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**BAKING DESERT, COLD RECEPTION? CLIMATE
CHANGE DRIVEN MIGRATION AND
INTERNATIONAL LEGAL PROTECTION: THE CASE
STUDY OF THE SAHEL REGION**

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Abstract

The argument behind the thesis is that international measures taken to deal with irregular migration since the end of the Second World War have been generally considered as refugees only those who flee from persecution are the only ones who should be given sanctuary and the right to seek asylum. In fact, a closer examination demonstrates that there is a wide disconnection between the measures pursued and the resultant consequences which come as a result of climate change. This hiatus stems from the fact that the issue of refugees is crafted, understood and applied in a setting where the existing legal framework only offers protection and the right to seek asylum to those fleeing from political persecution. For this reason, the study aims to contribute to the conceptual understanding and application of refugee law within the larger goal of proposing a climate change refugee law under a legal framework in which those forced to migrate to new countries by climate change are given the opportunity to seek asylum much the same as those who flee their countries as a result of political persecution. The thesis inquiries into the diverse meanings attributed to a refugee in a bid to understand the concept in a milieu of climate change driven migration using the Sahel Region as a case study. How does the theoretical underpinning of the concept of climate change refugees correlate with the legal and institutional measures taken by the international community notably regional bodies such as the European Union in dealing with refugees coming into their regions in search of sanctuary? By taking this question into consideration, the study aims to address a range of issues such as what kind of state institutions are envisaged for the current refugee law reforms. It also aims to address the historical and theoretical imperatives which orient and drive the refugee law reform process in climate change situations. A question of fundamental importance is whether revisiting the refugee rights law to include ‘climate change refugees’ requires nothing less than the transformation of social norms pertaining migration particularly illegal migration by those fleeing their countries for whatever reasons. It also has something to do with whether international actors can succeed in ushering in a reconstructed, effective refugee law regime which recognises ‘climate change refugees’. The research is also envisaged as a contribution to the debate on how to make the views of climate change refugees themselves heard in the needed reconfiguration of the current refugee law regimen. It is hoped that if practitioners and policy makers consider the findings of this study, their contribution the reforms will not only achieve their objectives of reforms but also significantly improve the human rights of the people in whose name these reforms are pursued.

Key words: Climate change refugees, environmental refugees, internally displaced persons, migration, refugee law, Sahel Region

Acronyms

AU	African Union
ECOWAS	Economic Community of West African States
EDP	Environmentally displaced persons
EIPM	Environmentally Induced Population Movement
EU	European Union
GEF	Global Environmental Facility
IDP	Internally Displaced Persons
IGCR	Intergovernmental Committee on Refugees
IOM	International Organisation for Migration
IPCC	Intergovernmental Panel on Climate Change
IRO	International Refugee Organisation
OAU	Organisation of African Unity
PCCR	Pacific Climate Change Roundtable
PICT	Pacific Island Countries and Territories
SPREP	Secretariat of the Pacific Regional Environment Programme
UNCBD	United Nations Convention on Biological Diversity
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNHCR	United Nations High Commission for Refugees
UNRRA	United Nations Relief and Rehabilitation Administration
WFP	World Food Programme
WGBU	German Advisory Council on Global Change

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Chapter One: Introduction

1.1 Problem Statement

Since the mid-1980s, there has been a surge in the scholarship on migration and climate change. International measures taken to deal with migration, especially irregular migration since the end of the Second World War, were developed in the mistaken belief that only people who flee from persecution are the ones who should be given sanctuary and the right to seek asylum. Closer examination revealed that there is a wide disconnection between the measures taken and the ensuing consequences which have resulted from climate change. The impetus behind this disconnection stems from the fact that the issue of refugees is framed, understood and applied in a milieu where the existing legal framework stipulates that only those fleeing from persecution are eligible to be given sanctuary and allowed to seek asylum. The researcher for this project seeks to contribute to the development of understanding and application of refugee law which may be applied to a new legal framework in which refugees displaced by climate change have a chance to be given sanctuary and granted rights as other refugees.

The study inquired into the meanings attributed being a refugee, in order to understand the concept in a milieu of migration prompted by climate change as seen in the desertification-driven migration in the Sahel region. The study aimed to understand how climate change has been prompting both internal and international migration in the Sahel region. The theoretical underpinning of the concept of climate change refugees and correlation with legal and institutional measures taken by the international community, notably regional bodies such as the European Union (EU), was investigated in dealings with refugees seeking sanctuary as a result of climate change. The study seeks to address an array of issues ranging from what state institutions would be part of refugee law reforms and what the historical and theoretical imperatives were which are orienting and driving the refugee law reform process in climate change situations.

The importance of changing refugee law to include individuals who are refugees by virtue of climate change will be considered and analysed as well. Consideration will be given to the minimum attributes of the refugee rights law reforms that are relevant to legal and institutional reforms pertaining to climate change refugees. Which laws and institutions are targeted for reform, and on what basis? When refugee rights organisations push for refugee law reforms, what exactly are they promoting and for whose benefit? From another standpoint, what kind of world would be seen by investing a significant amount of time and

resources in the refugee law reform? These issues underpin the study in order to examine how refugee law reform can lead to building legal institutions to underpin a world which recognises the rights of people displaced by climate change.

A question of fundamental importance is whether revisiting the refugee rights law to include climate change refugees requires nothing less than the transformation of social norms pertaining to migration, especially illegal migration by those fleeing their own countries for any reason. Another concern is whether or not international actors can succeed in ushering in a reconstructed, effective refugee law regime which recognises climate change refugees. The setting in which this study is situated shows that there are international dimensions to refugee law. The United Nations High Commission for Refugees (UNHCR), inspired by its underlying principles and institutional architecture on refugee rights, is the largest and most influential international actor in the field of building of refugee law. It has an unmatched capacity to build a refugee law regime which recognises forced migration caused by changes in climate. The (EU) is also considered as a regional organisation that has a normative basis for promoting the climate change refugee law and its application. Indeed, the European Union human rights architecture noted that the rights of refugees are one of its fundamental values among its principal objectives.

For the sake of seeking clarity on the content of the rights of refugees, it is worth noting that the practice of the UNHCR equates human rights and refugee rights. These two concepts are invoked concurrently in the belief that they are two sides of the same coin. A critical evaluation during the current research established how refugee rights are understood and applied in instances of a refugee influx, in which respect for human rights is a critical part of managing a refugee crisis. Early conceptualisations of climate change refugees by the United Nations Environment Programme (UNEP) in 1985, to whom the origin of the concept of *environmental change refugees* is widely credited, seem to be silent on the need to develop a refugee law regime aimed at covering people who migrate as a result of desertification. Modern writers, jurists, and institutions with interests in the subject consider both the rule of law and human rights as essential to achieve collective human advancement.

The decision to tackle the question of refugee law reform in this regard arose from the conceptual and theoretical belief of the international community in the vital need to consider the plight of climate change refugees in achieving effective institutional reforms to guarantee the rights of the people in the present-day world. Given these assumptions, this study will examine these claims in light of the international efforts undertaken to change the

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international refugee law to screen for refugees who illegally migrate into Europe in the hope of getting refuge by citing climate change as the reason for their migration.

The current research addresses the legal dimension of the question of whether climate change refugee rights, which have been recognised in countries such as Switzerland and Norway, can successfully be applied in all the countries in Europe, where most refugees from the Sahel seek refuge. The research aimed to critically examine what conditions would establish that someone is a climate change refugee, especially individuals migrating from the Sahel region to Europe as climate change refugees.

This study critically examined the criteria or conditions that should be taken into account when considering someone as a climate change refugee. This analysis was crucial because the way the term is used has practical implications for the kind of steps to be taken and the context for doing so in order to craft a refugee law regime which includes climate change refugees. This clarification contributes to deeper understanding of climate change refugees and how they should be treated when entering Europe. While it can be argued that the desertification in the Sahel is part of climate change and is thus responsible for the surge in migration of people to Europe, the recognition of these people under the rubric of refugees is not currently assured. At the time of this research, most countries in Europe do not regard these people as refugees. It is against this reality that this study will address the issues of migration and climate change.

1.2. Research Objectives

The following research objectives were utilized in the study:

- To understand the application of refugee law within the larger goal of proposing a climate change refugee law under a legal framework in which those displaced by climate change have a chance to be given sanctuary and granted rights as other refugees;
- To understand how climate change has been influencing the migration of to Europe;
- To examine how the theoretical underpinning of the concept of climate change refugees correlates with the legal and institutional measures taken by the international community in dealing with climate change refugees.

The research will concentrate on the case of refugees in the Sahel region, who tend to immigrate to Europe.

1.3. Research Questions

The following research questions guide the research:

- What is the nature of the application of refugee law in the context of a climate change refugee influx?
- How does the theoretical underpinning of the concept of climate change refugees correlate with the legal and institutional measures taken by the international community in dealing climate change refugees?

These questions are asked in the context of a case study of the Sahel region:

- How has climate change been affecting the migration of refugees from the Sahel region?

1.4. Background of the Study

Displacement and migration of people within countries and across borders due to climate related hazards has become a reality in the 21st Century (Ni, 2015). Sinking islands in the Pacific region, drowning deltas in South and Southeast Asia, desertification across the West African Sahel and Mexico, and extreme weather events occurring with increasing frequency around the world have seen millions of people being displaced each year (Mayer, 2011). Usually reported by the media as climate change, the sinking island phenomenon has become symbolic of the plight of millions around the world, especially those from the developing world (McAdam, 2012). Most states in the developing world have been affected by flooding and famine factors which have been the impetus behind interstate and intrastate migration (Ni, 2015). The Intergovernmental Panel on Climate Change (IPCC) in the 1990s predicted that the “gravest effects of climate change may be those on human migration” (Ni, 2015: p. 329). It is estimated that by 2050 more than two hundred million people will be displaced from their homes due to climate change (Myers and Kent, 1995 cited in Biermann and Boas, 2010).

Countries in sub-Saharan Africa have been affected by environmental degradation and climate change as well. Africa continues to be at the receiving end of the effects of climate change but has not been benefiting from economic development driven by the use of fossil fuel for production of goods and services in the developed world. Instead, tropical regions in Africa were affected by deforestation. This has been a factor driving global warming (Amusan, 2009). Cameroon, Equatorial Guinea, Gabon, Nigeria, the Democratic Republic of Congo (DRC), Ghana, Togo, Benin and part of Mozambique are daily losing their forests to

the exportation of timber to Europe, North America, Japan and China (Amusan, 2009). Income from this timber has contributed to political instability rather than serving as a source of economic development in the African states. Emission of sulphur from the industries in Europe has had an effect on the environment and agriculture in the African Maghreb region (Amusan, 2009).

Amusan (2009) noted that from the 1950s thousands of African plant and animal species have been facing extinction. Global warming and its effects on the rising sea levels have become a reality of African countries such as Mozambique, South Africa, and Kenya as governments struggle to reclaim submerged land (Amusan, 2009). The end result is evident in the nations alongside the Indian Ocean. In addition, rising water levels in the Indian Ocean due to the Tsunami of 2004 has seen the devastation of the Somali coast leading to water and vector borne diseases. In turn, these diseases have led to the death of thousands of people (Amusan, 2009). The same Tsunami that was felt along the Indian Ocean and affected Somalia has put the low-lying coastal states, including Madagascar, Sao Tome and Principe, and Equatorial Guinea at the risk of submersion due to the rising sea levels. Global warming is the likely cause of these changes.

Droughts in Africa caused by *La Nina* have been disturbing the level and extent at which yearly rainfalls can be ascertained. *El Nino* has also seen torrential rainfall eroding the fertile top soils in Africa, a situation which has greatly affected agricultural yields. In 1996, a number of countries experienced massive drought, which caused the death of a large number of animals across their common borders. Madagascar and Mozambique were greatly affected by Cyclone Eline during the early 2000s. Eline changed the natural landscape and had a deleterious impact on the environmental solidity of the country (Bright, 1997: p.80). The drought that happened concurrently with the political upheavals in Zimbabwe between 2000 and 2007 and the recurrent droughts since 2012 have also been blamed on climate change.

Famine, and the resulting food shortages and depletion of water resources, has been seen in the Sudan, Somalia, Ethiopia and Eritrea. Armed conflict has surged in these countries as well as in Ethiopia and Darfur. Between 2000 and 2005 Kenya also suffered two years of extensive winter floods and two years of severe drought, which negatively affected agricultural production (Kimble, 2005: p. 106).

Over the past years, climate change leading to temperature raises, erratic rainfall, and desertification have affected most countries in the Sahel region, made up of Mauritania, Senegal, The Gambia, Mali, Burkina Faso, Niger, Nigeria, Chad, Sudan, Ethiopia, Eritrea, Cape Verde, Guinea Bissau and Djibouti. The countries in the Sahel region have seen some

parts of their territories turning into deserts while others have received erratic rains. Some have experienced rising sea levels among other malignant climatic changes. These changes have affected the livelihoods of the rural peoples who depend on agriculture for their livelihoods. The effects of climate change in the Sahel have been greatly felt in the Great Lakes region especially in countries near Lake Chad. As the population continues to surge, the lake has been shrinking, a situation which has led to food insecurity and migration of people to new areas within Africa and even beyond. Likewise, the water in Niger and the Nile rivers has been dwindling, a situation which has caused migration and in some instances conflicts.

Conflicts driven by shrinking natural resources due to climate change have been seen in Nigeria, Niger, Mali, Chad, Ivory Coast, Burkina Faso and Cameroon, where pastoralists have migrated from one region to another and even across borders in search of pastures and water for livestock. Unpredictable climatic conditions in Senegal and Cameroon have led to poor agricultural yields and the continued extinction of mangrove forests. The encroachment of the Sahara Desert southward continues to pose dangers to the Sahel region, a situation which has led to emigration. For countries in the Sahel region, drought was one of the key driver of migration in the mid-1980s (Jacobson, 1988). It is this scenario which has been the impetus behind a surge in the migration of people away from their original habitats to other areas either within their countries or to other countries, including in Europe.

The need to build and usher in a new refugee law which takes cognisance of climate change refugees has become arguably the primary focus of many international organisations in the 21st Century. Climate change appears to be a reality which has been influencing the migration of people away from their homes. Nowhere is this challenge of illegal migration more critical than in Europe, where a surging number of people from the Sahel region claim to be fleeing from desertification and the effects of climate change aim to seek sanctuary. As a result, the engagement of the UNHCR and the EU - and in some instances the African Union (AU) - has become increasingly vital, and in some instances indispensable, to help address these challenges. For the EU, the issue of climate change induced migration has become pressing owing to the surges in the number of people from the Sahel region claiming to be fleeing from climate change. This is coupled with the request by various EU nations and the African countries for the EU to play a larger role in addressing illegal migration problems as more evidence reflects that climate change is a scientific reality.

1.5. Significance and Contribution of the Research

The significance of this study lies in its potential to clarify the issues related to the experiences and plights of those who flee their homes in climate change induced migration. There has always been a mistaken conceptualisation of what a refugee is and the granting of sanctuary has always been confined to those who will be fleeing persecution. The legal definition of refugees has left out those who leave their homes as a result of climate change. The 1951 Geneva Refugee Convention defined refugees as anyone who flees his or her home as a result of fear of persecution. Different writers and institutions define a refugee differently, depending on how they want the definition to advance their claims. This study demonstrated the different conceptions of the term *refugee* and questioned the assumption that only those who flee persecution are eligible for protection.

The author set out to demonstrate that the continued shallow conceptualisation of the term refugee has practical consequences on those who flee their homes as a result of climate change. The EU, for example, excludes those who genuinely need sanctuary from climate induced environmental conditions. Importantly, the importance of this inquiry was its aim to critically unpack the normative content of the refugee concept and examine mechanisms by which it ought to be conceptualised in the face of migration prompted by climate change. Thus, the thesis examined what kind of regime the international system of protection is and the role it plays within the international system. It then examined the recent restrictive measures instilled by many countries across the world in an attempt to curb the trans-boundary flow of refugees and asylum seekers. It attempted to prove whether or not the use of the measures constituted a change within, or of, the regime, or a potential weakening of the regime. The regime analysis highlighted the role the refugee protection regime plays within the international system as a whole and discussed whether that role is changing. This illumination is vitally important because any successful efforts to reform the existing refugee law regime greatly depend on how the term is reconceptualised and applied.

From this standpoint, the study became significant by contextualising the discussion in what the author characterises as the 21st Century migration conundrum. This migration conundrum is characterised by environmental/climate change induced migration. The migration conundrum seems to have brought new dimensions to the conceptualisation of what a refugee is, yet the realisation of this cluster of refugees seem not to have gained recognition as expected. The contribution of this study was to examine what should be done differently if the 21st Century migration conundrum is to be effectively dealt with or dealt with differently

from the previous initiative, which was conducted under the rubric of the existing refugee law regime recognizing only political reasons as a reason for asking for asylum.

1.6. Methodology of Research

The various parts of the study needed a combination of various techniques. Primary data were gathered through field research and interviews with refugees who assert they were fleeing from climate change in the Sahel region. The interviews were done in Libya and Morocco, both of which are transit countries for most African migrants who aim to reach Europe. During this time, data on the plight and experiences of these refugees was gathered in a bid to establish how climate change prompted them to embark on the journey to Europe. Interviews were also done with the United Nations High Commissioner for Refugees, together with the authorities responsible for refugee reception and asylum application in Italy and Spain, where most refugees from Africa arrive first. Interviews with these respondents provided the researcher with access to material on how refugees are considered for asylum in Europe. During this period, the researcher acquired access to policies, material, and techniques developed by the EU and international actors involved in the refugee issues.

Engagement with these participants gave the researcher the platform to see their working approach and how people seeking entrance are classified or given refugee status. Interviews were conducted on a one-to-one basis. This approach gave the researcher an opportunity to conduct interviews while witnessing the ‘reality on the ground’ first hand. The researcher did not use questionnaires because of the risk that important information would be difficult to obtain because of language differences. Face-to-face interviews were preferable because they enabled the researcher to seek clarification, or more information, whenever it was desirable.

1.7. Structure of the Thesis

The thesis is made up of seven chapters. Chapter one provided an in-depth discussion of the refugee concept and how it has evolved over the years. It included a thorough discussion of how the concept is understood by different writers and institutions. It examined the content of this concept and how it is used by international actors to achieve their objectives of providing sanctuary to those in needs whilst controlling irregular migration. Since the concept of being a refugee was associated with different meanings, the chapter identifies minimum attributes which have been providing benchmarks for the concept.

The second chapter discusses the nexus between climate change and migration in the Sahel. This discussion is warranted by the fact that climate change has increasingly been seen as one of the drivers of migration of people within Africa and in some instances towards Europe. The key issues discussed in chapter two concern whether contingencies brought about by climate change in the Sahel have been spurring migration and stimulating conflicts between groups.

The third chapter introduces climate change as a central issue in the study and gives a historical account of climate change and refugees across the globe. It discusses the debates surrounding climate change and how it has been affecting people and their livelihoods. The global initiatives which have been taken in a bid to recognise and address the plight of climate change refugees are investigated. Ultimately, the chapter examines the climate change and migration nexus in a bid to establish the relationship between the two.

Chapter four examines the proposals and frameworks which were established in the first three chapters, in a bid to address the plight of those who are displaced and opt to migrate to new areas in search of sanctuary. This chapter seeks to explain how the international community has used various legal approaches to react to the plight of climate change refugees. The chapter argues that for modern refugee law reform to succeed, its promoters must learn from the surge in migration which has been resulting from climate change.

Chapter five considers how recognising the malignant effects of climate change and recognising those who migrate as a result of its effects can enhance the change in the current refugee law regime. The current international refugee law regime was targeted because of the key role it has in influencing regional organisations such as the EU in guaranteeing what will be recognised internationally as climate change refugees. The chapter also provides a detailed discussion of the role of the European refugee law regime in enhancing the needed reforms in order to enhance the recognition of climate change refugees from the Sahel region. Chapter six concludes with recommendations and proposals for the way forward.

Chapter 2: Refugees and Migration

2.1. Introduction

2.1.1 Organization of the chapter

This chapter introduces and analyses the term refugee as a critical component in the migration discourse. The analysis of the refugee concept is situated in context of climate change driven migration. This chapter examines whether the term ‘refugee’ is a detached concept or part of an applicable framework of rules and practice by deciphering its use in climate change driven migration. The extent to which the term refugee can be useful in defining climate change driven migration is considered. The chapter examines what kind of regime the international system of protection is and the role it plays within the international system. It examines the current restrictive measures that are being introduced by many countries across the world, especially in Europe, in an attempt to curb the trans-boundary flow of refugees and asylum seekers. This examination is done in an attempt to determine whether or not use of the measures constitutes a change within the regime, or of a potential weakening of the regime.

The regime analysis highlights the role the refugee protection regime plays within the international system as a whole and discusses whether that role is changing. This clarification becomes important because any success in reforming the existing refugee law regime greatly depends on how the term is reconceptualised and applied. This chapter highlights the concept of the refugee as it has been understood historically. It also examines the term refugee as a theoretical norm by analysing numerous definitions advanced by scholars, judicial officers, and public officials or bureaucrats involved in the refugee cluster. Part three discusses minimum attributes of a refugee based on the existing refugee law regime embodied in the 1951 Geneva Refugee Convention. The research argues that the term refugee should also consider those who migrate and seek refugee as a result of climate change in order to ensure that an all-encompassing holistic understanding of the concept is achieved.

The term refugee is considered as an export product by analysing its nature and content as influenced by war and the displacement that comes as a result of political persecution. Finally, a critical discussion considers how minimum attributes of a refugee can inform the new dispensation which takes consideration of the new contingencies which have been spurring people to move to new areas in search of sanctuary. The chapter concludes by arguing that it is important to pursue and measure the impact of refugee law reforms on the basis of minimum attributes identified in the chapter.

2.1.2 Brief history of the concept of the refugee

The refugee problem was first responded to in an organised fashion during the period of the League of Nations of 1919-1946. It became obvious that intergovernmental cooperation would be necessary to deal with the large-scale movements of displaced peoples in Europe in the 1920s (Chimni, 2000). During the 1920s, there were large scale refugee flows from the Russian civil war. During the same period, Turkey produced many Assyrian, Armenian, and Greek refugees starting in 1922. During the 1930s, the persecution of Jews by the Nazi in Germany left thousands without state protection in the Saar, Austria and Czechoslovakia (Ziring et al., 2000).

One of the first bodies to address the refugee problem was the wartime agency United Nations Relief and Rehabilitation Administration (UNRRA). UNRRA worked alongside military authorities in order to repatriate five to six million refugees after Germany surrendered and to assist many others resettle or assimilate (Ziring et al., 2000). During the same period, the Nansen International Office for Refugees was established in order to deal with the problem of mass refugee flows. It was liquidated in 1938 when the Intergovernmental Committee on Refugees (IGCR) was established. The IGCR was an independent organisation outside of the League of Nations framework (Chimni, 2000). The impetus behind the formation of this committee was aimed at helping groups or categories of people in need of protection such as Russian refugees that no longer enjoyed protection of the government of the USSR (Goodwin-Gill, 2007).

By 1947 the International Refugee Organisation (IRO) took over the responsibilities of protecting refugees by providing supplies and living space and by establishing a resettlement programme (Chimni, 2000). The IRO was a field agency of the United Nations that worked with volunteers and local authorities from various countries throughout the world (Whittaker, 1997). Those who were to be protected by the IRO and defined as refugees included victims of the Fascist, Nazi or Quisling regimes, and certain persons of Jewish origin, among others (Goodwin-Gill, 2007). During the time of the IRO, thousands were assisted and repatriated and resettled abroad (Ziring et al., 2000). The United Nations High Commissioner for Refugees (UNHCR) was later formed and took over and expanded the duties of the IRO. After its formation, the UNHCR became the most significant body of refugee protection in the international system.

The Convention Relating to the Status of Refugees of 1951 and the Protocol to the Convention of 1967 are the modern legal embodiment of the ancient and universal tradition

of providing sanctuary to those at risk and in danger (Türk, Volker and Frances Nicholson, 2003). In essence, the 1951 Geneva Refugee Convention and its 1967 Protocol codify minimum rights of those protected by its mandate. These rights are in the areas of the right to education, work and social security, and freedom of religion and political opinion (Ziring et al., 2000). The Convention and its Protocol are different from the UNHCR Statute because they include the criterion of ‘membership of a particular social group’ in addition to race, religion, nationality, or political opinion (Goodwin-Gill, 2007). The 1951 Geneva Refugee Convention provides the framework for refugee protection across all its signatory states.

2.1.3 Establishment of the legal definition of refugee

The Article 1(2) of the Geneva Refugee Convention of 1951 terms a refugee as any person who:

...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his formal habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

The subsequent section of the international system of refugee protection is made up of the various regional agreements, statutes and treaties of different organisations and agencies. Regional organisations seek to add to the 1951 Refugee Convention definition of a refugee in order to expand the concept so as to include other groups of people seeking the protection of foreign governments. This was done after recognising that the refugee problem had expanded beyond the scope of the post Second World War, Eurocentric definition of protection.

2.1.4 Organisation of African Unity

The 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa was taken into consideration because it was observed that the 1951 Geneva Refugee Convention did not clearly meet the needs of externally displaced persons in the developing world. The refugee definition in the 1951 Refugee Convention was simply seen no longer adequate to solve the problems of refugee flow within and from the African continent. The OAU definition is much more generous as it more closely

reflects the realities of Africa during a period of violent struggle for self-determination and national development.

The OAU definition responded to the urgency of the contemporary situation in Africa in which determining refugee status on an individual basis was no longer practical due to the massive migration occurring. This was so because it was not feasible due to the lack of decision-making structures to deal with asylum claimants on an individual basis in Africa. A more pragmatic, yet still humanitarian, approach was needed hence the enunciation of a broader definition of the term refugee. Although the Organisation of African Union Convention was produced due to events in Africa, its norms and principles set important standards for the protection of refugees in general and have often been applied in other parts of the world (UNHCR, 2000).

2.1.5 The European organisations

The first important European regional organisation in refugee protection is the Council of Europe. The Council managed to generate instruments such as the 1950 European Convention on Human Rights, the 1959 European Agreement on the Abolition of Visas for Refugees, the 1967 European Agreement on Consular Functions, together with the protocol concerning the Protection of Refugees, and the 1980 European Agreement on Transfer of Responsibility for Refugees (Goodwin-Gill, 2007). The second essential element in creating and maintaining asylum policy in Europe is the EU (EU). From the time of World War II to the late 1970s asylum policy in Europe was characterised by the commitment to protect refugees from within Europe and from communist countries. From the 1970s onwards, the dynamics of refugee flow into Europe changed dramatically. Refugees and asylum seekers from other continents such as Latin America and Asia began to seek protection in Europe. The 1980s saw the surge of refugees in Europe mainly due to serious human rights violations and internal conflicts in Asia, Africa, the Middle East, and Latin America. At this point Europe's need for labour migration had been quelled and thereafter immigration policy ceased to encourage labour migrants, who then had to claim asylum instead.

2.1.6 Restrictive regimes after the Cold War

Soon after the end of the Cold War, a new defensiveness appeared in Europe's system of refugee protection. The existing capacity for protection was quickly overrun by the vast numbers of refugees arriving in Western Europe. There was, however, reluctance by Western governments to commit the necessary resources to help solve the problem. During this time,

the 'channels to entry began to close' since the existing policy framework which focused on assessing individual claims, could no longer cope with the unprecedented levels of refugees streaming into Europe (UNHCR, 2000). As a result, new restrictive measures began to be put in place in much of Western Europe. The aim of such restrictive measures was to prevent abuse of asylum systems and to fight illegal immigration.

The contemporary EU asylum regime is solidified by a variety of agreements and conventions. Perhaps the most important is the 1990 Dublin Convention, which established common criteria for determining which state is responsible for examining an asylum request. The Dublin Convention also lays down readmission obligations incumbent on the responsible Member State (Noll, 2000). The 1990 Schengen Convention instilled common visa policies and carrier sanctions. It also strengthened police and judicial cooperation among the signatory states (UNHCR, 2000). Both conventions are binding on the states that have ratified them. The 1997 Treaty of Amsterdam was another step in the direction of harmonisation of immigration policies, giving a five-year deadline for the development of common immigration and asylum policies, with decision-making procedures coming under the Council of Ministers (UNHCR, 2000). The current refugee regime of the EU is embodied under the Lisbon Treaty and Europe's commitment to the refugee issue seems to have become more restrictive.

Of critical importance is to note that the international legal and institutional frameworks for cross-border movements of people do not cover climate change induced migration (Kälin, 2012). Goodwin-Gill and McAdam (2007) note that people fleeing from persecution across national borders are covered by a robust protection regime under the 1951 Geneva Refugee Convention and the 1967 Protocol that goes with it. This protection has strictly limited terms. Jastram (2014) noted that states obligate themselves to offer protection to only those at risk of political persecution. This has therefore led to the exclusion of many forced migrants who migrate for any other reasons besides political persecution. It is generally accepted that neither refugee law nor human rights law considers people migrating across borders as a result of the effects of climate change. Thus, states are not required to allow these individuals entry nor are they prevented from expelling them (McAdam, 2012). To Jastram (2014) this is because the harm these people claim to be running away from has been not directly caused by human actors. Thus, in the case of the 1951 Geneva Refugee Convention, the harm is generalised and not targeted at certain people for the reasons of their religion or ethnicity.

Under the 1951 Geneva Refugee Convention, the central undertaking assumed by contracting states is the duty of *non-refoulement*, or push-backs, due to individuals with a justifiable fear for persecution on the grounds of nationality, creed, race or any particular social group or political views. As stipulated by the 1951 Geneva Refugee Convention and the 1967 Protocol, such persons, whether arriving singly or in groups, ought not to be sent back to countries where their lives and freedoms will be jeopardised through persecution. Further, contracting states to the 1951 Geneva Refugee Convention or the 1967 Protocol have undertaken to cooperate with the UNHCR and to facilitate its duty of supervising these instruments. Feller *et al.* (2003) noted that the obligation of *non-refoulement* is also a rule of customary international law which is binding to even states that are not party to the 1951 Geneva Convention or the 1967 Protocol.

2.1.7 Merging of national security concerns with international refugee law

Jastram (2014) noted that national security concerns are merged into international refugee law in two ways. Firstly, war criminals and common criminals are not covered in the 1951 Geneva Refugee Convention even if they otherwise fit the well-founded fear of persecution definition. Secondly, a country of asylum may withdraw the protection of *non-refoulement* to return a refugee who poses a danger to its national security. It is important to note that the national security concerns linked with forced migration resulting from climate change are of a different character and deal with the quantity and not the quality of those seeking refuge (Brown, 2008). Jastram (2014) noted that over the years, since its inauguration, it has become apparent that the 1951 Geneva Refugee Convention's definition ought to be interpreted in a manner responsive to broader developments in international law, particularly the growth of international human rights law.

2.1.8 The issue of causality

From the perspective of refugee law, the problem with climate change is causality (Jastram, 2014). The 1951 Geneva Refugee Convention requires that there be a harm feared if one is to be granted asylum and given refugee status (Guterres, 2011). Jastram (2014: p.757) noted that "even if one argued that the results of climate change amount to persecution, it would be nearly not possible to show that the actions that resulted in climate change were done with the motivation of causing harm to a person or group because of their protected characteristic".

Numerous states in numerous regions of the world have adopted more expansive definitions of what it means to be a refugee and have therefore obligated themselves to

protect a wider range of forced migrants (Reed-Hurtado, 2013). Albeit these innovations were designed to provide protection to victims of armed conflict, some of them could be interpreted to include people forced to move as a result of climate change (Jastram, 2014). According to Jastram (2014), African states led the way with the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa. The definition by the Organisation of the African Unity (now the AU) includes those compelled to leave their country owing to events seriously disturbing public order. Numerous Latin American states have broadened the refugee definitions in their domestic legislation. Inspired by the non-binding Cartagena Declaration of 1984, the definition by the Latin American states includes refugees as people who flee their country due to massive violation of human rights and other circumstances that seriously disturb public order.

Jastram (2014) noted that the EU has defined a set of persons who can benefit from a subsidiary, a lesser form of protection than that afforded to refugees. The definition of the EU is, however, basically limited to victims of armed conflict and does not include those fleeing from the effects of climate change. While these legal developments are significant, they have not been universally adopted. The limited reach of protection for victims of armed conflict bears consideration, not only as a testament to the difficulty of revising the 1951 Geneva Refugee Convention definition of a refugee but also because of the extent to which climate change is seen as a contributor to armed conflict.

The international refugee law regime and its different regional expansions, together with the human rights law, covers some forced migrants with protection from return (McAdam, 2007). However, these provisions are even less likely to cover forced migration related to climate change (Jastram, 2014). Jastram (2014) noted that certain human rights treaties such as the Convention against Torture specifically encompass the duty not to expel those protected by their terms. Other treaties such as the International Covenant on Civil and Political Rights have been interpreted to include this protection. Arguments in favour of climate refugees based on the *non-refoulement* provisions of human rights treaties seem to have been difficult to make (Jastram, 2015: p.758). The Convention against Torture, for instance, states that torture be perpetrated intentionally by or with the consent or acquiescence of government officials for certain specified reasons. According to Jastram (2014) the limitations of existing law have seen a number of proposals to amend the 1951 Geneva Refugee Convention or to draft a new international treaty. Jastram (2014: p.758) noted that the 2008 United States (US) National Intelligence Assessment predicts that “to insert a sense of urgency” into the debate and urge countries and international institutions,

environmental and human rights groups “may press to broaden the definition of refugee to include environment or climate migrants”.

2.1.9 The clash with humanitarian concerns

However, scholars such as Jane McAdam (YEAR) disagree and rather argue that focusing on a novel multilateral treaty may not present the most suitable tool to deal with climate change displacement. McAdam (2012) noted that defining a climate refugee category may lead to a hardening of the concept, while at the same time defining groups as in or out of need. McAdam (2012) rather suggests thinking in terms of crisis migration. This thinking it has been argued creates a platform for a broader perspective on appropriate legal and policy responses. Kalin (2012) also noted that there is lack of political will when it comes to protecting climate change refugees.

The existing refugee law regime is therefore anchored on the need to protect those who flee from political persecution. Thus, the regime can be seen as a regime which was created in an attempt to establish or re-establish and strengthen public structures in a given territory. This regime was capable of fulfilling core functions associated with the immigration of newcomers in its territory in a bid to protect and give sanctuary to those in genuine need of that protection from persecution. The need for correctly identifying those who are in need to be granted the refugee status emanated from the surging numbers of those seeking refuge after the first and the Second World War. The 1951 Geneva Refugee Convention was crafted as a result of a desire to structure state cooperation in dealing with the Second World War induced migration (Guterres, 2011). The key aim behind the current refugee regime is that those who genuinely face persecution (mostly political) ought to be given sanctuary.

This narrative posits that protecting those who suffer persecution and choose to migrate to new countries as a way of achieving the humanitarian goal can be attained if international actors improve coordination and cooperation. This cooperation should be underpinned by a continued commitment of the international community to provide the necessary resources to achieve these objectives. International actors assume that their role is to solve already identified local problems such as corruption, bad governance or disregard of human rights in order to avoid the movement of people from their habitat to new ones. Yet what is evident is that conflict transformation does not take into consideration the newer factors which have been driving people to migrate to new locales.

2.1.10 Climate change as a driver of forced migration

Climate change has become one of the key drivers of migration and people have resorted to migration as a form of adaptation, a factor which the current refugee protection regime fails to capture (McAdam, 2012). Given the fact that the current refugee law regime continues to be used in a milieu where there is evidence of climate change induced migration and a surge in the number of those who need sanctuary, it is important to question the capability of the existing refugee law regime in protecting this cluster of refugees. It can be argued that, given the increasing number of those who are migrating as a result of climate change, the current refugee law regime may not cater for this class of refugees, especially when their reason for seeking refuge is due to climate change induced issues.

2.1.11 Defining concept of environmental refugees

Despite various assumptions underlying what can be termed climate change refugees, it is argued that when the concept is examined in the context of climate change related contingencies in the Sahel region, it is evident that there has been a total collapse of the livelihoods of the people in this area. This has therefore left them with no option but to see migration as an adaptation strategy. It is because of this reality that this research explores these issues in light of efforts undertaken by international actors to usher in a refugee protection regime which recognises those who migrate to new areas to seek refuge as a result of climate change.

The El-Hinnawi under the tutelage of the United Nations Environmental Programme (1985) was the first to conceptualise the term ‘environmental refugees’ in describing those who migrate to new areas in search of refuge. Hence, to El-Hinnawi (1985), changes in the climate patterns spurred migration leading to the surge in the number of refugees. Since the inception of the term ‘environmental refugees’ by El-Hinnawi (1985), the concept has been extensively discussed in academic and political spheres (Castles, 2002). This surging disquiet of the international community about the concerns of migration ensuing from environmental degradation was in 1990 reinforced by the publication of the very first report by called the United Nations Intergovernmental Report on Climate Change. The report noted that one of the major effects of climate change is its propensity to spur the migration of thousands of displaced human beings (IPCC, 1990: p. 20).

Predictions and estimates as noted earlier give an apocalyptic image and are at times pessimistic. The forecast by Myers (2002) that there will be over one hundred and fifty

million climate change refugees further fuelled the fear of mass migrations. Myers (2002) wrote in the review titled *Population and Environment* that migration spurred by climate change will be one of the key human crises of today (Myers, 1997: p. 175). The issue was also dramatised by Roland in 2004, in the movie *The Day After Tomorrow* where citizens of America were seen leaving their homes and fleeing in large numbers from a dreadful climatic commotion and ending up in Mexico. Through the works of Klotz (2004: p. 69), the alarm of mass relocation of environmental refugees has been a key issue in the global community. Given the surging certainty of global warming, the more detailed concept of the climate refugee has been summarily dispersed in public discourse (Friends of the Earth Australia, 2007).

2.1.12 Examples from history

The nexus between climate and human migration are, however, not novel (Beniston, 2004). The droughts of the 1930s in the plains of the American Dust Bowl spurred the migration of hundreds of people towards California. In the same vein, the droughts that affected the Sahel between 1969 and 1974 led to the displacement of dozens of sedentary farmers and nomadic herdsman to urban areas were well documented. Myers and Kent (1995) noted that in 1995 there were already twenty-five million environmental refugees.

2.1.13 Considering the future of environmental concerns

To Biermann and Boas (2010) the most current estimates expect this figure to increase considerably in the course of the 21st century. Myers and Kent (1995) estimated that the overall number of those at risk of rise in the sea level is likely to be 162 million by 2050 (Biermann and Boas, 2010: p.68). Myers (2002: p.609) also predicted that in addition to this number, fifty million people could become refugees due to droughts and other climate change impacts. All in all, it is expected that two hundred and twelve million will be climate refugees by 2050. In 2007, Myers further predicted a higher figure of two hundred and fifty million climate refugees by 2050 (Biermann and Boas, 2010: p.68).

To Biermann and Boas (2010), a large chunk of these refugee streams are likely to be as a result of extreme weather events such as tropical cyclones and storm surges. Emanuel (2005) noted that climate change is not likely going to spur a surge in the number of tropical cyclones but might intensify their disparaging vigour especially due to warmer temperatures of the sea. Biermann and Boas (2010) note that gradual sea-level rises are likely to be a distinct cause of climate-related migration even though it is analytically difficult to separate them from extreme weather events such as storms and floods.

It is also estimated that temperature rises of three to four degrees Celsius could lead to high population level and low economic growth by the year 2080 (Biermann and Boas, 2010: p.69). Nicholls, Hoozemans and Marchand (1999: p.80) noted that many those affected will be from Asia and Africa. It is also estimated that droughts and water scarcities are going to be some of the major drivers of climate-related migration. Warren et al., (2006: p.16) noted that a temperature increases of 2-3 degrees Celsius could lead to the suffering of around eight hundred million to more than a billion people since most will experience water shortages. Warren et al., (2006: p.41) noted that in the most extreme of cases, the additional number of persons suffering from the shocks of climate change might get to around way over two hundred million in 2050s. It is also estimated that the supply of fresh water will decrease due to glacier retreat. It is predicted that this is going to be the case because large populations of people depend on fresh water which comes from glacier melt (Barnett, Adam and Lettenmaier, 2005: pp.303–304).

Asia is said to be at high risk of extreme weather events and sea-level rise. It is estimated that Asia will be affected in a very extreme way by water shortages and famines. Africa is also seen as prone to famine and water shortages, although a few other areas in Africa are also prone to the rises in sea levels. Latin America is also seen as at risk of water shortages and drought as well. Many small islands, especially those in the Oceania, are highly prone to flooding (German Advisory Council on Global Change [WGBU], 2006: p.46). Where all these climate change refugees will migrate to is not certain. It is estimated that a large number of refugees will remain in their countries and regions of origin notably those who will be affected by coastal erosion and sea-level rise (Clark, 2006). For instance, it is estimated that only five million climate refugees will cross international borders (Christian Aid, 2007: p.6).

It is also believed that climate change may spur a huge migration of people from the Americas and Islands of the Caribbean to the US (WGBU, 2008: p.151). A large-scale population movement across international borders is also expected in other regions. People from Africa (mostly sub-Saharan Africa) will move towards the Mediterranean region, the Middle East and ultimately Europe mainly due to droughts. It is expected that people in Southern Asia will move across borders. This movement it is estimated will be displaced by coastal inundation and environmental pressure on land. It is also estimated that this will lead to acute economic competition and, as a result, many people will be affected in countries such as Bangladesh and India (Development, Concepts and Doctrine Centre, [DCDC], 2007: p.29).

2.1.14 *The need for reconsideration of the term refugee*

Despite the present media focus and all these estimates, the amount of systematic research on environment and migration has, however, been limited. It is critical to note that there is a lot of elusiveness adjoining the conceptions employed, the essential mechanisms included, the population of people affected as well as the topographical regions concerned. Further, the usage by different authorities of the term refugee has led to misunderstandings due to the fact that it evokes the juridical status recognised by the 1951 Geneva Refugee Convention denoting any individual having a well-grounded anxiety of persecution on the ground of citizenship, faith, skin colour, membership of a certain socio-political group and opinion. Certain that climate change reasons are not mentioned under this Convention, if ecological relapses as a result of the influences of human beings lead to migration which is forced, then the enquiry of the victims' rights to a form of security will become palpable.

Examining the insinuations advanced by scholars and institutions about the effects of climate change in spurring migration can prompt one to argue that the chief objective of the reconfiguration of the refugee law regime includes the encapsulation of those who would have been displaced by climate change. In addition, the surge of people who leave their homes and search for sanctuary somewhere can provide a chance for international actors to implement these objectives of 'moulding' a new refugee law regime which encapsulates what are termed climate change refugees. Nevertheless, as the inertia of recognising this cluster of refugees (notably by global leaders such as the US as seen by its recent withdrawal from the Paris climate change agreement) has shown, it has become increasingly difficult to set a specific timeframe for the reconfiguration of the current refugee laws. This is mainly because the process ought to have an international consensus and should also have the input (mainly financial resources) by most destination countries and regions, the US and the EU member countries being chief among them.

The timeframe depends on the prevailing conditions on the ground, mainly because the destination countries and global leaders such as the US and the EU member countries cannot be pushed into accepting that climate change is a reality. A key question to pose, however, is *when can it be determined with certainty that climate change is not a fallacy and therefore a reality?* Some countries such as Switzerland may have accepted that climate change is a reality and hence accept that those who seek refuge citing climate change as the cause of their migration need protection. Other leading destination countries such as Italy or Spain continue to be obdurate when it comes to accepting climate change refugees.

For the sake of this research people migrating from the Sahel region are considered as climate change refugees, mainly because climate change contingencies such as the encroaching desert has been destroying the livelihoods of most of these people hence prompting them to migrate. While it is clear that refugees from the Sahel region are driven by a horde of factors to migrate from their homes, political persecution being one of them, it is evident that climate change contingencies have been one of the key factors behind their migration to new places. This research considers migrants from the Sahel region as climate change refugees.

2.2 Climate Change Refugees as a Theoretical Concept

Why is it important to define a climate change refugee in this thesis? Two reasons favour defining this concept: (i) the need to seek clarity on the concept itself, and (ii) the necessity to spell out how climate change contingencies such as desertification have been spurring people to migrate to new areas in search of refuge. Further, the impetus behind defining a climate change refugee is premised on the fact that its conception has been defined from an array of vantage points; this is necessary given the disagreements and the denial that climate change is actually a reality and not a fallacy.

2.2.1 Redefining what a refugee is

The question is, how then can those who migrate as a result of climate change contingencies be recognised as refugees given that they do not meet the legal definition for refugee? For example, while some countries recognise those who flee their homes as a result of climate change and give them full protection as that given to those who flee persecution and are thus defined as refugees, the kind of treatment given to people who migrate as a result of climate related disturbances is not generally the kind of treatment which is warranted by refugees. This is so because there is no international recognition of migrants resulting from climate change as being genuine refugees. Thus, while countries such as Norway and Switzerland recognise what are climate change refugees, there are no international legal instruments which oblige other countries to recognise these people as refugees.

Despite the importance of defining what are called climate change refugees, there is no universal definition or agreement of what climate change refugees are. This is so because there are different conceptualisations and several meanings attached to them. One of the key issues which has curtailed any hope of concisely defining what climate change refugees are is that numerous researchers do not agree that climate change is actually a reality and not a

fallacy (Black, 2001). Scholars have highlighted the conundrums which surge from a unidirectional connexion between changes to the environment and movements in the face of well-established outcomes from studies on the flow of populations.

