 refugee convention.

Adaptation measures subjected by the UNFCCC do not include migration as an example of an adaptation strategy to climate change. Whereas mitigation and adaptation are the worldwide response to climate change, relocation and resettlement do not flow from the adaptation mechanism.

### **Workable Structure of Treaty Law at The Regional Level**

The OAU Charter in Article 2 covers the protection of refugees from events substantial disruption of public order in a country. The direct interpretation of seriously disturbing public order is not stated under the OAU Convention, however, climate-related disaster can disrupt public order<sup>116</sup>. This approach can

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<sup>115</sup> Walter Kälin and Nina Schrepfer, ‘Protecting People Crossing Borders in the Context of Climate Change Normative Gaps and Possible Approaches’ (2012) p8 DIVISION OF INTERNATIONAL PROTECTION UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) <https://www.unhcr.org/4f33f1729.pdf> accessed 5 May 2022

<sup>116</sup> Tamara Wood, ‘Protection and Disasters in the Horn of Africa: Norms and Practice for Addressing Cross border Displacement in Disaster Contexts’ (2013) p1-54 Nansen Initiative

serve primarily to the extent of gaps in the international arena, Africa is said to produce the second highest of the number of displaced persons caused by climate change and would be the worst hit of climate change due to its low adaptive structure, weak economy. Countries in Africa contribute the least to GHG they face the most risk in climate change events.

The UN includes environmental losses caused by disaster as a disruption of a functional community, this disruption can be done over a while or suddenly. The direct effect of such a disaster could outweigh the existing capacity of a state which therefore requires immediate assistance from the international level. For whatever reason public order is disrupted, falls under the ambit of the OAU protection of refugees. It is for this reason that the major element of the effect of an action on a refugee claim is what would be considered in an event of a claim relying on this provision.

Due to the current gaps of protection in the international realm, a regional approach for refugee protection could suffice, however, a claim under international human rights (right to life) and the right to be protected from torture, cruel, inhuman, and degrading treatment of the ICCPR could suffice. Status of climate refugees could be gotten through the UNHCR convention definition by Article A 1 A (2) by persecution definition interpretation and through Article I (2)<sup>117</sup> of the OAU Convention definition of seriously disturbing public order. The Cancun Agreement originates from avenues directed towards the understanding in the face of climate change, displacement at a regional level. As outlined above the Kampala Convention recognizes persons displaced due to natural disasters and environmental degradation, therefore it is only responsible for states who ratify and domesticate this law to build on policies towards the protection of climate-induced migrants.

The fundamental human rights of displaced persons are also given importance in the Kampala Convention. Thus, where all these are read and applied holistically with the duties of the state in ratifying and domesticating this regional instrument in its national laws, the premise of a legal framework is workable at the

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[https://disasterdisplacement.org/wp-content/uploads/2015/03/190215\\_Technical\\_Paper\\_Tamara\\_Wood.pdf](https://disasterdisplacement.org/wp-content/uploads/2015/03/190215_Technical_Paper_Tamara_Wood.pdf)  
accessed 1 May 2022

<sup>117</sup> Convention Relating to the Status of Refugees Article A (1) UNHCR (1951)

regional level. In Nigeria, where it has not been domesticated, Nigeria currently faces challenges of governance towards climate-induced displaced persons. The Kampala Convention provides provisions for prevention mechanisms for climate change drivers as well as post-disaster displacement effective early warning systems, Disaster Risk Reduction (DRR) strategies, and disaster preparedness and management plans are among the actions that may be taken. The regional approach grants value to states in addressing internal displacement as well as national responsibility.

### **Beyond Regional Approach**

Several attempts have been made to provide a foundation for recognition and protection of climate-induced migrants, however, from all the explanations above, it is clear that a regional base has its lapses as well as benefits, also it could be seen the importance of adopting an international framework which would be drawn to cover these new circumstances. Climate change has been granted a lot of research from its scientific angle, but the concept of migration needs to be accorded the same or better approach as both concepts are solidly interlinked. A broad framework created by the UN Convention as encompassing as the UNHCR that enjoys wide membership amongst nations should also be made for this set of migrants. The second recommendation should be the extension of refugee meaning, although this would cost a lot of adjustment in all manner, this would be a step towards the human rights protection of these vulnerable people and the address approach exemplified by the Guiding Principle would include all member states commitment in the protection for these people.

