

AFRICA: A RIGHTS-BASED APPROACH TO CLIMATE CHANGE



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AFRICA:
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REPORT

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EXECUTIVE SUMMARY

This report is the outcome of a study conducted by research consultants from the Midlands State University, Zimbabwe on behalf of ACT Alliance. It examines the application of a human rights-based approach (HRBA) to climate change programming (CCP) in Africa, paying particular attention to the criteria of adaptation, resilience, loss and damage, and human mobility as a facilitator of climate action. The study focussed on climate change programming in four countries in sub-Saharan Africa (SSA): Ethiopia, Malawi, Tanzania and Zimbabwe.

The objectives of the study were to: a) Evaluate literature on HRBA to CCP as it relates to the factors of adaptation, resilience, loss-and-damage and human mobility; b) Assess gaps, limitations and opportunities for advancing the HRBA to CCP, focussing on those factors; c) Examine compliance of different country adaptation projects to a human-rights based approach with emphasis on climate change adaptation programming (CCAP); and d) Provide concrete recommendations on advancing and strengthening HRBA to CCAP.

To achieve these objectives, the authors conducted a comprehensive desk-based review of the existing literature on human rights and climate change, adaptation, resilience, loss and damage, human mobility, and climate financing. From the literature review and guided by the need to examine country programmes on adaptation, a framework identifying the key pillars and principles of a HRBA to CCAP was developed. The framework considered the key pillars of CCAP, namely vulnerability and risk, adaptive capacity and strengthening resilience. These were measured against the guiding principles of: the identification of vulnerable groups; their informed, meaningful and effective participation; gender responsiveness; non-discrimination; accountability; transparency; access to legal remedies; compliance; monitoring; and evaluation. In addition, the framework considered the cross-cutting issues of climate financing, sustainability, and the best use of available resources in CCAP.

The framework led to the development of research tools for interrogating the efforts by ACT projects in Ethiopia, Malawi, Tanzania and Zimbabwe in advancing a HRBA in CCAP. The research consisted of an individual questionnaire and open-ended questions, which underwent validation processes, including field work done in Zimbabwe. The research instrument assessed the domestic and international laws/policies/frameworks which influenced the projects; the project compliance to any international human rights laws; the identification of rights-holders; duty-bearers and their capacities. Furthermore, the questionnaire sought to assess the guiding principles that informed the implementation of the country projects.

Chapter 1 of the study provides the contextual background of the four countries. The four countries are vulnerable to climate change due to high exposure to climate shocks, limited adaptive capacity and overdependency on climate-sensitive sectors. As well, these four countries are committed to abide by the provisions of the United Nations Convention on Climate Change (UNFCCC), the Paris Agreement, international and regional human rights law, international humanitarian law, and international refugee law. These are in addition to international and regional agreements on human mobility and subregional instruments. Efforts are being made towards drafting and implementing national measures in line with such policy instruments on migration. They have also submitted their updated National Determined Contributions in which they have pledged to cut emissions.

Chapter 2 provides for an overview of the human rights and climate change contexts. Extreme weather has caused widespread adverse impacts and related losses and damages to nature and people, with serious adverse impacts on the enjoyment of virtually all human rights. Yet, until recently, the focus on adaptation in CCP was on addressing the needs of those most vulnerable to climate change. The study recognises the limitations of the needs-based approach (NBA) to addressing these human rights challenges.

The NBA facilitates only a climate reasoning or rationale in designing climate response action and so necessitates an additional spectrum of interrogating needs. That emphasises climate impacts, the vulnerabilities and risks of these impacts on human wellbeing and the assessment of adaptation options based on priorities, among others. However, this study advances the HRBA to ensure that all the human rights principles are included in a framework to strengthen the designing, building, implementing and scaling up of actions that tackle climate vulnerability, enhance adaptation, address loss and damage and human mobility, and build resilience. This is crucial for communities to be able to fully enjoy their human rights and lead dignified lives in the face of a climate crisis. The HRBA approach is based on the identification of rights-holders and duty-bearers, meaningful and effective participation, accountability, monitoring and evaluation mechanisms, transparency, non-discrimination, gender-responsive, mobilising maximum finance for adaptation and the empowering of rights holders, capacitating duty-bearers, provision of redress mechanisms, and ensuring timely, adequate access to information and ultimately the sustainability of CCP for adaptation, resilience building, loss and damage and human mobility. This is the HRBA lens to climate change needs.

The chapter also discusses the HRBA to CCP and its basis in a system of rights and corresponding obligations established by the relevant international law regimes. Extrapolating these rights and obligations from their normative instruments into measurable actions within a CCP is still at its infancy across the globe, save for the recognition of the HRBA to distinct issues such as water, the NDC and loss and damage, among others. Thus, the study explores the international and regional legal frameworks relevant to the HRBA to CCP, which includes international human rights law, international environmental law, international climate change law, international instruments on climate mobility as well as the key African Union instruments such as the African Charter on Human Peoples Rights, Agenda 2063, the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969), the Kampala Convention (the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 2009) and the subregional protocols on migration. Together, the international and regional

legal frameworks establish a comprehensive framework for a HRBA to CCAP, setting the basis for the core principles that inform the entire CCAP processes. From these instruments the study explores the current framing of the HRBA to CCAP.

The study indicates that the HRBA requires that CCAP should have the following essential attributes. The main objective should be to: fulfil human rights through identifying rights-holders and their entitlements; identifying corresponding duty-bearers and their obligations; strengthen the capacities of rights-holders to make their claims; strengthen the capacities of duty-bearers to meet their obligations; and be guided by the principles and standards derived from international human rights treaties in all sectors and in all phases of the process. From these objectives, nine key, albeit not exhaustive, principles are established, guided by the 2018 Framework Principles on Human Rights and the Environment developed by the UN Special Rapporteur on Human Rights and the Environment and the African Commission on Human and Peoples' Rights.

These principles are relevant to all measures in CCAP that relate to adaptation, resilience building, loss and damage, climate-induced displacement and climate financing. The principles are namely:

1. Respect for human rights;
2. Respect for the right to a safe, clean, healthy and sustainable environment (and climate); Protection of the rights of those most vulnerable to climate change;
3. Gender responsiveness;
4. Equality and non-discrimination;
5. Provision of education awareness, timely access to information and public participation in decision-making;
6. Access to effective remedies for violations of human rights;
7. Accountability and transparency; and
8. Empowerment and capacity development.

Chapter 3 turns to the country studies and highlights the gaps, limitations and opportunities for advancing HRBA to CCAP that exist in the four countries of Ethiopia, Malawi, Tanzania and Zimbabwe. All four countries are parties to the ICCPR, the ICESCR, the CEDAW, the CRC, the CRPD and the African Charter, creating the basis for their adherence to the fundamental human rights obligations necessary for a HRBA to CCAP. All the countries have ratified critical international instruments on climate change, namely the UNFCCC, the Kyoto Protocol, the Paris Agreement, the Sendai Framework, international human rights instruments, the African Charter on Human and Peoples' Rights, as well as international and regional instruments on human mobility. However, the domestication of these instruments and obligations varies.

Chapter 4 discusses the case studies of the HRBA in climate interventions at the national level based on surveys undertaken in the four countries of Ethiopia, Malawi, Tanzania and Zimbabwe. This report contains results of surveys on the assessment of HRBA to CCAP – run either by ACT Alliance and/or its project partners, as was conducted in Malawi and Zimbabwe. Results from Ethiopia and Tanzania were still pending at the time of writing this report. The findings relate to the thematic areas (CCAP pillars), the key human rights and guiding principles and compliance to the HRBA.

In Malawi, the study assessed the compliance of the HRBA to CCAP of two projects, CBM Cyclone Freddy Response Project (CBMCFRP) and Local Leadership for Global Impact (LL4GI). The results indicate that these two projects covered for the thematic areas, recognised and promoted certain human rights and resonated with a number of the guiding principles. In the context of Malawi, areas that need strengthening to advance the HRBA include: commitment of adequate climate finance, recognition of traditional knowledge systems, gender responsiveness, non-discrimination, accountability, transparency, compliance, monitoring and evaluation, access to remedies, value for money and project sustainability.

In Zimbabwe, two projects, the Resilient Landscape and Communities (RLC) in Chimanimani and the Cyclone Idai Emergency Response (CIER) in Mutare were assessed. The results indicated that these two projects covered four thematic areas, recognised and promoted certain human rights and resonated with several of the guiding principles. While the projects scored fairly on compliance to the HRBA, some areas need further strengthening. Concerning the RLC project, areas needing further strengthening include effective participation and transparency. For the CIER, there was a need to strengthen vulnerability assessments, effective participation, gender-responsive climate financing, the recognition of women and girls as change agents, non-discrimination, environmental and social impacts assessments, transparency, compliance, monitoring and evaluation, access to remedies, value for money, and sustainability.

Chapter 5 provides concrete recommendations for advancing and strengthening HRBA in CCAP based on the adaptation projects against which the CCAP framework and principles were measured. These include: the need to mobilise climate finance to support the vulnerable people in CCAP, including recognition of the sustainability of the projects; the need to recognise traditional knowledge systems in CCAP; ensuring that CCAP is informed by vulnerability assessments; the need to strengthen gender responsiveness; non-discrimination, accountability, transparency; compliance, monitoring and evaluation; and access to remedies. More generally, for future projects on loss and damage and human mobility, it is recommended that the application of the HRBA in CCP can be adopted and adapted for the promotion, protection and fulfilment of human rights. For practical application of these recommendations, the study designed a Toolkit based on the principles of a HRBA to CCAP and findings from the case studies. This Toolkit can be adapted at regional, national and local levels by states, private and community CCAP players.

LIST OF ABBREVIATIONS

ACHPR	African Commission on Human and Peoples' Rights
AU	African Union
CARE	Community Adaptation and Resilience Empowerment
CBM CFRP	CBM Cyclone Freddy Response Project
CCAP	Climate Change Adaptation Programme
CCP	Climate Change Programme
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIER	Cyclone Idai Emergency Response
COP	Conference of the Parties
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
DDC	District development coordinator
DR	Decision rule
EAC	East African Community
FPIC	Free, prior and informed consent
FACHIG	Farmers Association of Community Self-Help Investment Groups
GHG	Greenhouse gas
HRBA	Human rights-based approach
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IPCC	The Intergovernmental Panel on Climate Change
KIIS	Key informant interviews

LL4GI	Local Leadership for Global Impact
MHM	Menstrual hygiene management
NBA	Needs-based approach
NCCRS	National Climate Change Response Strategy
NCP	National climate policy
NDC	Nationally determined contributions
NTIS	National Technical Information Services
OHCHR	Office of the UN High Commissioner for Human Rights
PMU	Project Management Unit
PSNP	Productive Safety Net Programme
RLC	Resilient landscape and communities
SADC	Southern Africa Development Community
SSA	Sub-Saharan Africa
TSURO	Towards Sustainable Use of Resources Organisation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHRC	United Nations Human Rights Council
UNFCCC	United Nations Convention on Climate Change
WASH	Water, sanitation and hygiene

1 Introduction and contextual background

1.1 The context of the study and the methodology chosen

This work examines the application of a Human Rights-Based Approach (HRBA) to Climate Change Adaptation Programming (CCAP) in Africa, with a special focus on four countries in the sub-Saharan Africa (SSA) region: Ethiopia, Malawi, Tanzania and Zimbabwe. The region is relevant for HRBA given the increased adverse impacts of extreme weather events such as droughts, cyclones and flooding, which are disproportionately affecting human rights in poor and vulnerable communities. The vulnerability of the region is heightened by high exposure coupled with limited adaptive capacities, and high dependency on climate-sensitive sectors.

1.2 Climate change issues in Ethiopia

Ethiopia covers an expanse of approximately 1.13 million km². Climate change is of grave concern in this country, which is predominantly semi-arid and experiences high temperatures. The mean seasonal temperature in Ethiopia has increased by 0.06° between 1990 and 2020 and projections indicate an increase of 0.095°C to 2°C by 2050, under the highest emission scenario (UNFCCC, 2022a). At the same time, the country experiences low and erratic rainfall and recurrent devastating droughts and floods (Temesgen, Hassan and Ringler, 2011).

The country's vulnerability to climate change is due to heavy dependency on rain-fed agriculture; high rainfall variability; low adoption of climate-smart agricultural practices; severe land degradation; and low adaptive capacities to the vagaries of climate change (Bank, 2021). The climate shocks have severe implications on food security and economic growth. They also affect human mobility patterns, especially where climate hazards collide with fragile livelihoods that are dependent on scarce resources (Serraglio et al., 2024). This has significant adverse impacts on livelihoods, conflicts, internal- and cross-border migration, and labour displacement within the region and beyond.