Since there is no existing legal instrument that clearly protects people who flee environmental threats, trying to define this group of refugees could prompt one to turn to academic literature, in which there is a lively theoretical debate. Of paramount importance is that several people who study environmental movements deliberate on the wider cluster of environmental refugees and not the more particular subdivision of climate change refugees. Use has been made of an array of terms to refer to this cluster of persons and its sub-categories but environmental refugee as a concept is particularly widespread. El-Hinnawi (1985) described this cluster of refugees as persons who have been coerced to flee their original homes temporarily or permanently, due to a noticeable disturbance to the environment (man-made or human made) that endanger their survival or extremely affect the quality of their life.

Environmental disruption can entail any biological or chemical or any physical alterations in the environment that will lead it to be permanently or temporarily unfitting to sustain the lives of people (El-Hannawi, 1985). El-Hinnawi (1985)'s broad definition encapsulated numerous elements from which other scholars picked and chose. These elements fall into two categories. These categories include those elements that group people according to the type of migration and those that group people according to the type of environmental harm that caused their migration. In most cases, definitions include a combination of all these issues. Certainly, a substantial quantity of terminological variations has been made use of by scholars when making reference to people running away from the hazards of climate change and on a general note disturbance to the environment (Piguet, 2008). Although the term environmental refugees (sometimes referred to as ecological refugees) was more frequently used as seen in the works of El-Hinnawi (1985), Jacobson (1988), Westing (1992), Myers (1993), Bächler (1994), Myers (1997), Richter (1998) and Gonin and Lassailly-Jacob (2002), during the 1990s more neutral terminology emerged vis-à-vis the 1951 Convention. These include terms such as environmental or ecological migrants, eco migrants or eco migrations (Wood, 2001). With time, the number of push factors included under this terminology surged.

While El Hinnawi (1985) focused on the deterioration of soils and rural exodus, Jacobson (1988) broadened the definition to include persons displaced by development projects such as construction of dams, setting of nuclear plants among other issues. With

time, the acronyms EIPM (Environmentally Induced Population Movements) and EDP (Environmentally Displaced Person) became well well-matched in defining a common classification of migration activities where the ecological element is pivotal but not essentially exclusive. Lonergan (1998) noted that five clusters of issues can be selected as ecological push rudiments that may spur migration. These include man-made factors such as the construction of dams, rapid onset disasters which will encapsulate alterations to the ecosystem, progressive changes of the environment, industrial calamities and ecological costs as a result of conflicts.

Some scholars have tended to identify environmental refugees by the character of their movement. This group of scholars make a consideration of whether an individual was forced to move to new places or voluntarily moved to new areas. Docherty and Giannini (2009) noted that an extreme environmental disaster or the submersion of an island state can force inhabitants to abandon their homes, whereas the general degradation of a region's natural environment might lead people to decide to seek better fortunes elsewhere. El-Hinnawi's (1985) definition is limited to include those 'forced to leave'.

Myers and Kent (1995), who offer a more recent but also commonly cited definition from 2005, adopt a similar approach. Myers and Kent (1995: p.1) describe environmental refugees as the people who will not be able to get a safe occupation in their homes of origin and feel they have no option but to seek refugee somewhere. Docherty and Giannini (2009) noted that some sub-divide persons who run away from environmental disruptions into subgroups grounded on the nature of coercion. In 2007 Renaud et al., (2007: p.45) articulated three categories. These subcategories include "environmentally motivated migrants, who may leave a steadily deteriorating environment; environmentally forced migrants, who have to leave so as to avoid the worst; and environmental refugees, who flee the worst, including natural disasters" (Renaud et al., 2007: p.45). It is critical to note that these approaches have been suggesting an acknowledgement that the cataloguing of ecological refugee ought to be set aside for those who are coerced to move.

Also, academic scholars take into consideration of whether the migration is permanent or not. An individual may relocate to new areas on a permanent basis that is if her or his habitat can be rebuilt after an ecological adversity. She or he might move permanently due to the destruction which would make the area uninhabitable. It is critical to note that, on this point, El-Hinnawi (1985) and Myers and Kent (1995) had different views. El-Hinnawi (1985) allowed for both kinds of relocation in his definition and Myers and Kent (1995) stuck to the more permanent or semi-permanent relocation. On the other hand, temporary displacement is

described as lasting to a period well above three years while permanent displacement is longer despite the fact that return in the end may still be a possibility.

Scholars also discuss whether to embrace migration within a state or trans-boundary migration within their delineations. Docherty and Giannini (2009) noted that this distinction parallels the divide in international law between Internally Displaced Persons (people who move within their own borders) and refugees (people who move to new countries). Within the environmental milieu, an individual whose habitat or livelihood is threatened by a rising sea level may move to high lands within the boundaries of that same country or to a new country if the home state is too small to accommodate large numbers of people (Docherty and Giannini 2009).

Though under 1951 Refugee Convention a refugee is seen as someone who cross a border to new countries, scholars such as El-Hinnawi (1985) and Myers and Kent (1995) included both trans-boundary migrants and Internally Displaced Persons in their definitions of environmental refugees. While discussing the climate change refugee subset in particular, Biermann and Boas (2008) note that it seemed problematic to contend that a comprehensive governance apparatus for their safeguard ought to confer a dissimilar status and an altered word depending on whether those affected by climate change have traversed a state boundary.

In a dossier which made proposals to the amending the definition of 1951 Refugee Convention, the Maldives argued that the definition of environmental refugee should include Internally Displaced Persons since some governments are not able to give the essential humanitarian aid always. It is critical to note that, though this nature of conceptualisation typifies environmental refugee rather of a legal incongruity, it echoes the extensive aspiration to safeguard those affected in the negative ways by the disruption to the environment.

Some researchers have also made use of definitional fundamentals that are linked to the oddity of the ecological change that spurred the movement (Docherty and Giannini 2009). Victims are usually classified based on the type of environmental harm they suffer. For instance, Bates (2002: pp.496-75) makes use of the term environmental refugee to encapsulate all those who run away from any harm to the environment. Bates (2002), however, creates subcategories based on the type of harm the victims suffer. He categorised environmental refugees into those he termed disaster refugees (those who run away from manmade and natural disasters); expropriation refugees (people who are forced to relocate in a permanent way intentionally as a result of armed conflict or economic reasons); and

deterioration refugees (those who flee their homes due to slow destruction to the environment).

The classification system by Bates (2002) is based in part on that of El-Hinnawi (1985). El-Hinnawi (1985) also divided environmental refugees into three similar categories. Some scholars who write about environmental migration also differentiate between environmental change that is sudden and that which is gradual. In these categorisations, hurricanes and tsunamis are sudden disasters, while desertification is categorised as gradual degradation. Dun et al., (2007) explicitly include both 'rapid onset and slow onset' ecological alterations in their conceptualisation of those displaced by the environment which they consider to be similar to the more commonly used term of environmental refugee. Lastly, in their definitions of environmental refugee, some scholars on occasion note that either nature or humans can cause harm.

In some instances, the distinction seems to be obvious. Docherty and Giannini (2009) noted that an earthquake exemplifies the former, while flooding from a man-made dam exemplifies the latter. Nevertheless, in the climate change context, this distinction is intricate. In this instance, a hurricane can be a natural occurrence or a consequence of anthropogenic climate change. That being the case, the IPCC (1990) noted that identifying causation can be scientifically challenging. Some scholars clearly include both natural and human-caused harm in their definitions of environmental refugee (El-Hinnawi, 1985; Dun et al., 2007). Müller (2002) is of the argument that the peculiarity ought not to be made in instances of disaster respite. However, some scholars ignore the distinction altogether in their definitions.

According to Castles (2002: p.5) the concept of environmental refugee was crude, partial and disingenuous. It denoted a mono-causality which seldom subsisted pragmatically. Environmental and natural factors were part of multifaceted arrangements of various connexions, which meticulously related to socio-economic and political ones. A number of studies opined that when environmental relapses lead to dislocations, they are mostly the end-products of politico-economic or demographic issues (Hugo, 1996). Furthermore, it has been argued that dislocations of populations will prompt ecological complications that will have an effect on conflicts. These conflicts would, in turn, risk aggravating environmental deterioration (Hagmann, 2005). Natural factors were not considered the sole cause of migration. Rather, it was argued that the politico-economic and social scenarios of the region under danger could lead to an upsurge in or decrease the flow of migrants. Cambrézy (2001: p.48) noted that apart from the methodical fault of overgeneralising the practises taking place, the risk is one of "evacuating political responsibility by overplaying the hand of nature".

One of the key criticism which has been levelled against the advocates of the environmental refugee concept was against the argument by Myers (2002) that around one hundred and fifty million refugees might be displaced by climate change. Those who argue for the argument that climate change is a reality are accused of brandishing the spectre of a flood of migrants towards rich countries, thereby reinforcing the position of governments that have policies of closed borders and hostility to refugees. In light of this McGregor (1993: p.162) noted:

In so far as the term environmental refugee conflates the idea of disaster victim and refugee, its use brings with it the danger that the key features of refugee protection could be undermined, and the lowest common denominator adopted. Because environmental refugees can imply a sphere outside politics, the use of the term environmental refugee may encourage receiving states to treat the term in the same way as economic migrants hence can reduce their responsibility to protect and assist.

Piguet (2008) noted that the United Nations High Commissioner for Refugees, being mindful of this danger of confusing non-political and political refugees, constantly regarded the notion of encapsulating environmental impetuses in the universal characterisation of refugees with utmost judiciousness. This was done even if the UNHCR also reckoned this grouping of the populace a probable part of the protecting obligation toward people dislocated within their countries (IDPs).

To Piguet (2008), even if those who are against the arguments which have been put forward for the climate change and migration discourse have stifled the eagerness of some scholars, misgivings concerning the notion of environmental refugees seem to be entirely vindicated. Through their theorising, they have spurred the scientific community to be attentive of the significances of their choice of terminology and point to the need for vibrant explanations of the diverse facets of the issues.

Another concern was how to conceptualise the term climate refugee, like environmental refugee before it. Hartmann (2010) noted that such labelling could further undermine the rights and protections of traditional refugees as defined by the 1951 Geneva Refugee Convention and the 1967 Protocol that goes with it. Although definitions of environmental refugees generally incorporated victims of climate change, climate change refugees can be seen as distinct from environmental refugees. It is critical to note that climate change (not like some systems of environmental commotion) is a universal occurrence that humans have significantly influenced (IPCC, 1990). That being the case, the international

community, notably the states who contributed most to the problem, ought to bear responsibility for alleviating the situation of those displaced by its effects (Docherty and Giannini, 2009).

Biermann and Boas (2008) recognised the prerequisite of addressing climate change refugees to be specific. For, Biermann and Boas (2008: p.8) climate refugees are:

...people who have to leave their habitats (immediately or in the near future) because of sudden or gradual alterations in their natural environment related to at least one of three impacts of climate change: sea-level rise, extreme weather events, and drought and water scarcity.

Although the definition by Biermann and Boas (2008) is tailored to climate change, it can be examined in line with same fundamentals used for the explanation of environmental refugees. Biermann and Boas (2008) make no peculiarities grounded on the oddity of the migration.

Firstly, while the text of their definition refers to ‘people who have to leave’, they openly cast-off voluntariness as a standard for defining whether a refugee is covered or not covered (p.6). Biermann and Boas (2008: p.6) argued that whether relocation is permanent or temporary should not matter. Ultimately, they do not distinguish between internal and trans-boundary migrants. Biermann and Boas (2008) objected to these distinctions mainly because they did not aim to see a situation whereby unlike classes of persons who run away from climate change occasions get dissimilar kinds of security. Rather, they base the parameters of their definition on the cause of relocation - that is climate change.

Biermann and Boas’ (2008) definition encompassed gradual and rapid environmental change since climate change can lead to both. To make sure that only climate-induced migration was covered, Biermann and Boas (2008) limited the kinds of environmental disturbances that could make refugees qualify for help to three undeviating and fundamentally undeniable climate change sways. These include extreme climatic events such as droughts, sea-level rises and scarcities of water (Biermann and Boas, 2008: p.4). Biermann and Boas (2008) did not cover events that they regarded as only peripherally related to climate change. For instance, they did not include in their definition impacts only loosely connected to migration (heat waves), migration caused by mitigation measures (construction of dams to alleviate water shortages), migration from other types of environmental disasters (industrial accidents and volcanoes) and impacts only indirectly linked to climate change (conflicts over natural resources). The definition by Biermann and Boas (2008) aimed to

incorporate all those who flee the most direct impacts of climate change. This definition, however, would have legal and scientific shortcomings (Docherty and Giannini, 2009).

This definition would make a huge number of people fit for assistance through the adoption of wide-ranging fundamentals linked to the nature of the migration. Nevertheless, in doing so, it runs counter to legal models related to the old-fashioned concepts of refugees (Docherty and Giannini, 2009). For instance, the definition takes an approach opposite to the 1951 Geneva Refugee Convention by encapsulating both refugees and Internally Displaced Persons and by not wanting the dislocation to be coerced. In the same vein, the focus of the definition by Biermann and Boas (2008) on enumerated climate change impacts seems too restrictive. To Docherty and Giannini (2009) it communicated the notion that the global community must bear accountability for destruction to which it has underwrote.

This does not, however, take into consideration of the likelihood that scientific advancements would create a platform for a more precise resolve of which actions are spurred by climate change. Docherty and Giannini's (2009) definition aims to address the inadequacies of Biermann and Boas' (2008) proposal. In line with other definitions, the proposal by Docherty and Giannini (2009) consists of six main elements that can be divided by their focus on the character of the migration or the character of the environmental harm. The definition confines the oddity of the movement line with the existing refugee law by precisely restraining climate change refugees in the type of their movement. The definition also takes on board a novel methodology to typifying environmental damage for which there is no vibrant legal correspondence, thus reconfiguring the latitude of climate-induced commotion to create a platform for scientific expansion. In thinning the kind of movement encapsulated, the definition proposed by Docherty and Giannini (2009) borders itself to coerced migration as a result of risks of the survival of a refugee. Refugees are coerced to move in risky situations when their place of residence becomes uninhabitable. Thus, they will be in urgent need of humanitarian assistance.

This component of the delineation took its methodology from both the principal legal prototype and theoretical literature, including the definitions by El-Hinnawi (1985) and Myers and Kent (1995). The proposed definition by Docherty and Giannini (2009) also covers relocation that is both temporary and permanent. In most cases, environmental disruption caused by climate change usually makes regions permanently uninhabitable. When a small island state is submerged below rising sea levels, its residents will be rendered homeless since their place of residence would have disappeared. Nonetheless, Docherty and Giannini (2009) argue that a sustainable definition ought to cover both types of relocation due

to the fact that humanitarian needs exist whether a refugee flees temporarily or rather permanently.

Refugees will be qualified for humanitarian help until they lose their status as refugees through obtaining a novel citizenship, willingly returning to their countries of origin, or declining to return to their countries of origin even when they can safely do so. Docherty and Giannini (2009) noted that there are legal and theoretical prototypes for this expansive methodology. The 1951 Geneva Refugee Convention does not make a peculiarity; rather, it shelters refugees whether they can come back to their original countries shortly after dislocation or whether they must relocate forever to novel areas. When it comes to environmental refugees, some scholars disagree on this issue, but El-Hinnawi (1989) and Dun et al., (2007) chose not to impose a temporal restriction. The definition of climate change refugees by Docherty and Giannini (2009) only covers refugees and not internally displaced persons. There are disagreements over whether the dissimilarity is a synthetic one or not. Taking on board the 1951 Geneva Refugee Convention's peculiarity concedes the emphasis of international law on the sovereignty of a country.

There is a recognition that host countries, to which refugees run away to, are more likely to assent to external help than are home countries which may not want intrusion from the global community. To Docherty and Giannini (2009), the characterisation of climate change refugee also precisely entails that the refugees be coerced not just to migrate, but to migrate to new countries. According to Docherty and Giannini (2009), this important detail makes sure that migrants do not have incentives to leave their state unnecessarily thereby potentially precipitating an international crisis because they believe they will receive better protection elsewhere.

Most writers who delineate environmental refugees do not distinguish between persons who relocate to new countries or within their borders. Ideally, at some point, international law will grant the same assistance for both climate change refugees and Internally Displaced Persons. Rather than covering migration caused by environmental degradation, as most definitions do, the definition by Docherty and Giannini (2009) refined the notion of disruption consistent with climate change. States around the world have contributed to or have been affected by climate change. That being the case, the displacement associated with it requires international attention. As it stands, science cannot determine if climate change caused environmental event. To Docherty and Giannini (2009) this makes a case-by-case analysis not feasible.

The IPCC (2007) has recognised numerous effects that define as ‘consistent with’ climate change. These impacts include more repeated famines, warmer temperatures, more strong rainstorms and surging levels of the sea. The IPCC (1990) designates the incidences of higher temperatures as ‘virtually certain’, and the other alterations listed above as ‘very likely’ or ‘likely’ (p.27). Contrary to Biermann and Boas’ (2008) list of disturbances, Docherty and Giannini (2009)’s suggested climate change refugee delineation incorporates, but does not itemise, a variety of climate-related environmental disturbances. This allows for developments in science that may illustrate that supplementary ones are constant with climate change.

The definition proposed for climate change refugee by Docherty and Giannini (2009) covered both sudden and gradual environmental disruption. From this standpoint, climate change is connected to an array of harms to the environmental, which ranged from abrupt rain storms to gradual desertification. Docherty and Giannini (2009) noted that the humanitarian needs of environmental refugees require a response whether it is from sudden disruption or gradual disruption. That being the case, the definition ought to apply to migration caused by either.

Though a number of scholars do not explicitly address this issue, Dun et al., (2007) came up with a definition which has a wide-ranging progressive latitude in their delineation of what can be termed an environmental refugee. Dunn et al. (2007) model seems the appropriate one for climate change. The proposed definition by Docherty and Giannini (2009) also called for a link between the actions of human beings and disruption to the environment. This link admitted the cumulative contributions of human beings to climate change though this is not connected to legal causality. Most definitions, however, take into consideration of anthropogenic and natural damage in their wider delineations of environmental refugee. Differentiating between them to Docherty and Giannini (2009) is important in the climate change refugee instrument they proposed. The latter is partly anchored on the notion that since human beings have been contributory to climate change, they must shoulder some blame and contribute to the welfare of those displaced.

The definition proposed by Docherty and Giannini (2009) does not insist on a strict standard of legal causation, nevertheless. Their climate change refugee definition dwells much on the humanitarian objective of caring for the victims. To Docherty and Giannini (2009), the acknowledgement of the contribution of human beings should work within the confines of prevailing and changing science. As it stands, science has not been able to prove the extent to which humans contributed to a specific event. Science can, however, determine

the likelihood that humans contributed to a type of disruption. For instance, the probability of the contributions of human being ranges from more likely than not (greater than fifty percent) for droughts to very likely (more than ninety percent) for temperature increases and sea-level rise (IPCC, 2007: pp.27; 39-41).

The definition of climate change by Docherty and Giannini (2009) adopted the IPCC's (2007) 'more likely than not' norm to integrate the variety of disruptions to the environment linked to climate change and associated displacement. Whereas the norm recognises a narrow unit of ambiguity, the cautionary standard expressed in the United Nations Framework Convention on Climate Change stipulated that technical uncertainty must not be made use of as a reason not to act (Docherty and Giannini, 2009). It is critical to note that the precautionary principle justified adopting a standard with less than one hundred percent certainty. To Docherty and Giannini (2009), outlining a wide-ranging character of disturbance and not itemising a list of varieties of disruption created a platform for the expansion of science.

The final component of the climate change refugee definition by Docherty and Giannini (2009) established a nexus between human activity and climate change displacement yet remained flexible enough to protect climate change refugees within the constraints of evolving science. The definition proposed by Docherty and Giannini (2009) required involuntary migration; short-term or perpetual relocation; cross border migration; disturbance caused by climate change; unexpected or slow disruption to the environment and a 'more likely than not' standard for the contribution of human beings to the disturbance for a refugee to be considered a victim of climate change. This delineation was crafted for a binding instrument and not for a common programme. Thus, this delineation restricted the category of persons it shelters in line of the existing legal doctrines and practice connected to the term refugee. The definition also struck a balance of constraints with the view of meeting humanitarian essentials and to also addressing the specific character of migration induced by climate change. One can therefore argue that such cautious creation of the delineation is vitally important since it regulates to whom the stipulated duties applied.

Zetter (2007) noted that applying the label refugee to any group of persons forced to migrate has become popular. Agencies responsible for the enforcement of immigration rules (notably in Europe) have fractioned the original refugee grouping through fashioning a bureaucratic grading of the eligibility of asylum seeking for the sole purpose of restricting the admittance of asylum seekers. Hartmann (2010) opined that it is in the backdrop of this politicised context that one should envision the progression of the concept climate refugee.

Hartmann (2010) noted that the United Nations High Commissioner for Refugees and the International Organisation for Migration have been cautioning against the use of terms environmental refugee or climate refugee because they do not have a basis in the international refugee law and can weaken the international legal system for the security of refugees. To the UNHCR, much movement caused by factors related to climate change are probably going to be within countries. Hence most people will not cross international borders as has been argued. McAdam and Saul (2008) therefore note that a more suitable legal regime for climate-related migration might be human rights law.

Climate change in the 21st century has also been seen both as a discursive and material phenomenon which calls for an integrative perspective of the knowledge of persons whose homes are in places affected by climate change along with the biophysical vicissitudes taking place in such areas (Farbotko and Lazrus, 2011). To Farbotko and Lazrus (2011) central universal discourses on climate change may imbed susceptible communities in unfair power relations relaying their destiny from their influences. Further, the notions of space, belonging and time which are mostly presumed by principal climate change accounts are not collectively shared. Somewhat, traditional standards and practices of certain clusters of people in a certain area of place are vitally important for understanding the meanings and consequences of climate change (Farbotko and Lazrus, 2011). Helplessness or the vulnerability to destruction in the face of climate change emanate from circumstances and universal power issues on the ground, Thus, vulnerability is entirely not a wholesome produce of change in climate or events related to climate change (Lazrus, 2009a; Ribot, 2010).

To Farbotko and Lazrus (2011), climate is changing, but its meanings are influenced by place and history and cannot be imposed from above without risk of disjuncture and injustices. Farbotko and Lazrus (2011) noted that evidence-hungry climate change and climate policy debate in the 21st century has changed alternate standpoints on the effects of climate stated and practiced by susceptible populations themselves to the margins. Thus, the discourse of climate refugee has led to the understandings of the world that are dynamically and recurrently converted as part of their construction. Like any other representations, representations of refugees, as are the representations of power by Foucault (1972), are neither static nor innocent. The representations of refugees have been vehicles for power. The representations are characterised by fluid ongoing claims of inclusion and exclusion. This has been dependent on the interests of those engaged in these representations.

Farbotko and Lazrus (2011) noted that the overriding symbols of climate change adaptation which put climate refugees at the centre are void of the fitting cultural meaning. They do not take into account existing resilience as well as the migration practices among the populations exposed to the effects of climate change such as sea level rises and desertification. The climate change refugee discourse may be unable to take on board the political and cultural pliability among the people under consideration. In climate change inquiry and policy, the movement is commonly and challengingly postulated as a practice which is isolated or dissimilar from adaptation (Warner et al., 2009; Raleigh and Jordan, 2010). Nevertheless, a redefinition of the correlation between migration and adaptation among bodies is necessary. Thus, this movement should be seen a possible part of the resolution and not an integral difficulty (Tacoli, 2009).

To political ecologists, such as Black (2001), Ribot (2010), and Tacoli (2009); and the transformation that is made by climate change to people who involved requires extension of issues pertaining to the dissemination as well as access to resources such as capital, infrastructure, water, land, institutions, the rule of law, kinship systems, education, aid and mobility. From this vantage point, Malkki (1992) noted that it becomes obligatory to contest the ideas of movement outlined as a compulsive condition of uprooted-ness and investigate widely how the effects of climate change intensify and reorganise the landscape of poverty, justice, and migration. Instead of thinking of climate change as a uni-directional factor which spurs migration, it is of critical importance to regard climate change and movement as part of a mesh of courses which can function in various ways depending on the situations of the power relations among people, place and the people in question (Black, 2001; Tacoli, 2009).

Black (1998) demonstrates that a blend of social conditions such as corruption, political instability, violent conflict and extreme poverty can go hand in glove with environmental degradation. This then creates conditions for displacement and makes communities unable to inadequately recover from a disaster. However, the term climate refugee supports the notion that climate is a unilinear vector, forcing unwanted migration. Therefore, the environment appears to create a platform for the creation of refugees hence blurring the fact that it is often institutional, and the socio-economic conditions of a marginalised community can turn a condition such a flood of a drought into a disaster (Ribot, 2010).

Farbotko and Lazrus (2011) noted that the definition of a climate refugee was delineated by a supposition that the term may apply to any of the varied climate change vulnerable populaces across the globe. For instance, it can apply to persons who must move

away from their households instantaneously or in the near future due to abrupt or steady changes in their natural environment associated to at least one of three impacts of climate change, which include droughts, water scarcities and sea-level rise. To Farbotko and Lazrus (2011), what has been lacking is that it takes for granted a climate crisis discourse while curtailing the likelihood of taking variances on board. This definition does not take into account whether cultural, political, or economic variances have any bearing in conceptualising climate change. Placing emphasis on uprooted-ness, rupture and changes from periphery to centre, the contemporary discourse on climate refugee is reinforced by a group of longitudinal expectations which places people displaced by climate change in positions of very specific migration courses.

The movement of people displaced is mostly believed to inexorably originate in the developing countries with the final destination being the developed countries, mostly Europe (Malkki, 1992; Tacoli, 2009). However, studies show that international migration only accounts for a minute proportion of all mobility. Thus, much international migration occurs within regions rather than towards high-income countries (Tacoli, 2009).

It can be argued that making assumptions about the type and direction of migration has the tendency of bypassing two questions. The first question is on the one contending that populaces would move to the developed world after displacements spurred by climate change. The second question is on the policy instruments which may create a platform for population to move in ways that will not lead people to be granted a refugee status and in ways which are congruent with local practices and preferences. To Warner et al., (2009), in instances where questions of that nature are not taken into consideration, the exaggeration of the term climate refugees is effortlessly retorted by intransigent policies thwarting migration without sincere concern for the wellbeing of the people included (Warner et al., 2009). Narratives on climate change refugees can safeguard the national security interests in the western world thereby increasing rather than addressing fundamental issues of social inequality (Hartmann, 2010).

To Farbotko and Lazrus (2011) the high circulation of climate refugee narratives in the 21st century is shaped in response to the inconspicuousness of much climate change phenomena to the naked eye or layperson's perspective. Logical concepts and noticeable entities have become fundamental ways to help the lay public to engage with the climate change debate. Non-governmental organisations have undertaken the translation of sophisticated climate change phenomena into event-based, visual narratives. Images of melting glaciers stranded polar bears and endangered islands seem to provide tangible

evidence through which climate change can be made knowable to those not familiar with scientific climate models. Thus, in a time of “continuing scepticism and inaction on climate change, these signifiers are more than pedagogical, they are highly political, implicated in the production of climate change as a crisis” (Farbotko and Lazrus, 2011: p.385).

To Farbotko and Lazrus (2011: p.386) the climate refugee discourse in the 21st century has to some extent become self-sustaining. As a result, the more journalists and environmentalists report upon climate refugees, the grander the importance of reporting on them and ‘save’ them as sufferers irrespective of whether alternate migration approaches are being pronounced by or put into practice by the populaces themselves. Thus, the evidence search for the effects of climate change on susceptible populaces has been fulfilling the climate refugee narratives’ prophecy. It has been argued that the image of the climate refugee is sustained as a sort of victim-commodity, which is newsworthy, used for point-scoring in politics as well as a human incarnation of climate change ‘evidence’ for environmental activists from the west who are concerned with saving the world from the climate change catastrophe. At the end, this has provided a narrow range of subject positions for inhabitants of the affected areas (Farbotko, 2010; Kempf, 2009).

Farbotko and Lazrus (2011) noted that even when the western world is imagined as a space of salvation for the victims of climate change, the imagined and produced victims are compacted and portrayed as fitting receivers of the sympathy and safeguard of the West. Giving an example of those affected by sea level rises as a result of climate change it has been argued that “when islanders are imagined having an inevitable destiny as climate refugees, causal and singular links of meaning between sea level rise and climate refugees are constructed” (Farbotko and Lazrus, 2011: p.386).

A vision of the future is created. This vision depends on an assumption that climate change victims (especially victims of sea level rise) have a particular and an inexorable meaning. This position is one that inclines toward environmental determinism and creates little opportunity for consideration of the power, politics and policy that also silhouette the ways in which people displaced come into being. To Farbotko and Lazrus (2011) the outcome of sea level rise is likely to be migration, but the significances are constructed socially and managed by authoritative forces of discourse and consequential policies.

2.3 Minimum Attributes of a Climate Change Refugee

From the different attributes, standards and benchmarks used to define climate change refugees propounded by numerous scholars and institutions, establishing a general

understanding of the concept and the ideals it embodies calls for an understanding of the minimum standards of a refugee as defined by the 1951 Geneva Refugee Convention. These minimum attributes represent qualities which should be encapsulated in conceptualising climate change refugees. Consequently, where they are observed and advanced, they connote the minimum standards for conceptualising climate change refugees. The quest to craft minimum standards for defining climate change refugees emanates from the need not necessarily to come up with the definition of a climate change refugee but rather to build clear benchmarks or standards, which should serve as a mark of applicability to those with an interest in the advancement of the concept both from theoretical and practical perspectives.

Understanding the legal and institutional frameworks for cross-border movement is of tremendous value in establishing their limitations in order to be in a better position to establish the minimum standards needed in defining climate change refugees. Borrowing from the 1951 Geneva Refugee Convention, Article 1, the Convention Governing the Specific Aspects of Refugees Problems in Africa (1969) defines refugees as people who seek international protection owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. Under the 1951 Geneva Refugee Convention a robust protection regime exists to protect people fleeing from persecution across national borders. However, this protection has strictly limited terms.

Under Article 1 of the 1951 Geneva Refugee Convention, contacting states are obliged to protect only certain, specifically defined people at risk, with the result that many forced migrants do not meet the refugee definition. It is generally acknowledged that neither refugee law nor human rights law covers people moving across borders to escape the effects of climate change. In recognition of the need to develop new responses to climate refugees, states meeting at the 2010 Cancun Climate Change Conference invited all states parties to undertake action on adaptation by proposing measures to improve the understanding, coordination and cooperation on climate change induced displacement and migration. This was specifically done to enhance planned relocation at the national, regional and international levels.

The current legal framework states that people displaced from their home countries due to climate change must not remain permanently in another country (Jastram, 2014). This lopsided analysis of the current legal framework does not therefore take into cognisance the severity of climate change, which might render some areas inhabitable. People who are permanently and externally displaced by climate change are often not protected by the law (Methmann and Oels, 2015). The vulnerability of people who migrate to another country

without proper documentation is increased by the fact that they face uncertainties in accessing basic rights, notably health care, social services and work permits (Methmann and Oels, 2015). Lack of access to basic rights results in poor living conditions detrimental to the physical, psychological and social wellbeing of climate change refugees. From this standpoint, the minimum attributes of defining a climate change refugee has been premised on the need to recognise people who migrate as a result of climate change contingencies.

2. 4 Towards a Common Understanding of Climate Change Refugees

An approach to the conceptualisation of climate change refugees needs to be at the epicentre of any such efforts to better understand the concept. The concept may not be a single concept at all. Rather, it can be considered a system of principles that relate to a number of issues. The concept anchors and stabilises legality without writing off what currently exists in defining refugees. It allows change and adaptation of the law governing the refugees with changes in legal practices in any state or region. As a result, if the concept entails institutional safeguards on one hand and values or qualities which are augmented by these institutions on the other, then it is desirable that conditions which dictate success or failure in the application of these norms should be examined in depth.

Admittedly, this categorisation does not answer the fundamental question as to why legal reforms which take into consideration climate change refugees succeeds in some countries (such as Switzerland) and fails in others (such as Spain). Still, it can shed light on what conditions reflect the need for reforms in the current refugee law regime.

A plethora of climate related factors has been contributing to the movement of people from their area of traditional settlement to another. Climate change as a contributing factor has a number of impacts, and these impacts are likely to have multiple causes (Okeowo, 2013). According to Ni (2015), it is undisputed that climate change has been contributing to leading to surges in seas, extreme weather events such as famine as well as scarcities of water. Whether events such as famines and scarcities of water are only partly linked to climate change, though their relentlessness, extent and incidence is predictably going to increase sharply in the coming years (Ni, 2015). The notion of climate refugees must not be solely restricted to migration caused by a rise in the sea level but also include victims of more severe tropical storms, more frequent water scarcity and drought (Ni, 2015). Amusan (2009) noted that coming up with a definition that is valuable analytically and acceptable politically as well as evocative for a global governance regime, calls for a restrictive notion of climate change-induced alterations of the environment. According to Amusan (2009), national

governments and the international community ought to offer environmental refugees care and protection through relief programmes.

Biermann and Boas (2010) noted that, while climate change has large impacts and most impacts are likely to have multiple causes, for both analytical and political reasons it is critical to specify climate refugees as a sub-set of environmentally induced migrations. From an analytical perspective, this specification to Biermann and Boas (2010) is critically vital in the crusade to develop information on the likely upsurge in international and domestic migration as a result of climate change. To Biermann and Boas (2010) the coupling of migration predictions to climate scenarios calls for a clear conceptualisation of the term climate refugees. From a political standpoint, it is critical to specify climate refugees because of the nexus of this type of migrants with the overall climate regime, its incipient debates on liability, compensation, equity and common but differentiated responsibilities.

As noted above, in a bid to conceptualise climate refugees in order to arrive at an analytically valuable and politically acceptable and meaningful definition for a global governance regime, Biermann and Boas (2010) proposed a restrictive notion of climate change-induced alterations of the environment. Thus, Biermann and Boas (2010) confine the concept of climate change refugees to the sufferers of a category of three unswerving and fundamentally unquestionable impacts of climate change stated above. It is fundamentally vital not to limit the concept of climate refugees to movement spurred only by sea-level rises (Biermann and Boas, 2010). Rather, it is important to take into consideration of those affected by serious tropical storms, famine and water scarcities.

The literature on environmentalism and environmental refugees suggests more specifications that can be of use in conceptualising climate refugees. As already noted, what has been proposed is the restriction of the term refugees to persons who are immediately forced to leave their homes and also forced to take into consideration of terms such as emigrants or migrants (Bates, 2002). The study by the United Nations University Institute for Environment and Human Security distinguishes between three sets of environmental refugees and these are the environmentally motivated migrants, the environmentally forced migrants and the environmental refugees (Renaud et al., 2007: p.29). Five categories of climate change refugees have also been differentiated depending on the extent to which the movement has been intentional, coerced or anticipatory, as well as whether environmental degradation is the main or merely an additional cause of migration (Jakobeit and Methmann 2007: p.11).

However, such distinctions are significantly hazy if they were to be operationalised for a legal and political protection regime (Biermann and Boas, 2010). It is not clear, for

instance, how categories such as involuntariness and anticipation can be applied in practice. Biermann and Boas (2010) argued that the building of long-standing circumstances of climate change effects that model water scarcities of sea-level rise will not be influenced by supplementary peculiarities between refugees, emigrants and migrants. Biermann and Boas (2010) noted that the legal operationalisation of such distinctions could have numerous ethical implications and political consequences. Differentiating between climate refugees, migrants and emigrants according to the degree of voluntariness of their moving would artificially minimise the scale of the problem. It could also create different levels of protection and support without much basis in political, legal or ethical criteria (Biermann and Boas, 2010). For instance, as noted earlier, Biermann and Boas (2010) note that a large group of people who manage to migrate to a new area in time because of information from climate scenarios can be denied the status of refugees. Rather, they can be classified as people who voluntarily opted to leave their land.

It is highly likely that these people will be placed outside any international governance instrument that controls the acknowledgement, security, relocation and reparation of those who migrate as a result of climate change (Biermann and Boas, 2010). Biermann and Boas (2010) noted that adopting voluntariness as a defining criterion would not be useful analytically. Rather it can be seen as morally dubious.

In a similar vein, Biermann and Boas (2010) argued that there is no value in the distinction pervasive in the refugee literature on whether environmentally related migration is permanent or temporary. Biermann and Boas's (2010) argument stems from the reasoning that this distinction does not help much in the immediate aftermath of an environmental disaster. Secondly, Biermann and Boas (2010) noted that the distinction between temporary or permanent refuge, while it may be relevant in some refugee situations, is largely not relevant when it comes to migration which results from the main climate change impacts such as sea-level rise.

The International Organisation for Migration and the UNHCR use the term 'environmentally displaced persons' (Keane 2004: p.215). These agencies seem not to prefer the term environmental or climate refugee due to the legal rights which the international structure presently confers upon refugees (Biermann and Boas, 2010). Biermann and Boas (2010) noted that the term refugee has stout moral connotations of communal security in most nations and faiths of the world. That being the case, through using this term, the safeguard of climate refugees would get the validity and determination it merits.

Generally, Biermann and Boas (2010: p.67) propose to define climate refugees as persons who immediately leave their homes or intend to do so in the near future mainly because of abrupt or slow changes in their natural environment linked to at least one of three impacts of climate change *viz.* droughts, water scarcities or sea level rises. This definition covers climate refugees in both developed and developing countries. Nonetheless, in practical terms, only climate refugees in poorer developing countries will be an issue of international concern, cooperation and assistance (Biermann and Boas, 2010). Stern (2006) noted that people from the developing countries are those who are most likely going to leave their homes and societies. This is due to low adaptive capacities, their often-vulnerable location in the face of climate change events, high population densities, pre-existing hunger and health calamities, low level of per capita income, often weak governance structures, and political instability among other factors.

The UNHCR (2009) noted that ecological and environmental changes have become a common cause of migration and forced displacement. These changes vary and can be sudden as seen during earthquakes or cyclones and can also be long term and gradual as in the case of desertification and land degradation (Kolmannskog, 2008). The effects of these natural disasters and climate change as noted earlier have prompted numerous scholars to conceptualise what has been termed the environmental refugees. A broad and influential definition of environmental refugees is given by Myers and Kent (1995), who stated that environmental refugees are persons who can no longer gain secure livelihoods in their original homelands due to unusual environmental factors such as drought, deforestation, desertification, soil erosion, water shortages and environmental change.

A formal definition of a climate induced migrant is yet to be developed despite years of debate. The International Organisation for Migration (IOM) defined environmental migrants as individuals or groups of people who are obliged to leave their homes and move either within their country or abroad, temporarily or permanently, owing to compelling reasons of sudden or progressive change in the environment that is detrimental to their lives or living conditions (Jastram, 2014). Distinguishing between voluntary and forced climate change induced migration is complicated by the fact that the onset of climate change is slow. Seeking convincing responses to climate induced migration is difficult due to the broad nature of the concept. To Jastram (2014), environmental refugees are people who have been forced to leave their area of settlement temporarily or permanently owing to environmental disruptions whether natural or human induced that put at risk or has the potential to affect their quality of life. Okeowo (2013) noted that natural disasters such as cyclones and storm

surges also contribute to the displacement of people. Since environmental disruptions expose people to risks, they induce displacements as people try to find secure environments that will also enable them to gain secure livelihoods.

The literature on environmental refugees suggests further useful specifications in conceptualising climate refugees because, as noted above, the current definition of the term refugee is restricted to people who are forced, with immediate effect, to leave their homes (Jastram 2014). It is noteworthy, however, to note that the extent to which the academic classification helps in predicting and resolving the climate refugee crises is doubtful. Okeowo (2013) noted that academic classifications and distinctions are vague if operationalised for the purposes of legal and political protection. It should be noted that the practical application of the involuntariness and anticipation categories lacks clarity.

The financial and institutional capacity of the migrants correlates with the distinction between voluntary migrants and forced migrants (Okeowo, 2013). Additional classification of migrants, emigrants and refugees does not affect climate change impacts that model water scarcity. The legal operationalisation of these discrepancies could have austere moral consequences and administrative costs. Jastram (2014) noted that differentiating between emigrants, migrants and climate refugees according to the gradation of voluntary migration may curtail the extent of the difficulties and can generate diverse levels of security and help without much basis in legal, political or ethical standards.

2.5 The Climate Change Refugee as an Export Product

Having examined the minimum attributes which can collectively be considered when conceptualising climate change refugees, one may wonder whether the norms and benchmarks used to consider a person a climate change refugee by one country or region can be successfully exported from one country or region to another. This question is posed in light of the ongoing attempts by international actors to build a new global refugee law dispensation which recognises climate change refugees. These actors are guided by the assumption that all people migrating from their homes as a result of climate change need to be recognised internationally. It is through establishing common values and norms which guide the international community that can enhance the recognition of climate change refugees.

Can a country or region considered to be recognising climate change refugees successfully transfer its rules and values to another country or region? This question is pertinent especially when considered in light of the prevailing belief of those who push for

the review of the current refugee law regime on the basis it is lopsided and hence incomplete. In other words, they see the necessary ingredients missing in the current refugee law regime.

The argument of those who champion for the review in the existing refugee law regime has been that if destination countries and even sending countries want genuine economic and social progress, they ought to commit to the reconfiguration of the existing refugee law regime by taking the trajectory taken by Switzerland and Norway. Nevertheless, those who push for the reconfiguration of the current refugee law seem not to articulate and unpack the nitty-gritties which should make up the new refugee regime; rather it is taken as self-evident.

It is partly on the basis of this belief that the refugee law discourse has witnessed a resurgence of international and supranational organisations as actors in their own right. Together with a countless number of non-governmental organisations, these organisations have been advancing their own causes by pushing, challenging and monitoring states to comply with the values and the institutional legal order which will take into consideration climate change refugees. If the norms and values used to define and offer sanctuary to what are termed climate change refugees can be exported from a certain country (from countries such as Switzerland and Norway for instance) to another, then it is worth asking what kind of the world is imagined by the exporters. Further, it can also be asked what the theoretical and historical imperatives are that drive the process. It is argued that international actors have different assumptions which underpin their involvement in pushing for the reconfiguration of the existing refugee law regime. The United Nations presupposes that anyone migrating from one place to another in order to be given sanctuary ought to satisfy certain benchmarks in order to be considered as a refugee.

That being the case, the United Nations' involvement in building the refugee and migration cluster is partly motivated by the need to promote human rights, peace and stability which are seen as vitally for human progress. In a similar vein, it can be argued that the efforts of international institutions such as the International Labour Organisation is evidently geared towards advancing their core interests of making sure that third country nationals do not leave for first world countries. The key reason behind this is to make sure that international companies have fertile ground to outsource labour to third world countries where labour will inevitably be cheap.

Collectively, institutions involved in the reconfiguration of the current refugee law regime internationally, within a region or a country, assume that countries which recognise what are called climate change refugees have gone a long way in recognising the

humanitarian needs of those who are displaced by the ravages of climate change. They also assume that these countries enjoy peace, stability, uphold human rights and democratic ideals and have also taken the lead in ushering in a society premised on justice and equality. Even then, there is little evidence to back up the assumption that rectifying laws and erecting institutions meant to give climate change refugees sanctuary will lead reliably and predictably to the emergence of a robust commitment to the more substantive aspects necessary to realise these assumptions as imagined by these international actors.

It is also pertinent to inquire into the aims of those who push for the reconfiguration of the existing refugee law regime. Insinuations of the need to reconfigure the existing refugee law regime seem to push for the need to adopt the models which have been adopted by countries such as Switzerland and Norway. So why do the scholars who push for the need to reconfigure the existing international refugee law regime push for the need to model the new regime against what has been done on a national level? There are multiple considerations involved in the export of the climate change refugee models from one country to other countries (and inevitably to the international community) by various actors. Since the needs of refugees are usually not different and mostly revolve around the need to be recognised as legal and to be given the right to work freely without any victimisation, recognition of people who cite climate change as the cause for their migration from their homes may work internationally. It is on this basis that a global consensus and the broader recognition of climate change refugees forms an integral part of the needed reconfiguration of the existing refugee law regime.

As acknowledged by the United Nations in the rule of law cluster, the failure of state institutions anywhere in the world weakens the protection of every state against transnational threats such as terrorism and organised crimes. In the same vein, it can be argued that the non-recognition of climate change refugees in one region or one country can have effects on the universal rights of refugees globally. Hence pushing for the reconfiguration of the existing refugee law regime to include climate change refugees by following the example set by countries such as Switzerland and Norway are presented by those who push for the reconfiguration as a matter of necessity rather than choice. Increasingly, the global campaigns against the emission of greenhouse gases through implementing measure which reduce the amount of greenhouse effects so as to fight against the effects of climate change (as seen in the signing of the Paris Climate Change Agreement in 2016) continues to define and underpin perspectives on the need to recognise climate change refugees.

This raises the question of whether the need to fight against climate change through reducing the emission of greenhouse gases will necessarily push the countries such as the US, China or the United Kingdom to consider climate change refugees in their lexicon. In other words, will the increasing commitment of the global superpowers¹ to fighting global warming lead to their increased commitment to recognising climate change refugees? Both the EU and the US (at least during the presidency of Barack Obama), arguably the largest donors to the climate change cause, have not done much to address the plight of not only climate change refugees but refugees at large. Thus, the plight of refugees who qualify to be called refugees under the current refugee law regime, especially those from Africa (for those aiming to reach Europe) and those from the Caribbean Islands (for those who aim to reach the US), seem not to be prioritised as one would expect. The fate facing numerous refugees in the Mediterranean and the Pacific Ocean bears testimony to the hostile approach that the global superpowers have been taking when it comes to dealing with the surge of refugees aiming to reach their shores in search of sanctuary.