Determinations by NGO in its commitment to raising awareness so far resulted to recognition in international conferences with the subject of climate change displacement. Whereas some departments are members of inter-governmental organizations it influences the international community as well as push from states to bring up the issue. NGO plays the role of providing expert reports to create viable approach and solutions. The UN organizations is also concerned with implementation measures of which co-operation with NGO would yield positive result.

### **Nigeria Climate Change Act Findings.**

The climate change Act gives importance to the aspect of planning and research when policies are to be formed regarding climate actions. The Act also exhibit measures of identifying vulnerabilities caused by the impact of climate change. Also, it makes mentions establishing national objectives and priorities for climate change adaptation.

There is existent NEMA, SEMA, and LEMA which are charged with the handling of disaster events in Nigeria, however, the recognition of refugees under this context is not given. This legislation to a great extent provides for persons affected due to environmental degradation but so far it has gained less implementation due to the ambiguous nature of the law itself. The law does not directly give provision for these, the vulnerable peoples' experiences fall back to other headings, which are overlapping. The main issue of environmental degradation being the cause of displacement is not directly given credence. NEMA the existing national body in charge of disaster management is relied upon by other stakeholders such as; NGO, SEMA, and LEMA for their operation.

The Discovery of the non-execution of the environmental impact assessment in Nigeria is an indication of an institutional shortfall, the existence of all these regulatory bodies charged with environmental pollution shows multiple duplications of roles and functions. They all have their functions but implementation has always been difficult for upholding the tenets of environmental health. The regulatory bodies such as NESREA, NOSDRA, and DPR, under the petroleum sector impliedly show the value the Nigerian government places on a safe environment, however, this is unmatched as the right to a safe and healthy environment is not granted a human right under the 1999 constitution.

Section 20 of chapter 2 of the 1999 Constitution stipulates certain rights referred to as Fundamental Objectives and Directive Principles of State Policy<sup>118</sup>, section 20 of the constitution places a healthy environment in chapter 2. Unlike other rights in the constitution in chapter 4, such as the right to life which enjoys a cause of action, and locus standi in a court without any reliance, those in chapter 2

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<sup>118</sup> 1999 Constitution Federal Republic of Nigeria as amended (2011) chapter 2

do not have such privilege. However, its applauded performance in its bid to deal with climate change disaster, there is no succinct and detailed provision catering for refugees or internally displaced persons contained in the Act.

### **Climate Change And Human Rights**

Because of human exposure and vulnerability to their effects, as well as State capability and desire to offer protection, climate change and catastrophes may undermine the enjoyment of human rights. Climate change and catastrophes may restrict access to and control over land, natural resources, and the enjoyment of the right to life, bodily integrity, a decent quality of living, health, water, and sanitation, as well as development. Populations may be harmed gradually or instantly, or their enjoyment of human rights may be reduced over time. Affected communities may be at danger of human rights breaches that constitute to persecution under the 1951 UNHCR Convention, both in the short and long term.. States are obliged to uphold human rights obligations.

## **Discussion**

Existing laws that attempt to give attention to climate-induced migration, as well as other developmental goals explicitly show how important this subject is. Nigeria's economic and recovery growth plan developed a mission to create a lot of ICT jobs, attain food security as well as stabilize agriculture, this set of missions is in line with the MACS framework which is aimed at supporting the developmental plans of countries. The time is more than ripe to create a framework that would address this issue as all development that could be reversed because of the global phenomena, a framework that would define these people, grant them categories, enumerate their rights and legal liabilities, harnessing it with human rights and focus on protecting them as a whole should be made.