A member of the UNFCCC, Ethiopia submitted its updated Nationally Determined Contributions (NDCs) in line with the provisions of the Paris Agreement. It has proposed to reduce greenhouse gas emissions by 68 percent by 2030 as part of its efforts to contribute to the temperature goal of the Paris Agreement (UNFCCC, 2021d). The updated NDC of Ethiopia does not refer to or include any human mobility issues.

Both the high variability of rainfall and the land degradation experienced in Ethiopia have grave consequences for the approximately 110,000 million people whose livelihoods are dependent on rain-fed agriculture. Reports of Ethiopians migrating to Europe and the Gulf due to the negative impacts of climate change are common. A study indicates that climate change is in the "elite leagues" of drivers of internal displacements in Ethiopia.

Ethiopia has put in place various policies and legal and institutional frameworks for climate action guided by international and regional law. The Productive Safety Net Programme (PSNP)

is one of Ethiopia's key initiatives to address drought-induced food insecurity. The initiative was started in 2005 to build community resilience to climate shocks, safeguard assets, and improve food security (Tadesse & Gebremedhin Zeleke, 2022). In addition to responding to droughts, households in the programme are also involved in afforestation programmes to protect the environment. The PSNP pays particular attention to community participation in identifying the vulnerable groups, gender inclusivity and strengthening, redress mechanisms, full participation, transparency, monitoring, evaluation and accountability and non-discrimination in its programming and implementation (Mulugeta et al., 2019; Tenzing & Conway, 2022). The Environmental Policy (1997), Climate-Resilient Green Economy Strategy (2011), the Climate Resilient Green Economy National Adaptation Plan (2019) and the NDCs, in line with international, regional and sub-regional (IGAD) instruments, all address the relationship between climate change, disasters and human mobility. In addition, Ethiopia's law and policy on disaster risk-reduction also address climate mobility.

1.3 Climate change issues in Malawi

Malawi covers an area of 118,480 km². Climate change presents the biggest threat for sustainable development in Malawi. The country is highly vulnerable to climate variability and change due to high exposure to climate shocks; high poverty levels; high population growth rates; high dependency on rain-fed agriculture; the heavy burden of diseases and low economic performance; and limited adaptive capacity at the individual, society and national levels (McSweeney et al., 2014). Thus, climate change is a significant threat to socioeconomic development in Malawi.

The mean annual temperature in Malawi is projected to increase by 0.9 to 1.1 °C by 2030, and by 1.6 to 2.09°C by 2050 (UNFCCC, 2021c). At the same time, projections of mean annual precipitation show changes of -1.4 percent to 3.3 percent by 2030. Malawi's experience of high climate variability, resulting in an increased frequency of droughts, floods, as well as mid-season dry spells, has severe adverse implications on sustainable development in general and poverty reduction efforts in particular.

In March 2019, the country experienced the devastating Cyclone Idai. Approximately 500,000 smallholder farmers lost their income due to the cyclone. In 2023, Cyclone Freddy struck southern Malawi, devastating many communities and displacing half a million people (Chavula, 2023). Thus, extreme events have given rise to high incidences of climate mobility in the country.

Malawi is committed to abide by the provisions of the UNFCCC and the Paris Agreement. Floods have led to human mobility in Malawi. For instance, in 2015, the government of Malawi reported that floods that year displaced 230,000 people. The NDC of Malawi reports that the occurrence of extreme weather events leads to migration, thus violating the people's rights. The same report also talks about the importance of managing urban migration.

The country has put in place several policies, strategies and frameworks for climate action. The flagship HRBA related policy is the Malawi NCP, founded on the principles of protection of human rights, gender equity, effective stakeholder participation and identification of duty

bearers (GoM, 2016). The Malawi Implementation, Monitoring and Evaluation Strategy is responsible for the implementation, monitoring and evaluation of the Malawi NCP (CEPA, 2021). Nevertheless, efforts in law and policy on loss and damage and human mobility are still underdeveloped: a Disaster Risk Management Bill has yet to be passed into law, while the Climate Change Policy and National Adaptation Plan are under review (IFRC 2021).

1.4 Climate change issues in Tanzania

Tanzania covers a total surface area of 945,087 km². The country is highly vulnerable to climate change due to high exposure to droughts and floods, weak adaptive capacity and high dependency on climate-sensitive sectors (Hepworth, 2010). Projections indicate that Tanzania will warm up by 0.8°C to 1.8°C by the 2040s (World Bank, 2023). Projections indicate a decline in rainfall during the dry season but an increase during the wet season, indicating the heightened risks of droughts and floods (UNFCCC, 2021b). Droughts and floods have substantial adverse impacts on the economic development in Tanzania. In particular, the agricultural, water resource, infrastructural and ecosystems sectors are particularly vulnerable to droughts and floods (UNFCCC, 2021b). In addition, climate impacts have altered mobility patterns, with migration seen as a risk management or adaptation strategy (Blocher et al., 2021). Given the adverse impacts of climate change on sustainable development in Tanzania, CCP is central to reducing its vulnerability in the country. Tanzania is a member of the UNFCCC, has ratified the Paris Agreement and is committed to CCAP, although it has not ratified any instruments on human mobility. Tanzania submitted its updated NDC in July 2021, in line with the provisions of the Paris Agreement.

Tanzania contributes 0.36 percent to the total GHG emission and has proposed to conditionally cut its emission by 30-35 percent (UNFCCC, 2021b). The country has developed policies and legal and institutional frameworks for climate action while promoting sustainable development. In its updated NDC, Tanzania proposes regular vulnerability assessments to guide the impacts of adaptation interventions. Gender equity and mainstreaming are also highly prioritised in adaptation. The NDC planning process involved participation of different stakeholders, while monitoring and evaluation of the implementation of the NDC falls under the Vice President's Office (UNFCCC, 2021b). The NDC also stipulates that mobilisation of adequate financial resources is key to implementing the NDC. The climate change policies recognise climate-related migration and internal displacement, although efforts to address them are not yet robust.

1.5 Climate change issues in Zimbabwe

Zimbabwe covers an area of 390,580 km². The country is vulnerable to climate change because of its overreliance on climate-sensitive sectors such as agriculture, health, water, infrastructure, tourism and natural resources, as well as its limited capacity to deal with climate shocks as a result of high poverty levels, high population growth, weak and/or inadequate early warning systems, and gender issues and intersectionality (UNFCCC, 2021e).

Zimbabwe is predominantly semi-arid, experiencing high temperatures and low rainfall. The mean annual temperature in Zimbabwe has risen by 0.9°C between 1909 and 2019 (GoZ,

2017). Future projections indicate that temperature will increase between 1 to 1.5°C from 2020-2040 under the high emission scenario (UNFCCC, 2022b). Zimbabwe experiences frequent climate-related hazards which also have severe negative implications on sustainable development and its quest to achieve an upper-middle economy by 2030. For instance, the devastating effects of Cyclone Idai also affected Zimbabwe in March 2019. About 270,000 people were affected by the cyclone while more than 59,000 people were internally displaced. As such, climate-related displacement and migration are on the rise in the country. Zimbabwe has also experienced numerous droughts between 1980 and 2018, with the 1991-92 drought regarded as the worst to affect the country. The climate shocks present a major challenge to sustainable development and human rights in Zimbabwe. For instance, water stress results in food insecurity and undernutrition and human wellbeing. Secondly, cyclones can result in loss of life and property damage. Floods may also result in significant health challenges and outbreak of waterborne diseases.

As a member of the UNFCCC and a signatory of the Paris Agreement, Zimbabwe is committed to address climate change. The country submitted its revised NDCs in line with the provisions of the Paris Agreement. In this revised NDC the country has proposed to reduce GHG by 40 percent per capita by 2030, on condition of getting international financial support. This ambition is despite only contributing 0.07 percent to GHG emission as of 2017 (UNFCCC, 2021e).

The Zimbabwe Revised NDC refers to human mobility in the context of environmental degradation, loss of biodiversity and climate-related extremes. It states that climate change might increase the number of people moving into the country. At the same time, climate change has the potential to increase seasonal migration – especially from rural to urban – in search of better livelihood opportunities. For instance, some people are migrating in search of water sources while the able bodied might migrate to urban areas in search of jobs. The rural-urban migration has the potential to increase pressure on scarce urban resources and infrastructure, with possible consequences on the education and health sectors.

The Revised NAP of Zimbabwe does not make specific reference to human mobility. However, at the time of writing, the Climate Change Management Department of the Ministry of Environment, Climate and Wildlife – with the Migration Governance and Development Unit of the International Organisation for Migration (IOM) Zimbabwe – was working on mainstreaming migration in the National Adaptation Plan.

Zimbabwe has enacted policies, acts and strategies for climate action. One of the flagship policies that emphasises a HRBA to climate action is the Zimbabwe NCP (GoZ, 2017). This policy prioritises vulnerability assessment, full participation, gender-responsiveness and strengthening, non-discrimination, monitoring, compliance and evaluation, full transparency, adequate climate finance, and strengthened governance for climate action (GoZ, 2017). Zimbabwe is also a party to international human rights instruments and has domesticated them within its constitution, creating the necessary normative framework for human rights protections including for vulnerable groups such as children, women, the elderly and persons with disabilities and more generally internally displaced persons. However, there is no legal framework for climate mobility or loss and damage associated with climate change impacts.

1.6 Study objectives

Considering the need to use the HRBA to CCP, the study sought to:

- A. Evaluate literature on HRBA to CCP focussing on adaptation, resilience, loss and damage and human mobility;
- B. Assess gaps, limitations and opportunities for advancing the HRBA to CCP focussing on adaptation, resilience, loss and damage and human mobility;
- C. Examine compliance of different country adaptation projects to HRBA with specific emphasis on climate change adaptation programming (CCAP);
- D. Provide concrete recommendations on advancing and strengthening HRBA to climate change programming in particular adaptation.

1.7 Research approach

Development and validation of research tools

The consultants developed research tools (individual questionnaire and open-ended questions; see Annexure 1) guided by a comprehensive desk-based review of the existing literature on human rights and climate change, adaptation, resilience, loss and damage, and human mobility in Ethiopia, Malawi, Tanzania and Zimbabwe. The research tool was validated through weekly meetings held between the consultancy and ACT Alliance representatives from the four countries. This tool was further validated through field work done in Zimbabwe. After validation, the tool was then used to interrogate efforts by ACT projects in the four countries, in advancing a HRBA in CCAP. In total, eight projects, two from each country, were analysed against a set of 10 key elements (each containing relevant indicators) specifically developed to assess a HRBA in CCAP. The elements are presented in Table 2.

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Data collection

Data for this research was collected through a questionnaire and key informant interviews in Ethiopia, Malawi, Tanzania and Zimbabwe.

- In Ethiopia, data was collected over a two-week period for the project: Ethiopian Church Forest Conservation and Management (beneficiaries, n = 3 and key informants, n = 2).
- In Malawi, data was collected in T/A Tongeni, (beneficiaries, n = 13) and key informants, n = 3).
- In Tanzania, data was collected for the project: Community Adaptation and Resilience Empowerment (CARE) Tanzania, (beneficiaries, n = none) and key informants, n = 1).

- Finally, in Zimbabwe, data was collected in Chimanimani District, (beneficiaries, n = 22; key informants n = 5) and Mutare Rural District (beneficiaries, n = 18; key informants n = 5).

In Zimbabwe, the team made courtesy calls to the District Development Coordinator's (DDC) offices before getting into the targeted communities. The DDCs in both Chimanimani and Mutare districts indicated they expected to get feedback from the team; over the years they had observed most academic institutions collecting various forms of data without mechanisms in place to share findings with communities. The team was thus challenged to share the research project with relevant authorities as specified in the approval letter from the Ministry of Local Government and Public Works. In the case of Zimbabwe, the approval letter stated that: "...a copy of the completed research project should be submitted to the Office of the Permanent Secretary of this Ministry."

At the household level, rights-holders (vulnerable members of the community) were conveniently sampled from pools of individuals that had participated in a Climate Change Adaptation Programme in a particular ward/region/area in each of the four countries. The duty-bearers (represented by ACT Alliance and/or project partners) were sampled from the four countries based on the project identified through a consultative process between the consultancy, the Project Management Unit (PMU) and country ACT Alliance members.

The instrument, used to assess the extent to which HRBA was applied in the CCAP projects implemented in the four countries, is attached (Table 2). The beneficiary instrument contained statements on a five-point Likert scale with response options: Strongly Agree (5); Agree (4); Undecided (3); Disagree (2) and Strongly Disagree (1). The instrument was administered through a questionnaire using in-depth and key informant interviews. The in-depth interviews with the rights-holders assessed their opinions on the project thematic areas and the key human rights issues that the project sought to address.