The nature of their border policing activities has been increasingly repulsive and generally unwelcoming. For instance, the patrols at sea by the EU border policing agencies such as Frontex and the US's maritime patrols have been leading to massive deaths of refugees in the Mediterranean Sea and the Pacific Ocean respectively. From this vantage point, it can be argued that the seeming commitment of the global superpowers to fight against climate change does not include pushing for the changes needed when it comes to redefining the term refugee in order to include people who would have been displaced by climate change.

Perhaps, those affected by the scourge of global warming may benefit from the efforts by the EU and maybe Canada and Australia in fighting against climate change. Yet, there is a danger that the seeming lopsided commitment to the effects of climate change will overshadow the needed reconfiguration of the refugee law regime to include climate change refugees.

The commitment to fighting against climate change has not been only limited to just making sure that greenhouse gases emissions are reduced. The countries which are at the forefront of the fight against climate change seem to have been making use of resources in some countries in order to foster community resilience. Despite the surge in the use of the resources which are meant to foster resilience in countries which are severely affected by

¹ Countries which have been emitting large volumes of greenhouse gases and have the largest industrial bases are considered as the global superpowers in this study.

BAKING DESERT, COLD RECEPTION? CLIMATE CHANGE DRIVEN MIGRATION AND INTERNATIONAL LEGAL PROTECTION: THE CASE STUDY OF THE SAHEL REGION

climate change induced displacements, not much has been done to make the current refugee law regime recognise what can be termed climate change refugees.

The expulsion of those who cite climate change as the reason behind their migration to new areas has continued. An example of how affluent countries which are mostly desired destination countries for most refugees have turned a deaf ear on the calls for increased recognition of those displaced by climate change can be seen in the hostilities displayed by Spain against refugees from Africa who were at one point shot whilst they tried to swim to Spain. The EU as a supreme regional body which should have sanctioned Spain as a member state seem not to have not done much either. It is this kind of hostility which raises questions as to whether the refugee rights architecture which has been set up in some countries to address the plight of climate change refugees can be exported to other countries and ultimately influence a reconfiguration of the current international refugee law regime.

The major questions on the export of a refugee law regime which recognises climate change refugees export are whether or not it can, and should, be done. Before answering these questions, it is useful to examine who should be the exporter. In the same vein, the importer of the refugee law architecture which recognises climate change refugees should also be asked. It can be argued that in situations where climate change has become a major driver of displacement, the exporter of a refugee law architecture which recognises climate change refugees should be the countries or regions affected by the problem of climate change while the importer should be the destination countries or regions. The perennial challenges facing countries and regions most affected by climate change is that they are poor and do not have the economic, political and social capital needed in the campaign to influence the reconfiguration of the existing refugee law architecture.

This is true especially if one looks into the input and even the influence countries such as Bangladesh or Burkina Faso have in the climate change discourse, notably during meetings on what should be done to deal with the ripple effects of climate change. The influence of these countries is minimal despite the fact that climate change is a reality in their countries, and it is a reality they have been living with for years. Underlying the export of the refugee law architecture which recognises refugees who are displaced by climate change should not be difficult. But what makes it difficult is that there seem to be an undefined rule as to who should define climate change refugees. The same goes with defining the nature of the support that should be given those who are climate change refugees.

The goal is not simply to construct or to call for a reform of the existing refugee law regime, it is about the capital needed to influence changes on a global stage. Unfortunately,

those who are affected by climate change (and arguably in a better position to have greater insights on how the reconfiguration ought to be) simply do not have the needed capitals. Several assumptions are made, such as that cutting back the emission of greenhouse gases which are deleterious to the ozone layer thereby leading to global warming will inevitably lead to the rolling back of the detrimental effects of climate change, hence leading to a halt in the surge of those who migrate as a result of climate change. Yet, those who are at the forefront of emitting greenhouse gases (global superpowers responsible for the emission of greenhouse gases and arguably have the power to influence policy) seem not to have so far articulated a mechanism for changing the existing refugee law regime so that it will consider climate change refugees. The idea that if the greenhouse emissions are reduced, then the effects of global warming which have been driving migrations will be rolled back is treated as self-evident. This idea is submitted without an examination of how the plight of those who are currently being affected by climate change will be dealt with. It is also submitted in a scenario where there is no admission that there is need to accept those who are displaced by climate change as refugees.

The climate change refugee as an export product faces an array of challenges because the bracket of those who ought to be included and regarded as climate change refugees keeps on expanding depending on where those displaced come from. Thus, those from Oceania (mostly from Tuvalu and Kiribati) will cite sea rises as the reason behind their migration whilst those from the Caribbean Islands will cite incessant earthquakes as the reason behind their migration. Those from the Sahel region will cite desertification as the reason behind their migration. In other words, different environmental changes which will come in the name of climate change ought to be encapsulated when conceptualising a climate change refugee. From this narrative, the climate change refugee will be interpreted differently in order to achieve a wide range of objectives. Increasingly, in some Western countries, the incidences of extreme weather conditions are an opportunity to reconfigure the existing refugee law regime in order to include climate change refugees.

Civil societies in these Western countries are confronting their governments in a bid to push them into doing something about those displaced by climate change. Yet, following the surge of refugees as a result of prolonged conflicts and persecution of civilians in Syria, those who have been migrating as a result of genuine persecution have not been given the sanctuary that they are entitled to as stipulated in the 1951 Geneva Refugee Convention. The concept of refugee has been covering and still covers a wide range of elements that are increasingly becoming difficult to analyse. That being the case, it has increasingly become

difficult to determine whether the needed protection of refugees can be achieved within the prescribed context by different actors. Despite the ongoing activities by international institutions and donor countries to raise the global awareness on climate change induced migration and their efforts in trying to push for an increased recognition of climate change refugees, it seems these actors have dismally failed to actively engage and integrate the needs and aspirations of the presumptive beneficiaries in what they conceive and understand to constitute what can be termed a climate change refugee.

For example, even though those who campaign for more recognition of those displaced by climate change are against definitions which are homogenising, the programmes undertaken by these institutions and actors to achieve the recognition of climate change refugees seem to be homogenising. The definitions also seem to exclude the inputs of those displaced themselves as Farbotko and Lazrus (2011) noted. In a similar vein, little efforts have been made in trying to reconcile and inter-relate different assumptions which are inherent in the climate change discourse into a coherent goal worth a common pursuit. It becomes dangerous to export the climate change refugee discourse on different countries, regions and ultimately the international community without a robust and clear conceptualisation of these issue.

In addition, new institutions created to deal with the plight of climate change refugees ought to reflect the present and future needs of those who would be given sanctuary. Further, it is critical for these institutions to articulate how the existing laws require amendment, modification or modernisation, or whether they should be abolished or replaced with different laws altogether. The nature and methodology of the export will determine whether the climate change refugee mantra can successfully be exported to other countries, especially those which have been grappling with what has been termed a refugee influx. The methodology of the export of the laws which have been crafted in order to give people displaced by climate change sanctuary to the international community is likely to depend on the willingness of the aforesaid global superpowers to accept that climate change has led to the massive displacements of people. For example, in the US, the export will depend on the willingness of the US government to accept people fleeing countries such as Haiti where incessant earthquakes have devastated their livelihoods. In Oceania, the export will depend on the willingness of countries such as New Zealand that indeed oceanic rises are displacing Tuvaluans and Kiribatians. In Europe, the export will depend on the willingness of the EU to recognise those who are fleeing climate related contingencies from the Sahel region as refugees.

2.6 The Content of the Export

If the climate change refugee concept (and the laws which have been adopted to recognise and give them sanctuary) can be considered as an export product, what is the kind of product that is exported or imported? The argument here is that before attempts to export the concept of the climate change refugee are made, exporters must know the needs of their 'clients' or importers. It can also be argued that exporters also need to know and unpack the kind of product that will suit the needs of the importers. Further, they should be mindful of what they are exporting - not simply anything they consider to be the correct concept 'best practice' or 'international standards' as applied somewhere. This is notably in countries where climate change refugees have been recognised with Switzerland and Norway being key examples. From this standpoint, importers must be informed and certain of what they are importing and whether the product itself conforms to their atypical needs and milieus.

Arguably the bargaining power between the exporter and importer is clearly tilted in favour of the latter. The former is either too weak or too poor to clearly articulate effective strategies which should be put in place in making sure that climate change refugees are given the sanctuary they need in the same way those who suffer persecution are given. That being the case, the success or effectiveness of this process will greatly depend on how the importer exercises its dominant position to ensure that the unique needs and prevailing conditions in their countries are taken into account before the final import package is accepted.

The primary value of giving sanctuary to climate change refugees is derived from the understanding that institutionalised legal rules and structures constrain and regulate both the state and regional apparatus as well as the broader international refugee legal institutions, thereby establishing new rules on the management of refugees and also maintaining the established rules. Thus, the primary goal of exporting the climate change refugee concept and the laws which have been adopted to recognise and give them sanctuary should be premised on influencing the targeted importers to see climate change as a reality and hence the refugees who come as a result. This will therefore prompt them to reform or build institutions that should take into consideration climate change refugees and ultimately call for a reconfiguration of the existing international refugee law regime. It is possible to export a set of rules which takes into consideration climate change refugees, but it can be a mammoth task to make sure that those rules are adhered to on a national, regional and worse on an international level. Indeed, in most Western countries, what is missing is not only the binding rules which recognise climate change refugees, but it seems there is a general denial that climate change is a truism not a fallacy. That being the case, it seems there is unwitting denial

that those who are displaced by climate change related calamities ought to be given sanctuary.

Institutional reforms which will take recognition of climate change refugees generally require the acceptance that climate change is a truism not a fallacy. Hence, it is a key factor behind massive migrations of people to new areas in search of sanctuary. This it can be argued is something that cannot be forced but must come from within those where the said export is intended to be exported to. The export of the rules recognising climate change refugees ought to consider of the priorities of those which the exports are intended for when arguing for reforms in an increasingly terror-ridden context. This argument stems from the reality that the reforms do not take place in a vacuum.

It seems every Western state has become a target of terrorism and it is a fact that those who come as asylum seekers have been implicated as the main perpetrators of this terrorism. Against the backdrop of this terrorism scare, there are often quasi-institutional means for toughening the existing refugee policies to such an extent that most have become very restrictive. That being the case, reforms which will open the doors for more refugees are likely to get a lot of resistance.

Reconfiguring the existing refugee law regime cannot be undertaken as a self-evident enterprise. International institutions, donors and civil society cannot assume that all it takes to reconfigure the existing refugee law regime is to create institutions resembling those that already exist in other countries which they consider having done the rightful thing when it comes to recognising climate change refugees. Thus, the new institutions must advance strategies for making these destination countries feel safe, as well as feeling that the burden of giving refugee to these people is fairly shared among those countries these refugees see as preferable destinations. The danger of attempting to export the rules on climate change refugee management to countries and regions who do not see climate change induced migration as a reality is that the whole export efforts may be wasted, and the process might come to a halt.

The question of 'best practices' has been controversial in most scenarios. This is evident in the development discourse where the assumption has been that if something worked somewhere then it will work everywhere else. The argument has always been that models which would have worked in any Western milieu can succeed anywhere even on an international level. In the same vein, it has always been argued that ideas which the Westerners see as irrational will not gain traction anywhere and will not succeed in any way.

But these arguments, however meritorious they might be, conveniently ignore the reality that climate change is a reality and has been affecting third world nations in an unprecedented way such that many people are migrating and becoming refugees as a result. In any case, these refugee influxes have mostly affected developing countries and regions more than what has been peddled in the Western media. Sub-Saharan African countries which are just outside the Sahel region have seen more of an influx of climate change refugees than the United Kingdom. Certainly, an import which seems to give sanctuary mostly to citizens of the third world may be repugnant to known norms of international refugee law created by the Western world. Nonetheless, it is equally true that change cannot come overnight. A system which has existed for years cannot be successfully replaced by a phenomenon such as climate change, which many nations consider to be a farce.

2.7 Constitution of an Effective Report

After activities of building the institutions which recognise climate change refugees, how will the success, progress or failure be measured? Refugee law reform initiatives, if they are to be effective, must be patterned on the minimum attributes articulated and identified above. These attributes ought to encapsulate a legal framework which has human rights standards. One can argue that it is through these benchmarks that success, failure or progress is to be measured. It is also within these benchmarks that responsibility can be exercised. The conceptual divergence among theorists, experts and donor agencies has meant that parties assessing them may have something quite different in mind to those who ought to implement them.

In a similar vein, this mottled understanding of what should constitute the definition of a climate change refugee among different constituents may likely produce competing and conflicting standards in different countries, regions and ultimately at the international level. The vitality of this approach is that minimum attributes give a clear framework of objectives which reflect what is needed in the reform process. Aligning the refugee law reforms with these attributes will finally enable the reformers to pattern their reforms against established objectives instead of pursuing reforms that may have little or nothing to do with those who these reforms are intended to benefit. One of the institutions that has fallen victim to this conceptual anarchy of defining the term refugee has been the United Nations itself.

Examining the United Nations definition of the term refugee encapsulated in the 1951 Geneva Refugee Convention, which has been used since the last amendment of 1967 when the 1967 Protocol was adopted, it can be noted that the definition of a refugee which has been

used since 1951 has been confined to defining a refugee as someone fleeing persecution. Thus, the issue of persecution has been overarching and omnipresent since the enunciation of the 1951 Geneva Refugee Convention and the enunciation of the 1967 Protocol. This highly inflexible approach to defining the term refugee, which solely sees persecution as the key element, has become highly controversial given the realities of climate change and the displacing effects it has had over the years. The existing definition assumes that political persecution is the only driver of migration. Clearly, this approach to conceptualising a refugee has a tendency of obviating any meaningful inclusion of new factors which have been spurring the migration of people to new areas as refugees. Any attempt to measure success or failure of reforming the existing refugee law regime to include climate change refugees ought to clearly articulate what a climate change refugee is from its several problems that have seen defining the concept as a mammoth task. This clear conceptualisation should be made to see if there is anything at all in the concept itself that is coherent and capable of being analysed. This conceptualisation will make sure that a new international refugee law regime can be put in place.

It is highly unrealistic for those who push for a reconfiguration of the existing refugee law regime to conceive their own assumptions. It is difficult because to them the existing regime constitutes a functional refugee law regime. The problem is that it does not articulate what climate change is in the first place and does not clearly state the ripple effects of climate change migration. If no scientific evidence is provided to prove that changes in climatic conditions are in fact the cause of the surge in people who migrate to new areas in search of sanctuary, if there is no clarity in the concepts used and as noted by McGregor (1993: p.162) that in as far as environmental refugees conflate the notion of victims of disasters and refugees, its usage encapsulates the risk that the main features of refugee security can be diluted and the lowest common denominator taken on board. If there is no clear pronouncement of the basic instruments involved, the number of people affected and the geographical areas concerned, it will clearly be difficult to measure success or failure of the reconfiguration of the existing refugee law regime.

In such instances it is highly unrealistic to measure the success of the reconfiguration on the basis of such supercilious benchmarks and assumptions. Progress and failure should be measured against minimum standards and not vague assumptions imagined by the reformers. Due to this unclear conception of the issue and the failure to articulate a clear definition of what climate change refugees are, the concept should be reclaimed especially by those involved in the push to reconfigure the existing refugee law regime. The reclamation of that

concept will make sure that vital facts are clearly articulated first, thereby making the reconfiguration easier. It can be reclaimed by ensuring that efforts to usher in the needed reconfiguration are underpinned by the ultimate objective of achieving minimum attributes of the climate change refugee concept. This is to be recommended in light of the tendency of those who aim to make sure that climate change refugees get international recognition to achieve a wide range of goals which unfortunately may not be in correspondence with what qualifies someone to be seen as a refugee.

When arguments are given that desertification is indeed a major driver of people to migrate and seek refugee somewhere, this argument may fail to gain traction. Some nations, such as Qatar or Saudi Arabia have been deserts for time immemorial and, despite this, people from Qatar seem to have never opted to migrate to new countries in search of sanctuary. The advantage of reclaiming the climate change refugee concept is that it will enable actors involved in the reform process to measure the impact or success of their efforts through well-established objectives reflected in these attributes. It will further address the challenge of 'conceptual anarchy' where the climate change concept is conceived and justified to achieve a wide range of goals and objectives of different actors which may have nothing to do with the aims of those affected.

It is counterproductive to invoke the concept of the climate change refugee to justify a wide range of activities aimed at addressing the plight of climate change refugees by pushing for their international recognition which may have nothing or little to do with those in whose name these activities are undertaken. The biggest challenge facing the current refugee law reform initiatives is very much related to the constant invocation of the concept of climate change refugee to justify the need for Western countries to open their doors for more asylum seekers, a situation which these countries consider as detrimental to their progress and wellbeing given the terrorist scare which seems to have surged with the increase in the number of those given sanctuary in these countries. Hence, reclaiming the concept begins with acknowledging and embracing minimum attributes as key benchmarks upon which all reforms should be patterned.

The danger of reviewing the existing refugee law regime to include climate change refugees as one of the key milestones of showing remorse for the problems arising from emitting greenhouse gases on a grand scale has seen even genuine efforts to achieve this goal being resisted by some quarters who view the whole enterprise as a 'hoax' and a fallacy. Arguably, initiatives meant to help third world citizens to be resilient in the face of

environmental calamities such as earthquakes can generally contribute to the improvement of their livelihoods and plight. But before efforts are made to reconfigure the existing refugee law regime, efforts ought to be made to clearly articulate the hazy concepts and provide scientific evidence that climate change is indeed a reality and not a fallacy.

2. 8 Conclusion

This chapter has demonstrated that the continued conceptual anarchy regarding what has been termed a climate change refugee has meant that the concept is understood to mean different things to different people. Due to this fact the chapter has identified minimum attributes of the concept which provide clear benchmarks for those interested in reconfiguring the existing refugee law regime. The chapter has argued that there is a great need for coherence and clarity of key sticky issues which will make the reconfiguration of the existing refugee law a worthwhile or credible endeavour. This coherence can be achieved when reforms are based on minimum attributes articulated above. It has also been emphasised that constant invocation of the climate change refugee concept to justify activities which in some cases have no correlation with those who are expected to support them can be detrimental to the overall efforts of reconfiguring the current refugee law regime.

It has therefore been suggested that the concept 'climate change refugee' needs to be reclaimed by actors involved in the refugee law reform from the conceptual anarchy to ensure that their efforts reflect key issues which makes the reconfiguration a worthwhile endeavour. Reclaiming the climate change refugee concept will entail a need to make sure that the applicability of the concept is limited to building strong institutions and nurturing values that underpin these institutions. Reclaiming the climate change concept will help actors who push for the reconfiguration of the existing refugee law regime to regain the credibility and legitimacy of their arguments in the eyes of those who see climate change as a major cause of migration as hoax and a fallacy.

Chapter Three: The Impact of Climate Change on Migration in the Sahel Region

3.1 Background

This chapter introduces the Sahel region as the focus area of this study. It examines the process of climate change in the Sahel region and connects the climate change process to the overall migration of people to new areas as either internally displaced people or international refugees. It addresses the general livelihood insecurity issues within the wider Sahel region context. This aspect is underpinned by the fact that, due to climate change contingencies, desertification of the Sahara Desert being chief among them, most citizens of the Sahel region have been facing livelihood insecurities.

The relevance of this chapter is to demonstrate how climate change has been happening and how this process has been affecting the livelihoods of people in this region. The desertification characterised by lack of pastures for livestock and general food shortages for the human population has been prompting people to migrate. Migration to newer areas has been seen as a means of adaptation. This migration has led people to new places where they have been seeking refuge. This aspect is significant because, among the key attributes discussed in the introductory chapter, these people are not recognised as refugees under the current refugee law regime. This chapter will demonstrate how changes in the environment have been leaving people with no other option but to migrate to new areas in search of sanctuary.

The chapter will examine a brief prognosis of countries in the Sahel region, and provide an examination of general livelihood strategies of the countries in the region. The effects of climate change on the countries in the region will be examined with a special focus on how it has been prompting people to migrate to new areas. It is imperative to discuss the climatic changes in the Sahel region in order to clearly articulate how these have had deleterious effects on livelihoods in the Sahel region. Although the effects of changes in the climate seem to be evident, the specific effects of these changes in the Sahel region warrant further enquiry. For example, the populace of most countries in the Sahel region are predominantly pastoral and depend on rain-fed agriculture to survival.

The effects of climate change on the migration of people to new areas therefore need to be considered, including what should be done in order to make sure that the livelihoods of people in this region remain secure. An investigation will consider why the indigenous adaptation strategies have been failing to make people more resilient so that they will stop migrating to new areas. It is in the hope of understanding these complexities that this chapter

will discuss the climate change in the Sahel region and how it has been spurring the migration of people to new areas as refugees.

3.2 Brief History of the Sahel Region

Home to millions of people, the Sahel region is made up of countries which lie between 12°N and 20°N. The region experiences two major climatic conditions. These climatic conditions are made up of one rainy season with August receiving the highest level of rainfall whilst most months of the year are dry. The area is made up of countries from the Atlantic coast to the Red Sea. These countries are Mauritania, Senegal, The Gambia, Mali, Burkina Faso, Niger, Nigeria, Chad, Sudan, Ethiopia, Eritrea Cape Verde, Guinea-Bissau and Djibouti. Most people living in this area live in the rural areas. Though the population differs across the region, the population growth has surpassed that of any other region over the past twenty-five years (United Nations Population Division, 2011). The most rapid population boom in recent years has occurred in Niger and Liberia, closely followed by Burkina Faso, Sierra Leone, Benin and Chad (World Bank, 2010). The Sahel region is characterised by pervasive poverty and low development with a few exceptions in Nigeria and Ethiopia.

Most people in this region depend on rain-fed agriculture and other activities such as pastoralism and farming. As noted above, the population is largely rural, and mostly relies on subsistence agriculture. Nevertheless, due to the rapid urbanisation which has taken place in the region over the last decades, the informal urban sector which includes small-scale merchants, artisanal craftsmen and services continue to employ a surging number of the urbanites in the broader region (ECOWAS-SWAC/OECD, 2007). Mining and oil drilling constitute the major formal economic activities. Manufacturing is done marginally hence imports are larger than exports.

The independence decolonisation of most countries in the Sahel region saw a significant number of conflicts. These conflicts included large-scale interstate wars, civil wars and localised fighting. For instance, Burkina Faso and Mali fought a protracted interstate war known as the Agacher Strip War in 1974 and 1985. This war was mainly fought over land which was thought to contain substantial natural resources, such as natural gas and minerals. Chad, Guinea-Bissau (1998-1999) and Senegal (1990) have all grappled with civil wars. Military take-overs of governments have also taken place in Chad, Guinea-Bissau, Mauritania, Niger and Senegal.

There have been civil wars in countries which share borders with some of the countries in the Sahel region. There have been civil wars in countries such as Ivory Coast

(2002-2007 and 2010-2013), Liberia (1989-1996 and 1999-2003) and Sierra Leone (1991-2002). The movement of rebels into peaceful countries during these civil wars has had a destabilising effect on the regional security. For instance, the political crisis following the 2010 elections in the Ivory Coast has led to several months of unrest and violence. Issues which have contributed to a surge of conflicts in the Sahel region over the past years include historical tensions between ethno-linguistic groups and the legacy of colonial power, poor governance, marginalisation of various social groups and corruption.

Conflicts have also been occurring due to successive droughts, greater rain variability, and the ill-adapted responses by governments and societies to these changes (Comité permanent Inter-Etats de Lutte contre la Sécheresse dans le Sahel, 2003). In particular, land issues are a central concern for communities, states and international institutions. In most countries, land ownership is synonymous with uncertainty (Comité permanent Inter-Etats de Lutte contre la Sécheresse dans le Sahel, 2003). In addition, cross-border migration has also become a source of tension between transhumant livestock breeders and inhabitants in pastoral areas (Organisation for Economic Co-operation and Development, 2007). It is critical to note that these conflicts have remained a threat to social peace and have been inimical to development in the region.

The Sahel region is characterised by complex natural resource governance systems. These systems combine customary structures with rules and laws which trace their roots to the colonial era. The resource governance systems also reflect reforms which were undertaken by various governments during the 1980s-1990s. Due to this disconnect, the overlap among these three resource governance systems as well as a lack of capacity and resources to implement reforms, serious challenges for the effective governance of natural resources in the region have arisen. This has contributed to further environmental degradation, hence conflicts at a local level. In other words, land tenure issues have led to clashes since land is the main source of livelihoods for most of the people. The United Nations Environment Programme (2011) noted that, after their independence, most countries in the Sahel region continued to manage their land using the rules and laws which they had inherited from the colonial era. During the 1990s, numerous countries however made attempts to reform their land tenure systems. This was done after having noticed the pitfalls of colonial policies when it comes to the resource governance systems. The attempts to revise the resource management systems were made through decentralisation initiatives.

These initiatives attempted to reform their land and natural resource laws in order to address the failures of former policies (Bolwig et al., 2009). Through this decentralisation, it

was hoped that there would be local-level development. However, because of limited technical capacity and insufficient financial resources at the local level, effective management of common property resources such as land proved not effective (Ouedraogo, 2006).

Despite the enhanced participation at the local level after these decentralisation initiatives, national political authorities have often continued to hold ultimate influencing power. Further, implementation has been a challenge since new laws seem to lack a mechanism for application. The new initiatives could not be implemented also because they were not well known and were also poorly followed by relevant stakeholders. In most cases, therefore, both customary and statutory systems continue to exist and overlap, hence confusion over land rights, land ownership and land access.

Hybrid livelihood strategies which combine farming and livestock rearing have increasingly been adopted as a means of mitigating climate related contingencies. This has, however, undermined the traditional complementarity and interdependency between farmers and herders. This has as a result increased competition for suitable land (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006). In order to complement the decentralisation initiatives, new policies formally recognised pastoralists' rights to key resources. In 1993, for instance, Niger adopted the Rural Code which states that pastoralists had priority rights to use natural resources in designated pastoral zones (Hesse and Thebaud, n.d.). The same laws meant to control pasture were also been implemented in Guinea (1995), Mauritania (2000), Mali (2001) and Burkina Faso (2003) (Hesse and Thebaud, n.d.).

While provisions to support pastoralism were an improvement, implementing legislations which are not sensitive to changes in climate and resource availability can encumber pastoralists from effectively adapting to the extremely unpredictable Sahelian environment (United Nations Environment Programme, 2011). This was further been compounded by the highly sectorial approach that is generally taken to manage natural resources. The result was competition and confusion between differing government institutions. It has also failed to account for multiple uses of the land by livelihood groups such as agro-pastoralists (Hesse and Thebaud, n.d.). National land policies and reforms have also failed to take into account transboundary or regional dimensions of land and natural resource management. Figure 1 shows the Sahel region between 12°N and 20°N.

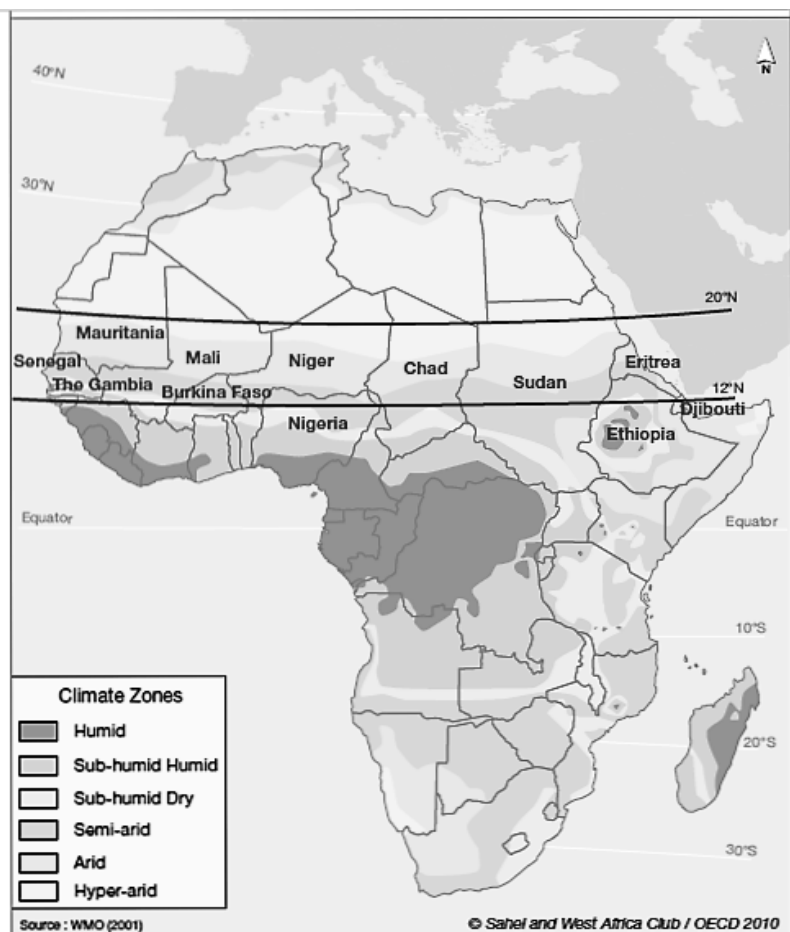


Figure 1. The Sahel region. (Source: Sahel and West African Club/OECD, 2010).

3.3 Mapping Historical Climate Trends in the Sahel

Studies showed that existing climate models are in significant disagreement over projected climatic and environmental changes in the Sahel region. In particular, there were disagreements over the general trend for precipitation. Disagreements are on whether the region will become wetter or dryer in the coming years. Models tend to agree, however, on temperature projections that suggest an increase in temperature, particularly during summer months. This projected increase is likely to be greater than the global average, with estimates showing a three to four degree Celsius ($^{\circ}\text{C}$) increase by 2100 (United Nations Environment Programme, 2011).

In addition to rising temperatures, forecasts also indicate greater frequency of extremely hot seasons. To identify where past droughts led to the largest difference in precipitation between drought and non-drought years, studies also conducted sensitivity analyses based on historical observations. Sensitivity analyses note three particularly sensitive areas: the western parts of Senegal and Mauritania, the region stretching between Mali and Niger and the region along the eastern fringe of Ethiopia that extends north towards

Sudan. Studies highlight acute vulnerabilities to climate variability in the region due to the population's high dependence on agricultural activities and limited opportunities for alternative income generation activities.

3.3.1 Changes in temperature

Studies depict an overall rise in mean seasonal temperature in most countries in the Sahel region from 1970 to 2006 of approximately 1°C. There have been very significant increases of temperature ranging between 1.5°C and 2°C in the north of the region including far eastern Chad and the northern regions of Mali and Mauritania. Increases in temperature of 1°C to 1.5°C have been observed across Mauritania, Mali, Chad and the very northern portions of Niger along the border with Algeria and Libya while increases between 0.5°C and 1.0°C are found along the Atlantic coast from Senegal to Togo, in certain parts of Cape Verde, in most of Niger, in southern and central Burkina Faso and in western Chad. Studies also show that less marked increases of up to 0.5°C have occurred in much of southern Mali, northern and western parts of Burkina Faso, northern Guinea and Ivory Coast, coastal Liberia, pockets of Senegal, south-western Niger and most of Nigeria. The data also showed that from 1976 to 2006 nearly 50 per cent of the total area and almost 50 per cent of the total population of the countries in the Sahel region experienced a 0.5°C to 1°C increase. Some fifteen per cent of the population experienced a more significant increase of 1.0°C to 1.5°C.

3.3.2 Areas vulnerable to sea-level rise

The IPCC predicted an eighteen to fifty-nine-centimetre sea-level rise globally by the year 2100 (United Nations Environment Programme, 2011). Nevertheless, more recent reports predict that there is likely to be global sea-level rises of close to a metre or more by the end of the century. This will be as a result of the faster melting of the ice sheets in Greenland (Arctic Monitoring and Assessment Programme [AMAP], 2011).

In the Sahel region, sea level rises are expected to have a major effect on some countries with coastal areas. The most vulnerable areas are near Nouakchott in Mauritania, which is located two to three metres below sea-level. Much of the western coastal zone of the Sahel, including parts of Senegal, The Gambia, Guinea-Bissau, Guinea, as well as further south all the way to Sierra Leone, is also vulnerable due to its low elevation (0-1 m above sea-level). Studies show that these areas are also likely to be affected by flooding. Sea-level rise could also have an impact on agricultural production that occurs on or near the coast. This is likely to cause saltwater intrusion into freshwater lagoons and lake systems.

3.4 Livelihoods and Climate Change in the Sahel

The United Nations Environment Programme (2011) noted that the countries in the Sahel region are among the most vulnerable regions to future climate fluctuation. Due to substantial population growth, severe and continuing degradation of natural resources would result in increasing poverty and food insecurity (United Nations Environment Programme, 2011). It is projected that by 2025 the population of the Sahel region will reach a hundred million. Migration as an adaptation strategy to climate change is not a new phenomenon in the Sahel region. During the 1970s up to the 1990s, many people migrated to new areas due to climate change. The significant movements of population from the northern regions of the Sahel toward the south and coastal countries, following the ecological crises of the 1970s, 80s, and 90s, bear testimony to climate change.

To date, the nexus between climate change, migration and conflict remains sophisticated. It has become a mammoth task to establish direct interlinkages between climate change impacts, natural resource degradation and the political, economic and social factors that influence the decision to migrate. Nevertheless, with climate change threatening the integrity of ecosystems that are already made vulnerable by a rapidly growing population, it seems that this situation might fuel competition over natural resources and trigger movements of people and conflicts.

With an area of 7.4 million km², the Sahel region is made up of the transitional zone between the arid Sahara and the tropical forest that borders the maritime coast. Desert and semi-desert areas in the northern parts of the region gradually give way to tall grass savannah, followed by savannah woodland, while the southernmost and coastal parts of the region are dominated by a semi-humid and humid tropical climate with equatorial and tropical-zone rainforest (Strahler and Strahler, 2005). The landscape is fairly flat, with mountains in the northern parts of the Sahel, reaching upwards to 3,400 m in elevation in parts of Mali, Mauritania, Niger and Chad (Houero, 1980). Lake Chad and the Niger, Senegal and Gambia Rivers are the main water basins in the region. The Niger River basin is Africa's third largest after the Nile and Congo and is shared by up to eleven countries. Major lakes in the region are Lake Faguibine in Mali and Lake Chad which borders Chad, Nigeria, Niger and Cameroon (Houero, 1980).

The Economic Community of West African States, Sahel and the West Africa Club and Organisation for Economic Co-operation and Development (2006) noted that groundwater resources range from shallow aquifers that are refilled seasonally to ancient sedimentary water basins, which are non-renewable and difficult to access, reaching depths of

up to two thousand metres. The United Nations Environment Programme (2011) noted that both surface and groundwater are highly dependent on seasonal rainfall which is characterised by strong variability and irregularity across the region. With the most rainfall falling between July and September, rainfall can vary by more than one thousand millimetres over a north-south distance of seven hundred and fifty kilometres, from the arid zones in the north to the humid and sub-humid zones on the coast (Z_GIS, 2011). The desert-like climate in the far north receives an average of only two hundred millimetres of rainfall per year, while the more humid climate in the southern part of the Sahelian semi-arid belt receives an annual average of some six hundred millimetres (Z_GIS, 2011).

Approximately three hundred millimetres of rainfall is the maximum limit at which rain-fed agriculture can be practiced and, that being the case, agriculture has shifted southward in recent years (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006). Further, a variation of more than thirty per cent in the length of the rainy season can be experienced from one year to the next (United Nations Environment Programme and World Agroforestry Centre, 2006). This cycle of dry years and wet years is a typical feature of this climate. Desertification and sand intrusion are a threat in the arid northern regions where sand encroachment negatively affects the growth of seeds and renders some production areas sterile (Afifi, 2009). Sand intrusion from desertification also threatens major water sources in the region.

Regardless of the significant seasonal fluctuations in rainfall, erratic crop yields, poor soil, and depleted fish stocks, farming, herding and fishing remain the main sources of livelihoods in the region. As noted earlier, rain-fed agriculture is the dominant method used by both farmers and herders at the subsistence level, with few mechanical inputs to enhance production, and low monetary income (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006). Only a small proportion of arable land in the region is irrigated. The main sources of water for the irrigation are from the Markala dam along the Niger River in Mali and Senegal's Manantali and Diama dams at the mouth of the Senegal River (Nyong, Adesina and Osman Elasha, 2007).

Additionally, flood recession agriculture occurs along some rivers and lakes, allowing farmers to grow crops in the soil moistened by the inundations of the rainy season. Farmers typically live in permanent settlements, growing millet, maize, rice and sorghum. Raising domestic animals also provides supplementary income (United Nations Environment

Programme, 2011). The main cash crops in the Sahel region are groundnuts and cotton (United Nations Environment Programme and World Agroforestry Centre, 2006). Pastoralists raise livestock and cultivate crops along various seasonal nomadic routes. Generally, pastoralist move from northern to southern pastoral areas during the dry season of October to June, and back north during the wet season (Wane, 2006).

Major freshwater fishing takes place along the Niger and Senegal rivers and Lake Chad. Coastal fisheries are found along 3,500 km of coast spanning Cape Verde, the Gambia, Guinea-Bissau, Guinea, Mauritania, and Senegal, including the Saloum Delta. Fish is also a key food source across the region. Fishing is notably important for communities living near lakes, rivers and the coast. Further, much of the population also depends on the collection of raw natural resources for daily subsistence. Many of these resources come from forest areas. Numerous people in the Sahel region also depend on forest resources to supplement their main livelihood of farming, herding or fishing. Wood is the main source of energy in the region. Forests also support livestock during the dry season by providing woody fodder, which is high in water content (Fleury, n.d.). Non-wood forest products are also important for livelihoods and food security. Dependence on forest products generally rises when agricultural production is low, during droughts or other natural disasters. Food products such as fruits, roots, leaves, and bush meat are traded and consumed at the local level (African Development Bank, European Commission and Food and Agriculture Organisation, 2003).

3.5 Livelihood Vulnerability

The vulnerability of herders, farmers and fishermen to the impacts of climate change comes from an array of climate and non-climate factors (United Nations Environment Programme, 2011). Indicators of climate change include slow-onset changes in temperature, poor rainfall leading to droughts and occurrences of sudden-onset and extreme flood events. Sea level rises have also been seen as a problem. These changes in climate have acted as threat multipliers to a number of existing vulnerabilities faced by people in the Sahel region (African Drought Risk and Development Network, 2008). It is important to note, however, that the region has for long been subject to considerable climate variability which is not related to anthropogenic climate change. As noted earlier, rainfall varies sharply across the region, with differences of more than one thousand millimetres over a north-south distance of seven hundred and fifty kilometres (Z_GIS, 2011). There can also be a variation of more than thirty per cent in the length of the rainy season from one year to the next (United Nations Environment Programme and World Agroforestry Centre, 2006).

It is critical to note that changes in climate such as greater rainfall variability or rising temperatures affect the availability of natural resources and increase vulnerabilities resulting from food and water scarcities. Further, other effects of climate change in the Sahel region have included negative health impacts due to malnutrition and favourable conditions for disease transmission (United Nations General Assembly, 2009). Ineffective governance compounds these challenges through vague or contradictory land policies as well as poor natural resources management capacity. This has in turn contributed to environmental degradation (The United Nations Interagency Framework Team for Preventive Action, 2010). Livelihoods in the Sahel region have long adapted to high rates of climate variability. Migration has been seen as one of the effective coping mechanism. In some cases, climate variability has led to conflict due to limited resource availability and access.

Studies show that increases in temperature have been affecting pastoral and agro pastoral areas the most (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006). For instance, a study in Burkina Faso depicted that a temperature increases of more than 2°C could result in a decrease of 15-25 per cent in the yields of millet and sorghum in Burkina Faso and Niger by 2080 (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006). In a similar vein, it is estimated that with an increase of 2°C, maize yields will drop by five per cent (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006).

In the long term, the yields of rice are expected to be reduced as a result of further increases in temperatures (Comité permanent Inter-Etats de Lutte contre la Sécheresse au Sahel and Centre Régional AGRHYMET, 2010). It has also been predicted that there will be a significant decline in global cereal production by 2050, with a significant decrease experienced in the Sahelian belt from Niger to Senegal (Food and Agriculture Organisation, 2008). Increased temperatures are expected to change the spread and occurrence of numerous diseases and pests, such as locusts. This would have potentially serious consequences for the health of plants and animals, as well as human health (Tratalos et al., 2010). Nevertheless, studies showing how an increase in temperature affects livelihood practices in the region remain uncertain. It is not clear how potential changes in evapotranspiration rates and water availability will affect livelihoods.

The main issue of concern from a livelihood perspective in respect to rainfall is related to changes in rainfall variability and their effects on food security (Comité permanent

Inter-Etats de Lutte contre la Sécheresse au Sahel and Centre Régional AGRHYMET, 2010). The livelihoods of farmers and pastoralists are most affected by changes in rainfall patterns which affect the livelihoods of farmers and pastoralists due to loss of soil from intensive rain events and poor crop yields from changes in the coming of the rains. Changes in rainfall also affect the prevalence of crop pests since improved ecological conditions such as soil moisture and vegetation cover can promote their development (Tratalos et al., 2010). Pastoralists are notably affected by changes in rainfall that occur in the arid and semi-arid areas of the Sahel and influence the availability of shrubs, grasses and water sources for livestock. Where rainfall is reduced, the availability of water for cattle and fodder production is affected. This then has been leading to changes in migratory patterns for pastoralists. When traditional patterns are disturbed, studies have shown that there is a weakening of the social fabric. The weakening of the social fabric leads to a loss of confidence, as well as increased mistrust within and between communities (Comité permanent Inter-Etats de Lutte contre la Sécheresse au Sahel and Centre Régional AGRHYMET, 2010).

The Sahel region has experienced three major drought periods during the last century: 1910-1916, 1941-1945 and a longer period starting in the 1970s. The droughts which started in the 1970s seem to be ongoing despite some interruptions due to one-off seasons which will receive adequate rains. The United Nations Environment Programme (2011) noted that large areas of Chad, Mali, Mauritania and Niger faced between six and ten drought seasons between 1982 and 2009, with smaller pockets experiencing between eleven and fifteen. Smaller areas of Burkina Faso, Senegal and Nigeria as well as all the islands of Cape Verde were also affected by a high number of drought seasons. The incidence of drought across central and southern Sahel has generally been lower with eight additional countries (Senegal, the Gambia, Guinea-Bissau, Guinea, Sierra Leone, Côte d'Ivoire, Ghana and Benin) experiencing between three and five drought seasons and Togo between one and two (United Nations Environment Programme, 2011).

Since 1971 over sixty-two million people in the broader Sahel region were affected by drought. These people have, as a result, required emergency assistance (International Disaster Database, 2011). Studies show that seasonal droughts, which are recognised as a primary cause of food insecurity, have long affected the Sahel region (Devereux, n.d.). Between 1969 and 1974, for instance, drought across the region led to the displacement of millions of farmers and herders in search of alternative livelihoods. Most people displaced by these droughts have moved towards cities (Piguet, 2008). Droughts undermined crop yields and led to reductions in food availability within individual households. The food shortages ultimately

led to food shortages at the national level as well. This decline negatively affected the income of farmers and that of states which depended on the sale of agricultural goods (Devereux, n.d.).

In the Niger case study, the 2005 food crisis was driven by an invasion of locusts and drought. This led to a reduction in food availability and an inability of poor households to purchase food (World Food Programme, 2005). Combined with changing rainfall patterns, seasonal droughts contributed to changes in livelihoods. Agro-pastoralism became increasingly popular. This livelihood strategy combined both farming and livestock breeding was a strategy used to mitigate increasing climate uncertainties (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006). As a result, interdependency between farmers and herders decreased, while increasing competition for suitable land to farm and graze animals.

Besides food shortages resulting from droughts, flooding in the Sahel region has caused many deaths. Due to flooding, large numbers of people have also been displaced to new areas notably due to the lack of preparedness and infrastructure to address intense rainfall. Floods that devastated Burkina Faso in 2009 and southern Benin in 2010 led to the displacement of hundreds of thousands of people. These risks are likely to become more acute if the frequency and severity of flooding increases. Additionally, floods in 2010 for instance led to major crop losses in most countries.

3.6 Migration and Climate Change in the Sahel Region

No migration' is not an option in the context of future environmental change: migration will continue to occur in the future and can either be well managed and regular, or, if efforts are made to prevent it, unmanaged, unplanned and forced (Beddington, 2011: p.11 cited in Jastram, 2015: p.752).

Peul Mbororo of Chad stated in *Moving Stories: The Sahel* (2012, para. 2):

Migration has now become an inevitable method of adaptation for us ... As a means of survival for us and our animals, we are forced to continuously migrate despite all the risks involved. This is our form of adaptation. We have always mastered it, but if nothing is done to ensure the safety of our space and activities, we risk, one day, being forced to abandon our way of life and join the swelling ranks of the unemployed in the city.....

Seasonal and circular migration has been seen as a traditional positive adaptation strategy to climate variability in the region (Warner et al., 2009). Pastoralists graze their livestock in the north during the wet season and move south during the dry months (Wane, 2006). The Fulani herders have for years used migration and the nomadic herding of cattle, goats and sheep as an adaptation strategy against seasonal climate variability (Nori, Switzer and Crawford, n.d; Tonah, 2002). Farmers and herders in the Sahel region also move in search of short-term employment to supplement incomes and diversify their skills (Bleibaum, 2009). Those who migrate in search of seasonal labour move from the arid parts of Mali, Mauritania and Niger to plantations and mines on the coast of Ivory Coast, Ghana, Nigeria and Senegal.