All stakeholders are to understand the effects of climate change and environmental degradation which causes migration flow. Thus, calls for right based approach and policy creation to safeguard the people affected. Currently there is no legal migration possibility, affected persons seek refuge under the umbrella of the existing international protection mechanism.

While states adequately express commendable co-operation in other level such as trade policy, which cut across boundaries, states conserve their inclusion in regulations because of its sovereignty regarding climate change and migration policy. Political interest in this regard are tantamount to economic interest as reaching a binding instrument would mandate states to restructure their economies. Furthermore, hinderances in addressing migration policies occur because of priorities of concerned states are primarily different. The Country partnership framework CPFs could encourage the participation of countries with the world bank support to create laws and regulations in line with a long-term vision to cater to climate migration e.g environmental risk management, and climate-induced displacement. The World Bank through its creation of the country climate development report CCDR provides measures in seeking to support countries to understand the Basic rural and urban services management and providing A new World Bank diagnostic, the Country Climate Development Report (CCDR), gives a fresh chance to analyze and manage climate-induced migration as an important aspect of assisting nations in identifying low-carbon and resilient pathways and achieving sustainable development goals.

The AU Convention on Internal Displacement has directly linked climate change with displacement, thus the debate as to the non-linking attribute between climate change and displacement is gradually losing points. While there has been progress in the furtherance of the convention, particularly concerning the protection of climate IDPs, must move beyond expressing verbal commitments.

The Global Compact for Migration although not legally binding pursues the determination amongst states towards shared responsibilities in migration. Secondly, the Cancun convention in 2010 under the UNFCCC framework to an extent draws a connection between climate change and displacement.

## **Conclusion**

The subject of climate change has drawn lots of attention, but the effect of ineffective management results in displacement internally or outside an international border. Although the main subject has generated policies and laws to combat and manage it, the effect of climate change which is displacement and migration has received a sketchy mode of attention. Various international bodies and regionally due to the technical nature of climate change have neither defined nor created an encompassing legal framework to address this issue. However, the Kampala Convention, an African regional body that provides recognition and protection for climate-induced displaced persons, this regional framework adopted by national states, would by ratification and domestication incorporate the laws in its national laws.

Secondly, implementation has always been a challenge amidst legal enactment, several legislation addressing environmental health are created but monitoring, supervision, and implementation render the creation redundant, and, as new laws keep emerging but no result occurs. For a country like Nigeria, the existent laws on the subject of environmental health face a multiplicity of functions yet the implementation level is low. It is to this end it is humbly recommended that a holistic body be harnessed with the existing environmental regulatory body through the ministry of the environment in line with the Kampala convention in catering for climate-induced displacement.

While creating sustainable development goals inclusion of climate policies should be considered. Effective governance proves to be the most important aspect of any policy creation. A strong institutional capacity building is been recognized as mandatory for a developing state such as Nigeria.

It was found that nations continuously generate verbal commitment in conferences. Developed nations must take responsibility for their actions in developing nations by granting financial aid and actions towards resettling these displaced people to a safer environment.



It was submitted that since UNHCR does not cover climate migrants, a new framework as wide as the UNHCR or better should be created with a strong implementation mechanism. Secondly, the mode of adaptation as a coping strategy to climate change should include relocation or resettlement as currently it is not considered an adaptation mechanism, even if reports have shown that migration is a failed evidence of adaptation. Such an international body would be built upon the Cancun agreement, Paris agreement, and other relevant organizations dedicated primarily to climate refugees' management thus the management would encompass legislative framework, finances, implementation, monitoring, and accountability.

Nigeria being a country at risk of climate impact should adopt a succinct legal framework to combat climate-induced displacement. The government of Nigeria may domesticate the Kampala Convention while bearing the responsibility to create a harmonized law. This new creation would include existing laws relating to environmental health and overall, it would exemplify its commitment to cooperation with the world government in creating policies to manage climate-induced migration. Taking this chance today. Nigeria should adopt clean energy and laws to handle climate-induced displacement. In conclusion, all the strategies would be feasible, above all, it requires smart implementation.

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