To address the guiding principles adopted in identifying human rights affected by climate change, the instrument assessed: the domestic and international laws/policies/frameworks which were used to guide the project; the extent to which the project complied with any international human rights laws; the guiding principles adopted in the project to identify rights holders; the importance of identifying the rights-holders and duty-bearers and their capacities. The questionnaire sought to assess the importance of identifying the key human rights issues threatened by climate change; the guiding principles adopted in the project to identify vulnerable groups; the participation-guiding principles adopted in the project; suggestions for informed, meaningful and effective participation; gender responsiveness guiding principles adopted in the project and suggestions for improving gender-responsiveness. Finally, yet importantly, the other pillars of the HBRA such as non-discrimination, accountability, transparency, remedies, compliance, monitoring and evaluation were also assessed. Alive to the fact that projects must align to government, community-based organisations (CBOs), non-governmental organisations (NGOs) and United Nations (UN) partners for them to be sustainable, study leaders also asked questions around project sustainability issues. Also assessed was whether the CCAP demonstrated best use of available resources to guide the rights-holders and duty-bearers on what works best to address the human rights issues affected by climate change.

Data analysis and presentation

For each HRBA major component, the score was evaluated using the decision rule (DR) for analysing Likert scale data. In particular, the DR for the five-point Likert scale is calculated as $DR = (5+4+3+2+1)/5 = 3$, which is also the median for the scale. This implies that an item scoring three or less than three requires strengthening under the HRBA for CCAP. This was followed by calculations of the mean for each element. The score for the project was calculated by adding all the mean values for each HRBA element. Data was presented using mean score and standard deviations (Table 3). In cases where the responses were inadequate, the case studies were excluded in the analysis.

Ethical considerations

In Zimbabwe, written approval for this research was provided by the Ministry of Local Government and Public Works. In each country, verbal consent was obtained for in-depth interviews with key informants as well as for virtual interviews. Participants were advised that no personal data was going to be sought nor reported in the research.

2

Overview: human rights and climate change contexts

2.1 Introduction and the climate change-human rights confluence

Climate change, which manifests itself in alterations in global precipitation patterns and extreme weather events (e.g., droughts, heavy rain, floods and heatwaves), is a significant threat to human rights. Extreme weather has caused widespread adverse impacts and related losses and damages to nature and people, beyond natural climate variability (IPCC, 2022), with serious adverse impacts on the enjoyment of virtually all human rights (Savaresi, 2023). Though specific examples of the impacts of climate change on certain human rights may be named in this paper, given the intricate connection between the two, it is important to keep in mind the universality, inalienability, indivisibility, interdependence and interconnectedness in all human rights. Thus, in most cases, an avoidable breach of one human right might have profound repercussions on all other human rights (OHCHR, 2015). The Paris Agreement is the first binding international agreement of the Conference of the Parties (COP) to recognise in strongest terms the human rights implications of climate change:

“Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of Indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.”
 Preamble, Paris Agreement.

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The Sixth Assessment Report (AR6) of the Intergovernmental Panel on Climate Change (IPCC) has recognised the importance of incorporating the human rights-based approach (HRBA) into food systems to address the structural and systemic factors which lead to food insecurity and malnutrition. Those factors include high poverty levels, weak institutions, poor governance, underdevelopment, poor economic growth, inadequate finance and infrastructure, and over dependence on rain-fed agriculture.

To reduce vulnerability to climate change, the Paris Agreement established the global goal on adaptation (UNFCCC, 2015). This global goal provides the basis for CCP that focuses on adaptation, resilience and loss and damage. According to Blackburn et al. (2019), CCP in the context of adaptation refers to “measures, policies, strategies and actions designed to help individuals, communities and institutions manage the adverse impacts of climate change by protecting livelihoods, and socio-ecological systems while promoting sustainable development.” The process of CCP is complex and dynamic, cutting “across scales, sectors, and levels of intervention. CCP for adaptation, strengthening resilience and loss and damage and human mobility, is a key priority climate response for Africa.” (GCA, 2021)

Currently, Climate Change Programming uses primarily the needs-based approach (NBA) (IPCC, 2022). The NBA to CCP has several limitations (UNFPA, 2014). It only facilitates development of a

climate reasoning or rationale in designing climate response action –necessitating an additional spectrum of interrogating needs. The climate rationale places emphasis on addressing climate impacts, the vulnerabilities and risks of these impacts on human wellbeing and the assessment of adaptation options based on priorities, among others (Green Climate Fund 2020). As such, it is not based on established human rights and does not address vulnerability as a structural and systematic problem (UNFPA, 2014). The NBA fails to address causes of discrimination – the injustices that lead to deprivation and power imbalances between authorities and vulnerable groups (UNFPA, 2014). Moreover, under the NBA, accountability issues are solely at the outcome level; beneficiaries are not considered to be significant actors (Advocacy, 2022; UNFPA, 2014). While the NBA does not create legal obligations, it facilitates development of a climate reasoning or rationale in designing climate response. This necessitates an additional spectrum of interrogating needs, which is the HRBA lens to climate change needs. Therefore, it does not provide for legal redress. Against this backdrop, CCP requires both the NBA and HRBA.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) defines the HRBA as “a conceptual framework that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.” According to Savaresi, 2023: “It seeks to analyse obligations, inequalities and vulnerabilities and to redress discriminatory practices and unjust distributions of power that impede progress and undercut human rights.” The HRBA recognises and empowers the voice and knowledge of all people, with an emphasis on the vulnerable groups (Gabel, 2016) in changing their situation of vulnerability (Meier et al., 2010). It asserts individual rights to everyone irrespective of their status, class, race, gender, sexual orientation, age or disability in line with the principles of human rights and universal equality. It is thus a departure from the NBA in which those with more resources analyse what is “needed” by those in vulnerable situations and the resources required to reach the “perceived” desired outcome by those who are better resourced. In HRBA, all individuals get empowered to claim their rights, whereas the NBA is mostly based on charitable goals in addressing the needs of the vulnerable people (Gabel, 2016). Moreover, in an NBA, those fulfilling the needs can rank the needs whereas in a HRBA, “all human rights are of equal importance” (Gabel, 2016).

In the context of CCP, HRBA elevates the realisation of human rights to the ultimate goal, made possible using the key principles of good governance and sustainability as the drivers. The HRBA approach is based on: the identification of rights-holders and duty-bearers; meaningful and effective participation; accountability; monitoring and evaluation mechanism; transparency; non-discrimination; gender-responsiveness; mobilising maximum finance for climate CCP; the empowering of rights-holders; the capacitating of duty-bearers; the provision of redress mechanisms; and ensuring timely, adequate access to information (CIEL, 2019; IPCC, 2022; Sachs, 2008; UNFCCC, 2015) and ultimately the sustainability of CCP.

A shift from the NBA to HRBA ensures that all these principles are included in a framework to strengthen the designing, building, implementing and scaling up of actions that tackle climate vulnerability; enhance adaptation; and address loss and damage, human mobility and build resilience. This is crucial for communities to be able to fully enjoy their human rights and lead dignified lives in the face of a climate crisis. Thus, the HRBA addresses holistically most of the limitations of the NBA.

The HRBA to CCP finds its basis in a system of rights and corresponding obligations established by international law – particularly international human rights law and environmental law -- and including climate change and sustainability law (UNHCR, 2009b). It is also increasingly influenced by the emerging normative frameworks at international and regional levels on human mobility. Extrapolating these rights and obligations from their normative instruments into measurable actions within a CCP is still at its infancy across the globe (Mahadew, 2021). So far, literature indicates that outside of CCP, a HRBA has been developed and applied in specific climate action areas such as water (UNDP, 2014), nationally determined contributions (CIEL, 2019), internal displacement (Scott & Salamanca, 2020) and loss and damage (Lofts et al., 2021), among others. Yet, there is no common framework on HRBA to CCP for adaptation and strengthening resilience.

It is necessary, therefore, to advance a HRBA to CCP that recognises the connection between adaptation, resilience building, loss and damage, and human mobility. For instance, the latest IPCC AR6 notes that displacement normally happens when communities or people have reached their adaptation and resilience limits. Further, displacement is the worst negative consequence of loss and damage, with grave impact on human wellbeing and human rights. It should be noted here that displacement can be a sign of loss and damage or even a loss or damage in itself, as when people must leave their homes due to climate-related events. At the same time, the process of displacement can lead to communities or people incurring new losses and damages or intensify the loss and damage that people have already encountered. However, if systems are put in place to increase the participation of people displaced or on the move due to climate change, to come up with durable solutions to build their resilience and adaptive capacities, this might minimise or avert loss and damage. Adequate adaptation support should also be provided to those that choose to remain behind or have no capacity to move. This would address the loss and damage and/or improve their capacity to adapt. As the Loss and Damage Collaboration/Researching Internal Displacement (2023) suggests: “Planned, regular and safe human mobility is a catalyst for minimising loss and damage, resilience building and adaptation in the face of climate change.”

Therefore, for HRBA to CCP, the enumeration and identification of rights must take into consideration the specific vulnerabilities of marginalised populations; adaptation; building resilience; and assessing loss and damage including planned relocations and ensuring access to climate finance. The focus of this section is to consider the key areas of focus for the HRBA to CCP.

2.2 Focus areas for HRBA to CCP

Adaptation

Adaptation to climate change reduces many of the adverse impacts of climate change and enhances beneficial impacts. In the context of HRBA, if it is not rights-based, adaptation can lead to human rights violations. Failure of adaptation that can lead to these violations but also these violations frequently occur even in the context of “successful” adaptation, when the whole process is not transparent, participatory and rights-based. Therefore, a human rights-based approach to adaptation in CCP should be evidence-based, participatory, gender-responsive,

non-discriminatory, transparent and capacitate the duty-bearers to meet their obligations, including financial and other resource (UNEP, 2005). In addition, it should provide access to remedies and have monitoring and evaluation systems in place.

While adaptation seeks to reduce the adverse impacts of climate change, resilience building seeks to ensure that communities can bounce back after exposure to climatic hazards and shocks.

Strengthening resilience

According to Brand and Jax (2015), resilience is “the ability of a system, community or society exposed to hazards to resist, absorb, accommodate to and recover from the effects of a hazard in a timely and efficient manner,” which is the ability to “spring back from” a “shock.” A HRBA can help strengthen resilience through a) identification of areas requiring resilience building and coming up with durable solutions; b) providing a framework for taking appropriate action in areas requiring resilience building, especially in those areas posing multiple challenges to duty-bearers; and c) treating the people affected as rights-holders and not as people needing assistance (ISDR, 2009; Kälin, 2011). This further entails ensuring that they have adequate climate finance and improving literacy levels in climate change issues. The HRBA to climate resilience empowers rights-holders to take ownership of and lead climate-resilience efforts, and to have access to adequate information, resources, and any capacity-building opportunities. Most importantly, it should capacitate the rights-holders to access remedy in case of violations.

Loss and damage

Loss and damage in climate change is defined as the impacts of climate change that cannot, or have not, been avoided through mitigation and adaptation (Roberts and Pelling, 2018; Glider and Rumble 2018). It arises from extreme events such as droughts or floods or slow-onset events such as sea-level rise. Loss and damage leads to economic costs, such as loss of income, wealth, property, food; and non-economic losses such as loss of life, livelihoods, health, cultural heritage and ecosystem services (Glider & Rumble, 2022; IPCC, 2022). The Paris Agreement recognises loss and damage in climate change as the loss and damage which arises from both extreme events and slow onset events (article 8). The Warsaw International Mechanism for Loss and Damage, a mechanism of the Paris Agreement, includes and goes beyond adaptation to address issues of loss and damage that cannot be reduced by adaptation (UNFCCC, 2013). Developing country proponents argue for the consideration of loss and damage as the third pillar of climate action, alongside adaptation and mitigation (Gilder A & Rumble O, 2022; Bharadwaj et al 2022; Roberts & Pelling 2018). At a local level, loss and damage arises from “the impacts of climate change that households and communities are not able to adapt to” (Roberts & Pelling 2018). Thus, the most vulnerable groups experience the repercussions of these losses the most (Simona-Moussa & Ravazzini, 2019). For this reason, loss and damage in CCP, in an African context, must be considered as a related but distinct pillar to adaptation (Aberg and Jeffs 2022). From a HRBA in CCP, this calls for remedies that address the most affected groups in the form of adequate financial compensation for economic and non-economic losses, reparations, rehabilitation, reconstruction and temporal or permanent relocations (human mobility), among others.

Human mobility

In the context of environmental and climate change, the term human mobility reflects a broad range of movement of persons including, as examples, migration, displacement and planned relocation (as posited by the Cancun Adaptation Framework, UNFCCC 2010¹). Therefore, human mobility is relevant in both loss and damage and adaptation contexts. For example, displacement occurring as a response to extreme weather events would be an instance of loss and damage. In contrast, longer-term migration in the context of climate change impacts can constitute an adaptation strategy, if it takes place under the right circumstances and with rights-based policies to support migrants. If those are not ensured, certain forms of migration would also be identifiable as loss and damage.