Much of the male farming population work in large towns or cities during the dry season and return to the countryside for the rainy season (Bleibaum, 2009). In the same vein, many fishermen in the region (both coastal and inland) have also long used migration as an adaptation response. The fishermen move to new areas in search of better catches, higher market prices as well as seasonal work opportunities. Young fishermen leave for months and in some instances for years in the hope of returning with savings. These remittances are a major source of income for many poor rural families and, as such, an important element in their resilience to economic and environmental shocks and stresses (Afifi, 2009). This seasonal labour migration creates income diversification through the transfer of funds, knowledge and skills to recipient communities (United Nations Environment Programme, 2011). In order to encourage open borders and the free movement of people and goods, the Economic Community of West African States removed short-term visas through the 1979 Protocol on the Free Mobility of Persons, Residence and Establishment (Adepoju and Levin, 2007).

In order to further develop this policy, the Economic Community of West African States introduced regional passports in 2000. Though the passport aims to facilitate the movement of people, the challenge that remains is that those who are most vulnerable to climate change are frequently the most disadvantaged and unable to migrate to new areas (Brown, 2008). Migration in the Sahel region is largely regional in nature – generally along a north-south axis – rather than from the region to other parts of the world (United Nations Environment Programme, 2011). Certainly, there is a strong nexus between coastal West African countries and Sahelian countries, as traditional transhumance routes cover the whole West African region. Over two-thirds of emigrants from Burkina Faso, Ghana, Guinea, Mali,

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Mauritania, and Niger remain within West and Central Africa (International Organisation for Migration, 2008).

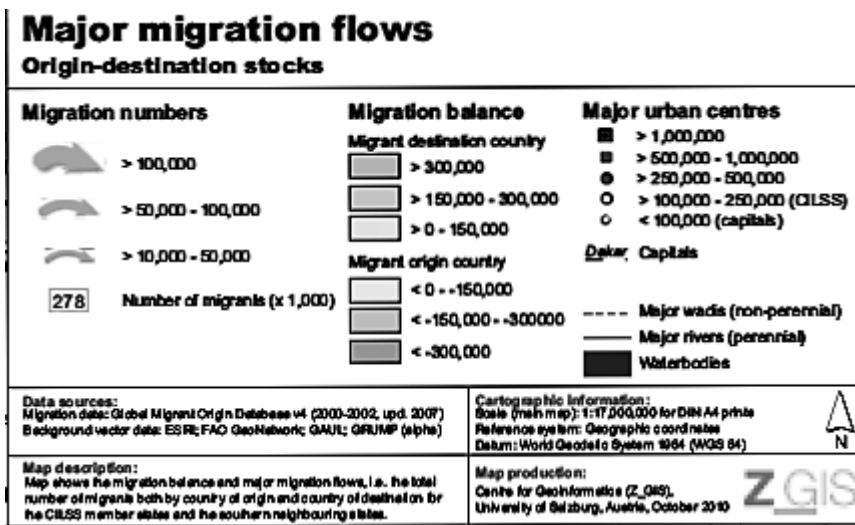
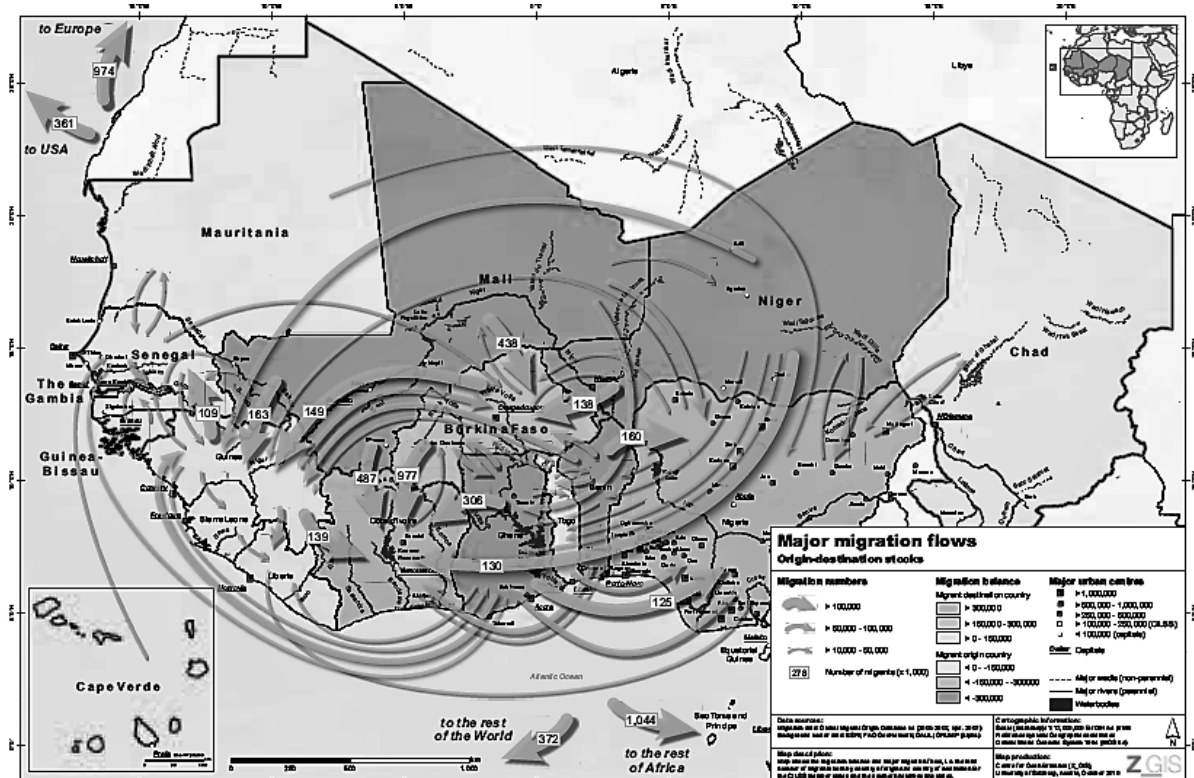


Figure 2. Major migration flows in the Sahel and its key (Source: United Nations Environment Programme 2011: p.24).

It is difficult to isolate the role of climate change from socio-economic motives in the assessment of migration decisions (Busby, White and Smith, 2010). The definition of environmental migrants used by the International Organisation for Migration has become useful in framing the parameters of defining climate change migrants. Known as environmental migrants, climate change migrants are persons or groups of persons who for compelling reasons of sudden or progressive change in the environment that adversely affects

their lives or living conditions are obliged to leave their habitual homes or choose to do so either temporarily or permanently. These migrants will move either within their country or abroad (International Organisation for Migration, 2009). This all-encompassing definition encapsulates the different forms of migration, from traditional adaptation to changing environmental conditions, to forced migration as livelihood groups fail to adapt.

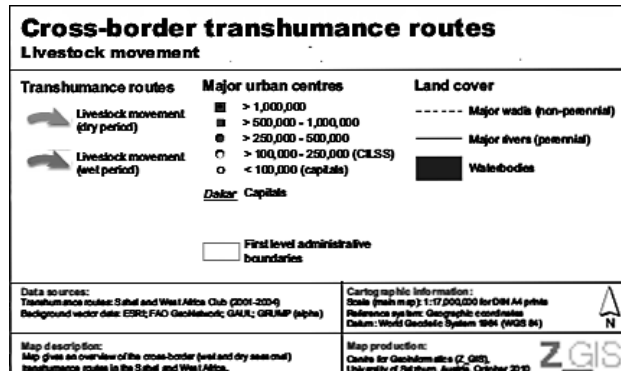
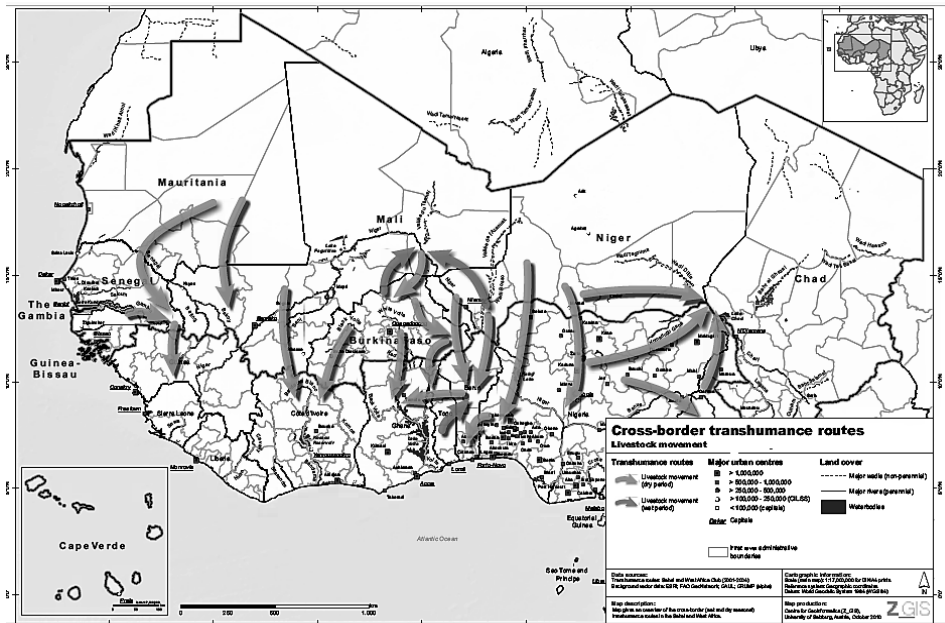


Figure 3. Transhumance routes in the Sahel region and the key (Source: United Nations Environment Programme 2011: p.19).

As a result of numerous climate related changes, many agricultural areas in the region are characterised by low productivity and already degraded natural resources (Batterbury and Warren, 2001). Increasing variability of rainfall and recurrent drought have been cited as major push factors in the migration of many farming and other natural resource dependent communities (Henry, Schoumaker and Beauchemin, 2004). During the long period of drought that lasted from the 1960s to the 1990s, an estimated one million people left Burkina Faso. Most of those who left Burkina Faso have since resettled in urban areas throughout West Africa (Brown and Crawford, 2008). Studies show that in the Sahel region the traditional

temporary and seasonal migration patterns of many farmers, herders and fishermen in the region are increasingly being replaced by a more permanent shift southward and to urban areas (United Nations Environment Programme. 2011). These novel, more permanent migration patterns are a result of a combination of push and pull factors.

Drought has also had a significant negative impact on pastoralist livelihoods. For instance, the 1982-1984 droughts in Niger led to a significant decline in the cattle population in the country. This has been due to a combination of southward migration and the direct loss of animals. The 2005 food crisis resulted in an early southward movement of agro pastoralists to coastal areas in search of grazing land (Economic Community of West African States, Sahel and West Africa Club and Organisation for Economic Co-operation and Development, 2006). Drought and rainfall changes have also contributed to a decline in water bodies and the subsequent migration of fishermen. Most fishermen have been migrating to other lakes where fish can still be found. However, over the years, the numbers of lakes, rivers and coastal regions with enough fish have been dwindling. That being the case, it can be noted that poor rains and temperature increases coupled with irrigation schemes, have contributed to evaporative losses and reduced runoff into water bodies. Droughts have also reduced vegetation cover and have contributed to greater sand deposits in the Niger River basin, the Senegal River, Lake Chad, the Logone/Chari River system and their respective tributaries.

For instance, the dramatic changes resulting from poor rains are found in the drying of Mali's Lake Faguibine in the 1970s. This forced more than two hundred thousand farmers and fishermen to abandon their traditional livelihood practices in search of alternative livelihood strategies. As a result of the silting of water bodies which used to be ideal for fishing, some fishermen migrated to Burkina Faso's Lake Bagre and thousands have been migrating to other lakes (United Nations Environment Programme, 2011). It has also been noted that Lake Bagre is now the most populated zone in the country and continues to receive a high rate of migrants (Sustainable Fisheries Livelihoods Programme, n.d.).

Extreme weather events such as floods have been having devastating consequences for natural resource dependent livelihoods. Floods have been leading to losses in livestock, farmland, crops, homes and critical infrastructure as well as water supply systems and irrigation networks (Armah et al., 2010). In addition, the impact of flooding is exacerbated in the region by the poor absorption capacity of the soil due to the hard, crusted terrain and limited vegetation. This has as a result increased the inundation of water catchments, river plains and low-lying areas. It has also led to the degradation of land and has also led to the

washing away of the topsoil (Fox and Rockstrom, 2003). That being the case, floods have been having both immediate and lasting effects on food security. This has led to significant losses of income for both farmers and herders. It has also acted as triggering events contributing to migration by destroying homes and critical infrastructure.

While sudden-onset events have been causing large scale movements of the people, millions in the Sahel region seem to have been displaced by sudden-onset climate related disasters (International Organisation for Migration, n.d.). However, these movements tend to be relatively short-term and localised, with most people returning as soon as possible to rebuild their homes (Africa, Climate Change, Environment and Security Dialogue Process, 2010). Further, slow-onset events, which include sea-level rises, have also been acting as triggers. It has been predicted that these will lead to environmentally induced migration.

3.7 Conclusion

The chapter has discussed climate issues and how the changes in climate change influenced the movement of people from one place to another in the Sahel region. It has been shown that changes in temperature, sea level rises, flooding, erratic rainfalls and desertification have prompted people to move from one place to another. It has also been shown that the general livelihood insecurities brought about by change in temperatures (notably surges in temperatures), erratic rains (leading to droughts in most instances), sea level rises (leading to flooding of some farmland) and ultimately the encroaching of the desert sand (leading to the siltation of large water bodies) have prompted people to move to new areas. It was shown that due to the challenges of climate change which have often prompted people to use migration as an adaptation strategy, conflicts usually arise over resources use (notably between pastoralists and sedentary farmers). On examining the nexus between climate change and migration, there is increasing evidence that changes in climatic conditions across the Sahel have been one of the drivers of migration of people to new areas in search of new livelihoods options.

Chapter Four: Climate Change and Climate Change Debates and Initiatives

4.1 Introduction

This chapter introduces the issue of climate change refugees and how the concept has been conceptualised since the 1980s. The concept is examined in light of the global initiatives which have been initiated in order to deal with those who have been conceptualised as climate change refugees. It is this initiative which raises some questions pertinent to the protection of climate change refugees. Further, these initiatives also raise some questions on the advancement of a new refugee law regime which recognises climate change refugees on an international level. The core aim of this chapter is to understand the ways in which climate change related migration squares with the advancement of human rights and reconfiguration of existing international refugee law to include climate change refugees.

Can one contend that by regarding climate change as a truism, the international community is likely to create an environment more amenable to promotion or the reconfiguration of the existing refugee law in order to include climate change refugees? Or, more fundamentally, can the claim of climate change driven migration provide fertile ground for the reconfiguration of the existing refugee law to include climate change refugees? The discussion in this chapter will analyse the debates on climate change since the 20th century. This chapter then analyses the global responses to climate change by specifically examining various international and regional instruments such as the Copenhagen Conference initiatives, the Cancun Adaptation Framework and the Nansen Initiative. The analysis of the Nansen Initiative and the Cancun Adaptation Framework is done in a bid to understand these aims to address the plight of climate change refugees. The chapter will further examine how the climate change refugee concept has been understood and framed not only as a mechanism to recognise those who migrate to new areas as a result of climate change but also as a justification for granting these people sanctuary and giving them humanitarian help.

4.2 Global Responses to Climate Change and Climate Change Induced Migration

Islands becoming uninhabitable or disappearing as a result of sea-level rise raise the issue of the legal status of the citizens and legal rights of these States, including over fisheries. [...] Legal and political arrangements may be necessary for the protection of affected populations. (UN GA, 2009: 21).

The need to mitigate climate change has dominated the debate on global environmental governance over the years. It is evident that efforts aimed at mitigating the scourge of climate change have not been enough and seem to have come belatedly. In recent years, the international community's willingness to assist climate change induced migrants seem to have been increasing. A few system and initiatives have therefore been developed. These systems range from multilateral instruments to policy formulations. Multilateral bodies have been expressing commitment to address the protection gap which has often side-lined climate change refugees.

4.3 The Copenhagen Conference

In December 2009, delegates from one hundred and ninety-three countries met in Copenhagen, Denmark, for a United Nations summit on climate change. The aim of the Copenhagen Conference was to develop a new international agreement. The delegates at the 2009 Copenhagen Conference endeavoured to unify nations in constructive steps that would collectively fight the current effects of global warming and pre-empt future harm. However, establishing a combined voice that includes diverse interests and needs proved a mammoth task. Revkin and Broder (2009) noted that the Copenhagen Conference was weighed down with contentious talks that exemplified the immense difficulty to forge consensus among the disparate blocs of countries fighting over environmental guilt, future costs and who should referee the results.

Numerous delegates from developing nations which are more vulnerable to climate change were excluded in negotiations between highly developed and influential countries such as the US, China and India. Developing nations attended the Copenhagen Conference as a united front in order to stand for their citizens who are losing their homes and livelihoods to rising sea levels and desertification. Regardless of the numerous pleas for international help, the Copenhagen Conference concluded without the delegates committing to a legally binding international agreement (Dewitte, 2010). Rather, the outcome of the Conference was the Copenhagen Accord.

This accord was described by the then United Nations Secretary-General, Ban Ki-Moon, as the "first truly global agreement that will limit and reduce greenhouse gas emissions, support adaptation for the most vulnerable and launch a new era of green growth" (Dewitte, 2010: p.231). Participating nations recognised the Copenhagen Accord by consensus. They failed, however, to make it a binding international treaty with the ability to enforce the terms agreed to at the conference (Kanter, 2009). Some delegates were

“disappointed that the . . . [Accord] lacked so many elements they considered crucial, including firm targets for mid- or long-term reductions of greenhouse gas emissions and a deadline for concluding a binding treaty next year” (Revkin and Broder, 2009). Regardless of the fact that the Copenhagen Accord lacked depth, developed nations pledged financial support to a fund which aimed to assist developing nations in their efforts to address the effects of climate change (Kanter, 2009). The Copenhagen Accord stated the collective commitment by developed countries to provide new and additional resources, aimed at resuscitating depleted forests and other investments through international institutions. In the context of meaningful mitigation actions and transparency on implementation, developed countries committed to mobilising huge sums of money amounting to billions in order to address the needs of developing countries.

The Copenhagen Accord called for the establishment of the Copenhagen Green Climate Fund which aimed to serve as an “operating entity of the financial mechanism of the Convention to support projects, programme, policies and other activities in developing countries related to mitigation, adaptation, capacity-building, technology development and transfer” (Dewitte, 2010: p.232). The pledged financial support signified recognition from developed nations that financial capital needs should be dedicated to developing nations who have contributed less to the global warming and have however suffered the most. It was not determined who will receive the funds, how the funds will be allocated to the varying climate change issues, and the structures of reporting systems.

The signatories of the Copenhagen Accord and the United Nations intended to make sure that financial support was distributed to developing nations. The Copenhagen Accord called for a fast-start fund which was supposed to be dispersed from 2010 to 2012 to developing nations affected by climate change the most. The accord also aimed to make sure that there would be annual contributions by developed nations up to 2020 (Kanter, 2009). In order to achieve this goal, the United Nations crafted a high-level panel called the Advisory Group on Climate Change Financing. The duty of the panel was to oversee the climate change fund for climate mitigation and adaptation financing in poor countries (Gronewold, 2010). In determining the allocation of financial resources from the Green Climate Fund, the Advisory Group on Climate Change Financing was supposed to make sure that a significant portion of the financial support was dedicated to preventing and mitigating human displacement caused climate change contingencies.

The appropriate funding mechanism of climate change was supposed to embrace the principle of international burden sharing, because “climate change is a global problem and

the industrialised countries bear most of the moral responsibility for its victims” (Biermann and Boas, 2008: p.26). The Copenhagen Accord emphasised that the effort to fight against climate change must be made in accordance with the principle of common but differentiated responsibilities and respective capabilities (Copenhagen Accord, 2009). Beyond the articulation of an international burden sharing principle, the Copenhagen Accord contained the concrete objective of stabilising greenhouse gas concentration in the atmosphere, which would require a global temperature surge of less than two degrees Celsius (Copenhagen Accord, 2009). Dewitte (2010) noted that allocating financial resources to developing nations in order to confront human displacement caused by climate change was crucial to satisfying the Copenhagen Accord’s objectives of capping global temperature rise and implementing adaptation actions to reduce vulnerability and build resilience in developing nations.

4.4 The Cancun Adaptation Framework

In 2010, the Cancun Adaptation Framework was negotiated by the Ad Hoc Working Group on Long-term Cooperative Action under the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol. The United Nations Framework Convention on Climate Change became first United Nations instrument to clearly recognise climate change migration. Paragraph 14(f) of the United Nations Convention on Climate Change invites state parties to devise measures aimed at enhancing understanding, coordination and cooperation when it comes to dealing with climate change induced displacement. The same paragraph (paragraph 14 (f)) also invites state parties to devise measures aimed at enhancing planned relocation where appropriate regardless of whether that relocation is at the national, regional or international level.

The Nansen Conference on Climate Change and Displacement resulted in the development of vital principles. Following the Nansen Conference on Climate Change and Displacement, strides were made in addressing the gaps in the existing refugee laws. Norway and Switzerland then spearheaded an initiative which was aimed at developing consensus among interested states. The initiatives which were spearheaded by Norway and Switzerland was aimed at ensuring efficacy in addressing transnational displacement. The principles and the initiative complemented each other as vital tools in the protection of climate change migrants. While the Nansen Principles placed much emphasis and attention on the sudden-onset events, the Nansen Initiative sought to address the slow-onset impacts of climate change that force people to migrate. Principle IX of the Nansen Initiative sought to address the protection gap that exists when it comes to the protection of externally displaced

individuals so that these people would be given international attention and recognition. Principle IX of the Nansen Initiative stems from the recognition that some of the climate change impacts are difficult to address for developing nations. That being the case, it was noted that calling for international action will be a positive step towards making sure that there was adequate protection of climate change refugees.

In order to reduce the burden and responsibility of addressing climate change, the UNHCR called for collaborative approaches and partnerships based on principles of international cooperation. Given the narrow definition of the 1951 Geneva Refugee Convention of the term refugee, the executive committee of UNHCR and the United Nations General Assembly gave the agency the leeway to extend its activities towards addressing the plight of other groups. The groups which were to be included after the UNHCR was given the green light to extend its activities included former refugees who have returned to their homeland, internally displaced people and people who are stateless or whose nationality is disputed. These groups were given preference even though they have a different legal status and are formally not referred to as refugees (UNHCR, 2007b). Under this regime, most climate refugees are conceptualised as internally displaced persons. Biermann and Boas (2010) note that the United Nations High Commission for Refugee has an array of programmes for such people even though the High Commissioner maintains that it does not have a specific mandate over them (UNHCR, 2007b).

Biermann and Boas (2010) noted that those who are internally displaced by environmental changes also fall under the Guiding Principles on Internal Displacement of the Office of the High Commissioner for Human Rights (Keane, 2004: p.217). Nevertheless, the concept of the environmentally internally displaced person serves only “as a descriptive term, not as a status that confers obligations on states” (Keane, 2004: p. 217). The Guiding Principles stipulate, for instance, that the key duty to provide protection and humanitarian assistance lies with national authorities.

The 2006 Operational Guidelines on Human Rights and Natural Disasters (Protecting Persons Affected by Natural Disasters) from the Inter-Agency Standing Committee which is directed at protecting internally displaced people places primary responsibility on national authorities of affected countries (Inter-Agency Standing Committee Working Group, 2006: pp.9-10; Biermann and Boas, 2010). It is also critical to note that no duties or obligations of other states are mentioned under the 2006 Operational Guidelines on Human Rights and Natural Disasters. This is so since it has been noted that those displaced by climate change

are usually internally displaced and seldom cross a national border. However, they are conceptualised as in need of international support.

In the absence of formal instruments creating legal rights for climate-induced migrants, another possible source of protection lies in customary law. Customary international law was created as a result of states' patterns and practices over time and motivated by a sense of legal obligation. Ni (2015) noted that it remains a source of controversy whether states have obligations under custom to protect individuals who fall outside the 1951 Refugee Convention. According to a number of scholars, the principle of *non-refoulement* which forbids the forced return of refugees to countries where they are at risk of serious human rights abuses has developed into a customary international norm. To some, the prohibition of *refoulement* has risen to the level of a *jus cogens* norm. However, others criticise such contentions as wishful legal thinking and argue that refugee protections do not exist under customary international law (Ni, 2015: p.351). Ni (2015) noted that even if recognised as custom it remains to be seen whether the *non-refoulement* obligation enshrined in the 1951 Geneva Refugee Convention would offer protection to climate change induced migration.

The Nansen Initiative emphasised the vitality of regional responses to climate change displacement and recognised that the international community has a role in assisting and coordinating these regional efforts. According to the Nansen Principles (2011), a more coherent and consistent approach at the international level to meet the protection needs of people displaced externally due to sudden-onset disasters is needed. It has also become clear that states additionally benefit from providing a legal framework for cross-border movements of people who do not (even under a generous reading) fit within the confines of the 1951 Geneva Refugee Convention definition (Jastram, 2015: p.757). To demonstrate this pragmatism, a variety of legal approaches taken by states to widen the United Nations High Commission for Refugee's mandate can be pointed out.

It should be noted that, while the afore mentioned 2010 Cancun Outcome Agreement contained an encouraging maxim on adaptation, states failed to follow up and make a commitment to address the issue of cross-border climate refugees at the next major meeting of UNHCR in December 2011 (Kalin, 2012). In response, a group of nations led by Norway and Switzerland took the Nansen Initiative as a state-owned consultative process outside the United Nations to build consensus on how best to address cross-border displacement in the milieu of both sudden and slow onset disasters (Kalin, 2012). Tracing their roots to the

Nansen Principles, the Nansen Initiative intended to present a Protection Agenda by 2015 (Jastram, 2014).

Generally, it is assumed that most people who will be forced to move as a result of climate change will not cross an international border but will be displaced internally within their own country. Jastram (2014) noted that the prevalence of internal over external displacement is a truism even in refugee-like situations when the danger comes from a human actor whether government or non-state. Apparently, it is even more likely when the danger is from environmental changes and the government ought to be able to assist or accept assistance from the international community (Jastram, 2014). It should be noted that albeit internally displaced people are often forced to flee for the same reasons as refugees, the fact that they usually do not cross an international border implies that the 1951 Geneva Refugee Convention and the 1967 Protocol are not applicable. Further, it is critical to note that the United Nations High Commissioner for Refugees does not take responsibility for displaced persons unless specifically authorised to do so (Guterres, 2011).

As noted earlier, it should, however, be noted that a broader and all-encompassing definition of refugees has been espoused in two regional conventions (the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees which concerns refugees from Central America, Mexico and Panama) (Keane, 2004: p.216). These two conventions also cover people fleeing from events seriously disturbing public order and the African convention also includes groups (McGregor, 1994: p.127). Biermann and Boas (2010) note that even though the extension of protection to people affected by a disturbed public order and to groups may open the two regional conventions to include climate refugees, both conventions were initially aimed at protecting these types of refugees (Keane, 2004: p.216; McGregor, 1994: p.127; Renaud et al., 2007: p.12).

Cohen (2013) cited in Jastram (2014) noted that by the late 1980s refugee and human rights advocates as well as other sympathetic governments such as the government of Norway had moved the issue of climate refugees forward in the United Nations Commission on Human Rights (now the Human Rights Council), latching on to the momentum in a bid to build a mechanism to address the problems of internally displaced persons. In 1992 the Commission on Human Rights heeded the call and created the mandate of the Secretary-General's Representative on Internally Displaced Persons. This saw the drafting of the 1998 Guiding Principles on Internal Displacement. It should be noted that, albeit internally displaced persons had been analogised to refugees, the description contained in the Guiding

Principles also included people forced to flee as a result of natural disasters, a striking departure from the refugee definition (United Nations Office for the Coordination of Humanitarian Affairs, Guiding Principles on Internal Displacement, 1998 cited in Jastram, 2014).

It should be noted that the Guiding Principles are recognised in the Nansen Principles as a “sound legal framework to address protection concerns arising from climate and other environmentally-related displacement” (Nansen Principles, 2011). Kalin (2008) noted that while the Guiding Principles did not give impetus to an international treaty or develop into customary international law, they continue to grow in acceptance and influence, notably in Africa and Latin America. For instance, the eleven states in the Great Lakes Region of Africa have included the Guiding Principles on Internal Displacement in their 2006 Great Lakes Pact on Security, Stability and Development. This Pact has ten protocols. Among the ten protocols, one protocol on internally displaced persons was included. The Great Lakes Pact became the first multilateral instrument to commit member states to implementing the Guiding Principles. This commitment includes adopting the description of internally displaced persons in the Guiding Principles as a definition in their domestic legislation. The Annex to the Great Lakes Protocol on Internally Displaced Persons includes the full text of the Guiding Principles as well as a model legislation.

At the regional level, the AU also took the lead on internal displacement as it did with refugees. Jastram (2014) noted that the AU expanded upon the Guiding Principles on Internal Displacement to form a continent-wide treaty. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), which entered into force in December 2012, was ratified by a number of the AU’s fifty-four-member states. An explicit reference to climate change-related forced migration is one example of how the Kampala Convention has advanced the normative framework for addressing internal displacement (Jastram, 2014). Article 5(4) of the Kampala Convention expects states to protect and assist those who have been internally displaced due to “natural or human made disasters, including climate change.” It should be noted that the Kampala Convention provides a natural point of entry for donor states and others wishing to strengthen the ability of African states to prevent and respond to climate-related displacement (Jastram, 2014).

In Africa, it has been noted, however, that practically little attention has been paid to the impact of climate change. The continent is known as less industrialised but is well known for subsistence agricultural production. That being the case, the impacts of the global

warming resulting from climate change have been mostly felt in the sub-Saharan Africa. Africa seems not to realise the deleterious effects of climate change on the environment. It also seems to be oblivious to the effects global climate change has on the living conditions of the people. Africa considered the Brundtland Commission of 1987 which was set up by the United Nations General Assembly (UNGA) as a means of dealing with underdevelopment and social justice in a bid to achieve sustainable development. The Brundtland Commission's pro-North approach which placed Western funded non-governmental organisations at the centre of the development initiatives in Africa lacked a holistic approach to the problem of environmental degradation and the effects of global warming. The efforts of multinational non-governmental organisations and their approaches towards environmental sustainability and global warming were not in sync with African approaches to the problems at hand.

The United Nations Framework Convention on Climate Change (UNFCCC) and the United Nations Convention on Biological Diversity (UNCBD), the two treaties signed at the Rio Summit Earth Summit, reflected the aspirations of the developed states and not that of the Third World countries especially African countries (Victor, 2006 cited in Jastram, 2014). Expectedly, perhaps because of little knowledge on the issue of environment or for the need to develop their states through the exploitation of their non-renewable natural resources, Africa accorded less support to the Rio Communiqué. In reaction to the climate change today, Africa is of the view that if they have to participate in this global climate change initiative, holistic solutions that go along with environmental development in the context of North-South relations which are worth addressing. Environmental issues have become international and global in several senses. In these senses, Africa ought to play a speculative role in the climate change issues.

Other local or national problems are experienced widely across the world and the processes generating most environmental problems are closely related to broader political or socio-economic processes which are themselves part of an increasingly global system. Victor (2006) cited in Jastram (2014) noted that many environmental problems are intrinsically transnational or global or relate to global commons. That being the case, each country has a duty to play in mitigating the effects of global warming. In 1991, various environmental non-governmental organisations from the North established a Global Environmental Facility (GEF). The Global Environmental Facility which was created in a bid to fund the aspired sustainable development forum. About two-thirds of the fund realised were used to finance issues of sustainable development. These include climate change, biodiversity, pollution in international waters, land degradation, ozone depletion and persistent organic pollutant

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(Victor, 2006 cited in Jastram, 2014). Contamination of up to one million litres of water by a litre of used oil carelessly disposed in the Third World countries is an issue worth looking into. The issue of human security and the need to finance research on alternatives to fossil fuel did not receive attention (Victor, 2006 cited in Jastram, 2014). This was probably to protect the business interest of the oil giants, mostly from America.

Since then, the impasse between the Western countries and African governments remains unresolved. The former considered the impacts of climate change, ozone depletion and deforestation as dangerous for the incoming generation. The latter, on the other hand, considered environmentalists' position as antithetical to the continent's development. Africa has been lobbying for the establishment of a system for norms, rules, regulations and taxes to curb and manage the damaged environment. Thus, what Africa was lobbying for was a holistic approach to sustainable development where development and social justice are addressed jointly. The major problems linked with this are issues on how and when the presumed culprits are going to share the cost. Africa is, however, of the view that the responsibility and costs of environmental degradation should be shouldered by the developed states who have been exploiting the resources of the world relentlessly for the past hundreds of years without compensation.

Contrary to the intention of the environmentalists from Western countries to cut gas emissions in a bid to reduce the effects of global warming, Africa seems less concerned with the issue of gas emissions reduction, probably due to the fact that not many people in Africa have access to electricity. The common belief held by numerous scientists is that the main source of stratosphere ozone depletion is the effect of CFCs (commonly used in refrigerators, air-conditioning coolants and the aerosol sprays) which react with the ozone layer, hence allowing cancer-inducing ultraviolet rays to penetrate the atmosphere. On the other hand, there is a need for aerosol sprays in tropical African region to eradicate mosquitoes, the primary agents of malaria, which is one of the deadliest diseases claiming several thousands of African lives. Air-conditioning in Africa is equally essential given the hot weather characterising the climate of Africa. Further, food shortages in Africa inspired the use of chemically organic manures to produce more food for the growing population.

Regional intergovernmental organisations elsewhere have led the effort in developing instruments to address climate change in the Pacific. In 2005 leaders of the Pacific Islands Forum endorsed the Pacific Islands Framework for Action on Climate Change (PIFACC). The Pacific Islands Framework for Action on Climate Change seeks to increase the resilience of the Pacific Island countries and territories to the adverse impacts of climate change by

raising awareness of the issue and guiding the implementation of practical measures to adapt to the situation. The Niue Declaration on Climate Change of 2008, the first climate change declaration in the region, was designed to bridge the gap between regional initiatives in the Pacific. It focused on requesting action from the international community and specifically encouraged development partners to increase their technical and financial support for climate change action on adaptation, mitigation and, if necessary, relocation (Ni, 2015). The Declaration also reflected the Pacific region's focus on retaining its social and cultural identity and the desire of Pacific peoples to continue to live in their own countries where possible.

The Bellagio Delib, another regional body, and the Secretariat of the Pacific Regional Environment Programme (SPREP) hosts an annual Pacific Climate Change Roundtable (PCCR) to coordinate dialogue between the Pacific Island countries and territories (PICT) and global stakeholders in the area of climate change. This initiative is driven by the realisation that dialogue is important since it exposes gaps in the efforts to address climate change and ensure a coordinated approach in addressing climate change problems. The Pacific Alliance for Sustainability Program in partnership with the Global Environment Facility also provides grants to developing countries for climate change projects aimed at ensuring climate change adaptation and mitigation.

Dewitte (2010) noted that although academics have differing approaches, all the proposals discussed find common ground in the belief that climate induced displacement are global problems that require committed international cooperation to truly combat their effects. This understanding of the global nature of the problem is reflected in emerging international efforts to set guidelines for climate change prevention. Examples of these international agreements could be seen during the United Nations Climate Change Conference in Copenhagen, Denmark and the recent Paris Climate change agreement.

4.5 The Emerging Problem of Climate Change Migration

It has been predicted that in the coming years disruptions in the environment will lead a horde of people (in their millions) to leave their homes and in some cases their countries. It has also been acknowledged that climate change migration has been an emerging problem over the past two decades (Docherty and Giannini, 2009). During the 1990s, the IPCC highlighted the effect of climate change on humans. The IPCC stated that the gravest effects of climate change may be those on human migration as millions are uprooted by shoreline erosion, coastal flooding and agricultural disruption (Myers and Kent, 1995). Not long ago,

the United Nations Office of the High Commissioner for Human Rights began to pay specific attention to climate change. The UNHCR noted that climate change could affect hundreds of millions of people in numerous ways (Docherty and Giannini, 2009). This, the UNHCR High Commissioner noted, would include permanent displacement (Docherty and Giannini, 2007). The Deputy High Commissioner for Human Rights noted that increased desertification and the alteration of ecosystems which endanger communities' livelihoods are also likely to trigger large population displacements (Kang, 2008).

Experts in both the environmental and human rights communities have expressed concern about the gravity of climate change migration. It is critical to note, though, that the estimates of the number of people who will leave their homes due to climate change differ depending on the definition of the class of those displaced and the source of the data (Kolmannskog, 2008). Though some researchers have been cautious in attempting to predict a number, other studies present figures ranging from fifty million to two hundred million displaced persons before 2100 (Afifi and Warner, 2008; Biermann and Boas, 2008; Lovgren, 2005). Myers and Kent (1995) for instance observed that "global warming could put large numbers of people at risk of displacement by the middle of the next century if not before" (p.8). Preliminary estimates by Myers and Kent (1995: p.8) indicate that a total of people at risk of sea-level rise in Bangladesh could be twenty-six million. Myers and Kent (1995: p.8) estimate that in Egypt twelve million people will be displaced by sea level rises. It has also been predicted that seventy-three million will be displaced in China, twenty million in India and thirty-one million elsewhere hence totalling one hundred and sixty-two million people. On the same note, it has also been predicted that at least fifty million people could be at risk due to droughts and other climate related contingencies which would lead them to migrate (Myers and Kent, 1995: p.8). The often cited 2006 Stern Review noted that though estimates by Myers and Kent (1995) have not been tested rigorously, such numbers "remain in line with the evidence presented . . . that climate change will lead to hundreds of millions more people without sufficient water or food to survive" (Stern 2006: p.77).

Estimates for displacement in Egypt and the Mekong Delta only have been seen as high as ten million for each area (Conisbee and Simms, 2003). On a comparative note, the Office of the United Nations High Commissioner for Refugees reported that globally in 2006 there were fewer than ten million refugees as defined by the 1951 Geneva Refugee Convention (UNHCR, 2006). Despite the unavailability of an exact figure of those displaced by climate change, experts have recognised climate change as a problem (Docherty and Giannini, 2009). Research has it that this displacement will include both those who relocate

within a country and those who leave their home state (Biermann and Boas, 2008; Kolmannskog, 2008; Afifi and Warner, 2008).

Through its review of the impacts of climate change's impact on security in 2008, the WGBU observed that it is likely that growing numbers of people will be affected by environmentally-induced migration and migration movements will more and more frequently take place across national borders (WGBU, 2008). It is critical to note that this trans-boundary displacement could have malignant effects around the globe. To the WGBU (2008: p.90), climate change has "implications not only for the affected societies but for the international system as a whole...". The WGBU (2008: p.90) note that migration, for instance, could become unmanageable. Whereas the exact numbers of those who will cross borders as refugees in such circumstances is challenging to predict at present, it has been noted that the numbers will be substantial (Lovgren 2005; Biermann and Boas 2008; Afifi and Warner, 2008). There are likely to be millions given the consistent projections of much higher levels of overall displacement (Lovgren, 2005; Biermann and Boas, 2008; Afifi and Warner, 2008).

It has also been predicted by observers that climate change migration will notably affect certain hotspots, particularly small island states, and coastal zones in Africa and Asia (Biermann and Boas, 2008; Conisbee and Simms, 2003; Myers and Kent, 1995). Floods and the frequency and intensity of storms will be on the surge resulting in an increase in the number of people being displaced internally and internationally, notably in Asian countries (Kolmannskog, 2008). Kolmannskog (2008) noted that sea-level rise will probably be most acute for small island states and most countries in Asia. Husain (2008) reported that glacial melts have been linked to environmental migration in South Asia. It has also been predicted that drought and water scarcity will probably have the greatest impact on people who live in Africa and Asia (Kolmannskog, 2008). Studies suggest that three categories of climate change effects, including rising sea levels; an increasing quantity and intensity of storms, and drought, desertification and water shortages, are expected to contribute most to migration flows (Lovgren, 2005; Stern Review, 2006; Biermann and Boas, 2008; IPCC, 2007).

The number of people forced to migrate may affectedly increase as these effects become more noticeable. Docherty and Giannini (2009) pointed out that these impacts are among the most agreed upon consequences of climate change and appear to be those most likely to result in forced transnational flight. This migration may occur temporarily, notably in instances where people flee a severe storm, or on a more permanent basis, as either an entire state or a substantial part of a state becomes uninhabitable. Docherty and Giannini (2009) stated that the prospect of entire nations disappearing is real for small island states

such as Cape Verde, Kiribati, Tuvalu, the Marshall Islands, Puerto Rico, and Haiti as well as other Caribbean islands. There has been much publicity about rising sea levels and potentially ‘sinking states. Storms or water shortages also pose substantial risks to small island states (Simons, 2007 cited in Docherty and Giannini, 2009). To Docherty and Giannini (2009), any of these effects of climate change could prompt inhabitants to leave their country in search of sanctuary somewhere. Some states might cease to exist, but others might lose portions of territorial lands which would in turn drive migration.

4.6 Climate Change and Migration: Debates since the 20th Century

Science and policy documents from the 1980s and 1990s revealed that climate refugees are preventable. Climate refugees were initially perceived as a problem requiring policy attention since it was a threat to states’ national security. These arguments led to security-oriented approaches when it comes to policing borders against climate change related migration. Environmental activists such as Tuchman (1989) and Myers (1989) painted an apocalyptic picture of environmental degradation, predicting wars and migration triggered by environmental change and it was in this context that the issue of climate-induced migration was paid attention to. In 1985 a United Nations Environment Programme report introduced the environmental refugees concept which raised concerns about the extent to which environmental degradation causes migration (El-Hinnawi, 1985).

Despite not being legally recognised, the terms environmental refugees and climate refugees became common when referring to people displaced by environmental change. Myers and Kent (1995) asserted that people living in areas affected by climate change would become climate refugees, thereby threatening the sovereignty of nation states. Population growth and environmental degradation was linked to human mobility in a mono-causal deterministic way. This type of migration was related to territory and was regarded as having the potential to threaten the persistence of statehood (Myers and Kent, 1995). If this type of migration were not controlled, military response might be necessary to stem the tide of the invasion of climate change refugees (Hartmann, 2010). Perceiving climate change refugees as a threat to national security was the impetus behind the xenophobia and securitisation of migration in most Western liberal democracies of that time (Huysmans, 2006). This situation seems to persist today since most Western countries have increasingly tightened their borders in order to repel refugees (Bigo, 2008).

The arguments which were peddled against climate change induced migration which were anchored on the argument that climate change refugees are a threat to national security

shifted during the 1990s (Morrissey, 2009). A growing number of scholars felt that the theoretical, methodological and empirical foundations of the discourse linking environmental change to violent conflict and migration did not adequately address the salient issues in the climate change and migration discourse (Barnett, 2001; Peluso and Watts, 2001; Suhrke, 1994). The 1990s proved to be a decade of humanitarianism. The international community seemed to be much more concerned with protecting civil war victims. This means that the issue of sovereignty had to give way to intervention for a new world of global rights and global security to be inaugurated (Chandler, 2012: p.214). Another vitally important influence was the political campaigning for the redefinition of security in terms of human security. The impetus behind this was the aim to shift the attention of most post-cold war governments from defence-oriented budgets to human welfare-oriented ones.

In 1994, the United Nations Development Programme redefined security from the security of states, to the security of people. Chandler (2012) noted that human security became the dominant discourse in development policy and was influential within the United Nations system. Environmental change soon became reconceptualised as a threat to human security (Barnett, 2001; Dalby, 2002). Methmann and Oels (2014) noted that the growing vitality of the concept of vulnerability characterised this shift.

4.7 Security and Conflict

In instances where people are forced to relocate within their home country or cross borders in search of sanctuary, risk to security and violent conflict seem to heighten (Barnett and Adger, 2005). Though there has not been proper empirical research to support this argument, it was predicted that climate-related stresses will increase competition between groups for increasingly scarce resources. If this happens, it will raise the potential for violent conflict and refugee movements (McLeman, 2008). Developing countries, such as Burkina Faso, endure on limited resources. Climate change internally displaced persons or even climate change refugees from other countries are expected to put more strain on already scarce water, energy and food resources. Due to desertification, sand intrusions in the Sahel will make agricultural production difficult in future.

It is predicted that in the Sahel, climate change induced droughts will make agriculture unsustainable hence forcing people to seek new livelihood strategies elsewhere. This will then alter the allocation of natural resources. According to Purvis and Busby (2004), natural resources induced conflict is not a new phenomenon. Dewitte (2010) noted that developing countries which will primarily serve as home or host countries to individuals

displaced by climate change contingencies have less adaptive capacity to deal with the displacement and movements of people from their original habitats.

A developing country's ability to provide state entitlements or services can be challenged due to the lack of financial resources available to adapt to the changing demographics (Dewitte, 2010). Brown and McLeman (2008) noted that serving the needs of displaced individuals will put an additional strain on the home or host country. This will ultimately tip poor countries into fragile states and failed states. Barnett and Adger (2005: p. 5) argue that "a common factor in many internal wars is that armed groups are comprised of young men whose expectations for a better life have been frustrated due to contractions in their livelihood". To Barnett and Adger (2005: p.6), an individual's choice to take up arms may be a response to sudden poverty coupled with a real or perceived insecurity of the future. For those who are displaced by climate change and opt to cross national borders in search of sanctuary, Myers (2002) noted that there are limits to host countries' capacity, let alone willingness to take in outsiders.

Myers (2002) noted that refugees frequently face hostility in host countries as they can be viewed as threatening social cohesion and national identity. This often becomes an excuse for outbreaks of ethnic tension and civil disorder or even political upheaval. Castles (2002: p.6) argues that "forced movements of population are increasingly perceived as a major factor generating conflicts between states and the use of force". Dewitte (2010) noted that the possibility for security risk and conflicts will increase as populations are displaced by climate change contingencies and seek refuge in new locations.

To the protagonists of a human security approach, the main aim is to peacefully scale down human vulnerability to human induced environmental degradation. In a bid to address this, it is then important to addressing the chief causes of environmental degradation which was a threat to human insecurity (Barnett, 2001: p.229). Extremist proponents of this approach see the vulnerability of the world population to climate change as a result of the Western world's consumption, economic globalisation and ecological interdependence (Dalby, 2009). To O'Brien et al., (2004) the argument by these extremists created a platform for the detailed location and mapping of people who are more prone to environmental change. This approach also called for the initiation of interventions and management based on these predictions. From this standpoint, climate change induced migration is seen as a threat to human security. This bio-political discourse called for a new legal climate refugee status that would grant protection to climate change induced migrants, including the right to *non-refoulement* and access to humanitarian aid. The term 'climate refugees' has almost

disappeared from the scene in recent years and the issue of 'climate change induced migration' has become dominant.

4.8 Climate Change, Environmental Degradation and Migration

Despite the controversy, Okoewo (2013) noted that the mass movement of people has been listed as one of the likely effects of the changing climate. Okoewo (2013) noted that the proponents of this view opine that the sudden impact of climate change in the form of rising sea levels or floods, gradual impacts such as deforestation, desertification, salinisation, drought and soil erosion both degrade and, in most cases, destroy land and food production. After its introduction by El-Hinnawi (1985), the term environmental refugees have been mentioned in any discussion involving the impacts of climate change and forced migration. There have been arguments and counter-arguments among scientists about the reality of global warming (Milne, 1996). Likewise, there have also been arguments and counter-arguments about whether climate change is responsible for any gradual or sudden environmental event (Okoewo, 2013).

Scientists have taken a probability approach when it comes to explaining whether climate change is responsible for environmental hazard. There is a general agreement among scientists that the activities of man have led to the changing climate. Rapid onset disasters and some strange weather events and natural disasters have been put forward by scientists as the likely impact of climate change (Okeowo, 2013). Others include a rise in sea level, crisis in freshwater resources, uncertain crop harvests, cumulative vector-borne diseases and varying migration patterns as evidence of a continually changing climate (Ghosh, 2012: p. 3). Despite the malignant effects of climate change, scientists also agree that there are benign effects of climate change. For instance, the fertilising effect of higher carbon dioxide concentration on plants has been a benign effect of climate change. Okeowo (2013) noted, however, that the negative impacts of climate change far outweigh the positive effects. Researchers on climate change seem to converge in that global warming began as a result of the activities of man after the industrial revolution. The frequency of extreme weather events after the industrial revolution as compared to the era before 1750 also gives credence to the argument that a climate change has been occurring as a result of human activity (Le Treut et al., 2007 cited in Okeowo, 2013).

Le Treut et al. (2007) cited in Okeowo (2013) note that this changing climate is responsible for some (if not all) environmental crises. In light of the 2003 European heat wave for example, using a threshold for mean summer temperature that was exceeded in

2003, it can be noted that since the start of the instrumental records in 1851, research has shown (with a level of confidence of up to ninety per cent) that human influence has at least doubled the risk of a heat wave exceeding this threshold magnitude (Stott, Stone and Allen, 2004: p.432). In a nutshell, the analysis on the 2003 European heat wave shows that European summers are warming owing to anthropogenic climate change. The analysis also bespeaks that, especially where it is not checked, the possibility of the summer of 2003 being regarded as anomalously cold when compared to future summers by the end of this century is beyond doubt (Okeowo, 2013). Apart from this incidence of exceptionally hot weather across Europe in 2003, the probability-based network used in assessing the United Kingdom floods of October and November 2000 depicted that it is very likely that global anthropogenic greenhouse gas emissions substantially increased the risk of flood occurrence in England and Wales during the period under review (Pall et al., 2011 cited in Okeowo, 2013).

Though Pall et al., (2011) cited in Okeowo (2013) noted that the precise magnitude of the anthropogenic contributions remains uncertain, they nevertheless concluded that in nine out of ten cases, anthropogenic greenhouse gas emissions had “increased the risk of floods occurring in England and Wales in autumn 2000 by more than twenty percent and in two out of three cases by more than ninety percent” (p.382). To climate sceptics, weather and environmental crises happen in the natural order of things not by global warming (Milne, 1996). According to Verheyen (2005), this uncertainty is a feature of climate science on several levels and that uncertainty will never be eradicated completely. Nevertheless, Verheyen (2005: p.21) is also of the view that “uncertainty about the global climate system is continually being reduced and with improved knowledge of the climate system, scientists are able to produce more accurate climate models and predictions - to the point where uncertainties could be deemed negligible in the legal sense”.

Further, there is a strong debate on whether environmental changes induce people to migrate (Black, 2001; Castles, 2002). It has been predicted that climate change will create hotter, drier climates, more variable rainfall and shorter growing seasons in the near future. The expected increase in duration and frequency of droughts is likely to lead to more widespread desertification, a loss in soil nutrients and fertility that diminishes agricultural production (Leighton 2011: p.331). It has also been predicted that, as a result of climate change, people are likely to move within and beyond the borders of their habitual places of residence. Studies have shown that droughts led to the movement of people in Burkina Faso, Ethiopia, Mali and Senegal (Ezra, 2001; Findley, 1994; Seck, 1996; Henry, Schoumaker and Beauchemin, 2004).

It can be noted that due to climate change contingencies such as sea level rises, for instance, residents of coastal communities are left with no option but to gradually move inland as their land is eroded, disappears or can no longer be cultivated. The same can be said with desertification, in instances where sand intrusions affect the croplands and water bodies, and farmers and even fishermen are forced to migrate to new areas in search of new livelihoods. Thus, the resulting food and water scarcity will accelerate the dramatic rural-urban drift in the developing world as climate change refugees move to cities to find new job opportunities and livelihoods (Brown, 2008). In vulnerable Burkina Faso, numerous climate change refugees may move to Ouagadougou or maybe foreign cities such as Lagos in Nigeria where dozens already live in slums. In situations such as these, Lagos, a city that is already overwhelmed, will swell even more with the wave from climate change refugees. Not only will the new urban residents be competing for scarce resources in Lagos, but the influx of people will also contribute to the mega city's negative environmental impact. As it stands cities draw together many of Earth's major environmental problems: population growth, pollution, resource degradation and waste generation (United Nations Population Fund, 2007). In instances where cities such as Ouagadougou are poorly equipped to accept and mitigate the prospective population increase due to climate change contingencies, the cities' current environmental problems will be exasperated.

McAdam (2012) concluded that climate change alone does not cause migration but acts as a threat multiplier to the existing social and political issues. The movement of people is less likely to be sudden flight (McAdam, 2012). Rather, the movement of people from one place to the other as a result of climate change is more likely to be pre-emptive and planned (McAdam, 2012). While there is a general agreement among scholars that people's desire to move is not controlled principally by environmental degradation but rather by a combination of other factors, research has further shown that most movement will be largely internal (Okeowo, 2013). The term environmental refugees may create images of destitute people clamouring at the gates of the developed world to many in the West, but findings suggest that gradual environmental depredations from processes such as deforestation, desertification, salinisation, drought and soil erosion are much more likely to produce local, rather than international migration.

This is simply because the people most affected by these changes lack resources to finance international trips (Bohra-Mishra and Massey, 2011). Research has shown that deforestation, population pressure and agricultural decline produce elevated rates of local population mobility among women and to a lesser extent among men. There is little evidence

that these environmental changes lead to significant increases in internal or international migration. There is nevertheless evidence that deforestation may increase internal migration as depletion in firewood stocks may prompt people to move to new areas with secure energy resources (Bohra-Mishra and Massey, 2011: p.99). Evidence shows, though, that migration caused by environmental degradation is likely to be highly localised rather than international (Bohra-Mishra and Massey, 2011: p.98).

Contrarily, climate sceptics have asserted that weather and environmental crises happen in the natural order of things, not by global warming (Okewo, 2013). Thus, despite the increasing evidence that human activities have been responsible for climate change, climate change sceptics argue that this is a naturally occurring phenomenon and not the result of human activities such as burning fossil fuels. On whether climate change is responsible for environmental hazard, environmentalists and scientists have taken a probability-oriented approach and have not boldly asserted the veracity of the answer. Due to the sophisticated nature of climate science, the outcome of any scientific investigation on whether a weather event was caused by changing climate can never be certain.

This has led some to argue that it is simplistic to assume that climate change is responsible for weather or environmental event. For instance, Huber and Gullede (2011) note that some scientists have reasoned that it is naïve to assume that climate change is responsible for weather or environmental event. Of late, climate change scholars have been arguing that global warming began as a result of the activities of man after the industrial revolution. To Okewo (2013) the question to ask would be whether or not there were any environmental crises before the industrial revolution.

History is full of environmental calamities that befell humanity in the period prior to the industrial revolution. The frequency of extreme weather events after the industrial revolution as compared to the period before the revolution buttresses the argument that a change has been occurring due to industrialisation. It has been argued that this changing climate is responsible for some, if not all, environmental crises (Black, 2001). It has also been argued by climate sceptics that climate change has produced hotter, drier climates, more erratic rainfall hence shorter growing seasons in the twenty first century.

Climate sceptics counter that due to industrialisation incessant droughts have been encountered and these droughts have led to desertification, a loss in soil nutrients and fertility that has led to diminishing agricultural production (Leighton, 2011). As a result, it is predicted that more people will move within and beyond the borders of their habitual places of residence. Studies depict that droughts have led to the movement of people in Burkina

Faso, Ethiopia, Mali and Senegal (Findley, 1994; Ezra, 2001; Henry, Schoumaker and Beauchemin, 2004; Seck, 1996).

According to Leighton (2011), the term ‘environmental refugees may create images of destitute people looking for assistance in the developed world, but the reality is that gradual environmental degradation occurs from processes such as deforestation, desertification, salinisation, drought and soil erosion. These processes lead to internal displacement. Hartmann (2010) noted that, as seen in the neo-Malthusian models, the debates on environmental conflict developed in the 1980s and 1990s. That being the case, the issues of “climate refugee and conflict narratives seem very much like old wine in a new bottle” (Hartman 2010: p.234). To Hartmann and Hendrixson (2005), the issues of climate refugees can be traced to what they term *the degradation narrative* which took centre stage in the colonialism and the colonial stereotypes of the ‘other’.

The degradation narrative saw peasants and pastoralists in the primitive world as responsible for the degradation of the environment through overstocking and over-farming. The soil erosion and land degradation which came as a result was seen to be the causes of desertification and ultimately migration to other ecologically vulnerable rural areas. Through this cyclical migration patterns, this vicious cycle was once again set in motion after the creation of urban cities. Thus, the migration to areas where there will be environmental degradation has been straining scarce resources and led to conflicts and political instabilities.

Regardless of researches to the contrary by international development scholars and practitioners such as Blaikie and Brookfield (1987), Boserup (1965), Hartmann (2010), Leach and Mearns (1996), Thompson (2000), and Williams (2008). The degradation narrative has proved particularly popular in the developed world. Thus, the poverty and vulnerability of the developing world has been blamed on population pressure, lack of land reform and off-farm employment opportunities. The degradation narrative has blamed peasants for land degradation obfuscating the role of commercial agriculture and extractive industries. The degradation narrative sees migration as an environmental and security threat.

As the threats of a nuclear war receded after the end of the Cold War, there was a growing interest in sustainable development and alternative visions of security increased the authority of the degradation narrative. This led to the mounting of concerns about the dangers posed by so-called environmental refugees (Hartmann, 2010). Key to these concerns was the assumption that population pressure is one of the chief factors of environmental degradation and resulting migration (Saunders, 2000). This was further popularised by Myers and Kent

(1995) who popularised and legitimised the concept of environmental refugees by offering a working definition. According to Myers and Kent (1995: pp.18-19):

...environmental refugees are persons who can no longer gain a secure livelihood in their traditional homelands because of environmental factors of unusual scope, notably drought, desertification, deforestation, soil erosion, water shortages, climate change and natural disaster such as cyclones, storm surges and floods.

To Myers and Kent (1995), in face of these environmental threats, people feel they have no option but to seek sustenance elsewhere. Myers and Kent (1995) note that after being displaced people may choose to look for refuge within their own countries or beyond on a semi-permanent or permanent basis. In numerous instances Myers and Kent (1995: p.63) wrote about environmental refugees as actually population pressure refugees.

To Hartmann (2010) the environmental refugee concept has been problematic because it has a tendency to naturalise the economic and political causes of environmental degradation and masks the role of institutional responses to it. Wisner et al., (2004) noted that in the case of extreme natural events such as droughts, storms and floods, the migration of people to new areas on a permanent basis usually depends on pre-existing social relations related to a combination of vulnerability and post-disaster responses. Hartmann (2010) argued that since the concept environmental refugee is rooted in neo-Malthusian thinking, it overemphasises the role of demographic pressures in migration.

Suhrke (1994) noted that the causes of migration are exceptionally sophisticated and context-specific. It has also been argued that there is little vestige to support the view that demographic pressure is the major driver of population movements. In addition, negative neo-Malthusian narratives of migration have been as obscuring the benign roles that migration can play in improving people's livelihoods hence diminishing their vulnerability to environmental change (Hartmann, 2010). Black (1998) noted that in most cases migration from rural areas is not a linear phenomenon or a rejection of rural livelihoods. Instead, it has been as a vital part of sustaining them.

Regardless of the aforementioned pitfalls of the concept, the environmental refugee concept was used by numerous political actors. For instance, sustainable development advocates found it useful to focus policy attention on environmental degradation issues (Black, 1998). Hartmann (2010) noted that it also appealed to Western interests in favour of more rigid immigration controls, including limiting the grounds for political asylum. According to Kibreab (1997: p.21) the term was invented in part to "depoliticise the causes of displacement so that states would not have the obligation to provide asylum". Black (1998)

noted that as the concept gained favour, environmental refugees were increasingly seen as a security threat, even though there was little serious research to substantiate the claim.

During the 1990s, Homer-Dixon (1999) pushed the degradation narrative and its deleterious depiction of migration into the 'high politics' of national security (Hartmann, 2010). The Homer-Dixon's (1999) environmental conflict model holds that scarcities of renewable resources such as farming land, fresh water and forests, induced in large part by population surge, contribute to migration and violent intrastate conflict in many parts of the developing world. To Homer-Dixon (1999: p.155), population growth and unequal access to good land forced huge numbers of people onto marginal lands where they cause environmental damage and become chronically poor. Ultimately, they may be the source of persistent upheaval or they may migrate yet again. This has been as responsible for stimulating ethnic conflicts or urban unrests.

Despite the availability of a rich repository of case studies especially in African agriculture, pastoralism and forestry which challenges conventional neo-Malthusian narratives about population, scarcity and conflict as seen in the works of Leach and Mearns (1996); Gausset et al. (2005); and Derman et al. (2007) not much from these studies has been cited in the environmental conflict or climate conflict literature. Hartmann (2010), however, noted that a certain exceptionalism is at work. Thus, while it is commonly assumed that scarcity can lead to institutional and technological innovation in more affluent countries, just the opposite is assumed for poor people in less affluent countries. Paucity renders them victims or villains, who are not able to innovate or engage in livelihood diversification activities and this naturally makes them prone to violence. Hartmann (2010) noted that what has also been neglected in the climate conflict literature is the scholarship that links violent conflict in Africa more closely to resource abundance, for example rich oil and mineral reserves, valuable timber and diamonds, than resource scarcity (Fairhead, 2001).

In the early 2000s, scientists and policymakers have been pushing Western countries (which are the major contributors to climate change due to industrial gas emissions) to save climate refugees and accord them refugee status (Hartmann, 2010). Since the early 2000s, the emissions of greenhouse gases by industrialised nations are increasingly blamed for causing climate change. The year 2007 saw a growing concern about the threats posed by climate refugees and climate conflict to international security (Hartmann, 2010). The genocidal violence in the Darfur region of Sudan was attributed to a combination of demographic pressures, resource scarcities and climate change (Faris, 2007; United Nations Environment Programme, 2007). Together with the Darfur stories there were predictions of havoc across

the globe stemming from climate refugees hence creating a world of numerous Darfurs (Christian Aid, 2007a, cited in Hartmann, 2010: p.233). “With countries across the region and around the world suffering similar pressures, some see Darfur as a canary in the coal mine, a foretaste of climate-driven political chaos” (Faris, 2007: p.23).

Critiques of climate conflict have been emerging of late. There have been critiques regarding the implications of climate change on armed conflict. Buhaug et al., (2008: p.2) noted that the difficulty of coming up with any generalisable model “depends crucially on country-specific and contextual factors”. Buhaug et al., (2008) concluded that the alarm about climate conflict is not based on substantive evidence. Climate refugees have also been coming under thorough investigation from various vantage points. Hartmann (2010) noted that while climate change is likely to result in displacement, the nature and extent of that displacement is not only dependent on how much the temperature rises neither is it going to be dependent on the surges in sea levels, erratic rainfall patterns among other extreme weather contingencies. Rather, it is going to be dependent on the existence and effectiveness of adaptation measures that help individuals and communities cope with environmental stresses.

It has also been argued that migration is too sophisticated a process to label simply as environmental or climate-induced (Dun and Gemenne, 2008; Morrissey, 2009: p.28). Morrissey (2009) noted that people’s decisions on whether to migrate in any scenario is mediated by both structural and individual factors. These include the potential for livelihood diversification within the areas they aim to migrate to. It has also been noted that the role of climate change needs to be viewed together with these processes (McAdam and Loughry, 2009).

The IPCC (2014) noted that global warming and climate change are unambiguous, and the influence of humans is the chief cause of global warming. Ni (2015) noted that in the face of climate change and global warming in the 21st century, migration is seen as an adaptive mechanism to cope with adverse effects of climate change. According to predictions, climate change is likely to lead to a large-scale migration of people and most people will not be able to cope with the sea level rises and droughts induced by global warming. Massive rates and scale of climate induced migration are more likely to exhaust the coping capacity of communities thereby increasing their vulnerability (Jastram, 2014). Victims of environmental displacement will see migration as a last resort.

Debates on climate change in the last decade have also seen the issue of resilience taking the centre stage. Thus, the liberal bio-politics of climate refugees have increasingly

been replaced by a resilience discourse of climate-induced migration (Mathmann and Oels, 2015). Science and policy papers in the 21st century note that affected populations are in a better position to prepare for the effects of climate change which are unavoidable (Methmann and Oels, 2015). Vulnerable populations are urged to become resilient and prepare themselves for various disruptive climatic conditions. According to Mathmann and Oels (2015) the United Kingdom Government's Office for Science in 2011 explicitly speaks the language of resilience. This report, which is regarded as the most authoritative collection of knowledge on climate induced migration, transforms climate change induced migration from being a problem into being a solution (Mathmann and Oels, 2015). Mathmann and Oels, (2015) noted that it is the process of migration itself that will render affected populations resilient to the effects of climate change.

Various notions of resilience as adaptive and transformational maintenance are all present in the debates on climate change. It was predicted that by the year 2010, climate change would have caused the collapse of the Gulf Stream and the vanishing of the Amazon rainforest (Lenton et al., 2008; Swyngedouw, 2010; Methmann and Rothe, 2012). When this failed to occur by 2010 it was evidence that climate change is unpredictable and radically contingent (Oels, 2013; Methmann and Rothe, 2012).

In contrast, climate-induced migration has been associated with a truly transformational understanding of resilience. In sync with the notion that climate change will have catastrophic or even apocalyptic results, it is expected that ecological resilience will fail and thus ecosystems will not be able to sustain livelihoods as they once did. As Duffield (2011: p.763) noted, climate change has turned into 'environmental terror', where nothing can be taken for granted; hence, an environment that operates through uncertainty and surprise has itself become terroristic.

Foresight (2011: p.15) concluded that some effects of environmental change may give impetus to significant permanent displacement of whole communities as a result of flooding and drought for instance. This, therefore, implies that equilibria will not be maintained, and that ecosystems will not be able to support human settlements. Thus, according to the Foresight Report (2011: p.16) "not migrating is not an option in the context of future environmental change". This buttresses the argument by the United Kingdom Government's Office for Science that migration is transformed from being a problem into being a solution; as such it would represent a normal response to climate change. In sync with the assertion that previous equilibria need not be maintained, migration actually becomes a technique of resilience (Black et al., 2011 cited in Methmann and Oels, 2015).

Nevertheless, not all types of climate-induced migration can be categorised as acts of transformative resilience. Methmann and Oels (2014) note that climate-induced migration may in fact increase the proneness of affected populations when the end point of their journey is a slum. As the Foresight (2011) report noted, vulnerability will be increased if migration occurs in unplanned ways, or migrants end up in areas of high environmental risk, such as low-lying urban areas in mega-deltas or slums in water-insecure expanding cities (p.67). The Foresight Report (2011) acknowledges that there are limits to the advanced liberal government of climate-induced migration. This is because not everyone has the means to engage in timely migration. This is so because migration (notably international migration) is determined by economic status. This therefore implies that poor communities may particularly end up being ‘trapped’ (Foresight, 2011: p.10).

The Asian Development Bank (2012: p.47) noted that if migration is not meticulously planned and assisted, there is a serious risk that it can turn into maladaptation. In other words, it may lead people into vulnerability as a result of environmental changes. Any adaptation scheme or migration policy must be carefully planned. Methmann and Oels (2014) noted that this statement indicated the return of liberal bio-power which takes care of at-risk populations. This means that governments are held responsible for the relocation and planned resettlement of affected communities. Grove (2013: p.28) noted that the vulnerable are to be managed in order to come up with a docile population that will not threaten the important circulations of liberal order. The global system of nation states and ordered populations should not be disturbed by the consequences of climate-induced migration (Methmann and Oels, 2015).

Methmann and Oels, (2014) noted that where it is too late for preventive measures, military interventions may be given the platform to uphold public order after a climate-induced disaster. Thus, the use of force may appear justifiable when ‘spontaneous’ adaptation processes such as uncontrolled mass migration threatens to disrupt global order. According to the Foresight Report (2011: p.15), whenever migration becomes large or rapid or sensitive international boundaries are crossed then geopolitical challenges may follow. Destination areas may face challenges relating to economic integration, social cohesion and increased tension (Foresight, 2011: p.15). This implies that the vulnerable must be monitored because they are conceptualised as being permanently on the verge of becoming a danger to global circulation (Methmann and Oels, 2015). Thus, sovereign power remains enabled in a regime of advanced liberal bio-power (Methmann and Oels, 2015).

According to Methmann and Oels (2015) resilience is not just a means of re-adapting human-ecological systems to a novel equilibrium, by providing new infrastructure, new livelihood models or diversifying sources of income. It also has the ambition to radically reorganise communities and households as resilient networks in which migration and mobility, including remittances and support through diasporas, become the main sources of resilience (Methmann and Oels, 2015). Resilience deprives subjects of their rights (Methmann and Oels, 2014). Recipient countries of climate-change induced migration, especially in developing countries, are usually not prepared for the influx of people who need to be integrated into their social, economic and political systems. Methmann and Oels (2015) note that in the absence of a legal framework for climate change induced migration, cross-border migrants lack a legal status. That being the case, they are highly vulnerable to exploitation and violence.

While earlier academic scholars on climate change and migration used the term climate refugee and advocated granting refugee status to affected populations, as seen in the works of Docherty and Giannini (2009) and Biermann and Boas (2010), newer and more recent scholarly documents avoided the term refugee and promoted the use of the term climate-induced migration through resilience (Asian Development Bank, 2012; Foresight, 2011; Laczko and Aghazarm, 2009; World Bank, 2010). Evans and Reid (2013: p.9) note that instead of emphasising that agents possess an 'inalienable right', resilience "promotes adaptability so that life may go on despite the fact that elements of our living systems may be destroyed". Methmann and Oels (2015) note that the resilience discourse uses loss and vulnerability in the language of progress and transformation. Evans and Reid (2013: p.9) noted that resilience centres on the issue of sheer survivability. Nevertheless, it covers this destruction, the loss and violence triggered by climate change, with an emphasis on new paths of developments and the opportunities offered by climate- smart development (Methmann and Oels, 2015).

While countries affected by climate change demand compensation for the loss of and damage to their communities, industrialised nations have been unwilling to grant sufficient sums of money to compensate for the enormous losses. In this milieu, climate-induced migration appears as a discourse that completely sidesteps these issues (Methmann and Oels, 2015). Methmann and Oels (2015) noted that under the banner of transformational resilience, the loss and damage caused by global warming is redefined as an opportunity for affected countries. That being the case, the politics here mean the decision to migrate or not migrate

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means to live or to die (Methmann and Oels, 2015). This is the only political question left in climate-induced migration under the banner of resilience.

The discourse of resilience, which has been dominant in the climate change discourse of the 21st century, facilitates a shift of responsibility from the developed nations to the developing nations. The discourse of resilience makes populations that will potentially be affected by climate change responsible for securing themselves (Methmann and Oels, 2015). In fact, most climate change-induced migration will be internally displaced, within the borders of their nation state. If they do cross a border, this is usually to enter another developing country. Methmann and Oels (2015) note that unplanned cross-border migration is more of a problem occurring between developing countries. Nonetheless, such movements have the potential of disrupting the flow of global resources and are hence subject to careful monitoring by industrialised nations.

Populations affected by climate change are reconceptualised as being capable of determining their own future and this resonates with a general shift towards post-interventionism in global politics (Chandler, 2012: p.213). As a result, “the developed nations no longer have the responsibility to secure, to democratise or even to develop the non-Western world” (Chandler, 2012: p.224). This point is clearly articulated by the World Bank which in the milieu of climate change adaptation calls for ‘helping people to help themselves’ (World Bank, 2010: p.87 cited in Methmann and Oels, 2015). It should be noted that in climate-induced migration the focus is therefore no longer on assisting affected communities but rather on mobilising them to take care of themselves. Therefore, this means that development assistance is now offered for facilitative activities rather than for actual assistance (Methmann and Oels, 2015).

In addition, governing climate-induced migration through resilience presumes that climate change is inevitable and needs to be lived with. This then implies that the climate-induced migration of people is seen as a normal, rational, and thus acceptable response to changing environments. This is presented as being beyond human control. Migration will often be an effective response to climate change and unfortunately the only response in some cases (World Bank, 2010: pp.130-131). From this perspective, climate change is no longer presented as a social problem that can still be tackled by significant emission reductions and lifestyle changes by residents in the developed world (Methmann and Oels, 2015). Rather, climate change is naturalised and depoliticised and the political space for addressing the root causes of global warming is disregarded.

Researches and evidence depict that developing countries have been affected the most by climate change. Although developing countries have been the least contributors to greenhouse gas emissions, they seem to have borne the brunt of global warming and will continue to bear the brunt of global warming. The vulnerability of small islands to climate change is increased by limited territory, exposure to extreme weather events and inadequate resources to effectively adapt to the climate change effects (Okakpali, 1998 cited in Methmann and Oels, 2015). Continued sea level rise compounds hazards, notably storm surges and erosion, placing the lives of islanders and the existence of the islands in jeopardy. Fisheries which are the source of livelihood for most island communities and even coral reefs seem to have borne the brunt of climate change (Okakpali, 1998 cited in Methmann and Oels, 2015). Water resource quality and human health have been affected and will continue to be affected as a result of climate change and global warming (Methmann and Oels, 2015).

4.9 Conclusion

This chapter introduced the issue of climate change refugees and how the concept has been conceptualised since the 1980s. The concept has been examined in light of the global initiatives which have been initiated in order to deal with those who have been defined as climate change refugees. The analysis of the Nansen Initiative and the Cancun Adaptation Framework was done in a bid to understand how these have been aimed to address the plight of climate change refugees. The chapter also examined how the climate change refugee concept has been understood and framed not only as a mechanism to recognise those who migrate to new areas as a result of climate change but also as a justification for granting these people sanctuaries and giving them humanitarian help. It is these initiatives which raise questions pertinent to the protection of climate change refugees in the 21st century.

Further, it has been noted that initiatives which include the Copenhagen Climate Change Conference initiatives, the Cancun Adaptation Framework, and the Nansen Initiatives (among others) raised questions on the advancement of a new refugee law regime which aims to recognise climate change refugees on regional and ultimately the international level. The chief aim of the chapter was to understand the ways in which climate change related migration equates with the advancement of human rights and the overhaul of existing international refugee law to encapsulate climate change refugees.

The discussion in this chapter analysed the debates on climate change since the 20th century. The chapter also discussed the climate change migration nexus. The aim of the discussion was to unpack the relationship between climate change and migration in a bid to

establish whether climate change is in fact a major driver of migration or not. Under this, it was noted that climate refugees (in the 20th century) were primarily seen as a problem requiring policy attention since it was a threat to states' national security. These arguments led to security-oriented approaches, hence the tightening of border policing against climate change related migration. This was partly driven by the works of early environmental activists such as Tuchman (1989) and Myers (1989), who painted a gloomy and apocalyptic picture of environmental degradation through predictions of wars and migration prompted by environmental change. It was therefore in this milieu where the issue of climate-induced migration came to the forefront. The discussion in this chapter pointed out that it was in 1985 when the concept of environmental refugees, in relation to climate-changed induced migration was coined under the aegis of the United Nations Environmental Programme.

Despite not being legally recognised, the use of terms *environmental refugees* and *climate refugees* became ubiquitous in referring to people displaced by environmental change. It was noted that population growth and environmental degradation were connected to human mobility in a mono-causal deterministic way. The discussion showed that this type of migration was correlated to territory and was regarded as having the potential to threaten the persistence of statehood hence the enunciation of military responses as the only way of stemming the tide of what was the invasion of climate change refugees. It was noted that perceiving climate change refugees as a threat to national security became the impetus behind the xenophobia and securitisation of migration.

Chapter Five: Existing Proposals and Frameworks on Climate Change

5.1 Introduction

This chapter examines the proposals and frameworks which have been enunciated in a bid to address the plight of who are displaced and opt to migrate to new areas in search of sanctuary. The examination is done in the context of the existing refugee rights framework which has been the reference point of most frameworks and proposals. It is the need to address the plight of what have been termed climate change refugees that has been orienting and driving the need to come up with a robust and all-inclusive refugee law regime. The core questions in this chapter are:

- How has the international community reacted to the plight of climate change refugees?
- What frameworks have been tabled to deal with the issue of climate change refugees since the 20th century?
- How feasible have been the frameworks adopted and the proposed frameworks in dealing with the climate change refugees' conundrum?

The discussion in this chapter traces the development of climate change refugee protection frameworks such as the United Nations Framework Convention on Climate Change by unpacking the various steps which have oriented and driven the adoption of frameworks like this. The chapter will further examine numerous suggestions which have been put forward to address the issue of climate change refugees and the interpolations which have been noted in these.

In principle, refugee and climate change law have over the years offered possibilities for addressing the problem of climate change migration. Regardless of the proposals for them to do so, no regime has to date managed to incorporate the idea of granting people rights and assistance to people displaced to new areas as a result of the disruption of the environment. The shallow definition of the term refugee by the current instruments imposes limitations on how those forced to migrate by climate change should be helped. Most scholars and commentators do not believe that environmental refugees, a concept that gained ground decades after the enunciation of the 1951 Geneva Refugee Convention's adoption, fall within its scope (Renaud et al., 2007; Hodgkinson et al., 2008). Arguments have been that those who migrate as a result of climate change are not victims of persecution as are those covered under the 1951 Geneva Refugee Convention (Kolmannskog, 2008).

It has also been noted that those fleeing from climate change as refugees can and still do look to their countries of origin for sanctuary in a manner those running away from maltreatment (often at the hands of the state) do not (Cooper, 1998; Williams, 2008). It is also critical to note that there has been little political mobilisation and will to amend the Refugee Convention's core definition and the existing Convention does not cover those who migrate to new areas as a result of climate change (Kolmannskog, 2008). Though there have been efforts which saw the United Nations Framework Convention on Climate Change applied in a direct way to climate change, it also has legal loopholes which makes it inadequate. The United Nations Framework Convention on Climate Change as global environmental law accord mainly concerns state-to-state relations (Docherty and Giannini, 2009). It therefore falls short in discussing the obligations that countries have to persons or populations as those stipulated in the refugee and human rights law (Osofsky, 2005). Docherty and Giannini (2009) also note that the United Nations Framework Convention on Climate Change has also been preventive in nature and not well focused on the remedial actions that are needed in a refugee milieu. Lastly, albeit the United Nations Framework Convention on Climate Change has an initiative to help states when it comes to adaptation to climate change, the programme does not specifically deal with the situation of climate change refugees (Williams, 2008). Just like the refugee regime, the United Nations Framework Convention on Climate Change has insufficiently dealt with the plight of those who migrate as a result of climate change.

Despite the fact that a legal charter meant to give sanctuary and help to those who migrate to new areas in search of refuge could be located in international law, the concrete realism is that the global community and present institutes have failed to adequately deal with the problem (Docherty and Giannini, 2009). No inclusive rejoinder has been put forward nationally, regionally and even internationally. Insignificant *ad hoc* approaches were not likely able to deliver the uniformity and extensiveness essential for a far-reaching and enduring resolution (Hodgkinson et al., 2008, Williams, 2008). The UNHCR has failed to institute safeties to those migrating to new areas as a result of climate change and its mandate has not been inclusive of such safeguards (Renaud et al., 2007; Williams, 2008). Biermann and Boas (2008) noted that given the potential number of climate change refugees, the UNHCR is probably not open to broaden its scope to an extent of including climate change refugees in a way that will overpower its institutional capabilities. It has also been noted that the United Nations Framework Convention for Climate Change's existing institutions have not been well-suited to take on the climate change refugee problem at present (Docherty and

BAKING DESERT, COLD RECEPTION? CLIMATE CHANGE DRIVEN MIGRATION AND INTERNATIONAL LEGAL PROTECTION: THE CASE STUDY OF THE SAHEL REGION
Giannini, 2009). Adaptation efforts seem to have focused chiefly on prevention and mitigation of climate change itself. It did not, however, provide help for those who cross borders to flee climate change's effects.

5.2 Political Context of Climate Migration and Impact on Proposals for Changes

The scholarship of probability on discovery and ascription has to a larger partaking recognised a contributory nexus concerning the activities of human beings and climate change (Okeowo, 2013). It has established a causal link between climate change and a particular weather event. It has also established a causal link between climate change weather events and human mobility. Nevertheless, it is also vitally important to understand the political milieu of climate migration. Piguet, Pecoud and De Guchteneire (2011) noted that climate change is only one issue in elucidating the migration subtleties in that any migratory movement is the brains-child of numerous congregating aspects. To Piguet et al. (2011), environmental stresses are always mixed with other causes. These causes may include economic constraints or opportunities, social networks and political factors.

Climate change is a global phenomenon, but its impacts are disproportionately felt by the poor citizens of the developing world, notably those in the Sahel and Pacific Island states such as Kiribati and Tuvalu. These poor nations have established irregular politico-economic circumstances even short of catastrophes such as sea levels rises and terrestrial ruin which can be attributed to changes in climate (Stern, 2007). However, with the collective occurrences of climate change, the countries affected are deprived of the critical properties to deal with the problems and dangers which arise from climate change. This then leaves their people with no other option but to migrate. Okeowo (2003) noted that persons are less likely to immigrate permanently where info and assets are available to assist in remedying their quandary in scenarios of climate change contingencies such as floods. Okeowo (2013) noted that it may be rational to argue that climate change is less likely going to spur inter-country migration in developed countries which have adequate resources and the information essential to forecast its bearing on the environment.

For the developing countries, climate change chiefly acts as a threat multiplier to their existing socio-economic and political problems. Thus, the combined changes to the climate and more importantly their interaction with pre-existing stressors will determine whether people choose to migrate or not. On its own, the displacing effect of climate change is not direct (McAdam, 2012). Rather, it produces environmental effects and exacerbates existing vulnerabilities which make it a mammoth task for people to survive where they are

(McAdam, 2012). This reality, combined with the social and cultural backgrounds of the people who are migrating and who are still likely to move due to the effects of climate change, explains the reluctance of most developed states in agreeing that this group of people deserve to be protected (Okeowo, 2013).

Hathaway (2005) noted that those who sought protection from persecution soon after World War Two were of European origin, therefore their social integration was seen as quite forthright. To Hathaway (2005), this pervasive convergence between the governments of industrialised states resulted in a pattern of generous admission policies. The causes that encouraged this directness to the entrance of immigrants have principally shrivelled. Currently, most immigrants who seek admission in the developed countries are come from less developed countries which are no-Western. Thus, their 'different' ethnic and societal profile is regarded as a dare to the ethnic consistency of most developed countries (Hathaway, 1997).

The reluctance of developed states to admit climate refugees has been pervasive and seen in the argument by most developed states that the climate change refugees from developed nations should have the capacity to adapt to the effect of climate change rather than migrate to developed nations. However, remarking on the inadequacies of some adaptation measures on climate change, people affected by climate change would have to migrate in order to survive (Lagan, 2013). Notwithstanding the clear lack of interest of most developed states in the climate migration problem, Sweden, Australia, New Zealand and Norway have come to appreciate the nexus between ecological ruin, climate change and migration. These countries have accordingly embraced an array of non-binding mechanisms on climate migration through regional reaction instruments.

5.3 Existing Suggestions on Adopting a Climate Refugee Sensitive Regime

5.3.1 A comprehensive, interdisciplinary legal and policy framework

Given the fact that changes in climate are anticipated to stimulate the displacement of people, the absence of laws and institutes meant to deal with the situation is likely going to worsen the state of affairs. An array of other dynamics nevertheless has a duty to play in the emergent climate change induced migration conundrum and must have a part to play in informing the answer (Docherty and Giannini, 2009). According to Myers and Kent (1995), conditions beyond environmental disruption, which include poverty, can contribute to displacement that is primarily caused by climate change. Climate-induced problems can also

lead to circumstances such as armed conflict that increases population flows (Myers and Kent, 1995; Kolmannskog, 2008).

Numerous and varying stresses which include population growth and poor governance can affect countries' abilities to prevent the need for relocation and to cope with any displacement that will likely happen (International Panel on Climate Change, 1990). Climate change migration also involves a wide range of actors which include individuals, communities, home and host states, or the international community more broadly. This then complicates efforts to deal with climate change migration fairly and effectively. Docherty and Giannini (2009) have argued that a holistic approach to the climate change refugee problem should have considered the needs and positions of parties. To Docherty and Giannini (2009), the approach should have also encompassed a wide range of relevant disciplines, including law, science, economics, technological innovation, development, and poverty alleviation. To Docherty and Giannini (2009), there are bounds to what the law could accomplish, and other programme exertions were expected to be just as important. Docherty and Giannini (2009) have been arguing that it is also critical to take on board policies that would help decrease the factors that compel people to leave.

The United Nations Framework Convention for Climate Change's 2007 Bali Action Plan aimed to promote state inventiveness aimed at supporting viable growth, pecuniary expansion, protection of woodlands, and knowledge transferrals were seen as indispensably imperative. In the framework of taking into consideration of the bearing of climate change on security, the German Advisory Council (2008: pp.199-203) recommended using manifold disciplines which include poverty reduction and water management, as well as agrarian programmes, to assist in the averting security trepidations from ascending in their most austere form. It was suggested that the climate change refugee instrument could not supplant but simply complement other determinations that can lessen the need for persons to leave their countries of origin as a result of climate change and generally alleviate the condition (Docherty and Giannini, 2009).

Additionally, Docherty and Giannini (2009) proposed other all-encompassing methodologies that might be applicable to everyone migrating to new countries as a result of climate change in a bid to complement the obligatory climate change refugee mechanisms. Docherty and Giannini (2009) also proposed that those internally displaced as a result of climate change must be part of charter devised to deal with displacement caused by climate change displacement in a broader way. It is critical to note that such displacement has been seen as falling under the rubric of improving human security and well-being (Docherty and

Giannini, 2009). It has also been noted that in some circumstances, particularly when a country falls short in give protection to a community, internally displaced persons may have as much need as refugees for international assistance.

5.3.2 Proposals to address climate change displacement - a more precise definition

After having considered the complications of incorporating climate-change refugees within the existing provisions of the 1951 Geneva Refugee Convention, Williams (2008) suggested that recognising climate change refugees as internally displaced persons offers a possible alternative. According to Okeowo (2013), this proposal was only conventional to the point that people exiled by the impacts of the environmental ruin did not opt to cross their national borders to new countries. Officially, these people would no longer be regarded as Internally Displaced Persons once they cross national boundaries.

Debates focusing on possible new definitions for people displaced by climate change have surged over the last twenty-five years. Hitherto, much of the discourse was guided by those who study the wider category of environmental refugees and not the more particular subsection of climate change refugees (Docherty and Giannini, 2009: p.363). As noted earlier, in 1985, El Hinnawi produced the first environmental refugee definition. McLeman (2008: p.21) noted that the United Nations Environment Programme (1985) defined environmental refugees as temporarily or permanently coerced to leave their original homes due to a noticeable disruption to the environmental disruption in a way that endangers their lives or their livelihoods. The debate continued in the 21st Century when Myers (2002) defined an environmental refugee as any individual who would not be in a position to construct a secure livelihood in their original homes due to environmental disruptions of an uncommon scope, mostly famine, soil erosion, deforestation, desertification, water shortages and other natural disasters such as cyclones, storm surges and floods.

This definition suggests an involuntary decision to relocate when the overall ruin of an area's natural milieu has the possibility of leading people to look for better prospects for living elsewhere (Docherty and Giannini, 2006: p.364). Biermann and Boas (2008) tried to narrow this definition in order to focus more on climate change as the causal link between natural disruption and forced migration as opposed to general environmental changes. According to Biermann and Boas (2008: p.63), climate refugees were persons who are forced to leave their original homes as a result of abruptly or gradually changes to their environment through extreme weather conditions.

With continued focus on climate change, Docherty and Giannini (2006: p.371) proposed a climate change refugee definition that covers sudden and gradual disruptions and “acknowledges aggregate human contributions to climate change”. A climate change refugee is a person who is coerced to leave her or his home and choose to temporarily or permanently move to a new country due to abrupt or steady disruption of the environment (Docherty and Giannini, 2006: p.361) . These debates led to proposals on the need to come up with a set of laws dealing with Internally Displaced Persons.

The rights and bestowed protections of people who are internally displaced by climate change (notably sea level rises) seem to have received less focus than people who cross borders. Nevertheless, academics predict that a large most climate change refugees are likely going to remain in their countries or regions notably in the scenarios of seaside erosion or rises in the seas. Christian Aid, for instance, expects that only five million refugees will cross international borders (Biermann and Boas, 2008: p.41). Probably due to limited financial capacities and support, it is predicted that numerous displaced persons will not be able to migrate great distances. Docherty and Giannini (2006) argued that “Internally Displaced Persons should be left out of the climate change refugee definition in order to reflect the 1951 Refugee Convention’s current distinction between refugees and Internally Displaced Persons” (p. 369). Biermann and Boas (2008: p.8) embrace Internally Displaced Persons in their environmental or climate change refugee definitions.

Biermann and Boas (2008: p.8) argued that there should not be different legal status or protection given to refugees or Internally Displaced Persons contingent “on whether the victims of climate change have crossed a border or not”. If IDP are excluded from the proposed climate change refugee definitions intended to protect people displaced by climate change, they will not find enough protection under current IDP law. As Castles (2002) pointed out, there is no legal or institutional regime specifically designed to protect those displaced internally as a result of climate change. Due to this chasm, it has been noted that unless [an IDP] state consents, those displaced by climate change receive no assistance from the international community. From this standpoint, those internally displaced as a result of climate change are expected to seek aid from their own state. Under the existing international law, the internally displaced by climate change largely remain an internal matter for that state to address (Schmidt, 2004).

In a bid to create a mandate that would provide protection for Internally Displaced Persons, the Commission on Human Rights and the General Assembly called on the representative of the United Nations Secretary-General on IDP to develop a new international

framework for IDP. The representative's work on an international mandate was framed in the realisation that IDP assistance falls under state sovereignty because the recipients of aid are by definition internal. In order to confront the sensitive issue of state sovereignty, the representative of the United Nations Secretary-General chose to:

...approach sovereignty not as a negative concept by which states barricade themselves against international scrutiny and involvement, but rather as a positive concept entailing responsibility for the protection and general welfare of the citizens and of those falling under state jurisdiction". (Deng, 2001: p.144).

In 1998, the United Nations adopted Deng's (2001) proposed mandate. The Guiding Principles on Internal Displacement serves as the sole international document directly addressing the unique plight of people displaced within their own nation's borders. Though the Guiding Principles "are consistent with international human rights and humanitarian law and the analogous refugee law", it is critical to note that the document lacks binding force on state actors (Deng 2001: p.147). The principles have been serving as valuable practicable guidance to government, other competent authorities, intergovernmental organisations and non-governmental organisations in their work with IDP (United Nations Refugee Agency, 2004).

In line with the 1951 Refugee Convention, the Guiding Principles are not suited to effectively deal with the particular issues arising from the climate change induced displacement. The Guiding Principles define IDPs as individuals or a group of individuals who have been coerced or compelled to migrate away from their original places of residence notably with the sole aim of avoiding the negative consequences of wars, circumstances of widespread ferocity, human rights violations, or man-made or natural disasters within their own state borders. An examination of the internally displaced persons' definition depicts that people displaced by climate change may fit within the definition.