The same holds true for planned relocation, depending on the degree of participation and the rights-based nature of the approach that is being used. It comprises migration, displacement and planned relocation, which can be an effective adaptation strategy (IOM 2015; IPCC 2014). Climate change hazards (including tropical cyclones, flooding, droughts, and heatwaves) are contributing to increased mobility (IPCC, 2022). Therefore, climate change is contributing to humanitarian crises where climate hazards interact with high vulnerability, increasingly driving mobility in all regions. For instance, in 2018, an estimated 19.2 million people were displaced because of disasters linked to natural hazards, the majority of which had been weather- and climate-related (UN, 2022a). In 2019, 24.9 million displacements took place across 140 countries and territories; 30 million people were displaced by extreme weather events that had been worsened by climate change in 2020 (UN, 2022a). By 2050, parts of Africa are expected to experience changes in climatic extremes that will see an increase in internal and external displacement (AU, 2021).

Certain forms of human mobility can have adverse human rights implications. To redress any violations of human rights for climate migrants, relocated populations or climate-induced displaced persons (CIDPs), it is imperative to use the HRBA in CCP. This aspiration must be anchored in human rights-based policies in all related areas, such as migration and climate change, as well as disaster risk reduction and management with clear facilitative implementation arrangements. In addition, this entails identifying vulnerable groups, including those affected by climate mobility and their human rights vulnerabilities. Again, once these groups are identified, they should have access to information, adequate funding, be empowered to effectively participate, hold duty-bearers accountable for their actions and inactions, claim their rights and seek redress for violations. It is also important that the duty-bearers invest in long-term structural and institutional changes and developmental initiatives to offer permanent solutions before and after mobility. This would ensure that people are not forced to move to or return to places where they will continue to be vulnerable.

Efforts to mainstream human mobility into core climate change frameworks at the national level have increased in recent years but much remains to be done. While 41.5 percent of submitted NDCs include references to human mobility in some form, recent research points out that “most NDCs reference and address human mobility as a problem or challenge, often in the context of climate risks, vulnerable groups, and communities, or causes of conflict.” As a result, they “focus on avoiding or reducing adverse impacts and maladaptive aspects of climate

mobility,” while “some countries have included provisions beyond this ‘negative’ view of human mobility, aiming to utilise mobility as an adaptation strategy and strengthen the benefits and potential synergies of migration or relocation².”

It is worth noting that Zimbabwe’s approach has been highlighted as a good practice example in this regard³. Significantly fewer countries have made submissions of national adaptation plans than on NDCs (a total of 53 by February 2024 versus 171 NDCs at end-2022), but the percentage of plans that reference human mobility is much higher, at 85 percent (although only 66 percent also include some form of a human mobility strategy)⁴. Ethiopia’s approach has been identified as positive on this issue due to its balanced approach which appears to be the exception rather than the norm⁵. Clear guidance on how to coherently integrate human mobility into these frameworks has been inadequate. Mandated to provide overall global guidance on human mobility and climate change, present efforts by the Task Force on Displacement to draft specific guidance offer an immense opportunity to move the needle⁶. It is imperative that such efforts reflect rights-based approaches including effective participation of affected communities.

Climate finance

Finance is a key facilitator for climate action. The UNFCCC defines climate finance as the local, national or transnational financing that is drawn from public, private and alternative sources of financing which seeks to support efforts towards reducing vulnerability and maintaining and increasing resilience to the negative impacts of climate change. Climate financing is a critical component of empowering rights-holders in a HRBA to CCP. Therefore, responding to the global climate change crisis requires mobilisation of extraordinarily huge financial resources to support CCP (empowering the rights-holders) (CIEL, 2021), taking cognisance of their rights instead of needs. As such, climate financing should “comply with existing human rights obligations and principles, and thus promote the full enjoyment of human rights” (Johl & Lador, 2012). A human rights-based approach to climate financing in CCP should prioritise transparency, effective participation, timely access to information, non-discrimination, gender-responsiveness, access to remedy, accountability, empowering rights-holders and capacitating duty bearers in meeting their obligations (UNHCHR, 2018). The HRBA to CCP therefore makes it necessary to consider the global legal framework on climate change and human rights.

Global discourse for a HRBA to CCP

The global discourse for a HRBA on climate adaptation, resilience building, measures for climate-related loss and damage and mobility emanates from the international norms, principles and rules of human rights law, environmental law, climate change law, refugee law, and humanitarian law.

The international human rights law framework

The core international human rights framework comprises the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The UDHR is the first instrument to set out the universal protection of fundamental human rights (UN, 1948). It

represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone (UN, 2022b). The ICCPR provides for all civil and political rights, such as the rights to life, equality, non-discrimination, dignity, property, and self-determination. The ICESCR provides for social, economic and cultural rights, including the rights to education, health, food, water, shelter, etc. These three instruments create specific obligations of governments with respect to international human rights (UNHCR, 2022d). These obligations establish the duties of governments to respect, protect and fulfil human rights (UNHCR, 2022d).

Other pertinent internationally binding human rights instruments which enumerate on issue-specific human rights obligations include the:

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979;
- Convention on the Rights of the Child (CRC), 1989;
- Convention on the Rights of Persons with Disability (CRPD), 2006; and the
- Declaration on the Rights of Indigenous Peoples, among others.

Member states to these instruments undertake to adopt domestic measures that are compatible with their treaty obligations and duties (UNHCR, 2022d). Together, these instruments establish the core human rights norms, obligations, principles and standards that are foundational to addressing climate change from a human rights perspective. While the ICESCR (UNHCR, 1976), the CRC (Toebe, 2001), and the Declaration on the Rights of Indigenous Peoples link their obligations to environmental conditions, none of them specifically express human rights obligations with respect to climate change. To bridge the gap, the UN Human Rights Committee has adopted various General Comments and Resolutions (UNHCR, 2009b).

The latest is Resolution 76/300 on the recognition of the right to a healthy and sustainable environment as a universal right (UNHCR, 2022b). This resolution states that climate change threatens the right to a safe, clean, healthy, and sustainable environment, which is essential to the full enjoyment of a wide range of human rights, including the rights to health, food, water and sanitation (UNHCR, 2022b). This resolution guides CCP to ensure that it scales up efforts to ensure a clean, healthy and sustainable environment for all, thereby calling stakeholders such as states, international organizations and business to prevent the foreseeable adverse effects of climate change (UNHCR, 2022b).

The recognition of the right to a healthy environment at the global level provides opportunities to undertake CCAP:

“... in a more coordinated, effective and non-discriminatory manner, help achieve the SDGs, provide stronger protection of rights and of the people defending the environment, and help create a world where people can live in harmony with nature.” (UN, 2022c).

The recognition of this right also creates the basis to tighten the relationship between human rights law and environmental law in the climate change discourse.

The international environmental law framework

The international environmental law framework creates a nexus between environmental protection and human rights in CCP. The foundational instruments to establish this link are the United Nations Declaration on the Human Environment, concluded in 1972 in Stockholm (Stockholm Declaration); and the subsequent United Nations Declaration on the Environment and Development concluded in Rio de Janeiro (Rio Declaration). The Stockholm Declaration recognises a fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and wellbeing (UN, 1972). The Rio Declaration puts human beings at the centre of sustainable development, calling for their participation in decision-making, their access to information and to justice, and the fulfilment of the rights to development. While the Stockholm and Rio Declarations address substantive aspects of the human rights nexus with environmental protection and sustainable development in climate response, they fall short of adequately addressing the procedural aspects that facilitate the full realisation of environmental protection and sustainable development in CCP. This gap is covered in the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of 1998.

The latest blueprint for sustainable development is the 2030 Agenda and the Sustainable Development Goals, or SDGs, adopted by UN Resolution 70/1 in 2015 (UN, 2015). They provide the global vision for ensuring lasting peace and prosperity for both humanity and the environment, benefiting present and future generations. Agenda 2030 and the SDGs provide a sustainable development framework that seeks to realise the human rights of all, including addressing issues of gender equality and the strengthening of women and girls in climate response (Colglazier, 2015). The SDGs cover all aspects of human rights, including civil, cultural, economic, political and social rights, and the right to development (Dianova, 2019). Achieving all SDGs is relevant to fighting climate change. In particular, SDG 13, which specifies urgent action to combat climate change and its impacts, adaptation and resilience building, traverses along the measures to address poverty (SDG 1), hunger (SDG 2), health (SDG 3), gender equality (SDG 5), access to water (SDG 6), reduced inequalities (SDG 10) and marine and terrestrial ecosystems (SDGs 14 and 15), among others. Therefore, the SDGs and their targets can be transformed into immediate rights in CCP (Dianova, 2019).

Also notable is the Addis Ababa Action Agenda of 2015, an integral part of the 2030 Agenda with respect to climate financing in CCP. This Agenda calls for “fiscally sustainable and nationally appropriate social protection systems and measures for all, including floors, with a focus on those furthest below the poverty line and the vulnerable, persons with disabilities, Indigenous persons, children, youth and older persons” (AU, 2015a). It encourages countries to set nationally appropriate spending targets for quality investments in essential public services for all, including health, education, energy, water and sanitation, consistent with national sustainable development strategies (AU, 2015a). This instrument is critical to the element of climate financing in CCP.

Nevertheless, the human rights and environmental law declarations and resolutions are non-binding. Their importance lies in their role to initiate the norms that promote sustainable development with emphasis on the protection of the environment in the HRBA to CCP (UNDP, 2017). Arguably, the climate change regime is more decisive in establishing legally binding obligations for a sustainable development framework to the HRBA to CCP.

The global climate change legal regime

The key instruments governing adaptation in the climate change regime include the UNFCCC and the Paris Agreement (UN, 2015). The UNFCCC, which is the framework law on climate change, seeks to stabilise greenhouse gas emission to levels “that would prevent dangerous anthropogenic interference with the climate system” (UNFCCC, 1992). This stabilisation should be within a timeframe that sufficiently enables the natural adaptation of ecosystems to climate change, to ensure reduced threats to food production and sustainable economic development (UNFCCC, 1992).

Importantly, the UNFCCC recognises the vulnerabilities of certain states to climate change, including countries with low-lying coastal, arid and semi-arid areas; areas liable to floods, drought and desertification; and developing countries with fragile mountainous ecosystems (UNFCCC, 2014). Therefore, from the onset, the climate change regime brings to the fore the need for vulnerability considerations to be fundamental to adaptation even within countries at domestic and local levels. Subsequent Conference of the Parties (COP) decisions, notably the COP16 Cancun Agreements, elaborate on the vulnerability of certain populations to climate change (UNFCCC, 2023a).

Adaptation

The UNFCCC is also crucial for its enunciation of the commitments of states to climate change adaptation (UNFCCC, 2007). Under article 4 of the UNFCCC, states are obliged to incorporate adaptation into national policies and to conduct research, promote climate-related education, awareness, training, and effective and inclusive participation of all stakeholders in the adaptation measures. In addition, state parties commit to fully cooperate and promote the transparent exchange of “relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies (UNFCCC, 1992). Further, under article 6, member states should implement these programmes within their respective capacities, and capacitate public personnel through relevant scientific, technical and managerial training. Thus, the commitments in the UNFCCC set the basis for the legally binding obligations for climate adaptation in the Paris Agreement.

The Paris Agreement introduces its global adaptation agenda in its preamble by calling on state parties to fulfil their human rights obligations in their responses to climate change. In particular, the Agreement requires state parties to respect and promote human rights obligations towards: the right to health, the rights of Indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations, the right to development – as well as gender equality, strengthening of women and intergenerational

equity. The preliminary requirement in the Paris Agreement to respect and protect human rights establishes HRBA as the overarching value system by which all state parties should adhere regarding climate change adaptation, resilience building, loss and damage and climate mobility.

Article 2 of the Paris Agreement seeks to strengthen the global response to adaptation and resilience building within a sustainable development and poverty eradication context (UNFCCC, 2015). This entails enhancing adaptive capacity, strengthening resilience and reducing vulnerability with a view to contributing to sustainable development (UNFCCC, 2015). Under article 7, state parties should recognise the local, subnational, national, regional and international dimensions of adaptation. They should ensure that adaptation and resilience building protect people, livelihoods and ecosystems, paying particular attention to those most vulnerable to the adverse effects of climate change (UNFCCC, 2015). This translates to an obligation to undertake CPP at the domestic level with the aid of specific adaptation tools (UNFCCC, 2015). These tools include national adaptation plans (NAPs), climate change impacts and vulnerability assessments, monitoring and evaluation, and the economic diversification and sustainable management of natural resources for resilience building (UNFCCC, 2015).

Fundamental to HRBA in CCP, the Paris Agreement prescribes a people-centred approach to the adaptation and resilience building measures at domestic level. It provides that the design and implementation of adaptation measures should be “country-driven, gender-responsive, participatory and fully transparent,” taking into consideration vulnerable groups, communities and ecosystems. The approach must also adhere to and incorporate the “best available science and, as appropriate, traditional knowledge, knowledge of Indigenous peoples and local knowledge systems, with a view to integrating adaptation into socioeconomic and environmental policies and actions” (UNFCCC, 2015). To achieve this, the Agreement places an obligation on state parties to enhance climate change education, training, public awareness, public participation and public access to accurate information (UNFCCC, 2015).

Resilience building

Specific to resilience building, the Paris Agreement “recognises the importance of averting, minimising and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow-onset events, and the role of sustainable development in reducing the risk of loss and damage” (UNFCCC, 2015). Therefore, state parties have an obligation to attend to early warning systems, emergency preparedness, slow-onset events, events that may involve irreversible and permanent loss and damage, comprehensive risk assessment and management, risk insurance facilities, non-economic losses and resilience of communities’ livelihoods and ecosystems (UNFCCC, 2015). Consequently, the Paris Agreement creates the legal basis for more specific efforts for disaster risk management.

The key instrument for the implementation of disaster risk management is the Sendai Framework on Disaster Risk Reduction 2015-2030 (UNFCCC, 2023b), an outcome of the Sendai Declaration, also of 2015. The Sendai Declaration adopts the Framework to enhance efforts to “strengthen disaster risk reduction to reduce disaster losses of lives and assets from disasters worldwide.” Critical to the HRBA, the Framework provides for the principle of the protection of persons and their assets while promoting and protecting all human rights including the

right to development. This implies that states must demonstrate willingness to always respect human rights in disaster preparedness and management (Shucksmith-Wesley, 2017). The realisation of this guiding principle is highly dependent and interrelated to the other guiding principles, namely: the responsibility of states to prevent and reduce disaster risk; the shared responsibility between central governments and national authorities, sectors and stakeholders; engagement from all of society; full engagement of all state institutions at national and local levels; the strengthening of local authorities and communities; inclusive and risk-informed decision making in a multi-hazard approach; policy and planning coherence for disaster risk reduction and sustainable development; accountability; cost-effective investments; a Build Back Better approach to new and existing risk. The incorporation of these principles into domestic measures for disaster risk management and resilience building is critical in a HRBA.

Loss and damage

With respect to loss and damage, the Paris Agreement establishes a framework which recognises the role of sustainable development in reducing the risk of loss and damage (article 8). This framework provides for averting, minimising and addressing the loss and damage that is associated with climate change impacts including extreme weather events and slow-onset events (article 8(1)). Since COP19, the framework has been implemented through the Warsaw International Mechanism (WIM) to address loss and damage in developing countries that are particularly vulnerable to the adverse effects of climate change (UNFCCC, 2013). The focus is to develop risk management approaches, strengthen efforts among relevant stakeholders and enhance action and support, including finance technology and capacity building, to address the loss and damage associated with the adverse effects of climate change. A HRBA to CCP must therefore incorporate these focus areas of loss and damage to ensure that those affected, especially the most vulnerable, are catered for.

Human mobility

Within the climate regime, human mobility was first recognised in the Cancun Adaptation Framework in 2010, establishing the categories of migration, displacement and planned relocation. The current loss and damage governance architecture set up in COP19 through decision 2/CP.19 finds its basis in article 8 of the Paris Agreement, set the within the context of loss and damage, under non-economic losses. Within the current UNFCCC framework, however, the mechanism for addressing climate-related loss and damage is driven by WIM, calling for state parties to integrate climate-related human mobility into national planning processes to avert, minimise and address the impacts of mobility and non-economic losses (UNFCCC WIM ExCom, 2023). Technical discussions on human mobility have been taking place primarily in the realm of loss and damage under the WIM (especially through the Task Force on Displacement). This includes considerations of both economic and non-economic loss and damage, depending on the scenarios which trigger specific impacts.

The loss of heritage and cultural practices in the context of migration are examples of non-economic loss and damage. The loss of livelihoods triggering migration or loss of investment in migration because of exploitative recruitment practices are examples of economic loss and damage. Human mobility can alternatively be considered as a potential instance of adaptation in certain circumstances. The current loss and damage governance architecture is set up in

COP19 through decision 2/CP.19 and included in article 8 of the Paris Agreement within the context of loss and damage, under non-economic losses. Within the current UNFCCC framework, however, the mandate on human mobility is driven by WIM as the mechanism for addressing climate-related loss and damage, calling for state parties to integrate climate-related human mobility into national planning processes in order to avert, minimise and address the impacts of mobility and the non-economic losses in the context of human mobility (UNFCCC WIM ExCom, 2023).

International law relevant to human mobility

Human mobility is generally provided for in the international human rights instruments, where the total of rights is readily applicable to persons whose migration, displacement or planned relocation is related to climate change. More specifically, the UDHR provides for a right to leave any country, including a person's own country (article 13(2)) – a right that is reiterated in the ICCPR (article 12(2)). In addition, international refugee law has created a category of persons requiring international protection on five specific grounds relating to their persecution and their own government's inability or unwillingness to protect them. The principal instrument for this has been the Convention relating to the Status of Refugees (1951) which provides scope for the definition of refugees and the rules for their protection in international law. However, its definition of refugees does not include the recent recognition of climate mobility and is therefore lacking in its scope to address this more recently acknowledged phenomenon. International refugee law has been expanded in scope at regional levels, with some instruments including references to climate change and environmental degradation (including, in Africa, the 1969 OAU Convention⁷ and the 2009 Kampala Convention⁸). Efforts to incorporate climate mobility into international instruments on human mobility currently appear in the New York Declaration for Refugees and Migrants (2016); the Global Compact for Safe, Orderly and Regular Migration (2018) and the Global Compact of Refugees (2018), among others. Together, these instruments recognise climate refugees and migrants and provide guiding principles for their protection, which is key in the HRBA to CCP.

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Altogether, the international law on human rights, environmental protection including sustainable development, climate change and human mobility, create the normative rules for the HRBA to CCP for adaptation, resilience, loss and damage and human mobility. These instruments also influence the legal rules at the regional level.

Regional framework on climate change and human rights

In Africa, the starting point for a HRBA to CCP is the African (Banjul) Charter on Human and Peoples' Rights of 1981 (hereafter African Charter) which protects the right of peoples to a general satisfactory environment favourable to their development (AU, 1986). This right to the environment establishes the basis for CCP, where African states should ensure that climate adaptation and resilience building measures protect the environment that drives the development of local communities. More specifically, the African Commission on Human and Peoples' Rights (ACHPR) elaborates on this obligation through several resolutions on the relationship between climate change and human rights. For instance, the ACHPR Resolution on Climate Change and Human Rights and the Need to Study its Impact in Africa emphasises

the inclusion of the human rights principle of free, prior and informed consent (FPIC) in the measures to prevent forced relocation, unfair dispossession of properties, loss of livelihoods and similar human rights violations in CCP. It further calls for the inclusion of measures in climate change action to protect vulnerable groups such as children, women, Indigenous peoples, the elderly and victims of natural disasters and conflicts.

Within this context, the African Union's Agenda 2063, the regional developmental blueprint, recognises climate resilient communities and economies as an integral component of the continental vision for an integrated, prosperous and peaceful Africa, driven by its own citizens (AU, 2015b). In addition, the African Union Climate Change and Resilient Development Strategy and Action Plan (2022-2032) aims to enhance inclusion, alignment, cooperation, and ownership across all spheres of government and stakeholder groupings (UNECA, 2022). It highlights the importance of supporting the most vulnerable communities and groups, acknowledging and creating ways to support their critical role as change agents in climate adaptation and strengthening resilience at local, national, subregional and continental levels. The recognition of vulnerable groups as agents of change is a critical element for their participation in the planning, implementation and evaluation of climate change adaptation and resilience building measures, which strengthens their position in a HRBA to CCP. The strategy also provides for safety mechanisms to reduce loss and damage with specific emphasis on early warning systems, behavioural change, social transfers, risk management and transfer, and investments.

In addition, the OAU Convention Governing Specific Aspects of Refugee Problems (1969) in Africa provides a basis for addressing human mobility in the region. However, this convention does not expressly provide for climate induced mobility. It has been argued that in identifying events that seriously disturb public order as criteria to acquire refugee status, this convention can be interpreted to regard climate change related events as events that seriously disturb public order (Addaney, Jegede and Matinda, 2019). Where it relates to internal displacement because of climate change, the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 2009 (the Kampala Convention) is relevant. This convention places an obligation on African state parties to take measures to protect and assist persons that are internally displaced by climate change (AU, 2009). It elaborates on the specific obligations that state parties should implement when protecting and assisting internally displaced persons (IDPs) (AU, 2009).

Moreover, the Kampala Convention places an obligation on state parties to prevent displacement induced by projects, including adaptation and resilience building projects (AU, 2009). Its obligations on compensation are also relevant where IDPs experience loss and damage because of displacement (AU, 2009). It requires state parties to establish effective legal frameworks to provide just and fair compensation and reparation to IDPs for damage resulting from displacement; and imposes liability where the state party fails to make reparation to IDPs for damage when it refrains from protecting and assisting IDPs in the event of natural disasters.

In addition, the AU Climate Resilience Development Strategy recognises migration as an adaptation strategy and calls for governments to normalise and facilitate its processes (AU Climate Strategy 2022). Moreover, the AU Resolution on Climate Change and Forced Displacement in Africa of 2021 encourages state parties to take measures to protect their

populations from climate induced displacement and to protect the rights of IDPs (ACHPR 2021). At subregional levels⁹, climate strategies address adaptation, resilience, loss and damage, and human mobility. The Intergovernmental Authority on Development (IGAD) in its Climate Change Strategy (2023-2030) provides a framework within which its member states cooperate to address climate risks and enhance the resilience and adaptive capacities (IGAD CAEP, 2023). It addresses all four CCP areas of adaptation, resilience, loss and damage, and human mobility. In addition, the IGAD Protocol on free movement specifically recognises and addresses climate mobility. For SADC, its Climate Change Strategy and Action Plan (2015) provides for adaptation, resilience building, and human mobility. It is noted that the strategy is silent on loss and damage although its undertones may be deduced from its sectoral approaches to adaptation and mitigation. Further, the SADC strategy addresses human mobility as a security issue, referring to refugees, irregular movers, illegal migrants and IDPs; and therefore, calling for the harmonisation of immigration policies to reduce vulnerability to extreme climate events (SADC, 2015).

Together, the international and regional legal frameworks establish a broad framework for a HRBA to CCP, setting the basis for the core principles that inform the entire CCP processes. At the domestic level, most countries in Africa have placed emphasis on adaptation and resilience building in their CCP (see chapters 1 and 3 of this paper). As such, this study considers the framing of the HRBA to climate change adaptation programming (CCAP) as a precursor to the assessment of the selected country-based adaptation projects.

2.3 The framing of a human rights-based approach to CCAP

CCAP is a climate change response approach that integrates various adaptation actions to respond to climate change risks, vulnerability and impacts, either at policy or at the practice level. Its aim is reducing vulnerabilities, building adaptive capacities and strengthening resilience, while promoting sustainable development.

The application of HRBA to CCAP is principally to promote and protect human rights in adaptation projects and programs. The OHCHR and other relevant studies on human rights and climate change provide a comprehensive exposition of a HRBA to CCAP. According to the OHCHR, a HRBA to CCAP should be anchored in a system of rights and corresponding obligations established by international law. This helps to promote sustainability, empowering people themselves (right-holders), especially the most marginalised, to participate in policy formulation and hold accountable those who have a duty to act (duty-bearers) (UNHCR, 2009a). As such, the HRBA requires that CCAP should have the following essential attributes (UNHCR, 2009a):

- To fulfil human rights through identifying rights-holders and their entitlements;
- Identifying corresponding duty-bearers and their obligations;
- Strengthen the capacities of rights-holders to make their claims;
- Strengthen the capacities of duty-bearers to meet their obligations; and

- Be guided by the principles and standards derived from international human rights treaties in all sectors and in all phases of the process.

Simply put, a HRBA is about putting people at the centre, ensuring they actively and meaningfully participate in policy-making, and enabling them to seek redress for their grievances (UNHCR, 2022c). A HRBA to CCAP entails handling systemic blocks rather than operational blocks.