According to this definition, a displaced person is protected if he or she must move because of 'natural or human made disasters' (DeWitte, 2010). To DeWitte (2010), while the Guiding Principles do not provide a definition for disaster, common use suggests a sudden event. A tsunami, an earthquake and a cyclone are easily described as sudden and disastrous events which immediately produce IDP. This is so because all these lead to an abrupt destruction of people's homes. Rising sea level and droughts could be gradual disasters. Though rising sea levels are a gradual occurrence, coastal regions that experience a gradual rise in sea level are more vulnerable to sudden, frequent and detrimental flooding (IPCC,

2007). A rise in sea level could be interpreted as a human made disaster. This could well fit under the IDP definition.

It is important to note that the Guiding Principles call for protection for Internally Displaced Persons. The Guiding Principles stipulate that those internally displaced as a result of the issues raised above have “the right to an adequate standard of living and unhindered access to the medical care and attention they require, without distinction on any grounds other than medical ones that are covered in a general right of equality and dignity” (DeWitte, 2010: p.226). What is important however is to note that albeit the Guiding Principles provide nations with a scheme outlining guaranteed rights and protection of Internally Displaced Persons, they lack a principle addressing international support in times of ‘natural or human made disasters. In actual fact, DeWitte (2010) noted that Guiding Principle 3 places responsibility on the home state to provide help and sanctuary to those internally displaced for whatever reason.

The state authorities have the principal obligation and duty of providing humanitarian help and security to those displaced internally within their jurisdiction (DeWitte, 2010). DeWitte (2010) noted that these Guiding Principles do not confer an international duty to protect people who are displaced within their own borders (Beirmann and Boas, 2008). Rather, home states are charged with “facilitating durable solutions for their displacement” (Ferris, 2008: p.21). DeWitte (2010) noted that with the inclusion of Principle 3, the Guiding Principles do not serve as the adequate and necessary response for displacement caused by climate change. It is however of paramount importance to note that climate change-induced displacement and migration has become a global problem. That being the case, it has been opined that IDPs’ respective home states are not and cannot be seen as the only contributors to the natural disaster which caused displacement. That being the case, it has been argued that the burden to help and give sanctuary to IDPs should not solely rest on the shoulders of their national authorities.

5.3.3 Proposals to attach a new protocol on the current the refugee regime

As already noted, the 1951 Geneva Refugee Convention and the 1967 Protocol give a very comprehensive framework for the rights of refugees. Docherty and Giannini (2009) suggested that an instrument meant to cover climate change refugees can be an appendage to the existing Convention and Protocol on refugees. Whereas the debates and scepticism in establishing the direct nexus between environmental climatic change and displacement as opposed to, for instance, economic migration remains, there is now growing evidence to

support the plight of so-called climate change refugees (Black, 2001; Castles, 2005). Those who believe that climate change is indeed a major driver of migration have been demanding increasing attention from the international legal community (Kolmannskog, 2008). Numerous suggestions have therefore been made.

In a bid to bring climate change refugees under the umbrella of the 1951 Geneva Refugee Convention, arguments have been made to the effect that those who cross their borders in search of refuge presently fit within the 1951 Geneva Refugee Convention's definition. This argument has been anchored on the notion that government induced environmental degradation is a form of persecution (Okeowo, 2013). Furthermore, such persecution takes place by reason of environmental refugees' membership in a social group (Okeowo, 2013). Okeowo (2013: p.284) noted that:

...although it can be a truism that state induced degradation of the environment can qualify to be termed persecution for a 1951 Refugee Convention purpose, the wide-ranging theme of displacement induced by climate change stops to be so if the destruction to the environment which spurs dislocation is induced by the state and not by the environment.

It is critical to note that the former form of environmental degradation which could be termed persecutory fits within the envisaged possibility of the 1951 Geneva Convention. This is the case because there must be an identified persecutor under the rules of the 1951 Geneva Refugee Convention.

Under the 1951 Geneva Refugee Convention, this persecutor is usually the home government of the person seeking refugee status. The persecutor can also be a non-state actor. The idea hence is that the person being persecuted flees from that state and crosses to another state to seek sanctuary or refuge. Nevertheless, in the case of a non-state persecutor, the persecutor cannot be identified since a non-state persecutor is not an entity which is subject to international law. Instead, it can be argued that the persecutor in such a case is the international community (Okeowo 2013: pp.284-285). This international community constitutes the industrialised countries, in particular those nations whose failure to reduce greenhouse gas emissions has resulted in the situation faced by third world country nationals (IPCC, 1990; IPCC, 2007).

McAdam (2012) noted that these countries affected by climate change are the very countries to which movement might be sought if the land in which they live becomes uninhabitable. McAdam (2012) noted that delinking the subject who perpetrates persecution

on individual from the country from which migration takes place in an utter reverse of the orthodox refugee model. To McAdam (2012):

...whereas the refugees defined under the 1951 Geneva Refugee Convention run away from persecution perpetrated by their own state authorities or any other actor that government will be unable or unwilling to stop, an individual running away from climate change will not be running away from her or his have contributed to changes in climate.” (p.45).

To Docherty and Giannini (2009), the focus on human beings of the 1951 Refugee Convention would support the use of it as the enunciation of a protocol that will be aimed at covering those who are coerced to migrate as a result of climate change. The human rights approach of the current refugee legal regime gives normative weight to the refugee issue and affirms the fundamental rights of refugees. Docherty and Giannini (2009) suggested that the 1951 Geneva Refugee Convention called for post-migration securities to be grounded in humanitarian help and need. These curative actions would be similarly suitable for those who migrate to new countries as a result of changes in the climate (Docherty and Giannini, 2009). The 1951 Geneva Refugee Convention, unlike the United Nations Framework Convention on Climate Change, also communicates principally of state responsibilities toward individual persons and not of the connexions among countries.

Ultimately, Docherty and Giannini (2009) suggested that institutions that work within the traditional refugee framework may also impart their knowledge and knowledge to the collaborative instruments formed by the instrument on climate change refugee instrument. All of these considerations argue for placing a climate change refugee protocol with the 1951 Geneva Refugee Convention. Nevertheless, Docherty and Giannini (2009) noted that the 1951 Refugee Convention’s mandate is not a perfect fit for a climate change refugee protocol. The 1951 Geneva Refugee Convention does not explicitly cover victims of environmental displacement.

The 1951 Geneva Refugee Convention focused only on those individuals with a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion”. Proposals for amending the traditional definition of refugee to include environmental refugees have been put forward by numerous scholars and states. One scholar stated that those affected by climate change fall under the 1951 Refugee Convention’s definition already since they are a ‘particular social group’ that writhes from a form of ‘persecution’ (Cooper, 1998: p.350).

There has, however, been strong resistance to such an expansion of the doctrine (Biermann and Boas, 2008; German Advisory Council, 2008; Hodgkinson et al., 2008). Those who resist such an expansion are apprehensive that altering the goal of the 1951 Refugee Convention can weaken the protection provided to those already covered or lead to the creation of needless pressures between two groups of deserving beneficiaries of security (Biermann and Boas, 2008; German Advisory Council, 2008; Myers and Kent, 1995). The resistance to the expansion of the scope of the 1951 Refugee Convention has been political and the major concerns are that the expansion would overwhelm the existing institutional capabilities of the UNHCR and other responders (Biermann and Boas, 2008; Myers and Kent, 1995).

The UNHCR has refused to extend its mandate to include climate change refugees (Biermann and Boas, 2008; Renaud et al., 2007; Williams, 2008). The 1951 Geneva Refugee Convention's framework has been very restraining to the important constituents of the instruments on climate change. The 1951 Refugee Convention puts extensive obligations on the host state without necessarily elaborating what is expected of the home state. The 1951 Refugee Convention implies burden-sharing with its mention of international cooperation. It does not assign the obligation for support according to the standard of mutual but distinguished obligation. Despite proposed calls for financial contributions to fund refugee related contingencies, with internal displacements and refugee surges being key among them, Docherty and Giannini (2009) noted that the 1951 Geneva Refugee Convention has no comparable institution.

5.3.4 Merits and Demerits of United Nations Convention on Climate Change

The United Nations Framework Convention on Climate Change offers another possible location for a climate change refugee protocol. Biermann and Boas (2008) and other scholars proposed this alternative. Climate change is the basic cause of displacement, Docherty and Giannini (2009) argue that it makes intuitive sense to attach the instrument to the United Nations Framework Convention on Climate Change. The existing treaty framework with over a hundred state parties has a wide-ranging obligation to deal with the issues linked to climate change. Some United Nations Framework Convention on Climate Change provisions also relate to the essential components of the climate change refugee instrument.

The United Nations Framework Convention on Climate Change establishes a body of scientific experts and a funding mechanism. The United Nations Framework Convention on

Climate Change also divided responsibilities according to common but differentiated responsibility. Docherty and Giannini (2009) noted that placing a protocol within the United Nations Framework Convention on Climate Change arena was preferable to using the existing refugee regime. This option has three significant shortcomings. These shortcomings include the limits of the United Nations Framework Convention on Climate Change's obligation, which is focused not on remedies; the inherent inertia to include the issue of human rights openly into the treaties on the environment; and the United Nations Framework Convention on Climate Change's track record of inaction. The United Nations Framework Convention on Climate Change focuses on preventive measures that protect the environment not on remedial measures that protect people. The United Nations Framework Convention on Climate Change also makes its mandate clear in its statement about its core objective.

Docherty and Giannini (2009) noted that the eventual goal of this Convention and other associated legal mechanisms that the Conference of the Parties enacted was to realise maintenance of the concentrations of greenhouse gas in the atmosphere at degree which would preclude hazardous anthropogenic intrusions with the temperature systems. Docherty and Giannini (2009) suggested that such a level should be achieved within a time-frame enough to allow ecosystems to adapt naturally to climate change. This level should also be achieved within a time-frame which ensures that food production is not threatened and should also be done in a way that enables economic development to proceed in a sustainable manner. The United Nations Framework Convention on Climate Change aimed to provide protection to the climate system in order to benefit the generations of today and those of tomorrow, but it was not intended to offer protections of human rights and humanitarian help to persons such as climate change refugees in the aftermath of disruptions to the environmental.

The United Nations Framework Convention on Climate Change is a covenant between nations to forestall, avert or lessen the foundations of climate change and alleviate its adversative impacts. It laid out preventive initiatives, such as the transfer of technologies to prevent emissions, and plans to mitigate climate change by addressing emissions, research, scientific studies, education, training and awareness programmes. The only semblance of a remedial measure in the United Nations Framework Convention on Climate Change was its mention of adaptation, which however did not focus on transboundary refugee problems. Nowhere in the 1992 United Nations Framework Convention on Climate Change or the Bali Action Plan of December 2007 do the words *migrant*, *migration*, *refugee*, or *displacement* appear, despite the identification of small island states and those with low lying coastal areas as particularly vulnerable countries.

In a similar vein, adaptation efforts associated with the United Nations Framework Convention on Climate Change comprise scant reference to these terms, instead focusing on traditional arenas of the United Nations Framework Convention on Climate Change, such as alleviation of the excessive cutting down of trees, knowledge transmission, and market-based enticements to alleviate the complications associated to climate change. Docherty and Giannini (2009) noted that a second shortcoming of the United Nations Framework Convention on Climate Change is its lack of reference to rights. Docherty and Giannini (2009) suggested that the climate change refugee instrument they recommended must institute the protection of human rights or those who are displaced by climate change. These provisions would seem out of place in the United Nations Framework Convention on Climate Change. While a protocol could expand the scope of the treaty, the United Nations Framework Convention on Climate Change is essentially in sync with other global environmental treaties that have not integrated the norms of human rights. The United Nations Framework Convention on Climate Change stated the effects of climate change on the people's welfare and their health but does not include any rights for populations or individuals.

To date, individual states have not been making great efforts in solving various outstanding questions on climate change and the track records of states has been a major concern. Carbon dioxide emissions have been on the surge in the backdrop of the United Nations Framework Convention on Climate Change's enunciation. It is yet to be seen whether states will make the difficult decisions needed to establish mandatory limits on emissions. Docherty and Giannini (2009) argued that since there are major dissimilarities of attitude with regards to limiting emissions between the developed and developing countries, the addition of migration to the debates is unlikely to occur. The United Nations Framework Convention on Climate Change is tailored to address different aspects of climate change than climate change refugees. Though it does include some helpful provisions for the proposed protocol, it is a limited forum due to its non-remedial purpose, the hesitation to include human rights in international environmental treaties, and the framework's limited successes to date.

5.3.5 Proposals for a for a new climate change refugee convention

There have been proposals aimed at dealing with climate change refugees or environmental refugees more generally. These proposals have been to expand the scope of the Refugee Convention or United Nations Framework Convention on Climate Change

BAKING DESERT, COLD RECEPTION? CLIMATE CHANGE DRIVEN MIGRATION AND INTERNATIONAL LEGAL PROTECTION: THE CASE STUDY OF THE SAHEL REGION (Biermann and Boas, 2008; Williams, 2008). Docherty and Giannini (2009) noted that these conventions were not designed for this purpose. They further noted that the current rules exclude some of the crucial mechanisms of the instrument of climate change they have suggested. Docherty and Giannini (2009) argued that the current rules have built and engrained methodologies to complications. There is opposition to broadening their obligations. In line with this argument, they claim that the fundamental constituents of the instrument on climate change refugees are critical to realising an inclusive, cohesive answer to the call for the enunciation of a novel global convention.

A convention dedicated to addressing the plight of refugees of climate change bids numerous benefits over protocols to current mechanisms. A novel treaty would emphasise that this incipient conundrum calls for serious attention autonomous of other structures. It would show that the conundrum calls for the blending of various normative and legal principles which include those of humanitarian aid, human rights, and international environmental law. From that standpoint, it has been argued that the novel instrument would make best use of the accessibility of mechanisms aimed at constructing an answer to these compound issues. Ultimately, Docherty and Giannini (2009) noted that fabricating an autonomous climate change refugee accord called for a novel procedure that would provide opportunities aimed at promoting the communities affected, as well as the civil society groups.

5.4 Components of the Climate Change Refugee Instrument

Docherty and Giannini (2009) proposed a new climate change refugee instrument. The new instruments suggested by Docherty and Giannini (2009) called for a meticulous definition of climate change refugee in order to address the crisis of trans-boundary climate change migration. All sufferers of ecological damage are worthy of security and assistance on humanitarian grounds. According to Docherty and Giannini (2009), a new international instrument ought to complement the definition on climate change refugees proposed in 2009 with an innovative and interdisciplinary combination of components. These components include ethical and concrete necessities to deal with the emergent catastrophe of climate change induced migration.

Docherty and Giannini (2009) proposed that this mechanism must ensure that refugees protected by the recommended delineation of climate change refugee are given enough assistance in the form of humanitarian help and protections of their rights. The instrument must spread the load of giving that help across different countries which are

affected directly by the migration and the global community at large. Docherty and Giannini (2009) stated that this instrument should further inaugurate an administrative scheme aimed at implementing the elaborate system in a reasonable and well-organized way. Imaginative resolutions that amalgamate concepts from a diversity of bases can also assist the climate change refugee instrument to realise these goals. Docherty and Giannini (2009) reported that human rights, refugee, international humanitarian law and environmental all deliver pertinent doctrines and facsimiles.

Economics and science have also been seen as critical in playing an important role. According to Docherty and Giannini (2009), the climate change refugee instrument should ultimately contain nine components. The components fall into three broad categories which include guarantees of assistance, shared responsibility and administration. Under the guarantees of assistance, Docherty and Giannini (2009) suggest that there should be standards for climate change refugee status determination, human rights protections and humanitarian aid. Under the second category, shared responsibility, Docherty and Giannini (2009) suggested that there should be host state responsibility, home state responsibility, and international cooperation and assistance. Under administration of the instrument, Docherty and Giannini (2009) stated there should be an organisation of technical specialists, a global fund and a coordinating agency. To them, a protocol, which is a separate instrument to the 1951 Geneva Refugee Convention, goes beyond its framework convention. Despite this, support for attaching such innovative provisions to a widely accepted existing treaty may be limited. Notwithstanding their mutual concern for human welfare, the 1951 Geneva Refugee Convention and climate change refugee instrument are not fully compatible.

To Docherty and Giannini (2009), the climate change refugee instrument proposed should guarantee basic help for the class of people that it defines. The instruments should make sure that both climate change refugees get protections of their rights as they shift from one state to the other and that their vital humanitarian wants are satisfied (Docherty and Giannini, 2009). Docherty and Giannini (2009) noted that the instrument should borrow heavily from existing refugee law for the guidelines of safety and from universal law ethics for prototypical humanitarian assistance provisions.

5.5 Standards for Determination of the Climate Change Refugee Status

The definition of climate change refugee discussed by Docherty and Giannini (2009) was designed to be constricted enough to be legitimately impregnable though comprehensive enough to include the refugees who are affected the most by climate change. The proposed

mechanism aimed to take on board the legal model and the particular features of climate change migration when instituting the practice for taking on board those who achieve status under this delineation. The instrument aimed to allow for the determination of whether persons who will be seen as climate change refugees should be granted refugee status(es) either as individuals or as a group. The instrument also aimed to include a strong preference for the latter. States to which the UNHCR arrogates obligations make the determination of a refugee status on a case-by-case specific basis (UNHCR, 1992). However, in cases of a mass influx of refugees, states and the UNHCR often adopted a group determination approach.

For practical reasons (in instances of a refugee influx), the United Nations High Commission for refugees presumed that members of migrating groups are refugees. According to Docherty and Giannini (2009), this methodology would be essentially apt to climate change induced migration, whether the migration was prompted by a rapid onset disaster (such as a severe hurricane) or instances of an evolutionary process (such as desertification or the submersion of an island). Relocation includes large groups of people because in most cases climate change usually affects entire communities. On a general note, Docherty and Giannini (2009) opined that group status determination of climate change refugees would be preferable. Docherty and Giannini (2009) noted that the climate change refugee instrument must make it the default but also countenancing for distinct determination of status. This default to Docherty and Giannini (2009) would reduce the costs of the procedure, guarantee equal application, reduce repeated debate over the causality of an occurrence, expedite providing of assistance, and dissuade migration before it is essential.

The argument behind this proposal is that collective status determinations would also intensify chances of crafting resolutions that would retain the intactness of a group's integrity. This approach could also help preserve cultures and national identities. Under this system, Docherty and Giannini (2009) suggested that the body of scientific experts must on a national or state level take into consideration whether the disruption of the environmental that ends up into displacement is sheltered under the characterisation of climate change refugee. It should consider whether it is in line with climate change and more probable than not contributed to by humans. The conclusions reached to influence in turn which communities are granted group status and which ones are not.

Permitting collective status determinations for climate change refugees may invite some antagonism. Particular countries regard collective status determination as a provisional measure for crisis circumstances (European Council on Refugees and Exiles, 2009). Host states can be unwilling to outspread this to relocation that will be perpetual and impervious to

allowing huge numbers of climate change refugees to cross into their countries long standing status. However:

it must be an impossible option for any potential host country to suppose that it can hold back the rising flood of refugees through policy fiat or government diktat. . . . Refugees will always find ways to breach frontiers wholesale.” (Myers and Kent, 1995: p.151).

The proposed instrument by Docherty and Giannini (2009) aimed to lessen the load of giving help to these group-determined climate change refugees by guaranteeing international support to the host countries to deal with this nature of massive inflows. In a bid to make certain that assistance goes to those who genuinely need it, the instrument proposed by Docherty and Giannini (2009) on climate change refugees aims to acknowledge that people who flee climate change events may lose their refugee status and forfeit assistance under certain circumstances. Just the same as in the 1951 Geneva Refugee Convention, these persons must be in a position to get assistance, to get citizenship and security from a new country; to accept the securities provided by their home countries, to return to their home countries, or to refuse to return to their home country when their security is no longer under threat. In numerous climate change situations, notably those of a disappearing island state, return is usually improbable if not completely impossible. That being the case, climate change refugees would regularly maintain their standing until they acclimatise or become permanent citizens in a new country.

5.6 Human Rights Protections

The climate change refugee instrument proposed by Docherty and Giannini (2009) aimed to inaugurate vibrant protections of the rights of those who are covered under its conceptualisation. The UNHCR noted that the 1951 Geneva Refugee Convention merged preceding global mechanisms concerning to refugees and offered a most inclusive collation of the refugees’ rights on the international platform. The 1951 Geneva Refugee Convention itself explicitly mentions the norm that human beings will enjoy essential privileges and autonomies without discernment. The 1951 Geneva Refugee Convention functions as a valuable ideal of the types of human rights safeguards to embrace in a novel instrument. The proposed climate change refugee instrument by Docherty and Giannini (2009) aims to borrow heavily from this legal precedent. This precedent is as applicable to climate change refugees as it is applicable to traditional refugees since it is well-established and difficult to challenge.

The instrument proposed by Docherty and Giannini (2009) aimed to secure an array of politico-economic civil, social and cultural rights. It also aimed to guarantee rights particular to the refugee context related to movement. They suggest that this guaranteeing of rights should be done in a non-discriminatory manner and should ensure that all climate change refugees receive at least a minimum standard of treatment. The proposed instrument also aimed to guarantee that climate change refugees receive fair treatment. The instrument aims to grant these refugees rights at least equal to those of other aliens in the host country. To Hathaway (2005), these minimum standards that countries are obliged to satisfy are the general standard of treatment. In some instances, climate change refugees must be allowed have access to much improved treatment, akin to that given to citizens of the host country (Docherty and Giannini, 2009). This can be referred to as an exceptional standard of treatment (Hathaway, 2005). To Docherty and Giannini (2009), climate change refugees should get human rights securities reckoned in the novel instrument.

The climate change refugee instrument proposed by Docherty and Giannini (2009) aims to unequivocally safeguard particular rights. As in the case of the 1951 Refugee Convention on the politico-civil side, Docherty and Giannini (2009) proposed that climate change refugees have access to courts and legal assistance, and should also be granted the freedom to associate. Docherty and Giannini (2009) proposed that both of these protections be at a level equal to that of host state nationals. To Docherty and Giannini (2009), free expression must be added to the list of protections previously enumerated in the 1951 Geneva Refugee Convention; they should also fall under the exceptional standard of treatment. These protections to Docherty and Giannini (2009) should help make sure that climate change refugees have ways to promote their rights.

The instrument proposed by Docherty and Giannini (2009) aimed to ensure that economic, social and cultural rights of the people concerned are protected. This ensures that these rights are protected and guarantees that climate change refugees' survival is ensured in their new environment. To Docherty and Giannini (2009), climate change refugees must be recipients of food rations, basic education, civic assistance, occupation welfares, social sanctuary and employees' benefits. Additionally, underneath a wide-ranging standard of treatment, these refugees should be given rights of employment, accommodation assistances and opportunities for higher education (Docherty and Giannini 2009). These provisions, articulated in the 1951 Geneva Refugee Convention, establish the key humanitarian and livelihood protections that climate change refugees need when they run away from an environmental disaster and choose to enter a new country. Ultimately, since climate change

refugees by definition migrate across state borders, the proposed instrument by Docherty and Giannini (2009) aimed to make sure that some rights protections are specifically related to movement.

The principle of *non-refoulement*, which is one of the basic rules of traditional refugee law, forbids host states from returning a refugee to his or her home state by force when the refugee's "life or freedom would be threatened on account of his or her ethnicity, faith, nationality, association of a certain socio-political group opinion" (Goodwin-Gill and McAdam, 2007: p.354). In the climate change refugee instrument proposed, the principle prohibits forced return to a home state where climate-induced environmental change would threaten the refugee's life or ability to survive. In this case, this threat comes from the environment and not from the home state's policies. Despite this, it can be noted that the consequence on the victim does not change.

Under other provisions that safeguard the movement of climate change refugees, Docherty and Giannini (2009) suggest that host states ought not to penalise refugees who enter the host state unlawfully if they would have faced threats to their survival had they remained at home. The proposal by Docherty and Giannini (2009) held that host countries should create a platform for the free movement of persons within the territory of the host state. This freedom of movement, the proposal stated, should be equal to that of other aliens. The host state should issue identity and travel documents and facilitate naturalisation of the refugee.

To Docherty and Giannini (2009), the climate change refugee instrument must oblige states' parties to apply all these requirements in a non-discriminatory manner. Since Article 3 of the 1951 Geneva Refugee Convention forbids segregation based on faith, ethnicity, and nationality, an alternate list grounded the International Covenant on Economic, Social and Cultural Rights. Adopted in 1966, this list encompasses faith, race, political beliefs, national or social origin, property, birth, or other status. More recently, new recognised categories of discrimination include disability and sexual orientation. Docherty and Giannini (2009) suggested that a widely inclusive yet not exhaustive list ought to serve as the model for non-discrimination in the instrument on climate change refugees.

5.7 Humanitarian Aid

While protection of human rights is critical, in the aftermath of a forced migration, climate change refugees also require humanitarian aid². The climate change refugee instrument proposed by Docherty and Giannini (2009) aimed to go beyond the 1951 Geneva Refugee Convention in order to guarantee that basic survival needs are met. To Docherty and Giannini (2009), the instrument need not specify details about how that aid is delivered. Rather, that should be left to a proposed coordinating agency. According to the suggestion by Docherty and Giannini (2009), the instrument ought to postulate that it obliges countries to make contributions to the provision of aid to variable notches. To Docherty and Giannini (2009), the climate change refugee instrument should be premised on the emerging principle of victim assistance codified in the Convention on Cluster Munitions³ which was enunciated in 2008 (Goose, 2008). Although Article 5 of the Convention on Cluster Munitions aimed to satisfactorily offer gender and age sensitive help which included medicinal care, reintegration and emotional care, and socio-economic integration of the victims⁴, the particulars of the help to the victims of climate change might vary.

Though medical help is critically vital for climate change refugees, food aid, shelter and water are also vitally important. Article 5 of the Convention on Cluster Munitions established a legal principle that required states to provide remedial humanitarian assistance. It also made sure that the circumstances of individual victims are taken into consideration. To Docherty and Giannini (2009), the Convention on Cluster Munitions calls for ‘age and gender sensitive assistance.’ These qualities are equally important when addressing a climate change refugee crisis. Whereas negotiators will have to determine the details of the content of victim help, the framework set by the Convention on Cluster Munitions for including such an aid provision is valuable. This precedent depicted legal instruments that required tangible assistance as well as protection of abstract rights. Aid provision was critically important for humanitarian reasons and the safeguarding of the rights of those affected.

To the UNHCR, protection and material help are interconnected. The UNHCR can give operative legal security if the basic needs of a person are also are satisfied (UNHCR, 2007). In turn, adequate human rights protections help in ensuring that humanitarian aid is accessible and distributed in a non-discriminatory manner. The proposed climate change

² International Covenant on Economic, Social and Cultural Rights art. 2(2), *opened for signature* Dec. 16, 1966, 993 U.N.T.S. 3 (*entered into force* Jan. 3, 1976).

³ Convention on Cluster Munitions, *opened for signature* Dec. 3, 2008, Diplomatic Conference for the Adoption of a Convention on Cluster Munitions, Dublin, CCM/77, *available at* http://www.clusterconvention.org/pages/pages_ii/ia_textenglish.html.

⁴ See Article 5 of the Convention on Cluster Munitions.

refugee instrument, and the people it benefits, proposed by Docherty and Giannini (2009), held that there should be no choosing between protection and aid. Rather, it is proposed that the instrument should guarantee both.

5.8 Shared Responsibility

The climate change instrument proposed by Docherty and Giannini (2009) proposed that responsibility should be spread for providing human rights protection and humanitarian aid across all states to various degrees. Since refugees relocate to host states, the proposed instrument holds that host states should bear the primary burden of implementing the guarantees. The instrument proposed that home countries must be obligated to offer help with corrective actions to the degree imaginable. However, they must pay attention to averting climate driven movement which originated from their countries of origin.

The instrument also proposed that the global community (inclusive of the major contributors of carbon emissions) must offer help to groups involved in these struggles through mandatory in-kind or monetary contributions, which will be congruent with each state's contributions to the changes in climate as well as the ability of the state to pay. Such a shared scheme of responsibility is designed to deal with the international cause of migration and trans-boundary effects of a climate change refugee crisis.

5.9 Host State Responsibility

The realisation of the guarantees laid out in the proposed instrument generally requires action by host states. According to the proposal by Docherty and Giannini (2009), host states ought to bear this responsibility because climate change refugees will be in their territories. The host states are the states which will be in a better position to give the needed assistance. In the case of the 1951 Geneva Refugee Convention, the obligations enumerated almost all fall on host states. The standards for treatment stated in the 1951 Geneva Refugee Convention require that refugees get protections to their rights equivalent to immigrants or citizens in the host countries. To Docherty and Giannini (2009), this legally accepted principle should apply in the case of climate change refugees. Each host state should take the lead in making sure that humanitarian aid is distributed to the people who have fled into its territory. The proposal stated that the host governments, international agencies or non-governmental organisations can do the actual distribution. Under the new proposal, other states should provide financial or in-kind support when possible. This support should be

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subject to host state approval as required by the rules of state sovereignty (Docherty and Giannini 2009).

5.10 Home State Responsibility

Unlike the 1951 Geneva Refugee Convention which stated that host states must apply the security and support system, the climate change refugee instrument propounded by Docherty and Giannini (2009) aimed to obligate home states to provide assistance to the extent possible. Since various countries have diverse capabilities, in particular, human rights and international law expect countries to take care of its own citizens. Goodwin-Gill and McAdam (2007) noted that this responsibility springs from the fact of control over territory and inhabitants. This is also consistent with state sovereignty. It is of paramount importance to note that in the refugee context home states will no longer have control over their nationals who would have fled. Further, the host states would not have control over the territory to which their nationals would have relocated.

Nonetheless, refugee law places various duties on home states. An international legal principle required various states to “cooperate in the solution of refugee problems” (Goodwin-Gill and McAdam 2007: p.3). The climate change refugee instrument proposed by Docherty and Giannini (2009) aimed to adopt this principle. It is critical to note that the home state’s responsibilities encapsulated playing a part in facilitating the intentional homecoming of citizens from a foreign country as well as the facilitation of the routes of systematic departure and the reunion of families (Goodwin-Gill and McAdam 2007: p.3). To Docherty and Giannini (2009: p. 357), collaboration at the time of movement of the family must be pertinent in the milieu of climate change induced migration as is the case with other forms of migration. According to Docherty and Giannini (2009), collaboration linked to homecoming may be appropriate to a lesser extent in the climate change refugees’ case. The destruction to the environmental or a state’s disappearance will prompt numerous people to permanently relocate. The instrument proposed obliges climate change refugees who would have not assimilated in the host state to go back to their state of origin when their survival will no longer be under threat. The instrument proposed also obligated home states to make such returns possible.

The rules which governed orthodox refugees emphasised the responsibility of the home states during relocation and homecoming. Unlike this traditional law governing refugees, the climate change refugee instrument proposed required assistance between these moments. The proposed instrument aims to obligate home states to provide financial, material

and logistical help for temporary relocation or permanent resettlement as far as they can. According to Docherty and Giannini (2009), in instances where states become submerged in water and disappeared, home states might be able to contribute little or would be unable to contribute altogether. The proposed instrument aimed to compel home states to assist as far as they can.

Docherty and Giannini (2009) aver that the climate change refugee instrument may make use of the prototypes of accords that make a recognition of the actuality that the resources at the disposal of states do vary. A responsibility to give curative aid is a plausible establishment of the suggested novel instrument. Climate change refugees have diverse connections with their countries of origin and other migrants. In most instances, traditional refugees generally flee their homes because they fear their states. Such countries will less likely offer to help the same people they would have victimised, and the migrants may not accept their assistance. In contrast, climate change refugees usually flee states that are unable but not unwilling to protect them at home. In such circumstances, home states under the new instrument ought to assent to make contributions to the safety of their citizens, anywhere they are situated, pending their naturalisation in the host country. To Docherty and Giannini (2009), even though some home states might be unwilling to offer help, the new instrument aimed to obligate them to assist to the extent possible.

The climate change refugee instrument proposal also aimed to obligate home states to help prevent a refugee crisis since they may be in the best position to do so. Under the 1951 Refugee Convention, a global legal standard place an obligation on countries to inhibit involuntary relocation. Under this system, Goodwin-Gill and McAdam (2007: p.23) noted that states should “exercise care in their domestic affairs in the height of other States’ legal interests and assist in the removal or mitigation of the causes of flight”. Under a climate change refugee regime proposed by Docherty and Giannini (2009), it is suggested that home countries must also be expected to deal with the amplified flows of refugees as far as possible, before a crisis stage is reached. Crisis prevention is seen as of paramount importance in either making attempts to eradicate the necessity for migration or concocting to deal with it in an orderly manner. Under the proposed climate change refugee instrument, it is suggested that home states must be in a position to get global help for these types of exertions (German Advisory Council, 2008).

5.11 International Cooperation and Assistance

According to Docherty and Giannini (2009), the climate change refugee instrument must spread obligation for ensuring the protection of human rights and the provision of humanitarian assistance throughout the global community. Given the fact that climate change has an international foundation, Docherty and Giannini (2009) noted that it should have an international solution. The burden of dealing with the problem of climate change cannot be dealt with the home and host states on their own. For the most part, their actions are not the root of the problem. Rather, climate change stems from cumulative actions of states - notably developed ones - from every continent. Through pooling all states' resources, the world will be in a better position to adequately address the migration conundrum caused by climate change. In addition, there are legal and moral reasons to hold those who contributed most to causing the harm responsible for mitigating it (German Advisory Council, 2008: p.200).

Docherty and Giannini (2009) noted that the accepted legal principle of international cooperation and assistance ought to serve as the basis for the shared responsibility of the climate change refugee instrument. Numerous subdivisions of international law set standards for the inclusion of duties aimed at giving such help. Despite this, the precedent in human rights law has been seen as the most relevant to the climate change refugee instrument. The preamble of the 1951 Geneva Refugee Convention recognised the load it puts on receiving countries and stated that since the conundrum has an international scope a fitting answer will not be reached when there is no international collaboration. As was depicted in a 2009 United Nations Office of the High Commissioner for Human Rights dossier on human rights and climate change, numerous other human rights agreements inaugurate obligatory duties for global collaboration and help. The International Convention on the Rights and Dignity of Persons with Disabilities and the Convention on the Rights of the Child stated that each state party to the covenant undertook steps individually and through international assistance and co-operation in order to achieve progressively the full realisation of the covenant's right.

These duties go further than the promotion of human rights to the provision of humanitarian help. Further, the Committee on Economic, Social and Cultural Rights which issue clarifications of the International Convention on the Rights and Dignity of Persons with Disabilities stipulated that countries have a collaborative as well as individual obligation to come up with cooperative efforts aimed at giving disaster respite and humanitarian aid in cases of emergencies, as well as aid to migrants and people who will be internally displaced. Under the proposed instrument, an obligation for international cooperation and assistance is particularly appropriate since the global community plays a part in climate change.

Rather than merely fashioning an intangible responsibility, the new instrument proposed aimed to establish a mechanism to collect and distribute the assistance. Docherty and Giannini (2009) noted that, though numerous categories of in-kind aid, including material and logistical aid, would be of value to climate change refugees and countries affected by their immigration, monetary help becomes specifically important. To Docherty and Giannini (2009), constructing on legal and theoretical prototypes, the climate change refugee instrument must not only spell out the standard of international collaboration and help but also implement it by way of a global fund.

5.12 Summary of Assistance Flows

The proposed climate change refugee instrument aimed to push for the establishment of multiple flows of assistance. Docherty and Giannini (2009) suggested that host states must offer help to climate change refugees through an implementation of humanitarian assistance programmes as well as human rights protections. To Docherty and Giannini (2009), home states should help through working in the prevention or preparation for imaginable refugee catastrophes. Further, after migration, it is suggested that home states should contribute in-kind or monetary help to the degree possible to host countries. Docherty and Giannini (2009) suggested that the home-to-host state help, particularly financial help, could be funnelled by way of a global fund or sent straight by way of a consensual arrangement. They also suggested that the international community should in turn provide help to host countries to assist in covering the expenses of corrective actions. It was also suggested that the international community should provide help to home countries to fund preventative actions and help to the refugees themselves by way of a coordinating agency or other support establishment. These instruments together spread obligations for climate change refugees across accountable and affected parties.

5.13 Administration of the Instrument

In order to help in the administration of this intricate regime, Docherty and Giannini (2009) suggested that the climate change refugee instrument should establish three organs. The first organ was the global fund. The global fund was tasked to collect and distribute financial assistance. It also suggested that a coordinating agency akin to the UNHCR should be established. This coordinating agency was to help oversee human rights protections and humanitarian aid programmes. It also suggested that a body of scientific experts should be established. This body would be tasked to make resolutions linked to the instrument's

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characterisation and the separation of monetary obligation. Docherty and Giannini (2009) noted that while the organs themselves must stipulate the finer details of their actions, the suggested instrument ought to elucidate their corresponding obligations.

5.13.1 A global fund

The climate change refugee instrument suggested called for the establishment of a global fund whose duty will be to manage the provision of international assistance. It is also suggested that the climate change refugee instrument must make a determination on the scope of mandatory offerings, gather disbursements and dispense contributions to countries which were in need and bodies which would give help to refugees themselves. The instrument should allow states to substitute in-kind assistance for financial assistance though the distribution of the former should be funnelled through the said instrument's coordinating agency.

The United Nations Framework Convention on Climate Change offers a standard for the foundation of a fund to institute global collaboration and help. The United Nations Framework Convention on Climate Change established a financial instrument aimed at distributing help and delegates the Global Environment Facility for its implementation. The Global Environment Facility managed multiple funds under the United Nations Framework Convention on Climate Change and distributed some money per year (Global Environment Facility, Special Climate Change Fund, 2009). For instance, the Special Climate Change Fund accepted voluntary donations to address adaptation and other climate change problems (Global Environment Facility, Special Climate Change Fund, 2009). This scheme epitomised one way to apply universal collaboration and support in the milieu of climate change. Numerous scholars also presented other valuable replicas for a global fund strictly connected to that suggested through the climate change refugee instrument proposed by Docherty and Giannini (2009).

Muller (2002) proposed a Disaster Relief Fund under the umbrella of the United Nations Framework Convention on Climate Change. Muller (2002: p.3) called for "binding up-front contributions from the industrialised country parties to the United Nations Framework Convention on Climate Change to cover the costs of the international relief effort for climate-related disasters". The United Nations Framework Convention on Climate Change protocol should create a Climate Refugee Protection and Resettlement Fund (Biermann and Boas, 2008). The argument by Biermann and Boas (2008) based its design on four principles. The first principle stated that all financial awards would be grants. The

second stated that all contributions would be devoted to the climate change fund in order not to contest with the other needs of the funds. The third principle stated that the fund would recompense the protection costs of refugee fully when the only basis of the movement was climate change and partly when it is only a causal reason. The fourth principle held that states who were party to the United Nations Framework Convention on Climate Change protocol would determine the recipients and amounts of aid (pp. 29-30).

Hodgkinson et al., (2008) also recommended a fund as part of their suggested treaty on displaced persons and climate change. The fund suggested by Hodgkinson et al., (2008) aimed to cover those who migrate internally as well as across boundaries. The suggested fund would assist internal resettlement, enable responses to specific climate change events and assist adaptation and mitigation by affected parties. These proposals contrast in particulars and specificities, and exemplified surging support for the institution of such instruments. Docherty and Giannini (2009) suggested that the climate change refugee instrument must apportion global donations in line with countries shared but distinguished duties. This norm, ubiquitous in the global environmental law, was anchored on the notion that all countries have a collective duty to safeguard the environment. It further recognised that historical differences existed in the contributions of industrialised and industrialising countries to universal ecological harms and variances in their particular pecuniary and practical capabilities to deal with these harms.

The suggested climate change refugee instrument suggested that states should pay different amounts for environmental protection. To Docherty and Giannini (2009), this approach was appropriate for climate change due to the fact that, though the ecological phenomenon influences the shared inheritance of men, countries have helped create the problem to varying notches. Docherty and Giannini (2009) saw this approach as practical because it considered states' varied capacities to provide financial assistance. The global legal standard is in support of the use of the mutual but distinguished responsibilities standard in the climate change refugee instrument. The basics of the norm traced its roots back to 1949 and the axiom itself is seen in the Rio Declaration on Environment and Development, the Kyoto Protocol and the United Nations Framework Convention on Climate Change. Article 3 of the United Nations Framework Convention on Climate Change stipulated that the parties must safeguard the climate structure on the base of impartiality and in line with their mutual but distinguished duties and relevant competences.

This phrase also appears in the United Nations Framework Convention on Climate Change preamble and in Article 4(1). Under this, state parties must take into account their

common but differentiated responsibilities when fulfilling their common commitments. Numerous authorities which include the German Advisory Council (2008), Hodgkinson et al., (2008), Biermann and Boas (2008) and Muller (2002) suggested using the common but differentiated standard. To Docherty and Giannini (2009), determining individual states' contributions to climate change was a mammoth task and should be left to the body of scientific experts. According to Docherty and Giannini (2009) the suggested global fund should consider the scientific findings along with data on states' capacities to pay so as to determine each state's ultimate responsibility. It was also suggested that it should also re-evaluate its allocations of responsibility periodically to make sure they remain current.

While recognising that states would provide unequal amounts of assistance, the climate change refugee instrument suggested aims to obligate state parties to contribute their assigned amounts to the fund. In the case of traditional refugees, the primary source of assistance was solicited by the UNHCR which sought the bulk of its operational budget from volunteer supporters which included private entities and governments. In the case of the suggested climate change refugee instrument, this voluntary policy was an appropriate way to handle the traditional refugee problems because the persecuting home state and not the international community caused the migration. The global community must not be officially obligated to give monetary assistance or any form of in-kind help. Docherty and Giannini (2009) noted that the situation is different in the case of climate change refugees.

The recognised tasks for climate change occurrences made the subsidising of climate-related disaster reprieve "a prime candidate for a transformation from relying on voluntary charitable donations to being based on binding contributions" (Muller, 2002: p.3). In this scenario, Docherty and Giannini (2009) argued that the international community which contributed to the problem of global warming should be obligated to contribute to the solution. Docherty and Giannini (2009) suggested that countries must establish the organisational specifics of an aid mechanism during conciliation or application of the climate change refugee instrument.

Regardless, Docherty and Giannini (2009) suggested that any global fund should take into account additional elements. Home and host states must be qualified to get support since both are openly affected by the climate change refugee catastrophe. The fund must provide assistance not only for aid procedures but also for actions aimed at reducing the effect of an imaginable refugee crisis. Prevention was as important as remediation. Docherty and Giannini (2009) suggested that countries must have access to support for migration as a result of steady environmental change as well as abrupt emergency migrant flows. A fund that

included all these elements could ensure that the international community shared the burden of dealing with this international phenomenon and that the necessary financial assistance would be available to those who need it.

5.13.2 A coordinating agency

Docherty and Giannini (2009) made suggestions for the creation of a coordinating agency to support implementation of the instrument's provisions. To Docherty and Giannini (2009), the agency must collaborate and work together with home states for the purposes of preventing a refugee crisis. It was suggested that the coordinating agency should cooperate with host states in order to fulfil the guarantees of human rights protections and humanitarian aid. It was also suggested that the coordinating agency assist climate change refugees to return to their countries of origin or get permanent households as naturalised inhabitants in the novel country. To Docherty and Giannini (2009), collaboration should play a vitally important role in carrying out this mandate. In addition to establishing relationships with governments, it was suggested that the agency should partner with other groups such as intergovernmental or non-governmental organisations in order to deliver aid.

It is also suggested that the coordinating agency take into consideration of the views and trepidations of climate change refugees and give them a platform to partake in the making of decisions. Ultimately, Docherty and Giannini (2009) suggested that the coordinating agency should collect and distribute in-kind contributions of assistance. To Docherty and Giannini (2009), the UNHCR provided the most obvious model for such an agency. The United Nations mandated the UNHCR to take a lead and organise global action for the universal safeguard of immigrants and resolving the immigration conundrum (UNHCR, 2009). Particularly, the primary purpose of the UNHCR is "to safeguard the rights and well-being of refugees" (UNHCR, 2009). To Docherty and Giannini (2009), this two-pronged determination matches the matching warranties of the climate change refugee instrument to safeguard people's rights and offer humanitarian assistance. In a nutshell, Docherty and Giannini (2009) noted that the United Nations High Commission of Refugees mandate can serve as a prototype for an agency appropriate for dealing with climate change refugees. However, the UNHCR itself is unlikely to take on the responsibility for climate change refugees for policy and practical reasons.

Docherty and Giannini (2009) suggested the climate change refugee instrument should establish an independent coordinating agency. The mandate of the coordinating agency should draw on that of the UNHCR, but it ought to decide on its specific works and

plan them to the milieu of climate change refugees. In the scheming of its organisation and guidelines, the proposed agency should borrow from the practices of the UNHCR, through copying the way it is organised and the procedures it uses where fitting and refining them where essential (Docherty and Giannini, 2009).

5.13.3 A body of scientific experts

The climate change refugee instrument suggested consulting an organisation of experts in science. The United Nations Framework Convention on Climate Change fashioned a comparable structure with its Subsidiary Body for Scientific and Technological Advice. The United Nations Framework Convention on Climate Change required the Subsidiary Body for Scientific and Technological Advice to make an assessment from a technological and scientific perspective on the implementation of the United Nations Framework Convention on Climate Change, to make an identification of the treasured new tools, and to give advice on development and research to answer to the questions of the state parties.