2.4 Principles of a HRBA to CCAP

Like the 2018 Framework Principles on Human Rights and the Environment developed by the UN Special Rapporteur on Human Rights and the Environment (OHCHR, 2018), it is necessary to enumerate and elaborate on the relevant principles that inform a HRBA to CCAP. These principles are relevant to all measures in the CCAP that relate to adaptation, resilience building, loss and damage, climate induced displacement and climate financing. The principles are derived from the attributes of a HRBA, which are in turn founded on the international normative framework as well as their elaboration in various OHCHR resolutions and studies. The principles are namely:

1. Respect for human rights;
2. Respect for the right to a safe, clean, healthy and sustainable environment (and climate);
3. Protection of the rights of those most vulnerable to climate change;
4. Gender responsiveness;
5. Equality and Non-discrimination;
6. Provision of education awareness, timely access to information and public participation in decision-making;
7. Access to effective remedies for violations of human rights;
8. Accountability and transparency; and
9. Empowerment and capacity development.

Each of these principles is described in more detail in Table 1.

3

Gaps, limitations and opportunities: advancing the HRBA to CCAP

3.1 Introduction

In this section we highlight the gaps, limitations and opportunities for advancing HRBA to CCAP that exist in the four countries of Ethiopia, Malawi, Tanzania and Zimbabwe. Each of these four countries is a party to the ICCPR, the ICESCR, the CEDAW, the CRC, the CRPD and the African Charter. This creates the basis for their adherence to the fundamental human rights obligations necessary for a HRBA to CCAP. All the countries have ratified critical international instruments, namely the UNFCCC, the Kyoto Protocol, the Paris Agreement; and they have adopted the Sendai Framework. Together these are herein referred to as international instruments).

3.2 Ethiopia

The Constitution of the Federal Republic of Ethiopia (1995) in its Fundamental Rights and Freedoms entrenches at a domestic level the human rights embodied in the international instruments that bind it. The constitution of Ethiopia provides for civil and political rights, socioeconomic rights and group rights such as the rights of women (article 35), children (article 36), the elderly (article 41(5)) and persons with disabilities (article 41(5)). These create the basis to address all key aspects of a HRBA to CCAP, including protection of the most vulnerable, gender responsiveness, non-discrimination and access to justice (article 37). Ethiopia's constitution is silent on the rights of displaced persons but provides for disaster management as a national objective (article 89) which allows for the foundational platform to adopt displacement measures in HRBA to CCAP. Moreover, article 44 of Ethiopia's constitution provides for environmental protection, which is a key pillar to the promotion of HRBA to CCAP.

In Ethiopia the international instruments have been domesticated, as indicated in its updated NDC (2021), the 10-year Development Plan (2020-2030), the second Growth and Transformation Plan, the Climate Resilient Green Economy National Adaptation Plan (2019), the Resource Mobilisation Strategy for the National Adaptation Plan (2020), and the Climate Resilient Green Economy Strategy (2011), among others. These instruments are comprehensive in providing for CCAP by capturing key aspects, particularly, adaptation, resilience building, human mobility, capacity building, climate financing, gender-responsiveness, public participation, access to information, and sustainable development.

However, for persons with disabilities, Ethiopia's National Action Plan for Persons with Disabilities (2012-2021), which could be instrumental for guiding CCAP, is no longer operational. Despite these policy instruments, there does not seem to be any specific legislation in Ethiopia to set the basis for enforcement of human rights-based obligations. As such, CCAP in Ethiopia has limitations in enforcing the HRBA. A step towards adopting HRBA would be for Ethiopia to strengthen its climate change normative framework by creating legislation that sets the standards for the interactions between rights-holders and duty-bearers in CCAP.

3.3 Malawi

The Bill of Rights in the Constitution of Malawi, as amended in 2006, entrenches civil and political rights, certain socioeconomic rights and group rights, such as children's rights, which are necessary for creating the basis for HRBA to CCAP. However, its failure to entrench other group rights such as for women, persons with disabilities and displaced persons, weakens efforts to advance human rights protections in CCAP. However, it provides for non-discrimination (section 21), access to information (section 35) and access to justice (section 39), which may be used to address the gaps with regards to vulnerabilities and strengthen the capacities of these groups to make their CCAP related claims. While the constitution of Malawi does not provide for environmental rights, its Environmental Management Act, 1996 does provide for the right to a decent environment (section 5), which establishes a basis for HRBA to CCAP.

Malawi has domesticated the international instruments in the National Climate Change Management Policy (2016), the Disaster Risk Management Act (2023), the National Biodiversity and Action Plan (2015-2025), the National Adaptation Plan Framework (2020), the National Adaptation Programme of Action (2006) the National Resilience Strategy, the National Climate Change Investment Plan, the Climate Resilient Water Sanitation and Hygiene Financing Strategy (2022-2032), the National Environmental Policy (2004), the National Strategy on Sustainable Development (2004), the UN Convention relating to the Status of Refugees (1951) and the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969), among others.

These instruments considered together are relatively comprehensive in providing for CCP and CCAP by addressing adaptation, resilience building and human mobility through capacity building, public participation, access to information, accountability and transparency, and even climate financing. The climate financing policy framework is quite robust although it is needs-based. Much concern arises on the significant gaps with respect to gender-responsiveness, the vulnerabilities of persons with disabilities and climate induced displacement, which are not yet adequately provided for in law and policy, and therefore hampers efforts to promote holistic effort for HRBA to CCAP. Malawi must tighten its mechanisms to ensure that tHRBA to CCAP becomes a reality.

3.4 Tanzania

The 1977 Constitution of the United Republic of Tanzania, in its Bill of Rights (Part III, Constitution of Tanzania), provides for certain civil, political and socioeconomic rights but also provides for duties to the society. In particular, it provides for the right to equality (and non-discrimination) (article 11, 12), the right to access information (article 18), and the right to access to justice (article 26(2)). It also provides for a duty for all citizens to protect natural resources (article 27), which allows for accountability of all towards CCAP. Tanzania's Environmental Management Act adds to this duty by providing for an environmental right (section 4), which is closely linked to the constitutional right to life (article 14). This right is central to the establishment of legal rights and obligations towards climate action, which are necessary for HRBA to CCAP.

Other key rights, such as group rights for women, children and displaced persons, as well as elements such as gender responsiveness, are not expressly articulated save for their implication with respect to equality and non-discrimination. This creates gaps for the specific inclusion of all relevant rights-holders in a HRBA to CCAP. Notably, Tanzania has taken steps to domesticate regional and subregional instruments relevant to climate change action including the Southern Africa Development Community (SADC) Protocol on Environmental Management and Sustainable Development (2014), the SADC Climate Change Strategy and Action Plan (2015), the East African Community instruments such as the Climate Change Master Plan (2011-2031), the East African Community (EAC) Disaster Risk Reduction and Management Strategy (2016-17-2020/21), and the EAC Resolutions on Climate Change (National Climate Change Strategy 2021-2026).

At the national level, these instruments are supported by the National Development (2021-2025) Environmental Management Act (2004), the Disaster Relief Coordination Act (1990), the Disaster Management Act (2015), the National Climate Change Strategy 2021-2026, the National Strategy on Gender and Climate Change (2012), the National Climate Change Communication Strategy (2012), the INDC (2015), the National Adaptation Programme of Action (2004), the National Disaster Management Policy (2004) and the National Environment Policy (1997). Together, these instruments establish measures to address CCAP with particular focus on adaptation, resilience building, climate education and awareness, capacity building, gender responsiveness, climate financing, public participation, access to information, and sustainable development.

However, the much-needed categorisation of adaptation measures according to groups and vulnerabilities, targeting children, persons with disabilities, Indigenous people and other vulnerable groups is not clear in Tanzania's law and policy framework. Reference to human mobility is found in only a few instruments such as the National Development Plan, the National Climate Change Strategy and the law and policies in disaster risk management. As such, climate migration and displacement are recognised although they are yet to be addressed for robust action. Thus, CCAP in Tanzania is not based on HRBA. There is much effort needed in Tanzania's climate change law and policy framework to move towards HRBA to CCAP.

3.5 Zimbabwe

Zimbabwe, in its Declaration of Rights (chapter 4), in the 2013 Constitution of Zimbabwe (Amendment 20) (hereafter, "CoZ,") entrenches the human rights embodied in the international instruments to create binding obligations at the domestic level. The CoZ provides for a plethora of human rights and recognises not only civil, political and socioeconomic rights but also group rights such as the rights of women (section 80), children (section 81), the elderly (section 82) and persons with disabilities (83). These create the basis to address all key aspects of a HRBA to CCAP, including protection of the most vulnerable, gender responsiveness, non-discrimination (section 56), access to information (section 62) and access to justice (section 85). Yet, it is silent on the rights of displaced persons, creating a weak link to the measures on displacement in HRBA to CCAP. There is also legislation for each of these rights to elaborate on the application of these rights at the domestic level. Of note, the CoZ recognises the right to the environment which is critical for the protection of the environment for climate action from a human rights perspective.

Zimbabwe has domesticated the international instruments in its Revised NDC (2021), the recent Climate Change Bill (2022), the National Climate Change Policy (2017), the National Climate Change Response Strategy (2014), the Disaster Risk Management and Civil Protection Bill (2022), and the Climate Change Gender Action Plan (2023). There is an ongoing process towards a National Adaptation Plan (Zimbabwe Climate Policy Report 2021). Considered altogether, these instruments are comprehensive in providing for CCAP by capturing the key aspects, particularly adaptation, resilience building, vulnerabilities of women, children, youth and other groups (NCCRS, 2014), climate education and awareness, capacity building, climate financing, public participation, access to information and sustainable development.

The Climate Change Bill is set to be progressive in addressing climate financing, while the Disaster Risk Management and Civil Protection Bill will cater to disaster related vulnerabilities and displacement. In addition, the Climate Change Gender Action Plan positions the country to advance gender responsive CCAP. The National Climate Change Response Strategy (NCCRS) recognises the need to mainstream the rights-based approach to climate action but falls short of providing an actual implementation of the HRBA which is necessary for CCAP.

The only other platform for introducing the HRBA to CCAP in the country is through the constitution's environmental right and the more general Environmental Management Act (2001), which recognises environmental rights for environmental management and governance. As such, CCAP in Zimbabwe is not based on HRBA although with harmonisation of law and policy, it is well positioned to be so. As a crucial step forward, it is necessary for Zimbabwe to ensure that its climate change law and policy framework, particularly the Climate Change and Disaster Risk Management bills, align to the principles of HRBA to CCAP.

4

Case studies: rights-based approaches in national climate interventions

4.1 Introduction

The move from NBA to a HRBA is vital for any CCAP. For such a move to bear fruit it is beneficial to critically assess the compliance of HRBA to CCAP of past and current CCAP projects. This will map the way forward for future HRBA to CCAP projects. A survey was undertaken in the four countries of Ethiopia, Malawi, Tanzania and Zimbabwe. This report contains the results of the survey on the assessment of HRBA to CCAP run either by ACT Alliance and/or its project partners that was conducted in Malawi and Zimbabwe. Data for this research was collected through a questionnaire and key informant interviews in Ethiopia, Malawi, Tanzania and Zimbabwe. The survey was mainly conducted to determine the compliance of each of the pillars of HRBA to CCAP. This was achieved by first exploring the compliance of each of the constituents of the pillars - the guiding principles. The in-depth interviews with rights-holders assessed their opinions on the project thematic areas and the key human rights issues that the project sought to address/addressed. Questions around project climate financing and sustainability issues were also asked. The interviews were conducted in the local language though the questionnaire was designed in English.

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4.2 Malawi

Projects overview

In Malawi, the study assessed the compliance of HRBA to CCAP of the projects: CBM Cyclone Freddy Response Project (CBMCFRP); and Local Leadership for Global Impact (LL4GI). Data was collected for both. From the CBMCFRP, eight beneficiaries and two key informants answered the interview questionnaires. From LL4GI, one key informant and five beneficiaries responded to the questionnaires. The CBMCFRP project was put in place to provide immediate needs (water and food) to those impacted by Cyclone Freddy, which affected 300 households in T/A Tongeni. The donor provided funding, monitoring and evaluation of the project. The beneficiaries received water, sanitation, and hygiene (WASH); national technical information services; menstrual hygiene management (MHM); and cash for four months, which was equivalent to a local food basket consisting of 10 kg beans, 50kg maize and two litres cooking oil. The project started in April 2023 and ended in June 2023.

The LL4GI project was established to put up transitional shelter for 50 households that had been affected by flooding resulting from Cyclone Ana. The project was in place from May 2022 to December 2022. The donor provided construction materials and paid the artisans. The beneficiaries had to provide land.

Thematic areas

The CBMCFRP project key informants (KIs) indicated that the thematic areas for the project were resilience, loss and damage. Those for LL4GI were adaptation, resilience, loss and damage, and displacement.