According to Docherty and Giannini (2009), the climate change refugee instrument, must be in a position to institute its body of scientific specialists to in order to offer well-timed evidence and information on technological and scientific issues linked to the instrument. The Subsidiary Body for Scientific and Technological Advice consisted of government representatives competent in the relevant field of expertise. Docherty and Giannini (2009) suggested that the climate change refugee instrument espouse that methodology or assign a body of sovereign specialists.

Docherty and Giannini (2009) suggested that the body should play a vitally important part in defining the latitude of the novel instrument's responsibilities and should have a three-part obligation. It was suggested that the climate change refugee instrument ought to consign the body of scientific experts' obligation for defining the nature of environmental disturbances encompassed by the delineation of a climate change refugee. It was also believed that this would ascertain which disruptions are consistent with climate change and which disruptions human acts contributed to. It is also believed that these conclusions had an effect on whether the novel instrument was applicable to an individual running away from environmental disruptions. It is critical to note that at this point in time it was a mammoth task for scientific researchers to make a determination of whether climate change really contributed to a particular occurrence. The IPCC (2007), nevertheless identified several effects which included surging temperatures, rising levels of the sea, desertification and extra

extreme rainstorms. The IPCC (2007) has identified the likelihood that humans contributed to all these. T

Docherty and Giannini (2009) suggested that the body of scientific experts must make decisions on the kind of disruptions to the environment classification should conceal at the period of the instrument's construction; they must also make an evaluation on whether any impacts must be added or removed in the future as scholarship improve. This evaluation should be left to scientific experts. Though existing knowledge might not eradicate all insecurity, the cautionary standard stipulated that improbability should not be a justification to evade action. Docherty and Giannini (2009) suggested that the body of scientific experts should provide information on the different countries' contributions to climate change to assist the global fund to assign the collective but differentiated duties for helping climate change refugees. Scientists cannot decide of the degree to which a given country would have contributed to a particular environmental incident. However, they could be helpful in the evaluation of the foundations of climate change and the degree to which various states contribute to those cradles. To Docherty and Giannini (2009), this is all that the climate change refugee instrument required. It was suggested that the global fund ought to take into consideration this scientific evidence or take into consideration a particular country's financial abilities to pay and ultimately make a ruling regarding the nature and size of a country's mandatory contributions. The climate change refugee instrument must leave such procedural verdicts to technical and financial experts and desist from including explicit enactment guidelines itself.

Ultimately, the body of scientific experts must carry out general studies on the climate change conundrum as it links to the flow of refugees. Efforts should also be made in both compiling the existing knowledge, including that generated by the IPCC, and driving future research agendas. It is also suggested that the body must instantaneously start collecting obtainable data on the causes and effects of climate change as they link to migration. Suggestions have it that the body must also begin looking for and getting new data on the issue. As part of these projects, it ought to make an identification of people at risk of involuntary climate-induced migration. On top of collecting data, it has also been suggested that the body should analyse it in ways useful to the enactment of the climate change refugee instrument. It is believed that this examination will aid in meeting its other two requirements and sanction its resolves to mirror systematic growth.

5.14 A New Climate Change Refugee Convention

Docherty and Giannini (2009) argued that rather than making attempts to put the new climate change refugee instrument into the 1951 Refugee Convention or the United Nations Framework Convention on Climate Change, all of which have limited obligations as well as political and legal shortcomings, countries and activists must look for a completely autonomous convention. To Docherty and Giannini (2009), looking for new alternatives and developing a framework will lead to a number of merits. These include merited prioritisation of the enormous and emergent difficulty of climate change refugees, the elasticity required for a focussed structure that mixes doctrines and resolutions tracing their roots from humanitarian help, human rights, global environmental law, and improved chances for including communities affected, as well as civil society advantages (Docherty and Giannini, 2009).

5.15 Prioritisation of the Climate Change Refugee Problem

The scale and newness of the climate change refugee problem justified the creation of a new treaty (Docherty and Giannini, 2009). Docherty and Giannini (2009) averred that the population of those compelled to migrate as a result of climate change would be considerably higher than the population of the people protected under the 1951 Refugee Convention. This argument by Docherty and Giannini (2009) stemmed from the argument that in case of the disappearance of entire states, enormous seaside areas would go under water; in cases of desertification and drought driven migration, then a devoted legal system should be in place in order to deal with the scenario. A new problem also called for a new treaty. Whereas both the 1951 Geneva Refugee Convention and the United Nations Framework Convention on Climate Change deal with matters pertinent to climate change refugees, they failed to clarify or give conclusive rejoinders to pertinent problems bedevilling the populations affected. Docherty and Giannini (2009) suggested that a new treaty that develops solutions designed to this context is needed.

5.16 The Need for a Specialised, Interdisciplinary Treaty

Docherty and Giannini (2009) argued that an autonomous treaty on change refugee treaty is advantageous in that it could put together numerous systems into one focused mechanism. A custom-made treaty has the capacity to mirror the fundamental concerns upraised by the climate change refugee conundrum and plug the legal gaps with the particular

countries and groups' needs (Lafontaine, 2007). Through its vital constituents, the treaty suggested would collate those arenas under one roof along with concepts of humanitarian aid (Docherty and Giannini, 2009). To Docherty and Giannini (2009) the conundrum of climate change refugees not only imparted itself to such connexions but also profited from clearly making these links protuberant in a novel treaty. Docherty and Giannini (2009) noted that the nature of the conundrum encapsulated state-to-state responsibilities and individual rights; thus, a novel treaty ought to borrow from the legal structures that embrace perpendicular responsibilities between communities and countries, as well as parallel responsibilities between countries.

Docherty and Giannini (2009) a novel treaty maximised the autonomy to come up with explicit apparatuses that will borrow from a multiplicity of disciplines. For instance, an autonomous convention must expand the current refugee regime and make use of the models of the international environmental law prototypes for funding instruments, global collaboration and collective state obligations (Docherty and Giannini, 2009). Docherty and Giannini (2009) argued that this treaty must look to refugee law with robust corrective mechanisms, humanitarian bedrocks, and rights for those affected to assist in overcoming the shallow state emphasis of the environmental regime. To Docherty and Giannini (2009), a multidisciplinary methodology of this nature was critically important in solving difficulties related to humanitarian issues.

5.17 An Independent and Inclusive Process

The procedure behind the construction of an autonomous treaty also makes the construction of a novel treaty the ideal alternative for the suggested climate change refugee instrument. Docherty and Giannini (2009) argued that, though creating a completely new treaty can be a mammoth task, constructing a protocol to attach to an already existing treaty is more viable and can yield more authoritative outcomes. There are instances in international humanitarian law for taking issues which exist outside the frameworks of a treaty and in the end construct novel conventions. These models are pigeonholed by their usage of a sovereign venue, the guidance of a collection of concurring countries and the momentous inclusion of affected people and the civil society. The Ottawa Process, which led to the Mine Ban Treaty in 1997, led to this methodology as well as the Oslo Process which led to the birth of the Convention on Cluster Munitions. Independent and inclusive negotiating models saw success during the negotiations on the Convention on Cluster Muniton and could be modified for a climate change refugee convention. Exposed countries, such as Egypt, Bangladesh as well as

the small island countries such as Tuvalu, Kiribati and Puerto Rico, may work with communities affected as well as the civil working in lowland seaside regions and in areas with austere desertification to spur the adoption of a novel treaty.

Docherty and Giannini (2009) suggested that other compassionate but less affected countries could also join these concurring countries and civil society organisations for humanitarian motives. Though the Oslo and Ottawa processes arose from universal humanitarian law, the participation of the people who were affected as well as the civil society organisations echoed hands-on philosophies seen in both international environmental law and human rights law. All of these processes apply directly to the climate change refugee milieu. The major aim would be coming up with an autonomous treaty; those who back it need not to be worried about the restrictions of current venues. Taking extensive steps to negotiate the treaty, instead of either interpreting an existing treaty or implementing a treaty that is already completed would ensure that the aims of the communities affected and those of different countries are mirrored in its provisions (Docherty and Giannini, 2009).

5.18 Embracing a New Convention

There can be unwillingness and inertia to come up with a novel treaty since there are two apparently pertinent conventions. However, good reasons exist for one to believe that countries, affected communities and civil society organisations can welcome an international instrument. The international community as well as home and host nations would all have enticements to take such an independent instrument on board. Docherty and Giannini (2009) opined that states which are directly affected by a climate change refugee situation would receive assistance to address it. To Docherty and Giannini (2009), recipient countries would profit from help for the execution of humanitarian aid and human rights protections for which they would not be qualify if they were not party to the treaty. Recipient countries might not want to be the attractive destinations of climate change refugees through assenting to a novel legal regime and in the end obliged to give aid.

Despite of their position under the treaty, recipient nations would not be able to stop migration since refugees have generally devised means to migrate to new countries. Countries where refugees come from would be compelled to be part of the climate change refugee convention since it gives help for both preventive and curative actions in cases of an identification of populations at peril (Myers and Kent, 1995). Adequate prevention assistance might avert refugee flows and keep communities strong. This would better preserve home states' cultural, and in some cases national, integrity. The global community would also have

numerous motives to construct a convention of that nature. Humanitarian needs may also be motivation to some countries. Countries may be more eager to get to a settlement pertaining to humanitarian aid rather than a settlement on reducing emissions, given the intricate nexus between economic growths and reducing emissions. Certain countries have defended their inaction on reducing emissions for fear of future economic expenditures of dealing with carbon emissions and fail to agree on their historical responsibilities for industrial carbon emissions (Halvorssen, 2007).

There have been both progressive and significant impediments in reaching a consensus on carbon emissions. Though historic heirlooms would probably remain a subject for apportionment of offerings to the global fund, Docherty and Giannini (2009) noted that a refugee regime would be more focused on humanitarianism and without an involvement the same categories of adjustments about future economic ranges linked to carbon emissions which would create a platform for dialogue. Docherty and Giannini (2009) suggested that a climate change refugee regime might be constructed and the debates on emissions would continue regardless. Additionally, some countries may choose to help home countries through stopping inflows of refugees. By encouraging regional determinations to host refugees, the new instrument might also be cost-effective and if there were parallels in local languages and civilisations across neighbouring countries., might be culturally suitable (Docherty and Giannini, 2009).

Ultimately, grander geopolitical safety apprehensions may lead countries to agree on a convention regarding these issues (Germany Advisory Council, 2008: pp.204-207). Docherty and Giannini (2009) opined that the climate change refugee convention had the potential to help pre-empt refugee flows and manage displacement. This might cost far less than dealing with regional conflicts or supporting individuals who arrive in a country *en-masse* because of climate induced conflict (Kolmannskog, 2008; Myers and Kent, 1995). These incentives provide good reasons in committing to the suggested climate change refugee convention (Docherty and Giannini, 2009). Conclusively, Docherty and Giannini (2009) argued that a climate change refugee treaty that is distinctive and sovereign from the customary refugee and climate conventions was the superlative approach of overcoming the inadequate obligations of current legal regimes. States would have incentives to adopt a new instrument. Docherty and Giannini (2009) argued that the suggested convention would likely upraise the emergent catastrophe of climate change refugees to a new level of communal awareness. It would create a platform for creating interdisciplinary resolutions that draw on environmental law, humanitarian aid and human rights. To Docherty and Giannini (2009), providing civil

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society and those affected a major say in the construction of the treaty would lead to the construction of a final instrument that meets these aims.

5.19 Problems Identified with Calls for a New Refugee Protection Regime

While available evidence depicted that climate change displacement would be largely internal, international law should be able to respond to the plights of those who opt to cross international borders into other countries in search of sanctuary (Docherty and Giannini, 2009). Perhaps the most protuberant and most sensible among these proposals is the espousal of a distinct treaty on climate change refugees (Byravan and Rajan, 2010; Docherty and Giannini, 2009; Hodgkinson et al., 2010). It is vitally important, however, to note that this method might be rife with difficulties. One of the problems could be attributing the global rights and accountabilities in veneration of people displaced directly affect the sovereignty of countries and might be an argumentative matter upon which to realise a collective settlement.

The socio-economic and political consequences of making environmental obligations in the form of treaty approval can be a source of unwillingness for countries to reach an agreement on coming up with a treaty on climate change refugees. Suggestions have been made to the effect that the adoption of Protocols to the 1951 Geneva Refugee Convention as well as the United Nations Framework Convention on Climate Change can serve the interests of people displaced by environmental impacts. In 2006, the Maldives government proposed the adoption of Article 1A (2) of the 1951 Geneva Refugee Convention whose aim was to take account of climate refugees by adopting a Protocol aimed at covering refugee circumstances after 1 January 1951. On the United Nations Framework Convention on Climate Change, Biermann and Boas (2010) suggested a Protocol on the recognition, protection and resettlement of climate refugees. There have also been efforts to label those displaced by climate change as ‘universal natural persons’ in need of the protection of the global community.

These efforts have called for the adoption of a Protocol to the United Nations Framework Convention on Climate Change aimed at ensuring the socio-economic and cultural reintegration of this group of persons (EquityBD, 2009). Although there are practical alternatives for the protection for those forced to migrate as a result of climate change, what is doubtful is whether countries would be concerned with pursuing these since there is no agreement on the nexus between migration and climate change. For this reason, harmonising security in international law also gives security to those who would have migrated to new countries and already within authority of another country. Legally, complementary protection

pronounces security given by countries on the base of global protection outside the 1951 Geneva Refugee Convention framework (Okeowo, 2013). This may be anchored on a human rights treaty or more comprehensive humanitarian philosophies such as giving help to persons running away from indiscriminate violence (Goodwin-Gill, 2007; Hailbronner, 1986; Perluss and Hartman, 1986). The *non-refoulement* obligations of states has been expanded by human rights law beyond the refugee classification to include persons who are at risk of illogical denial of life, torment, or punishment, inhumane as well as degrading treatment (McAdam, 2012).

Okeowo (2013) argued that supplementary security is in theory plausible, but it is only useful to those who have already found their way into the province of another state and are perhaps in the process of being deported. To Okeowo (2013), complementary protection may not be usable as a base for looking for entry into another country by persons displaced through climate change. Additionally, it is critical to make an examination on the extent to which persons displaced by the ripple effects of climate change can establish that there is a factual possibility of danger, hazard or threats if expelled back to their original countries for the obligations on complementary protection to be activated. It is critical to note that the exact of evidence will be anticipated when they make an invocation of the obligation on complementary protection on the grounds that they will be vulnerable to punishment, inhumane treatment as well as mortifying treatment in cases of being sent back to their original country due to the destruction of the environment caused by climate change.

In cases of those who migrate due to a gradual degradation of the environment as opposed to rapid onset disasters, they will take advantage of the existing universally acknowledged pathways of migration such as for scholastic, skilled or occupational motives. During their career and academic years in a foreign country, most migrants tend to take advantage of the existing migration regulations in the countries they will be studying or working in with the sole aim of applying for resident permits (Okeowo, 2013). The greatest arguments against these migration paths are that they are generally expensive and not affordable to many people. This is particularly true of the people living in areas such as the Sahel region and Island states of the Pacific, who are critically susceptible to the distressing effects of climate change as a result of the unavailability of the needed resources for relocation.

Practices of states show that there are impermanent protection rejoinders, asylum-type instruments and *ad hoc* humanitarian arrangements which can be made use of in the protection people in cases of an abrupt occurrence of disasters which are natural and those

induced by climate change. The Immigration and Nationality Act in the US offers the Attorney General the authority to make a designation of this under some given conditions. The EU Temporary Protection Directive in Europe can be made use of when it comes to offering provisional harmonising safeguard and to illuminate existing community and international responsibilities.

Another form of safeguard which is worthy of embellishment is the prospect of regional collaboration and bilateral arrangements enshrined under the United Nations Climate Change Framework (Okeowo 2013: p.288). Article 4 (1) (b) of the United Nations Framework Convention on Climate Change stipulates that all parties will express, implement, announce and recurrently update states. Where suitable, provincial programmes comprising actions to alleviate climate change through addressing anthropogenic emissions of all greenhouse gases and actions aimed at facilitating enough adaptation to climate change should be developed⁵. The Kyoto Protocol under Article 10 (b) has also established this option in a virtually matching provision⁶. It is critical to note that under these provisions, countries are expected to uphold regional policy development by adapting to climate change. Agreements on a regional level are more likely able to realise a better level of commitment from participating countries than might otherwise be accomplished at the global level. This has been demonstrated under the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa as well as the 1984 Cartagena Declaration on Refugees in which refugee terminology was drafted in order to conceivably extend it to ‘environmental refugees’ in both Africa and Central America.

Okeowo (2013) noted that there are presently regional rejoinders notably within the Island states of the Pacific and a few industrialised nations which have spurred the espousal of an array of non-binding mechanisms. To Okeowo (2013), the United Nations Framework Convention on Climate Change and Kyoto Protocol adaptation provisions may offer the crucial legal support for countries to achieve bilateral pacts among themselves, recognising migration as an adaptation measure to the impacts of climate change and working out modalities on how these mutual or regional arrangements may essentially afford safeguard to persons moving as a result of gradual or abrupt ecological dilapidation.

⁵ United Nations Framework Convention on Climate Change, 9 May 1992, 1771 UNTS 107, (entered into force 21 March 1994) (UNFCCC).

⁶ Kyoto Protocol to the United Nations Framework Convention on Climate Change, 11 December 1997, 37 ILM 22 (entered into force 16 February 2005) (Kyoto Protocol), art. 10(b), states that parties shall ‘formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change’.

5.20 Conclusion

This chapter examined the proposals and frameworks which were articulated in the quest to address the plight of those who were displaced and chose to migrate to new areas in search of refuge. This examination was done in the milieu of the existing refugee right framework which has been the reference point of most frameworks and proposals. The core questions in this chapter revolved around understanding how the international community has been reacting to the plight of climate change refugees through various proposals, protocols and initiatives. The chapter also aimed to decipher the frameworks which have been tabled at regional and international platforms in a bid to deal with the issue of climate change refugees since the 20th century. The discussion in the chapter traced the development of climate change refugee protection frameworks such as the United Nations Framework Convention on Climate Change by unpacking the different steps which have oriented and driven the adoption of these frameworks. The chapter further examined suggestions which were put forward to address the issue of climate change refugees and the interpolations which have been noted in these. Although various suggestions on the need to reconfigure the existing refugee law, there have been possibilities for addressing the problem of climate change migration.

It is useful to reiterate that in spite of these proposals, nothing until today has been done and achieved in as far as coming up with a robust instrument which provides rights and aid to those who flee environmental disruption such as rising seas, desertification and droughts, among other climate change induced contingencies. It was noted that the current refugee regime's contracted definition of the term refugee confines its power to giving help to those who flee political persecution. Most scholars and commentators do not believe that environmental or climate change refugees, a concept that gained ground decades after the enunciation of the 1951 Geneva Refugee Convention's adoption, fall within the scope of this convention. These issues have been discussed in the foregoing chapter.

Chapter Six: Building a new International Climate Change Refugee Law Regime

6.1 Introduction

In the previous chapter, it was noted that most scholars argued for the adoption of an independent climate change refugee law instrument rather than attaching a new protocol on the existing refugee instrument encompassed in the 1951 Geneva Refugee Convention. For instance, Myers and Kent (1995), Biermann and Boas (2008), German Advisory Council (2008), Hodgkinson et al., (2008) and Docherty and Giannini (2009) have strongly resisted adopting a new protocol, hence expanding the existing doctrine. Only a few scholars such as Cooper (1998) have argued that climate change refugees are already covered under the definition since they are a particular social group that may be subject to a form of persecution. Hence, there is a need to amend or perhaps attach a new protocol on the existing instruments. There has also been political battles to expand the 1951 Geneva Refugee Convention due to apprehensions that it would devastate the existing organised capabilities of the UNHCR and other responders.

The UNHCR refused to extend its mandate to include climate change refugees. But how can the existing tools, instruments and proposals provide a workable refugee regimen which will address the plight of climate change refugees in order to make sure that climate change refugees are given the sanctuary they deserve? This chapter examines the feasibility of the proposals proposed on climate change refugees in addressing the plight of climate change refugees from the Sahel region. The focus on the existing proposals is due to the bedrock platform these proposals seem to have laid in the quest for finding a lasting solution to the plight of climate change refugees. This discussion will draw attention to the fact that seeing climate change as a truism or a reality and not as a fallacy or a 'hoax' is critical, not only in providing help to affected countries and regions but also in the overall granting of refuge to those who opt to migrate in search of sanctuary elsewhere. It is through accepting that climate change is a reality that the obligation and commitment to protect and give refuge to climate change refugees is fostered and codified under national, regional and ultimately international laws governing refugees. In addition, accepting that climate change is a reality can be helpful as it creates a platform for creating strategies which will help affected communities in resilience building.

The first three parts of this chapter examine the nexus between the 1951 Geneva Refugee Convention and the existing proposals in order to establish how the latter have been influenced by the former. This examination serves two purposes. It clarifies how the current

refugee law regime and the existing proposals can help foster the need to recognise the needs of climate change refugees and also inform the participation of the climate change refugees themselves in achieving this objective. Clarifying these issues can aid in understanding how the evidence of the realities of climate change and the concept of climate change refugee can create a springboard for the formation of stronger institutions to guarantee the rights of climate change refugees just as those of traditional refugees defined in the 1951 Geneva Refugee Convention. The chapter will further attempt to demonstrate the nexus between an independent climate change refugee instrument (the UNFCCC) and the current refugee law regime. This demonstration is important in considering whether an independent instrument has been or could be able to contribute to the provision of sanctuary to climate change refugees in the context of desertification driven migration of the people within the Sahel region and abroad.

This examination is especially crucial in the context of climate change driven migration in the Sahel region given that most refugees who have opted to migrate to Europe on the pretext of climate change have been from the Sahel region. In addition, the United Nations Framework Convention on Climate Change is the first international instrument to recognise climate change refugees. It invites state parties to devise measures aimed at enhancing understanding, coordination and cooperation when it comes to dealing with climate change induced displacement and is a reason for further inquiry into how an independent instrument which recognises climate change refugees can contribute to enhancing better protection for them.

Earlier, in the first chapter, the discussion has shown that climate change refugees are currently not recognised in the existing refugee law regime. The subsequent question is how recognising climate change refugees and a reform to the current refugee law regime would contribute to addressing the plight of climate change refugees. From this point the question develops as to the roles and contributions of international actors in addressing the needed reforms. A closely related question is how actors reconcile their quest for maintenance of current refugee protection regime with the need to come up with a novel regime which recognises climate change refugees.

These questions stem from the fact that often some influential regional organisations, notably the EU, and international actors such as the UNHCR assume that a reform to the current refugee law regime would unnecessarily burden receiving states. This chapter will show that, while reform in the existing refugee regime can indeed bring with its additional costs, actors involved in this process take these assumptions at face value.

Despite the imperative nature of refugee law reform in a refugee influx context, coupled with a surge in intercontinental terrorism, it is crystal clear that its realisation continues to face serious challenges. The challenges and obstacles vary in different countries, but common challenges tend to be generally associated with the susceptibility of certain regions to international terrorism, which has been linked to asylum seeking⁷). The susceptibility of certain regions to refugee influxes (Europe, North America and Australia have been the main destination region for most refugees), the availability of the resources needed for relevant training and building structural institutions for the protection of refugees, and adequate resources and budgets including adequate resources for institutions such as the European Asylum Support Office (EASO) in Europe must all be considered. Despite the varying opinions on how to establish the needed institutions and reforming the current refugee law regime to include climate change refugees, it may persuasively be argued that the acceptance and recognition that climate change has become a major driver for migration can be a hallmark of the needed reforms.

6.2 Right to Seek Asylum, Fair Treatment, and Case Hearing of Asylum Cases

The right to seek asylum is well enshrined in the 1951 Geneva Refugee Convention, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other international treaties and instruments. Relevant provisions on this right are also reflected in regional treaties such as the European Convention on Human Rights, the African Charter on Human and People's Rights among other declarations and non-treaty instruments which have been adopted with the aim of codifying basic principles on the issue of asylum seeking. Human rights courts and tribunals and other supervisory bodies have also contributed in the elaboration of the need for this right to be respected. International refugee law which is an appendage of the human rights law reflects a fundamental requirement of the rule of law that those fleeing persecution ought to be given the right to seek asylum and vetting those who deserve asylum should be done in line with existing laws.

It is this requirement that prompts one to examine how attributes associated with an independent body made up of experts on climate change (who will be guided by new laws on climate change) can contribute to the enhancement of the right of climate change refugees to seek asylum. Reaffirming the nexus between the proposed independent body and a fair consideration of asylum especially of those who choose to migrate and seek international

⁷ There has been a surge in terrorist bombings and attacks in Europe since 2010. Most of these seem to have been carried out by people seeking asylum.

sanctuary citing climate change as the major driver of their migration, it can be argued that the conditions which provide fertile ground for such migration ought to be guided by a new set of laws which take into consideration the nitty-gritties inherent in climate change driven migration. This argument reaffirms the critical role of an independent convention encapsulating a new set of laws which then pave the way for the establishment of an independent body of experts who can be in a position to fairly consider those who deserve sanctuary.

At the regional level, charters such as the African Charter on Human and People's Rights and the European Charter of Human Rights, among others, have reiterated the critical role of an independent body⁸ aimed at enhancing say fair trials in human rights cases for instance. That being the case, the fundamental importance of independent bodies (independent judicial bodies in the case of rule of issues) have been essential in achieving intended goals because they can guarantee the fundamental rights and freedoms of people. One of the major elements of a fair consideration of the rights of climate change refugees to seek asylum relates to the composition of the proposed independent body which will be tasked to vet the asylum applications of climate change refugees. From the international refugee law perspective, the fundamental question to ask will be which key constituents of a fair asylum consideration pertain to an independent body of climate change experts as a requisite for the recognition of the rights of climate change refugees and stimulate a proper reconfiguration of the existing international refugee law regime.

Fair asylum consideration for climate change refugees might apply to an array of processes, actors and institutions. They ought to apply to all kinds of climate change induced migrations whether through sea rises, incessant earthquakes, incessant storms, recurrent droughts and desertification, among other factors, which prompt people to migrate. For those who cite desertification and recurrent droughts, the proposed body of experts ought to have tangible evidence and be guided by real facts on how the asylum seekers in question would have been affected by these contingencies.

Scholars such as Docherty and Giannini (2009) cite the need for a body of experts who will be tasked with research in order to provide timely information and advice on scientific

⁸ The African Charter on Human and Peoples Rights and the European Charter of Human Rights stipulate that there should be an independent judiciary in order to guarantee fair trials. For example, in one of its decisions the Commission stated that 'Article 26 of the African Charter reiterates the rights enshrined in Article 7 but is even more explicit about State Parties' obligations to 'guarantee the independence of the Courts and allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter'. While Article 7 focuses on the individual's right to be heard, Article 26 speaks of the institutions which are essential to give meaning and content to that right. (See Majinge 2013).

and technological matters as key to addressing the hiatus in the international practices on recognising climate change refugees. Despite all these proposals and the existence of bodies akin to the proposals which have, however, been dealing with ‘traditional refugees’⁹, there has been no precise mentioning of the organogram of the proposed body and the exact expertise of the said experts. In other words, proposals have been made but no specific mention has been made to unpacking the exact expertise of the needed experts; worse still, mentioning whether there should be an independent body of experts whose specific task will be to vet those who choose to migrate and seek asylum citing climate change as a factor behind their decisions.

Thus, scholars such as Docherty and Giannini’s (2009) describe the composition of a body of scientific experts from a generic standpoint. It can be noted that under the body of scientific experts proposed by Docherty and Giannini (2009), there should be a body of scientific experts tasked with the provision of appropriate information and information on technical and scientific issues related to the instrument. According to Docherty and Giannini (2009), the body of experts should be moulded in line with the Subsidiary Body for Scientific and Technological Advice consisting of government representatives competent in the relevant field of expertise.

Docherty and Giannini (2009) suggested that the climate change refugee instrument should allot the body of scientific experts’ duty for deciding of the kinds of environmental disturbances encapsulated by the delineation of climate change refugee. This would ascertain which disruptions are consistent with climate change and which disruptions resulted from a contribution of human acts. While these proposals have not been taken on board and reflect a commitment to making sure that climate change should be dealt with, they do not specifically mention how climate change refugees should be vetted and given sanctuary.

It can be argued that the right for climate change refugees to seek asylum can be key to a satisfactory reconfiguration of the existing refugee law regime. A proper reconfiguration of the current refugee law regime might require setting up an independent body of experts which specifically deals with vetting those who seek asylum, citing climate change as a cause of their migration into new countries in search as sanctuary. The body’s decisions should be legally binding and guided by basic human rights standards and principles. The body should be composed of a chief climate refugee rights officer who will be well versed in refugee and human rights issues (perhaps a judge well-versed in the current refugee rights issues), a team of academics well-versed in current climate change trends on a global scale and their effects

⁹ The European Union has the European Asylum Support Office and can also use the Courts such as the Strasbourg Court to help vet asylum cases. The decisions taken are usually guided by the 1951 Geneva Refugee Convention which enshrines the rights of what have been termed ‘traditional refugees’.

on humanity, and a team of scientific experts who can research and establish the scientific veracities of climate change.

These team members can be in a better position to adequately review different cases on climate change refugees' applications for asylum. The realisation of such a body is closely linked to the current regime which has an organisation such as the UNHCR in place whose mandate has been to look into refugees' issues in a satisfactory manner. The proposed body means that the three sets of personnel should work hand in glove in order to adequately vet and make sure that the vetting process of those who deserve sanctuary are adequately vetted. In its broader sense the proposal means that no one should work independently but rather working hand in hand should be prioritised for the intended goals to be met. Working together is mainly to ensure that all factors which need to be taken into consideration are taken into consideration during the vetting process so that each case will be adequately vetted with all the issues in need of consideration taken into consideration.

6.3 Climate Change Refugees in the Context of Desertification Driven Migration

In the introductory chapter it was shown that one of the minimum attributes needed in the reconfiguration of the current refugee law regime is defining what a climate change refugee is. Defining a climate change refugee can be helpful in setting the fertile ground for any actions and trajectories which might be taken to make sure that climate change refugees are given the sanctuary they need by clarifying issues surrounding the term refugee itself. In the context of desertification and drought driven migration, the real effects these climate change contingencies on people's livelihoods might need to be considered when making efforts to conceptualise the term climate change refugees. This understanding of the effects on climate change contingencies such as desertification has implications on the steps to be taken in the crafting of a new set of laws which govern how this cluster of refugees should be treated. Through deciphering these, the duties of the aforesaid body of experts will be clearly spelt out hence making it easy for the needed vetting.

Through this decryption, the argument that there is need for a new and totally independent climate change refugee instrument is vindicated. The major concern of the need to come up with novel refugee instrument (which has been emphasised by scholars such as Docherty and Giannini, 2009) is the belief that the existing institutions and laws which are in place cannot be further burdened and cannot adequately capture the needs of this new breed of 'refugees'. The major challenge however is not only building the new set of rules conceived in the form a new convention which resembles the existing convention in the name of the 1951

Geneva Refugee Convention but also creating institutions that respond to the expectations and concerns of their beneficiaries. The challenge is also to mobilise the needed resources to fund the operations of the new institutions.

In the climate change cluster, the scientific verification of the real effects of climate change, especially gradual events such as desertification and sea level rises, have not adequately provided the evidence needed to convince global superpowers such as the United States of America under the current leadership of President Donald Trump. While the numbers of people migrating to new areas in search of refuge and cite climate change as the cause of their migration is surging, the surge in numbers can be attributed to the perpendicular surges in global population especially in the developing country over the years¹⁰. Further, incidences of migration have been evident since time immemorial. This has fortified the arguments by climate sceptics that climate change is nothing but a fallacy if not a hoax, a belief reflected by the current US's president. This has thus made it a mammoth task to rally global superpowers to agree on a single rallying point.

In the first chapter, it was discussed why global superpowers have been obdurate and unwilling to take a lead in dealing with the issue of global warming. It can be noted that this unwillingness to take bold actions in dealing with climate change can be one of the factors which can mitigate against the crafting of a new instruments and funding any institutions which need funding. While articulate proposals can be made, the global leadership of the superpowers is needed; without it, the proposals will fail. Although academics and climate change scholars and even scientists can provide evidence that climate change is in fact affecting the livelihoods of people hence prompting them to migrate and search refuge somewhere, ultimately it will be the superpowers who can make any action gain traction. In a similar vein, while donors can provide financial resources or technical expertise to help propose robust instruments, it is for the international superpowers to pay attention to ensure that these laws become a reality rather than remaining abstract.

6.4 Individual Independence of the Body of Expert(S) Members

As what should be the case in the rule of law cluster where independence of the judiciary requires not only institutional independence but also individual independence of the judge, there is need for the experts who will be responsible for vetting climate change refugees to be independent and impartial. It is useful to reiterate that in order to fairly vet and consider

¹⁰ There has been a population surge globally and the countries in the Sahel have been one of the regions with the highest population surge since the turn of the century (see the United Nations Environment Programme 2011).

asylum seekers fairly, those responsible for the vetting ought to be independent of anybody or anything that might compel them to decide issues on any other basis than the law and facts before them. Individual independence of those responsible for vetting of those who are eligible to be given sanctuary as climate change refugees and their ability to impartially vet is associated and mutually interdependent.

If those who vet cannot be relied upon to decide asylum cases impartially and in accordance with laid down laws, without being subjected to external pressures and influences, the role of this body of experts will be greatly compromised and its ability to correctly and satisfactorily consider asylum for climate change refugees will be compromised. Those who will be responsible for the vetting should be accountable. Under the current refugee regime, the United Nations High Commissioner for Refugees seems to be the *de facto* authority who oversees any refugee issues, including vetting of prospective refugees. Though not clearly articulated the statements that the United Nations High Commissioner for Refugees sometimes unleashes following incidences where refugees are inhumanely treated¹¹ can be construed as a mechanism to demand accountability in the refugee vetting and treatment. It is useful to reiterate that there is a clear difference between independence and accountability. While the independence means freeing those responsible for vetting from prior control of its decision making, accountability, on the other hand, emphasises having a mechanism in place by which the body of experts as an independent body is required to explain its operations after the fact. While accountability is desirable, it should be exercised by an independent organ such as the UNHCR with laws which clearly articulate the roles of such a body as the accounting authority.

This is to make sure that those responsible for the vetting do it knowing that they are going to be accountable somewhere somehow. Perhaps one of the greatest loopholes in the current regimen is the loosely defined role the United Nations High Commissioner for Refugees or poor execution of her or his duties.¹² The implication is that in the absence of a robust regime with mechanisms which regulate the treatment and the vetting of asylums, the fair consideration of asylum seekers and the humane treatment of refugees will be compromised. The correct approach is to make sure that there is effectiveness in the proposed body of experts.

¹¹ For instance, during the height of the refugee crisis in Europe (of 2014-2016) the United Nations High Commissioner for Refugees unleashed a statement condemning the way refugees were treated.

¹² There are reports of *refoulement* of refugees fleeing from the Boko Haram insurgency in Cameroon. Further, there are widespread refugee rights abuses of the Rohingya refugees in Asia. In all these instances, the United Nations High Commission for Refugees seems not to have taken any decisive action regulatory or whatever.

The vetting component of it would be to create a robust accounting authority or an independent body established for that purpose. Individual independence of those responsible for the vetting process is further predicated not only on the creation of the said independent body but also on the individual competence and confidence of those doing the vetting. Indeed, one of the attributes of the reconfigured refugee law regime is that the proposed laws ought to possess characteristics of certainty, generality and stability. It can also be proposed that they should also be clearly expressed, open and publicised since those who vet cannot be confident and competent if they are not well versed with the laws which they should interpret and apply.

Under the current international law and refugee law, English, French and Portuguese seem to be the key languages used. But closer scrutiny shows most refugees are not conversant with any of these languages. For example, most refugees who participated in this study spoke indigenous African languages and were not well-articulated in any of the used languages stated above. While they tried to answer questions asked in any of these languages, available evidence demonstrates that they were not well articulate in these languages and did not understand the laws which apply when someone is a refugee. The prevailing assumption among international actors is that these languages are well spoken and understood across the globe. Indeed, most countries in the Sahel speak French but those who are faced with livelihood insecurities as a result of climate change and choose to migrate are those who would have not acquired much knowledge on law and other issues on migration.

While the issue of language seems to be difficult to deal with since including almost every language in the international legal document is impossible, employing interpreters who can help those who do not understand the commonly used international languages can be helpful. It is vitally important to include interpreters and if possible, lawyers who will represent those who will be in need of legal representation as is happening within the EU today.

6.5 Appointment of Experts

Why should the mechanism or process through which experts are appointed be of any significance or merit discussion? Since the power to vet and make a decision is exercised by an individual and through a body of experts as an institution, how a vetting expert is appointed matters the most. Thus, if the appointment is not based on merit and transparency it can greatly compromise the climate change refugee vetting processes and the proposed body as an institution which in effect can compromise the impartiality of those who do the vetting.

Appointment of all experts should be based on merit. They should be appointed on the basis of their qualifications and ability to discharge their functions.

In order to establish whether any institution can be considered as ‘independent’ regard must be made on *inter alia* the manner in which its members are appointed, the existence of guarantees against outside pressures and the question of whether the body presents an appearance of independence. It would also be useful to hold a meeting in which all countries’ representatives will be in attendance and then appoint a panel of representatives which will appoint the proposed experts based on their merit. This would ensure that all the candidates will be thoroughly vetted, and their qualifications and integrity are not in doubt in front of every concerned party. The main criteria for the appointment, appointments at all levels should be made on merit with appropriate provisions for the progressive removal of gender imbalances. Though these appointing suggestions are not binding, they provide a framework to enhance the independence of the proposed body of experts.

There are no clear rules guaranteeing that a certain process of appointing the experts will be more successful than the rest. Rather, the success of each process will largely depend on the global political context and the willingness of most destination countries to take part. However, an examination of these proposals would show that there are some common denominators which can tremendously improve the appointment process. These may include transparency in the process: here several measures may be undertaken such as to advertise vacancies much the same as what is done when the United Nations’ Secretary General’s position is vacant. To further enhance the independence of the body, the appointment process of the personnel ought to be strictly based on meritocracy and transparency. These considerations would enhance the recruitment of best candidates available in the pool of applicants. Closely related to the above is the composition appointing panel. The panel should comprise representatives of both developed and developing countries (mostly those affected by climate change the most) with the former mostly the climate change refugee receiving states whilst the latter will be the sending states. Mindful of the differences between sending and receiving countries when it comes to resources needed to resettle or repatriate the successful applicants and those who might have failed, it can be suggested that appointments must be keen to reflect those who are affected by climate change *vis-à-vis* those who are expected to shoulder most of the blame for the havoc climate change seem to have wrecked.

What should be the mechanism for safeguarding tenure of those appointed in the proposed body of experts? For those responsible to remain independent while serving, it is useful to reiterate that security of their tenure might be of paramount importance. A five-year

time which is renewable for only two five-year terms based on performance might guarantee this. A situation where those appointed will serve forever has a tendency of hindering dynamism in how issues are dealt with since incidences of climate change seem to change and take novel dimensions. Thus, adopting the tenure system which is akin to the way the United Nations Secretary General works might work for all the experts.

6.6 Refugee Law Reform and Proposals for the Creation on New Institutions

But what is the role of the international actors in building a new refugee regime which considers climate change refugees? From a human rights standpoint, the issues discussed in the foregoing paragraphs are assumed to be of vital importance for the protection of the individual and collective human rights but also to further the humanitarian cause which seems to be the major issue in the 21st century, particularly when it comes to protecting the climate change refugees. To further understand this, suggestions for reform proposed by Docherty and Giannini (2009) may be instructive. For Docherty and Giannini (2009) the 1951 Geneva Refugee Convention provides a fertile ground for the kinds of human rights protections to embrace in an instrument aimed at protecting climate change refugees.

For Docherty and Giannini (2009), a climate change refugee instrument might need to borrow greatly from the legal precedent set by the 1951 Geneva Refugee Convention. The instrument suggested by Docherty and Giannini (2009) intends to assure an array of civil, political, economic, social and cultural rights. It also vies to assure rights particular to the refugee milieu related to movement. Docherty and Giannini (2009) proposed that this assuring of rights ought to be done in a non-discriminatory manner and should make sure that all climate change refugees get at least a minimum standard of treatment and that climate change refugees get a fair treatment. They proposed that climate change refugees ought to be given rights which are at least equal to those of other foreigners in the host country. Hathaway (2005) concurs with Docherty and Giannini (2009) and stated that these minimum standards that states are expected to meet are the general standard of treatment. For Docherty and Giannini (2009), climate change refugees should be given even better treatment which might be equal to that given to nationals of the host state. This is line with what has been noted by Hathaway (2005) who noted that this can be referred to as an exceptional standard of treatment.

According to Docherty and Giannini (2009), climate change refugees should receive human rights protection according to these standards. On the civil and political side, as in the 1951 Geneva Refugee Convention, Docherty and Giannini (2009) proposed that climate

change refugees should have access to courts and legal help and should also be allowed to freely associate. For Docherty and Giannini (2009), both of these protections should be at an equal level to that of host state nationals. Docherty and Giannini (2009) also suggested that freedom of expression should be added to this list of protections as enumerated in the 1951 Geneva Refugee Convention and should also fall under the exceptional standard of treatment. Thus, these protections ought to make sure that climate change refugees have avenues to promote their rights. Docherty and Giannini (2009) also proposed that economic, social and cultural rights of the people concerned should be protected and guaranteed. This proposal is underpinned by the reasoning that making sure that these rights are protected makes sure that climate change refugees' survival is guaranteed in their new milieu. Docherty and Giannini (2009) also proposed that within an extraordinary norm of treatment, climate change refugees ought to have access to foods, rudimentary education, civic assistance, employment benefits, workers' recompense and social security. In addition, under a general standard of treatment, climate change refugees should be accorded employment rights, housing benefits and higher education opportunities (Docherty and Giannini, 2009).

These provisions which are clearly spelt out in the 1951 Geneva Refugee Convention inaugurate the critical humanitarian and livelihood protections that climate change refugees might need when fleeing from environmental disasters and choose to seek sanctuary in a new country. Refugees by their very nature migrate across state borders, and the proposal by Docherty and Giannini (2009) vies to make sure that some rights protections are specifically related to movement. The *non-refoulement* principle is one of the vitally important concepts in the rule of traditional refugee law, and forbids host countries from sending back a refugee to her or his country of origin when the life of the refugee will be under threat on the grounds of religion, race, citizenship, membership of a specific social collection or political views (Goodwin-Gill and McAdam 2007: p.354). In the same vein, Docherty and Giannini (2009) suggested that climate change refugees should not be returned to countries where climate-induced environmental change can threaten their lives or their ability to survive. This threat comes from the environment and not from the home state's policies and, regardless of this, the effect on the victims of climate change remain the same.

Under other provisions which protect climate change refugees' movements, Docherty and Giannini (2009) proposed that host states should not penalise refugees who 'unlawfully' enter the host state due to the fact that they would have faced threats to their survival. Docherty and Giannini's (2009) suggestions hold that host states should not infringe the rights of refugees to free movement within the territory of the host state. For Docherty and Giannini

(2009), this freedom of movement must be equal to that of other aliens and the host state ought to issue identity and travel documents and facilitate naturalisation of the refugee. These should be applied in a non-discriminatory manner. They further suggest that a widely inclusive yet not exhaustive list of principles guiding principles of non-discrimination ought to serve as the model for non-discrimination (Docherty and Giannini, 2009).

A deep comprehension of these proposals clearly shows that climate change refugees ought to be treated as fairly as traditional refugees given the circumstances which drive them to move to new territories in search of sanctuary. To achieve this objective, it can be suggested that the international actors ought to find common ground and get to a common rallying point in order for these objectives to be met. This might mean allocating adequate resources which would enhance the functioning of the aforementioned institution of the body of experts. In a similar vein, international organisations which can include civil society organisations and non-governmental organisations should also play an important role in pushing superpowers to play their role making sure that climate change refugees are given the protection they deserve.

International cooperation and institutional interdependence should be prioritised if the adequate and fair protection of climate change refugees is to be achieved. Otherwise the aforementioned proposed issues will remain abstract and suffer a still birth if international cooperation and institutional interdependence cannot be enhanced. This it is assumed will facilitate the smooth coordination and allocation of resources which are vitally important in guaranteeing that the plight of climate change refugees is adequately addressed. Under the current dispensation, resources aimed at addressing the plight of refugees, though managed by the UNHCR, seem to be mostly sponsored by well-wishers and resources availed by regional organisations such as the EU. Yet, it is clear that this practice has its own dangers.

Available evidence shows that the plight of refugees is not satisfactorily addressed¹³. Admittedly, the ability of the regional organisations and national governments to allocate funds for the proper handling of the plight of refugees in the 21st century has been at best inadequate, but it ought to be noted that under the current regime, government has a responsibility to match the covenantal provisions of the 1951 Geneva Refugee Convention with the commitment to allocate sufficient resources. It is therefore crucial for international actors to ensure that their assistance is tailored to the actual needs of the climate change refugees in order to enhance an adequately resourced and well-functioning climate change refugee regime.

¹³ The demolition of the Calais Jungle for health reasons in 2016 and the Lesvos Island catastrophe of 2016 are some among numerous snapshots of the poor reception of refugees in the 21st century.