Key human rights and guiding principles

The CBMCFRP project KIs noted the key human rights of food, water and sanitation, life, health, and standard of living. KIs for the LL4FI mentioned housing and decent work. The guiding principles listed by CBMCFRP project KIs were non-discrimination, participatory, accountability, transparency, gender responsiveness, and equity. The LL4FI project KIs mentioned non-discrimination and interdependency. Both projects complied with international human rights laws such as the right to life, health, housing, decent work and standard of living. The LL4FI and CBMCFRP projects also adhered to the Malawi National Climate Policy and other relevant domestic policies.

The KIs indicated that the guiding principles adopted to identify rights-holders for both projects were transparency; best available evidence – including Indigenous knowledge and cultural systems; gender responsiveness; and non-discrimination. To ensure meaningful and effective participation of vulnerable groups in the identification of rights-holders, the projects adhered to prior informed consent, transparency, access to information, participation of locals, and availing information in the local language. The KIs for both projects revealed that it was important to identify the duty-bearers and their capacities so that duty-bearers could mobilise the maximum available resources to prevent the adverse impacts of climate change from undermining the realisation of human rights. It was pointed out that both state and non-state actors can be duty-bearers with legal and moral obligation to fulfil human rights for those vulnerable to the impacts of climate change.

Compliance for the CBMCFRP and LL4FI with respect to HRBA

The compliance for the projects with respect to HRBA computations are indicated in Table 3 and the deductions are presented in the subsections below.

Commit climate finance to strengthen vulnerable people

The beneficiaries of the CBMCFRP and LL4FI projects indicated that it was critical to commit more climate finance to strengthen vulnerable groups (mean, 2.5; STDev, 1.54). However, the other five indicators under vulnerable groups complied to the HRBA to CCAP. The project KIs confirmed the compliance of the vulnerability score and noted that adequate financial resources have been committed to strengthen the vulnerable people.

Strengthening recognition of traditional knowledge systems

With regards to participation, the global score was compliant to the HRBA (mean 3.14; STDev, 1.7). The first five indicators of participation contributed positively to the compliance of the participation global score. An area that needs improvement in line with the Paris Agreement is strengthening recognition of local and traditional knowledge systems which was not scored highly (mean, 2.75 STDev, 1.59) by the beneficiaries of both the CBMCFRP and LL4FI projects.

Strengthening gender responsiveness in CCAP

The beneficiaries indicated the need to strengthen the gender responsiveness element of the CCAP (mean, 2.75; STDev, 1.5). In particular, the beneficiaries indicated the need to mainstream gender equality and gender-responsiveness capacity development.

Strengthening non-discrimination in CCAP

The participants in the two projects opined the need to strengthen non-discrimination (mean, 2.83; STDev, 1.54) in CCAP. In particular, the two projects were scored highly on “establishment of processes to fulfil the rights of communities affected by climate change.” The participants indicated the need to make commitments to recognise and strengthen community-based natural resource management and tenure systems; strengthen the creation of decent work and quality jobs, including for youth and people in vulnerable situations; and build resilience and ensure a just transition by guaranteeing social protection for all. These findings were confirmed by all the project KIs.

Strengthen accountability in CCAP

The participants hold there is still room to strengthen accountability (mean, 2.8; STDev, 1.61) in CCAP. For instance, they felt there was a need to strengthen human rights and/or environmental and social impact assessments. In contrast, the KIs indicated that, for both projects, there was an obligation to carry out human rights and/or environmental and social impact assessments and that duty-bearers had the capacity to monitor commitments made by contractors. The participants also felt that they needed to be empowered so they can monitor commitments made by contractors (mean, 2.8; STDev, 1.7).

Strengthen transparency in CCAP

Access to information is critical to enhance transparency. The results indicate the need to strengthen transparency (mean, 2.93; STDev, 1.57) in CCAP. Participants in both projects concurred that project information was available and that it was accessible in the local language. However, more than 60 percent of the respondents felt it was critical to make available all the relevant information in sign language, including Braille (mean, 2.0; STDev, 1.03), given that some members in the project use sign language. According to the KIs for both projects, the main pillar of transparency was present in the projects though they all agreed that project information was not available in sign language or Braille.

Prioritise funding for compliance, monitoring and evaluation

The first two indicators for compliance, monitoring and evaluation complied with HRBA to CCAP. The participants indicated that there was commitment to effectively monitor the gendered impacts of the project implementation. In addition, they also indicated that the projects established mechanisms for compliance. Thus, the global compliant, monitoring and evaluation score measured highly (mean, 3.07; STDev, 1.66) though the participants felt there to be still room to prioritise funding for capacity building in the areas of compliance, monitoring and evaluation. On the other hand, KIs posited that projects prioritised funding for capacity building to ensure compliance.

Access to remedies

The access to remedies element was compliant to the HRBA for CCAP (mean, 3.28; STDev, 1.76). Moreover, the two items measuring this element were compliant to the HRBA to CCAP. All the project KIs confirmed the list of the guiding principles adopted in the project for remedies.

Value for money

The element of value for money had one indicator, namely that the investment in the project is worth the benefits derived from it. It was compliant to the HRBA to CCAP (mean 3.1; STDev, 1.62). This was confirmed by all the KIs for both projects. However, the element on CBMCFRP and LL4FI projects sustainability was not compliant to the HBRA to CCAP.

Sustainability of projects

Both projects agreed that any climate intervention should be able to build the resilience of those most vulnerable to climate change so that they are able to build back better after experiencing shocks. This can be made possible through alignment of the CCAP to existing national policies, programmes and strategies. The projects scored highly on this (mean, 3.2; STDev, 1.70). The KIs for both projects were also convinced that the projects will continue after the withdrawal of funders. The alignment of projects with existing national policies, programmes and strategies is important for sustainability of the projects.

Global project score

The CBMCFRP and LL4FI projects had a global score of 3.00, which requires strengthening under the HRBA to CCAP (Table 3).

4.3 Zimbabwe**Chimanimani Resilient Landscape and Communities overview**

In Chimanimani, the research assessed the compliance of the Resilient Landscape and Communities (RLC) to the HRBA for CCAP. The project is being implemented by the Towards Sustainable Use of Resources Organisation (TSURO) Trust.

Thematic areas. The majority of the KIs indicated that the project addressed adaptation, resilience, loss and damage, displacement, mobility, and cross-cutting issues.

Key Human Rights Issues and Guiding Principles The KIs indicated that the RLC project addressed all human rights issues except the rights to housing, decent work, education, and respect for nature.

Compliance of the Resilient Landscape and Communities project to HRBA. The compliance for this project with respect to HRBA computations are presented in Table 3 and the deductions in the subsections below.

Strengthening effective participation

The participation score (mean, 4.5; STDev, 0.77), complied with the HRBA to CCAP, though the KIs indicated the need to strengthen participation of the vulnerable groups early in the decision-making process, especially during the design and implementation of projects.

CCAP compliance to non-discrimination

The non-discrimination score (mean, 4.49; STDev, 0.85), complied with the HRBA to CCAP. The findings were also corroborated by the KIs who indicated that the project was non-discriminatory.

Accountability

The accountability score (mean, 3.92; STDev, 1.24) also complied with the HRBA to CCAP. These findings were also confirmed by the KIs who indicated that the project complied with the HBRA for CCAP.

Strengthen transparency in CCAP

The beneficiaries indicated that there was a need to strengthen transparency (mean, 2.56; STDev, 0.92) in CCAP. More than 50 percent of the participants indicated that there were some people using sign language in the community. Hence, it suggested that relevant project information needed to be available in local languages, including sign language.

Global project score. The RLC project had a global HBRA score of 4.07, which reveals compliance with the HRBA to CCAP (Table 3).

Cyclone Idai Emergency Response overview

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In Mutare, the study assessed the Cyclone Idai Emergency Response (CIER), a project that was implemented by the Farmers Association of Community Self-Help Investment Groups (FACHIG) with support from ACT Alliance, Zimbabwe.

Thematic Areas. According to the KI, the project addressed adaptation, resilience, loss and damage, displacement, and cross-cutting issues.

Key human rights issues and guiding principles. The KIs indicated that the CIER project addressed human rights issues except for the right to decent work; the right to education, including with respect for nature; the right to self-determination; and cultural rights, including heritage, traditional knowledge, and ways of life. In addition, the KIs indicated that the CIER project adopted all guiding principles in identifying human rights affected by climate change except for interdependency. The KIs indicated that the CIER project was guided by domestic law and policies such as the Constitution of Zimbabwe, Zimbabwe National Climate Policy, the Nationally Determined Contributions, National Gender Action Plans, and National Adaptation Plans. They stated that the project was guided by the Paris Agreement and the UNFCCC at the international level.

Compliance of the Cyclone Idai Emergency Response project with respect to HRBA. The compliance for this project with respect to HRBA computations are presented in Table 3 and the deductions in the subsections below.

Need to strengthen vulnerability assessment in CCAP

Given that vulnerability assessment is critical to inform CCAP, the global vulnerability score of the CIER project needs strengthening (mean, 2.98; STDev, 1.91). Of the six

indicators measuring vulnerability assessment, four needed reinforcements. For instance, in regard to the mapping of vulnerable groups, addressing the issues related to the situation of vulnerable persons needed to be reinforced in the project. The CIER project needs to identify practical/cultural barriers to the participation of women and/or girls. Furthermore, there is a need to improve the relevance of the CIER project to women, men, girls and boys living in poverty/under oppression. The KIs indicated that the identification of key human rights issues threatened by climate change is critical to ensure a HRBA response in a HRBA to CCAP. The KIs also indicated that the vulnerability assessment is important to ensure that the project addressed potential issues related to the situation of vulnerable persons who may be disproportionately affected by climate change. They indicated the project could commit climate finance to strengthen the vulnerable groups that include women and girls, persons with disabilities, Indigenous peoples and local communities; and for the project to have relevance for women, persons with disabilities, men, girls and boys living in poverty/under oppression.

Enhance participation

There is a need to enhance the global participation score for the CIER (mean, 2.82; STDev, 1.92). To enhance participation, the beneficiaries felt that the CIER project must guarantee meaningful and effective public participation and enhance the participation of vulnerable groups in line with FPIC. The beneficiaries also felt that the participation needs to occur early enough in the decision-making process when all options are open. Furthermore, there is also a need to strengthen the FPIC of all peoples in CCAP. Separately, there is a need to recognise the importance of traditional knowledge in line with the Paris Agreement and the Zimbabwe NCP. The KIs indicated that all the indicators of participation complied with the HRBA to CCAP.

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Enhance gender-responsive climate finance and recognise women and girls as change agents

The global gender score (mean, 3.03; STDev, 1.98) for the CIER was compliant to the HRBA for CCAP. Both indicators measuring gender-responsiveness were compliant to the HRBA for CCAP. However, the KIs indicated that there is a need to advance and recognise the role of women and girls as agents of change who are key stakeholders in CCAP. They also indicated the need to strengthen gender-responsive capacity building through gender budgeting and or gender-responsive climate finance.

Minimise non-discrimination

The global non-discrimination score needs to be strengthened (mean, 2.74; STDev, 1.90). In particular, the project needs to recognise and strengthen community-based natural resource management and tenure systems; and plans for the creation of decent work and quality jobs, including for youth and people in vulnerable situations. These two indicators had the same values. In addition, the CIER project needs to ensure a just transition by guaranteeing social protection for all. Concerning the opinions of the KIs on compliance of the CIER project to non-discrimination, the KIs were generally of the view that the CIER project adhered to non-discrimination and made commitments to recognising and strengthening community-based natural resource management and tenure systems.

Strengthen environmental and social impact assessment

Though the accountability score (mean, 3.06; STDev, 1.76) for the CIER project was compliant to the HRBA for CCAP, the participants felt there was a need to strengthen the obligation to carry out human rights and/or environmental and social impact assessments. The KIs concurred that the CIER had an obligation to carry out human rights and/or environmental and social impact assessments.

Enhance transparency

The global transparency index (mean, 2.11; STDev, 1.10) for the CIER project needs to be strengthened. In particular, there is a need to make available all relevant information in local languages, including sign language. The KIs also corroborated with the right-holders on the need to provide project information in local languages and sign language.

Strengthen compliance, monitoring and evaluation

The global compliance, monitoring and evaluation was not rated highly by the participants (mean, 2.37; STDev, 1.60). Improvements needed include:

- strengthening commitment to effectively monitoring the gendered impacts of its implementation, including using gender-disaggregated data and indicators;
- establishment of a compliance mechanism for those negatively affected by climate change and/or climate adaptation; and
- prioritising funding and capacity building to ensure compliance.

The KIs were, however, of the opinion that the project complied with compliance, monitoring and evaluation.

Enhance access to remedies

The participants did not rate access to remedy highly (mean, 2.81; STDev, 1.95). The two indicators measuring the access to remedy that require strengthening are identification of compliance mechanisms to remedy for those whose rights are violated; and ensuring access to remedy for those whose rights are violated. However, the KIs had high regard for access to remedy. Thus, the establishment of an accessible grievances and appeals procedure in CCAP is recommended.