What can be done to enhance a smooth regime and make sure that refugees are given the help they need? Both local and international actors have crucial but complementary roles to play. This, it can be argued, can only be enhanced through a sustainable funding mechanism. This might therefore imply creating a fund which will be specifically created to make sure that those in need of humanitarian help are given this help. The success of this fund will be judged and determined by the extent to which climate change refugees are given shelter and other basic needs in areas they would have opted to move to. This is contrary to the current regime where the UNHCR oversees the allocation of resources to refugees but based on the availability of the resources. This approach, it can be argued, has failed to adequately deal with the problems faced by refugees. International actors ought to recognise that building a new climate change refugee regime can only be achieved through concerted efforts of both the sending countries and the receiving states hence their cooperation and financial support is of paramount importance in addressing the plight of those forced to migrate as a result of climate induced contingencies.

6.7 Creating a Climate Change Refugee Instrument

To adequately address the plight of climate change refugees, this study concurs with Docherty and Giannini (2009) that this requires creating a new refugee instrument which will be independent of the current refugee regime which specifically deals with the climate change refugee conundrum. This is one of the aims of this research as noted in the first chapter. Clearly paying attention to the unique set of circumstances and needs of climate change refugees constitutes a vital element in enhancing the protection and advancement of both individual and collective human rights as well as humanitarian needs of climate change refugees. Often cut off from the rubric of refugees covered under the 1951 Geneva Refugee Convention, climate change refugees seem to have unique experiences and challenges which call for special treatment.

It is on the assumption that enunciating a new refugee instrument addressing the plight of climate change refugees can address these challenges and justify the need to include international actors in making sure that this gain traction. Examination of the current situation demonstrates that no mention is made of climate change as one of the drivers of migration. Seen against this background and history it provides a compelling need to question whether including climate change as one of the drivers of people to migrate to new areas in search of refuge can contribute to addressing the problems of climate change induced migration. The imperative of building an effective climate change refugee rights law instrument and other

institutions might be a precondition for a successful addressing of climate change induced migration in a milieu of a seemingly surging number of climate change refugees, notably from the Sahel region.

As argued in the preceding chapter, developing a new protocol which can be attached to the existing instrument (the 1951 Geneva Refugee Convention) has its own problems hence it is unlikely to fully address the plight of those coerced through climate change contingencies such as desertification and droughts. Doing so as already noted implies broadening the mandate of the UNHCR which as it stands seem overwhelmed and not fully capacitated to deal with the current refugee problems (probably due to hamstrung budgets). Given this travesty, broadening the mandate of the UNHCR (which also implies broadening the scope of the current refugee regime by either broadening the definition of a refugee or attaching a new protocol¹⁴ which is akin to the 1967 Protocol) is bound to fail.

But even undertaking the adoption of the new instrument alone cannot guarantee effective addressing of the plight of climate change refugees law and order institutions; rather such efforts must proceed in tandem with other reforms in key sectors such as the coming up with a body of experts and also an institution akin to the UNHCR because of their indispensability, their interdependence and their mutually reinforcing nature. This argument is reinforced by the fact that without a holistic approach to the needed reforms, the issues at stake will not be adequately addressed. As noted in the preceding chapter, Docherty and Giannini (2009) suggested the formation of a coordinating agency to support the implementation of the instrument's provisions. For Docherty and Giannini (2009), the agency must work with home states to avert refugee crises.

Docherty and Giannini (2009) suggested that the coordinating agency ought to cooperate with host states in order to realise the guarantees of human rights protections and humanitarian aid. It is suggested that the coordinating agency must help climate change refugees return to their countries of origin or find permanent homes as new naturalised citizens in the new countries. According to Docherty and Giannini (2009) collaboration must play an important role in the execution of this mandate. In addition to establishing relations with governments, Docherty and Giannini (2009) suggested that the agency ought to form partnerships with other groups such as intergovernmental or non-governmental organisations

¹⁴ Those who argue for the need to bring climate change refugees under the 1951 Geneva Refugee Convention mechanism, are of the view that environmental refugees do currently fit within the 1951 Geneva Refugee Convention's definition. This argument is informed by the notion that government induced environmental degradation is a form of persecution. On the other hand, the Maldives government suggested the adoption of Article 1A (2) of the 1951 Geneva Refugee Convention in 2006 to encapsulate climate refugees through the adoption of a Protocol to cover refugee situations which occurred after 1 January 1951 (see Okeowo 2013).

in order to deliver aid. For Docherty and Giannini (2009), this coordinating agency ought to also take into consideration the views and concerns of climate change refugees themselves and give them a platform to participate in decision-making. Docherty and Giannini (2009) suggested that the coordinating agency must be given the task to collect and distribute contributions of assistance from well-wishers. For Docherty and Giannini (2009), the UNHCR provides the most obvious model for such an agency. Thus, a model of such an organisation should be established. Docherty and Giannini (2009) suggested that the designing of the structure of the suggested agency should learn from the experiences of the UNHCR, by deriving its organisation and approaches where suitable and refining them where essential.

In light of the imperative context of these reforms, the way they are carried out might need to be monitored in order to fight factors which might challenge the basis of their implementation. Essentially there is need to involve the climate change refugees themselves in the crafting of the needed reforms, hence doing away with a top-down approach whose implication alienates the climate change refugees themselves as the legitimate participants in the reform processes. The absence of the climate change refugees themselves makes it a mammoth task for the crafting of policies which better reflect the experiences of those affected.

6.8 Border Policing in Host Countries

The UNHCR (UNHCR) has been critical about the nature of border policing activities by some regional organisations, especially that of the EU¹⁵. Specifically, calls have been made to pressure the EU to come up with a refugee rights sensitive border policing regime¹⁶. The same can also be said in Northern America, Africa and Asia¹⁷. A question to pose is why there should be refugee rights sensitive border policing practices in receiving countries and regions. The enunciation of a refugee rights sensitive border policing regimen is underpinned by several assumptions, but mainly by the belief that refugee rights sensitive border policing will significantly contribute to a situation whereby those who genuinely need refuge are given

¹⁵ At the height of the refugee crisis in Europe between 2013-2016, the then United Nations High Commissioner for Refugees, Antonio Guterres, excoriated the actions of the European Union of *refouling* refugees from its borders.

¹⁶ It has been argued that the measures taken by the European Union to police the external borders of the European Union are undertaken in a manner that does not uphold the right of refugees. In actual fact, examination of the border policing activities and actions of the European Union depict that there is a wide hiatus between what is stipulated in the 1951 Refugee Convention and the outcome of the border policing process (see Miltner, 2015).

¹⁷ In Northern America, for instance, there have been calls to build a wall between the US and Mexico (see Pecoud and de Guchteneire, 2006), in Africa Nigerian refugees fleeing from the Boko Haram insurgency have not been allowed into Cameroon, and the same has been seen in Asia especially against the Rohingya refugees.

the platform to access it. Indeed, this belief of the UNHCR among other humanitarian organisations forms the bedrock of the current arguments on the need to make sure that there is a human rights sensitive border policing regime.

These assumptions inform the argument behind this thesis. The question, however, is whether the content of this proposition responds to the existing and envisaged practical challenges. For example, major challenges facing the most refugee receiving nations is the threat of terrorism which seems to have gone hand in hand with migration. Calling for the relaxation of the current tight border policing activities and opening the ‘floodgates’ for literary everyone raises some significant questions. The proposition requires reformers to undertake reforms consistent with ‘refugee rights sensitive border policing activities’. But what does refugee rights sensitive border policing activities signify especially in the climate change migration context, and what are the precise objectives underlying this concept given the surge of terrorism which seems to be intricately linked to migration in general?

International actors identify key attributes of refugee sensitive border policing as including guaranteeing that refugees are not *refouled*, and the right of free movement is guaranteed among other safeguards. The main goal envisaged under this is ushering in a regime which functions in the interest of refugees with the aim of giving them fair access to seek asylum within a system of asylum seeking which is in line with the stipulations of the 1951 Geneva Refugee Convention. While these attributes of refugee rights sensitive border policing activities are laudable, the challenge is how to achieve them in a milieu which has been bedevilled by terrorism. How can this policing be done in such a way that it will make sure climate change refugees are given the help they need in a milieu saturated by traditional refugees who have not been treated in a satisfactory and humane manner? What mechanism can be employed to achieve this goal? While the arguments for the need to usher in refugee rights sensitive border policing activities have been put forward, it is clear that these have been guided by rights enshrined in the 1951 Geneva Refugee Convention.

Although the arguments and the actions aimed at responding to these arguments have been not done satisfactorily, at least these have been done guided by a set of rules encapsulated in the 1951 Geneva Refugee Convention. This can be contrasted with what is the case with climate change refugees. It is these issues which might be inimical to the clear stipulation of what is expected of the said refugee rights sensitive border policing activities. That being the case, proposals for coming up with a climate change refugee rights sensitive border policing regime may require a brand-new climate change refugee instrument created either from scratch or which borrows heavily from the existing international refugee

instrument of the 1951 Geneva Refugee Convention. To achieve a climate change refugee rights sensitive border policing regime calls for a fundamental shift in the current approach to border policing activities which have been seen as mostly repulsive. In other words, reforms should reflect the existing needs and expectations of climate change refugees themselves rather than the world imagined by reformers.

Arguably, an effective and professional border police force is key to guarantee fundamental rights and protect the rights of climate change refugees, hence improving their plight. The question is, how precisely does building a new climate change refugee instrument enhance the realisation of the aforesaid climate change refugee sensitive border policing regimen? Perhaps a larger concern is, how can one evaluate the success of this regime or the impact of its outcomes? Considering these objectives in the case of climate change refugees, it can be argued that these might be highly aspirational and taken at face value because there are no tangible benchmarks upon which one can evaluate whether the reforms have led to the aimed objectives.

It is proposed that there should be concrete benchmarks reflecting the peculiar needs of climate change refugees under the guidance of clearly set out rules and rights enshrined in a brand-new climate change refugee instrument in order to decipher whether the set goals have been achieved or not. To successfully attain a climate change refugees' sensitive border policing regime, it is therefore essential for international actors to treat climate change refugee uniquely, taking into account the peculiar challenges they face. In the case of climate change refugees, while undertaking reforms (in the border policing cluster in this instance), consideration should be taken of the peculiar challenges that prompt these people to migrate rather than assuming that all refugees migrate as a result of political persecution.

6.9 Detention and Reception of Climate Change Refugees

It is important to examine how the reforms leading to the enunciation of a climate change refugee instrument can influence the creation of humane reception facilities for climate change refugees. It is useful to reiterate that principles aimed at upholding humanity should form the core of the suggested climate change refugee instrument and the actions which are done in the name of addressing the plight of climate change refugees. It is these attributes which provide a compelling need to examine whether the suggested reforms can automatically enhance the enunciation of humane reception centres. Reception facilities for refugees in most countries (host countries that is) have been generally seen as not humane perhaps because of

the general xenophobic tendencies in most countries, notably East European countries¹⁸. Thus, it seems it is wrongly assumed that resources which might be allocated to improve the reception facilities for those who will be searching for sanctuary should be used to tightly monitor borders and maybe organise the collective return of those who might have sneaked into their countries¹⁹. It can be suggested that humane reception facilities should form an integral part of the needed reconfiguration of the refugee law regime.

What precise criteria can one use to determine whether coming up with an independent climate change refugee instrument can enhance the enunciation of humane reception facilities in host countries? More often it is simply taken as self-evident that a reform in one sector of the whole package (creating a new instrument in this instance) will automatically lead to the essential reforms elsewhere. An example can be seen in the rule of law reform cluster²⁰. It can be argued that these goals are not only highly aspirational; they are also premised on a flawed assumption. It can be argued that the objectives of setting up humane reception facilities can be achieved by coaching and mentoring those working in the refugee reception cluster. It can also be achieved by developing and implementing reception and (detention if necessary) training programmes for all levels of staff. However, it needs to be clear who is going to do this and with what means. This question then calls for the need to come up with a system which will not lead to a situation where a list is drawn up of highly abstract goals of reforms which can hardly be achieved in the real world. The way trainings of human rights officers under the auspices of the European border policing agency Frontex might be used as a model here.

However, examining the treatment of refugees in the hands of Frontex in some instances, especially in the Mediterranean Sea as was the case during operation Trinton, shows that the humanitarian aspect which should inform this policing is not as strong and as humane.

¹⁸ Most host and transit governments are not pleased with the influx of refugees in Europe. Even though most are signatories of international and regional instruments aimed at protecting the rights of refugees, the reception of visitors in most European countries has not been cordial (see Woods, 2015).

¹⁹ Cases of detention, beatings, extortion among other abuses have been reported in Europe. Various methods are used to deter refugees and migrants from approaching European countries, most prominently in cases of countries such as Bulgaria and Turkey. Multiple cases of serious refugee rights violations in European states such as Greece, Italy, and Spain among other frontier states have been reported (see Amnesty International, 2015).

²⁰ An examination of the Libyan situation would illustrate how international actors take these claims as self-evident. Resolution S/2011/580 establishing the UN Support Mission in Libya (UNSMIL) mandates the Mission to support the Libyan national efforts to 'restore public security and order and promote rule of law' and 'extend state authority through strengthening accountable institutions'. The correctional service unit in the Mission is required to participate in the 'development and implementation of the Mission's strategies related to strengthening and development of all aspects of the corrections system, including: implementation of applicable international standards; review and development of relevant legislation; management of prisoners and staff; management of critical strategic and operational issues; and supporting the development of effective linkages with the police and the court system'. From the wording of the mandate of this unit, it can be noted that there are numerous assumptions that make it a mammoth task for all of this to be achieved.

Clearly, under these circumstances it can be argued that human rights trainings can hardly contribute to the effectiveness of humane reception practices, precisely because there is a complete disconnection between practical realities and assumptions made by reformers. The overall objective of ushering in humane reception facilities should be to contribute to the enunciation of a cordial environment characterised by facilities which are safe and not squalid and prison-like. At its most basic level, creating a humane reception system might entail creating reception centres which are fit for purpose, recruiting and training appropriate staff to manage those centres and developing legislation, policies, procedures and systems which enable the system to function in a coherent, integrated and accountable manner.

Collectively these efforts might help in promoting fundamental rights and freedoms and human rights for climate change refugees who will be awaiting the consideration of their asylum applications. The fact that a person awaiting her or his papers to be processed does not deprive him or her of the basic human rights enshrined in the Universal Declaration of human rights. It is in the quest to promote these rights that a refugee law reform, when pursued within a correct approach to include climate change refugees, can have a significant impact on enhancing the rights of climate change refugees. Reformers should not simply assume that the suggested reform will automatically address challenges which are likely to be faced by those awaiting the processing of their asylum applications (poor reception in this instance).

6.10 Assistance to the United Nations Commission for Climate Change Refugees

An examination of institutions critical for the advancement of the new refugee law regime which offers protection to climate change refugees would be incomplete without making an inquiry into whether the said reform can enhance the role and function of the proposed United Nations Commission for Climate Change Refugees, a body akin to the present day UNHCR. This commission will be the key institution entrusted with various functions which include distributing food, providing shelter and providing other forms of aid to climate change refugees wherever they may be. Where then should be the funding of all these activities come from? This is where the idea of a global fund proposed by Docherty and Giannini (2009) comes in. For Docherty and Giannini (2009) there might be a need to establish a global fund whose aim will be to manage (as well as source funds) for the provision of international assistance.

Docherty and Giannini (2009) suggested that there should be a mechanism tasked with determining the size of obligatory contributions, collecting payments, and distributing grants to states in need and organisations that give aid to refugees themselves. According to Docherty

and Giannini (2009), states should be allowed to substitute in-kind assistance for financial assistance albeit the distribution of the former ought to be funnelled through a coordinating agency.

Besides the framework found in the United Nations Framework Convention on Climate Change which provided a model for the construction of a fund to aimed at implementing global collaboration and support under the tutelage of the Global Environment Facility, numerous other scholars also presented other treasured representations for a global fund more strictly connected to that proposed by Docherty and Giannini (2009). These include the Disaster Relief Fund proposed by Muller (2002), and the Climate Refugee Protection and Resettlement Fund proposed by Biermann and Boas (2008). Hodgkinson et al., (2008) also recommend a fund as part of the convention they propose on persons displaced by climate change. The fund suggested by Hodgkinson et al., (2008) targets those who migrate internally as well as across boundaries. Although these proposals tend to differ in details and specificity, they illustrate growing support for establishing such a mechanism.

Through suggesting the establishment of a global fund, Docherty and Giannini (2009) propose that the climate change refugee instrument must allocate international contributions according to states' common but distinguished responsibilities. This principle, which is common in international environmental law, is anchored on the idea that all states have a shared responsibility to protect the environment. In light of this, the fund proposed by Docherty and Giannini (2009) distinguished historic modifications in the offerings of industrialised and developing countries to international environmental conundrums as well as variances in their respective economic and technical capacity to tackle these problems. Docherty and Giannini (2009) suggested that states should contribute different amounts for environmental protection. For Docherty and Giannini (2009), this approach can be appropriate for climate change due to the fact that, while the environmental phenomenon affects the common heritage of mankind, states tend to contribute to the problem differently. It is useful to reiterate that Docherty and Giannini (2009) see this approach as practical due to the fact that it considers states' varied abilities to provide financial help. For Docherty and Giannini (2009), determining individual states' contributions to climate change is a colossal task.

Docherty and Giannini (2009) suggested that the global fund should consider the scientific findings along with data on states' capacities to pay so as determine each state's ultimate responsibility. They also recommend that the allocations should re-evaluate the responsibility periodically to make sure they remain current. They advocate that the international community which contribute to the problem of global warming ought to be

obligated to contribute to the solution. Docherty and Giannini (2009) suggested that countries must establish the organisational specifics of a funding instrument during negotiation or application of the climate change refugee instrument. They further propose that any global fund ought to take into account additional elements. Home and host states should be eligible to receive assistance due to the fact that all of them are directly affected by the climate change refugee crisis. Docherty and Giannini (2009) suggested that the fund must give help not only for support actions but also for actions aimed at reducing the effect of a conceivable refugee crisis. In this case, prevention is seen as important as remediation. Finally, Docherty and Giannini (2009) advocated that countries should get access to support for immigration because of gradual environmental change as well as abrupt emergency flows of refugee. A fund that includes all these elements can make sure that the international community shares the burden of dealing with this international phenomenon and that the necessary financial assistance will be available to those who need it.

There is a correlation between the proposed reforms and functions of this commission. In the suggested reforms, coordination of aid and playing the whistle-blower role is of vital importance when addressing the plight of climate change refugees. The significance of the whistle-blower function lies in the commissioner's responsibility to represent the interests of climate change refugees through raising their concerns on the global platform. In line with what is the case with the United Nations High Commissioner for refugees, the role of the United Nations Commissioner for Climate Change Refugees will also be able to make sure that the laws governing the treatment of climate change refugees is respected and enforced.

The interest in strengthening the role of the United Nations Commissioner for Climate Change Refugees is predicated on the assumption that such reforms can enhance the protection and promotion of climate change refugee rights. This belief is reflected in the United Nations Framework Convention on Climate Change among other proposed frameworks (Docherty and Giannini, 2009) reaffirming the importance of respecting the rights of climate change refugees much the same as the rights of traditional refugees are respected. The proposal by Docherty and Giannini (2009) presented an array of rights²¹ which this study views vitally important and worth respecting.

Poor respect of refugee rights under the current dispensation is unfortunately common across the world and this must be overcome if the rights of climate change refugees are to be adequately protected. Given the current scenario where refugees who will be fleeing

²¹ Docherty and Giannini (2009) opine that a range of civil, political rights, economic, social and cultural rights ought to be guaranteed.

persecution are not satisfactorily treated and cordially welcomed in most receiving countries, addressing these challenges is a critical step in demonstrating that basic human rights of those searching for sanctuary either from political persecution or climate change contingencies can be respected. However, how to accomplish this continues to present a serious challenge to both national and international actors. The assumption that creating the said United Nations Commission for Climate Change Refugees will enhance the respecting and protecting of climate change refugees might ignore the fact that challenges faced by most receiving states today have a bearing on how those generally seen as strangers are treated. For example, terrorism has been one of the problems which have been intricately linked to migration in the 21st century. The Western countries which have been by far receiving most refugees can influence how refugees are generally treated. To address these problems requires a holistic and innovative approach involving both formal and informal means of making sure that terrorist elements are screened and identified during refugee screening exercises.

6.11 Raising Awareness on Reality of Climate Change Refugees

One of the attributes of the needed reconfiguration of the refugee law cluster is predictability, clarity and stability of the law. It can be argued that a central component of the new system suggested new laws encapsulated in the new system is knowledge of these by those likely to be affected by it. An examination has been made on the critical role of reforms in enhancing the effectiveness of legal institutions and the myriad challenges that continue to inhibit the realisation of this objective. But if these institutions are likely to be bedevilled by factors which might undermine their capacity to protect and safeguard the rights of climate change refugees, how then can the reforms enhance their effectiveness?

Taking into account that some of the climate change refugees are not conversant with legal matters and other issues which are too technical, how then do they access institutions which are aimed at making sure that their rights are respected? This question is significant because during the interviews with the climate change refugees, most of them seemed oblivious of key issues pertaining to their status. It is this reality that prompts the examination of the feasibility of setting up mechanisms which can be used to raise awareness on what it means to be a climate change refugee. In the current dispensation what it means to be a refugee has been explained to refugees in destination countries and it seems some of those who choose to migrate to other countries and claim to be refugees do not really know what it means to be one. In other words, some migrate for economic and others for social reasons

which do not qualify them to be refugees as stipulated under the 1951 Geneva Refugee Convention.

It is here where setting up mechanisms which are specifically tasked with raising this awareness is worth mentioning. It is here where non-governmental organisations come in. The role of non-governmental organisations in the climate change sector has been priceless and very important. Non-governmental organisations have been playing a speculative role in areas of research and in some cases distributing aid to communities for building resilience among other activities. It is useful to reiterate that these activities galvanised the calls for the realisation of the need to help communities and countries affected by climate change. For instance, these efforts helped provide the evidence that climate change is in fact a reality and global warming driven by the excessive emission of greenhouse gases has been the major cause. This not only provides evidence of the fact that climate change is a reality, but it also provides the evidence that climate change has become one of the major drivers of migration.

These efforts seem to be lacking when it comes to raising awareness on what it really means to be a refugee and whether migrating to new countries under the pretext of climate change can lead one to be given refuge much the same way as traditional refugees. It is this area that needs non-governmental organisations to play a role in raising awareness of what it means to be a climate change refugee if the proposed reconfigurations come into being.

But why is it important to specifically include non-governmental organisations to execute these duties? This recognition can be attributed to the realisation that creating a new independent body tasked to do such a job might be very expensive to build to match the needs of the needed awareness campaigns. Examining the current state of affairs in the refugee cluster yields one credit in noting that those who choose to migrate for whatever reasons seem not to be fully aware what being a refugee is all about. This recognition can be attributed to the fact that there are no mechanisms and efforts which are being made to that effect. Thus, recognition of this hiatus in the current dispensation provides a compelling need for international actors to clearly articulate how making people aware of what it means can perhaps stop some from unnecessarily opting to migrate to new countries in search of 'refuge'. Indeed, there is need to make efforts and make some profound changes in raising awareness to the level never seen before.

Having made these suggestions, it might be important to clearly articulate the *modus operandi* of the aforesaid non-governmental organisations in executing what they are supposed to execute. It can be suggested that this can be achieved through making campaigns in most sending countries, the aim of these campaigns being to make people know what they

are entitled to and not entitled to if they choose to migrate to new areas in search of sanctuary under the pretext of climate change. Since most of the people who opt to migrate are usually the rural poor whose livelihoods are mainly anchored on the environment, the suggested campaigns might make an impact if they are done in these locales in local languages. This might also include making people aware of other options which might be taken in order to make their migration safe and legal.

While it is true that some people might still opt to take the dangerous route of migrating illegally and beyond their borders, making these awareness campaigns can possibly curtail illegal and at times dangerous adventures as seen under the current dispensation²². Indeed, for the proposed global dispensation which takes into consideration the climate change refugees, this might be a vitally important mechanism which will help advance the source of legislation, constitutionalism and advancement of the new laws which govern climate change refugees.

Any successful initiative must make it a point that the local people are fully made aware of what migration entails and what being a climate change refugee means in their local languages. In other words, new laws, norms and standards should be articulated in local languages since the languages which are normally used (English, French and Portuguese) are not understood by those who opt to migrate to new countries as climate change refugees. It is this requirement to make sure laws are articulated in local languages which continues to challenge the efforts to make sure the needed reforms are well known. For example, how can reformers integrate local languages and knowledge systems of the communities affected the most by climate change contingencies in an environment where a majority of the targeted beneficiaries struggle to understand or identify with such reforms?

It is this reality that provides a compelling need to examine how the said reforms can enhance the effectiveness of local knowledge institutions and languages without contravening international human rights standards that underpin these reforms. It can be argued that the enunciation of the new instrument and the erection of the suggested institutions must be examined in terms of their accessibility by the affected populations and how they respond to their needs and aspirations. Knowledge and information is power, and access to information and knowledge is closely linked to making informed decisions and having a voice in decision making. Indeed, what this argument might fail to capture are the nitty-gritties of the nexus between access to information and decision making. The challenge is to create synergies

²² Migrants are making the dangerous journey to Europe through the sea. These journeys are made with the use of unseaworthy rubber dinghies which often times capsize (see Hammond, 2015; Miltner, 2015).

between local institutions and international standards and available evidence shows that institutions of those affected by the scourge of climate change and their knowledge systems have not been given necessary recognition and support as a vehicle to come up with any internationally recognised law regime.

It can be argued that, without clear articulation of how international norms can take into cognisance the voices of those affected by the scourge of climate change and their knowledge systems, reforms might continue to be an elite driven enterprise with little impact on those for whose benefit these reforms are justified. It can therefore be argued that the voices of those any reforms are intended to benefit constitutes an essential component of the needed reforms. Often, in the absence of any regime with the mandate to govern how things are done in a particular milieu, those affected tend to devise and adhere to their own means of dealing with the situation in order for them to continue surviving, with illegal migration being chief among them in the context of climate change. Admittedly, these may not necessarily conform to the universal standards as recognised on the international level. This may be because there will be no codified rules agreed upon universally, a situation which tends to make these not legal.

However, despite these features, they are the same mechanisms which to a large extent enable the affected to be able to deal with displaced populations and make sure that people coexist side by side amicably. If one of the key attributes of the envisaged new system is knowledge of those likely to benefit from the law, how then can reformers expect to successfully build a new regime which takes into consideration climate change refugees when the various legislation is drafted and adopted in languages they cannot comprehend (English, French or Portuguese)? It can be argued that reforms can improve the effectiveness of knowledge systems of those most affected if international actors acknowledge the important role of their knowledge systems in the overall discourse of reforms. The profound challenge which must be addressed is that climate change refugees, though having been not recognised as refugees, have been choosing illegal migration as a strategy for survival.

With this reality, the objective of the reforms ought to focus on how precisely such reforms can contribute to the improvement of the reactionary strategies which have been adopted by those affected by climate change contingencies, such as desertification, droughts, rising sea levels among other contingencies. The challenge with this is that the probability of this being taken on board seems to hinge on the willingness of the said superpowers to take these as valuable and logical. But who determines that certain mechanisms are not repugnant to the established values and ethos of an international law system? This question is

overarching and relevant because logic and value are value laden terms subject to various interpretations by various scholars and authorities. For instance, what constitutes ‘logical’ or ‘valuable’ in the eyes of a local farmer or pastoralist in Burkina Faso may not be seen as ‘logical’ and ‘valuable’ by a legislator in the British House of Commons. It is perhaps this divergence in viewpoints which then makes it very difficult for the creation of synergies between knowledge from the ‘periphery’²³ and knowledge from the ‘core’²⁴.

Having identified the numerous challenges which may inhibit the creation of these vital synergies, it is critical to ask what needs to be done in order to address them. Admittedly, it is not possible take on board everything that comes from the ‘periphery’ and neither is it possible to take everything propagated by the ‘core’. However, it is of paramount importance to merge what is propagated from both sides but with more emphasis being given to those affected by climate change. Lessons can be drawn from how laws, for instance, have been reconciled by merging customary laws with modern laws and institutions²⁵. Arguably, if this system is adopted in crafting the new instruments, it has the potential to contribute to the creation of a robust regime which would capture all salient issues which need attention. Inputs by the periphery if taken into consideration may be helpful in making sure that the challenges faced by the most affected are taken on board, mainly because it is them who bear the brunt of climate change and produce the refugees. It is under this dispensation where a system which is not ‘elite driven’ will gain traction and yield the intended results. It is therefore highly counterproductive to assume that reforms without the inputs of the periphery will form a strong regime which will serve the interests of climate change refugees.

6.12 Conclusion

The aim of this chapter was to challenge the prevailing assumption that the building of a new refugee law regime which takes into consideration of climate change refugees can automatically make sure that the rights of climate change refugees are honoured and respected. Through deciphering various issues which need to be taken into consideration, the chapter has demonstrated that international actors take these assumptions as self-evident without linking the assumptions with the existing reality on the ground. While international actors may indeed play a key role in enhancing the effectiveness of these institutions,

²³ The periphery in this instance implies the local people who are most affected by climate change.

²⁴ In contrast, the core constitutes the global superpowers or destination countries for most climate change refugees.

²⁵ For example, in Tanzania efforts were made to reconcile traditional laws with modern laws. That being the case, primary courts, which are the equivalent of customary courts envisaged under the Local Government Act, use both tradition and statutory laws (see Majinge, 2013).

especially in a scenario where climate change refugees seem to be surging, successful reform requires that these assumptions should reflect the practical needs of those the reforms are targeted to benefit.

Taking into account the attributes which have been discussed in the first chapter, this chapter has argued that external reformers should equally focus on what those affected regard as critical to the crafting of a new regime. It has been argued that it is this reality that provides a compelling need to examine how the said reforms can enhance the effectiveness of local knowledge institutions and languages without contravening international human rights standards that underpin these reforms. It has also been argued that the enunciation of the new instrument and the erection of the suggested institutions must be examined in terms of their accessibility by the affected populations and how they respond to their needs and aspirations. The importance of what those affected see as important cannot be underestimated, mainly because all these reforms are targeted to them. It has been argued that the importance of the views of the climate change refugees themselves cannot be underestimated, mainly because it is them who experience the realities of climate change.

Hence it is argued that it is only through taking into consideration their narratives and experiences that one can make sure that a robust and holistic climate change refugee regime is ushered in. It is this reality which requires international actors to adopt a holistic approach to reforms. This approach will ensure that, while the needed reforms can indeed enhance the independence and effectiveness of formal institutions, they should be adapted to the challenges facing climate change refugees themselves in order to usher in a regime which speaks to the hopes and aspirations of those affected by climate change.

Chapter Seven: Conclusion

7.1 Summary

The objective of this thesis was to inquire into the different meanings attributed to a refugee in order to understand the concept in a milieu of migration prompted by the climate change as seen in the desertification driven migration in the Sahel region. By doing this, the study sought to contribute to the conceptual understanding of how the theoretical underpinning of the concept of climate change refugees correlates with the legal and institutional measures taken by the international community, notably regional bodies such as the EU, in dealing with refugees coming into their regions in search of sanctuary. The research addressed the historical and theoretical imperatives which orient and drive the refugee law reform process in climate change situations.

The major gaps which need to be redressed by establishing the refugee law to encapsulate what this study terms climate change refugees, and the reasons why this seems to be vitally important were investigated and analysed. This thus necessitated a consideration of the minimum attributes of the refugee rights law reforms that are relevant to legal and institutional reforms pertaining to climate change refugees. It has been argued that for the reform process to succeed in the reform process, reformers ought to fashion their efforts based on these attributes. It has been argued that the advantage of doing this will ensure that the success and impact of these reforms can be measured against clearly identified goals.

The setting in which this study was situated showed that there are international dimensions to refugee law. It was noted that the UNHCR inspired by its underlying principles and institutional architecture on refugee rights is the largest and most influential international actor in the field of building of refugee law, with an unmatched capacity to disseminate the theme of climate change refugees as an essential component of building a refugee law regime which recognises forced migration caused by the changes in climate. For the sake of seeking clarity on the content of the rights of refugees, it was noted that the practice of the UNHCR in promoting reforms on the rights of refugees in the situation of an influx of refugees equates human rights and refugee rights. Thus, these two concepts are invoked concomitantly as they are two sides of the same coin.

The study further addressed the legal dimension of the question of whether climate change refugee rights as proposed by various scholars can successfully be applied and adopted on a global level. The thesis critically examined what constitutes a situation whereby one can be seen as a climate change refugee and specific issues relating to the issue of climate change

refugees in the context. From this standpoint, the thesis critically examined the criteria or circumstances that ought to be taken on board when considering someone as a climate change refugee. An analysis of this nature was critical since the way the term is used has practical implications for the kind of steps taken and the framework for doing this in order to come up with a refugee law regime which takes cognisance of climate change refugees. This clarification contributed to deeper understanding of climate change refugees and how they ought to be treated on an international level.

7.2 Implications of Minimum Attributes of a Climate Change Refugee

Recognising the ongoing variations in the way the climate change refugee concept is conceived by different scholars and practitioners, this thesis has developed minimum attributes of a climate change refugee. It is hoped that developing these attributes can enable reformers to conceive and apply the concept on the basis of well-known yardsticks. It is with great hope that the intrinsic value of these attributes lies in their ability to serve as a guideline for refugee law reformers and in the process include climate change refugees and therefore bridges the hiatus in the current regimen. Some of the attributes recognised comprise generality, certainty and stability of law and institutional conditions for an effective legal order necessary for protection of climate change refugees.

Focusing on these attributes will lessen the chances or possibilities of the new law being invoked to justify various activities or reforms which may have little or no association with the needs and aspirations of those in whose names these reforms are carried out. The identification of the minimum attributes of a climate change refugee has further been necessitated by the veracity that climate change refugee as a term and a concept has not been defined from a multiplicity of standpoints; hence there exists an array of other terms such as environmental refugees, eco migrants, environmental migrants and ecological migrants, among other terms.

These differences in conceptualisation have led to numerous understandings of those who flee their homes as a result of climate change contingencies such as droughts and desertification; hence there have been different proposals which in some instances have been used by different actors to achieve independent objectives. All these actors tend to justify their respective activities in the name of climate change refugees. It was to address this challenge of divergent conceptions of the term climate change refugees that this study developed the minimum attributes in the first chapter. The relevance of the minimum attributes further emanates from the reality that building a new refugee law regime which includes climate

change refugees encompasses both an institutional approach and a values approach. Though international actors are able to significantly contribute towards building strong institutions to support the new regime, they cannot ignore what those who bear the brunt of climate change say and see as important. The latter task can rather be undertaken by local actors who are likely to benefit from and live with the outcomes of such reforms. Hence the need to enhance their participation in the crafting of a new regime which takes into consideration their needs.

Although a new regime can be put in place, it does not automatically guarantee that the rights of climate change refugees are respected and honoured. Citing the example of the current scenario where a law is there, it has been noted that political will and the way the responsible actors uphold the values underpinned by the existing law determines the respect for it. Citing different examples, the research has shown that even though there is an existing refugee instrument, the treatment of the refugees this instrument purport to protect has not been satisfactory. Thus, the difference resides in how these institutions and the actors tasked to make sure they are respected serve the interests of the people and uphold basic tenets of the law.

7.3 Challenges Identified in the Research

The discussion has established several varied challenges that continue to have a negative impact on successful efforts to build the reconfigure the existing refugee law regime in order to include climate change refugees. The examination of these challenges can help one understand major obstacles to the realisation of a new refugee law regime to include climate change refugees at national, regional and international levels. The key challenge identified relates to the different understanding attributed to climate change refugees by different actors. It has been shown that most scholars continue to conceptualise people who are displaced by climate change and migrate to new areas in search of sanctuary from different standpoints. This is a substantial implication, because proposed reforms tend to reflect not only a particular understanding advanced by a scholar, but also that scholar's own interests.

While it is evident that these different proposals aim to influence the reconfiguration of the existing refugee law regime in order for it to cover climate change refugees, the question posed was whether such activities reflect and address primary concerns and priorities of the target groups in whose names these proposals are made. The research has further shown that the participation by the climate change refugees themselves in the needed reconfiguration is critical and ought to be considered when reconfiguring the existing refugee law regime in order to include climate change refugees. It was noted that an approach which fails to take into

consideration the views of the climate change refugees themselves might continue to be elitist driven. It was noted that inadequate participation of the climate change refugees themselves can only lead to some elitist driven policies but can also affect the implementation of these policies.

While efforts are sometimes made in trying to include voices of those in which policies are intended for, precedence has it that most laws (the 1951 Geneva Refugee for instance) are debated and passed by ‘international experts’ without any concerted efforts to include the views of those affected. Nevertheless, the danger of this practice is clear. Even if the suffering might be clear for everyone to see, such reforms may not necessarily lead to intended results. This aspect is crucial because a common or shared nature of suffering, modified by a multitude of different influences, may not necessarily produce similar outcomes in varying scenarios. Admittedly, the views of the said international experts might be valuable - in fact it can be argued that their expertise is needed but including the views of those affected is equally valuable. Thus, the problems arise when reforms generally exclude the views of end beneficiaries to help in the drafting of policies in the spirit of maintaining ‘international standards’.

Another key challenge identified is the inadequate capacity to translate legal text into concrete value. Under the current regime, only three languages are used as the medium for communication (that is, English, French and Portuguese). However, evidence from the fieldwork depicted that most of those who claim to be climate change refugees do not understand any of these languages, though a few could comprehend a few words. In fact, very few climate change refugees understood what it means to be a refugee and cited lack of skills to read and decipher what issues on refugees articulated either in English, French or Portuguese mean. It is due to these reasons that some of the people just migrate to new countries without really knowing the laws which there are to protect them or criminalise them as illegal. The gap therefore requires changes to the current approach underpinning much reform where reformers and responsible actors tend to concentrate on institutional reform without examining how such reforms impact the target groups.

As argued throughout the preceding chapter, it is critical that the reconfiguration of the current refugee law regime reform should be undertaken on a holistic basis by balancing institutional reforms and the way ultimate beneficiaries’ access and understand them. In other words, the research has further noted that reforms should provide sufficient focus on issues that may have significant impact on those affected themselves. Thus, not paying attention to

their needs and the way they understand things has the capacity to bring about negative impacts on the intended outcomes.

Greater focus on these issues would serve two purposes. It would enhance a better understanding of the rights accorded to climate change refugees themselves, and it makes the new policies crafted immune to elitism, a situation which has seen those affected not identifying with the policies or laws crafted. It has been therefore argued that any successful initiative ought to make it a point that the local people are fully made aware of what migration entails and what being a climate change refugee means in their local languages. In other words, new laws, norms and standards should be articulated in local languages since languages which are normally used are not understood by those who choose to migrate to new countries as climate change refugees.

It is this requirement to make sure laws are articulated in local languages which continues to challenge the efforts to make sure the needed reforms are well known. It is this reality which provides a compelling need to examine how the said reforms can enhance the effectiveness of local knowledge institutions and languages without contravening international human rights standards that underpin these reforms. It was argued that the accent of the new climate change refugee instrument and the formation of the suggested institutions should be examined in terms of their accessibility by the affected populations and how they respond to their needs and aspirations. Therefore, the voices of those any reforms are intended to benefit constitutes an essential component of the needed reforms.

7.4 Conditioning the Success or Failure of the Proposed Reforms?

After having identified and discussed multi-layered challenges that may curtail the successful building of a new refugee law regime to include climate change refugees, it is of vital importance to discuss and proffer solutions of what should be done to address these challenges. While it can be noted that there are no uniform measures to address them due to their varying nature and contexts, there are precise measures that can be taken on board which could significantly enhance the impact of the proposed reforms at the national, regional and ultimately the international levels. The discussion of the proposals made by this thesis shows that the proposed reform efforts build from what has been proposed by other scholars, notably what was proposed by Docherty and Giannini (2009). It is therefore crucial for reformers from this standpoint to identify and learn lessons from how the current refugee instrument and the available proposals whose aim is to usher in a new refugee instrument which takes into consideration of climate change refugees have been developed.

The research has further pointed out in the foregoing chapter that one of the key factors which might inhibit reform is the ‘top-down’ approach mostly taken when reforms are made. Through this approach, reforms are conceived by international actors without the input of those the reforms are intended to benefit. Although it has been admitted that in some instances reformers often reiterate through policy declarations and recommendations that participation of those which the reforms are intended to benefit ought to be key to these reforms, numerous examples have revealed that this rhetoric usually gains little traction in the ‘real world’ where these actors craft their reforms. To address this challenge, it can be suggested that reformers should take deliberate measures to enhance the participation of those affected by climate change and choose to migrate to new areas. The effectiveness of the latter can meaningfully contribute to enhancing the intended reforms through acting as an intermediary between the climate change refugees themselves and those who are tasked with crafting the needed reforms on an international level.

This objective can be achieved through significant allocation of resources to non-governmental organisations who will be given the mandate to reach out to the affected communities for awareness campaigns and other programmes aimed at making sure that the voices of those affected by climate change (the would-be climate change refugees) are taken on board in order to make sure that they effectively advocate for issues of concern to them. It can further be argued that, though it is vitally important to stick to international standards and best practices, this objective ought not to turn a blind eye to and should not be achieved at the expense of legitimate aspirations of the communities affected by the climate change. Hence these reforms should be patterned in line with their specific needs and challenges. The role of non-governmental organisation discussed in the preceding chapter might be key in the realisation of these objectives. Nonetheless, success will significantly depend on how reformers (notably international reformers) incorporate the ideas of the climate change refugees and the would-be climate change refugees in the mainstream framework of reforms through adequate allocation of resources to non-governmental organisations who are tasked to get the ideas of the affected communities on board.

It can be argued that building a strong refugee law regime requires stakeholders to work together to address common challenges. This is in line with what is stipulated in Article 56 of the United Nations Charter which reaffirms the imperative of this cooperation to enhance the realisation of the ideals of the Charter, notably those related to human rights and peace and security. Nonetheless, as has been discussed, this objective has been difficult to achieve mainly due to the fact that in most cases those who provide help (mostly aid) do so in

ways which advance their interests. It is thus important that there should be a reconsideration of the international cooperation approach, ensuring that the views and needs of the beneficiaries are taken into account in any reform process. It can also be suggested that effective reforms should encompass predictable and timely delivery of services to the beneficiaries, because without effective institutions to deliver services, the confidence of beneficiaries (in this instance climate change refugees) in the institutions of the state will be undermined, as what seems to be the case under the current dispensation where available institutions have not been able to cope with and deliver what they are supposed to deliver to the refugees.

The capacity of institutions such as the proposed United Nations Commission of Climate Change Refugees, an organisation akin to the UNHCR, ought to be enhanced to deliver concrete services to the climate change refugees. It can also be suggested that outside the context of these institutions, reforms can significantly enhance the effectiveness of professional associations of lawyers, academics, policy research institutions as well as advocacy organisations which might play a significant role in the climate change refugee cluster. It is thus of vital importance for international actors to provide technical and material support to these institutions to contribute towards effective help to the intended beneficiaries.

Upholding the proposed reforms might also require strong regional climate change refugee protection mechanisms. These institutions are crucial because they create a springboard for regional organisations to deal with the climate change induced displacement amicably. Commitment to this would ensure that actions undertaken by individual states and regional organisations play a complementary role to the proposed international instruments and efforts. While it is clear that almost all regions such as Europe, Africa and Americas have in place regional mechanisms aimed at dealing with internally displaced persons (IDPs), their ability to protect climate change refugees as intended seem to be unsatisfactory. Because of this reality there is a compelling need for the international community to provide adequate support to some of these organisations that are weak, and resource constrained to enable them to contribute to the advancement of the climate induced migrations at a regional level.

7.5 Conclusion and Way Forward

In conclusion, the research reiterates the finding in the introductory chapter where a climate change refugee was identified as a concept whose realisation is manifested both in the institutions built to underpin its existence and, in the values, or attributes which form an integral part of these institutions. It has further been argued that, while there continues to be

varying invocation of the concept of climate change refugees to justify actions and interests of powerful actors, the concept needs to be clarified. The legitimacy and credibility of building a new refugee law regime to include climate change refugees will increasingly hinge on the extent to which the climate change refugees themselves identify with the reforms being undertaken under the banner of a new climate change instrument.

While the reconfiguration of the current refugee law regime is desirable, its realisation is not dependent on a specific framework; rather, making sure that this new instrument resonates with the needs of the climate change refugees themselves calls for the need to take on board the voices of the climate change refugees themselves. It is the latter aspect that elevates any law to be an important component in international cooperation to address common challenges facing the international community. It is therefore pertinent to reaffirm the argument that, while international actors and reformers are critical to provide assistance of whatever kind in making sure that a new refugee law regime is put in place, the success of these efforts will largely depend on how the hopes, expectations, needs and concerns of the climate change refugees themselves are taken into consideration to reflect both their needs and their commitment to international shared values underpinned by international law governing their welfares.

This inquiry, while proposing for a new international climate change refugee instrument, did so by using desertification and drought driven migration in the Sahel region as a case study. This was used as a case study because of its significance as a region producing most people who claim to be migrating to other countries (notably European ones) as a result of climate change. It is these clusters of refugees who formed the bulk of those who were interviewed during the fieldwork. Indeed, in some instances, the issue of desertification and climate change induced contingencies which have prompted people to migrate in the Sahel region were mentioned and discussed in an attempt to analyse climate change as a key issue under scrutiny. Though the proposals made are not intended for people from the Sahel region, successful efforts in making sure that a new refugee law regime which takes into consideration climate change refugees will call for sustained involvement of the climate change refugees themselves in undertaking reforms that adequately reflect the challenges identified by those who participated in this study.

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