Ensure value for money

The value for money element was not scored highly by the participants (mean, 2.67; STDev, 1.94).

Sustainability

The probability of the project to continue after the withdrawal of funders/partners was not scored highly (mean, 2.83; STDev, 2.01) by the participants. According to them, the project needs strengthening to align with existing national policies, programmes and strategies (mean, 2.72; STDev, 1.90). The views of the participants were also corroborated by the KIs.

Global project score. Despite scoring very well on certain elements of the HRBA to CCAP, overall the CIER project did not score highly, with a global HBRA score of 2.74. It is important to note that the HRBA to CCAP was not considered when the CIER project was designed and implemented. It was tailored around the NBA.

5

Recommendations: advancing and strengthening HRBA to CCAP

5.1 Introduction

This chapter covers concrete recommendations based on the limitations of all the identified gaps in the application of a HRBA as revealed from the case studies. These were used to develop a guideline Toolkit for the HRBA to CCAP which is presented at the end of the chapter.

5.2 Recommendations based on gaps in the practical implementation of HRBA to CCAP

Mobilise adequate climate finance to strengthen vulnerable people in CCAP

The international human rights law obligates states or duty-bearers to ensure that adequate and maximum available finance is mobilised and allocated for the advancement of human rights. This includes the need for duty-bearers to create an enabling environment for mobilising resources required both to achieve the temperature goal of the Paris Agreement and, at the same time, build the resilience of vulnerable communities. Thus, duty-bearers have an obligation to mobilise sufficient and maximum available resources for CCAP. This climate finance should be anchored on the HRBA framework and include a vulnerability assessment protocol, gender-responsiveness, effective participation, transparency, accountability, monitoring, and evaluation, redressing grievances in case of violations, have value for the money invested, and ensuring sustainability.

Sustainability is critical given that CCAP requires substantial climate finance so that beneficiaries can enhance their adaptive capacities and withstand climate shocks. At the same time, alignment of the financial flow needs to be in sync with the principles of the goals of the Paris Agreement, “making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development” to place within reach a future where resilient communities, populations and economies exist

Strengthen recognition of traditional knowledge systems in CCAP

In accordance with the international framework for HRBA in CCAP (subsection 2.2.3), it is necessary for state and non-state actors – such as project proponents and funding institutions – to strengthen the recognition of traditional knowledge systems in CCAP. This will promote ensuring the respect and protection of rights of Indigenous peoples, local communities, migrants and other people in vulnerable situations. This is especially significant to HRBA in CCAP in developing countries.

Strengthen gender responsiveness in CCAP

Given that climate change is gender neutral, and that women and girls issues are treasured in several human rights instruments (subsection 2.2.1), it is critical to mainstream gender issues

and support women in CCAP. CCAP should ensure women are included in the decision-making process while avoiding their discrimination. Further, the global landmark Paris Agreement acknowledges that parties should “respect, promote and consider their respective obligations on human rights” and urges parties to be gender-responsive, ensure “gender equality, and strengthening of women” in building capacity for CCAP. This means that state and non-state actors should strengthen their gender responsiveness in CCAP to allow for the adoption of HRBA.

Strengthen non-discrimination in CCAP

To strengthen non-discrimination in CCAP for HRBA, states should address any form of discrimination and inequality; ensure gender-equality; protect the rights of children, Indigenous people, and persons living with disability; and consider the best interests of children in CCAP. In line with the need to promote non-discrimination and gender-responsiveness, CCAP should target those who are disproportionately affected by climate change. Further, under the HRBA, any actors on CCAP should promote non-discrimination of state, individuals or communities that are vulnerable to climate change, to ensure climate justice. Moreover, rights-holders must be able to participate at any stage in the CCAP without any form of discrimination.

Strengthen accountability in CCAP

Under the HRBA, rights-holders must be able to hold duty-bearers to account for any adverse impacts of CCAP. Where legal framework provisions oblige states or anyone in CCAP to protect the environment, this should be followed diligently, since any CCAP project should protect the environment and not interfere with or violate the right of any person.

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Enhance transparency in CCAP

Transparency is at the heart of the global climate change regime (subsection 2.2.3). Duty-bearers should ensure FPIC in CCAP, which is a human rights norm. Thus, duty-bearers need to ensure that rights-holders have access in a language they understand to all relevant project information throughout the CCAP. This should not end with the project documents but should be incorporated into country policies, strategies and framework – which should, in turn, be available in local or Indigenous languages, including sign language. Access to information, the right to know and freedom of information are basic human rights as enshrined in the constitutions of the four countries. Hence, duty-bearers must proactively use efficient and robust means, including digital technologies, to ensure access to information during CCAP. Alternatively, the use of hard-copy records is encouraged where some or all rights-holders have limited digital capabilities.

5.2.7 Ensure CCAP is informed by vulnerability assessments

Vulnerability assessments are critical to any CCAP and should be fully participatory and transparent, gender-responsive, non-discriminatory, consider the vulnerable groups and based on best available science, including traditional and local knowledge systems. Such vulnerability assessments are critical to help identify and support vulnerable groups (rights-holders) and

identify and capacitate the duty-bearers. At the same time, the vulnerability assessments should ensure project relevancy to those disproportionately affected by climate change.

Enhance participation of the rights-holders in CCAP

Effective participation of rights-holders (Indigenous people, women, girls, persons living with disabilities) is crucial to ensure that CCAP is informed by a diversity of minds. It is also important in ensuring ownership and sustainability of CCAP. Effective participation should be supported by timely access to information at every stage of the CCAP. In cases where rights-holders feel that their inputs have not been taken on board, they should have adequate access to remedy.

Enhance compliance, monitoring and evaluation in CCAP

In line with international climate change obligations, in a HRBA the CCAP should develop indicators for assessing the gendered impacts of climate change, using gendered-disaggregated data. Secondly, duty-bearers should develop and implement gendered-disaggregated indicators to continuously monitor the impacts of CCAP. Thirdly, duty-bearers should prioritise funding to capacitate women to take leadership positions and effectively participate in the CCAP. Concerning monitoring and evaluation, it is critical that this process is inclusive of the rights-holders and women and girls in all their diversity, older persons, children, Indigenous peoples, minorities, and persons living with disabilities.

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Enhance access to remedies

If the rights-holders feel that any of their rights have been violated during the CCAP, they should have guaranteed access to justice and remedy for these violations. This should start by establishing a compliance mechanism that is easily accessible to the rights-holders.

Dissemination of findings with stakeholders

Although not necessarily part of the study to assess stakeholders' opinion on dissemination of study findings with community members, the authors regard dissemination of study findings with community members who invested their time in data collection as a central feature of community-based collaborative research. This two-way street dialogue process is critical to build trust and confidence with the vulnerable communities whose knowledge has historically been exploited by scientists. The phase is critical to not only share results but also to identify lessons learnt and possible entry points for future engagements. The dissemination of results fulfils SDG Target 16.10 "Ensure public access to information."

TOOLKIT GUIDE TO HRBA TO CCAP

A Toolkit guide based on the principles of a HRBA to CCAP and findings from the case studies is depicted below (See Annexure 1). This Toolkit can be adapted at regional, national and local levels by state, private and community CCAP players.

General recommendations for HRBA in CCP

This study has signalled crucial normative connections in considerations of human rights and the deployment of rights-based approaches on CCP in adaptation, resilience and loss and damage, including human mobility. Therefore, further work to develop and test overarching frameworks to support the conceptual integration of human rights such as in loss and damage, including human mobility need to be conducted.

6

Conclusion

From this study, the HRBA to CCAP is imperative to achieve the global temperature goal, reduce the adverse impacts of climate change and ensure sustainable development while protecting and respecting human rights. The HRBA offers a credible entry point for the CCP by recognising that climate change aggravates prevailing societal inequalities and structural power imbalances. That is found in the nine principles of the HRBA, fully outlined in Table 1. Adopting this approach at national and local levels by state and non-state actors alike is critical to enabling everyone to make claims through established institutions, should their basic human rights be violated in CCAP. To achieve this, the guiding and operating principles of HRBA to CCP must be diligently incorporated, albeit in a context specific setting. The international human rights, environmental law, climate change and human mobility normative frameworks, considered altogether, have set up the duties, rights and obligations of all actors in CCP.

In countries like Ethiopia, Malawi, Tanzania and Zimbabwe, which are most vulnerable to climate change, CCP is characterised mostly by adaptation and resilience building, while efforts to incorporate loss and damage and human mobility are still in their infancy. As such, the HRBA to CCAP must be strengthened by reinforcing all relevant domestic laws and policies, with similar efforts towards programming of loss and damage and climate mobility. This will set the basis for CCAP at national, subnational, local or programmatic levels. This study indicates that the existing laws and policy frameworks in these countries have come a long way in moving from an NBA to HRBA to CCAP. However, there is still much that must be done to transition to the HRBA. As such, many projects on climate change adaptation are yet to fully embrace the HRBA in their programming. As projects begin to do so, it is hoped that similar approaches will be extended to climate responses on loss and damage and human mobility. With the help of the Toolkit for HRBA to CCAP, it is hoped that many projects will begin to move towards protecting human rights in CCAP and the programming of loss and damage and human mobility.

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UNFCCC WIM ExCom, 2023 WIM Explainer: The Warsaw International Mechanism for Loss and Damage https://unfccc.int/sites/default/files/resource/WIM_Explainer_final.pdf

World Bank. (2023). Tanzania Climate Brief. New York: World Bank

TABLE 1: DESCRIPTION OF THE HRBA TO CCAP PRINCIPLES

HRBA TO CCAP PRINCIPLE	DESCRIPTION
Principle 1: Respect for human rights	CCAP must respect, protect and fulfil human rights (OHCHR, 2018). This means that CCAP must be designed to protect the enjoyment of human rights from harmful interference and to fulfil human rights (OHCHR, 2018). While this principle applies to all human rights, most relevant rights for CCAP include the rights to food, health, water and sanitation, which require progressive realisation by duty-bearers. The climate change regime also identifies the right to development and group rights for the most vulnerable, including the rights of Indigenous peoples, local communities, migrants, children, persons with disabilities, people in vulnerable situations. The rights to equality and non-discrimination, self-determination and human dignity are also pertinent to accommodate vulnerable groups in a HRBA to CCAP. This principle further calls for CCAP to refrain from violating human rights while protecting against harmful interference by third parties such as investors, other private actors and also from natural causes including disasters (OHCHR, 2018). This calls for due diligence to prevent such harms (OHCHR, 2018), including adopting disaster risk reduction approaches; the Sendai Framework is instructive in this regard.
Principle 2: Respect for the right to a safe, clean, healthy and sustainable environment (and climate)	With the recognition of the right to a safe, clean, healthy and sustainable environment comes the additional requirement for CCAP to respect this right. This will ensure the full enjoyment of other human rights, including the rights to life, the rights to the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food, to safe drinking water and sanitation, to housing, to participation in cultural life and to development (OHCHR, 2018). This also includes respect for procedural rights, such as the rights to information and participation in CCAP (Duyck et al., 2018).
Principle 3: Protection of the rights of those most vulnerable to climate change	The principle to protect the rights of those most vulnerable is central to CCAP, which calls for the recognition not just of the human rights of all but of those whose vulnerabilities are especially exacerbated by the adverse effects of climate change. Therefore, CCAP should take into account the ways in which some parts of the population are more vulnerable to climate change and the barriers they may face to exercise their human rights in the process of CCAP (OHCHR, 2018). This will ensure their protection from potential violations in the CCAP processes. As stated in the climate change regime, the most vulnerable groups include women, youth and children (especially girls), the elderly, persons with disabilities, Indigenous peoples, rural communities, minority groups, and migrants. This list is by no means exhaustive, as such any person or group that may become vulnerable must be considered.
	The fulfilment of this principle further requires putting in place effective measures to raise the awareness of the impacts of climate change to those most vulnerable (OHCHR, 2018); detailed communication of the monitoring

	and reporting on climate change adaptation and resilience building to those most vulnerable (OHCHR, 2018); and assessment of climate vulnerability to identify key human rights issues impacted by climate change, the rights-holders and duty bearers.
Principle 4: Gender responsiveness	The principle of gender responsiveness calls for the integration of a gender perspective in the entire CCAP processes, with the ultimate goal of ensuring that CCAP achieves gender equality. This means that a HRBA to CCAP should integrate a gender-responsive approach at all levels for the full and effective enjoyment of the rights of women in CCAP (OHCHR, 2019). This calls for ensuring the meaningful, informed and effective participation of women in CCAP at all levels and gender mainstreaming of the CCAP (OHCHR, 2019). To achieve this, measures must be taken to ensure that women of all levels of education and background participate in the decision-making.
Principle 5: Equality and Non- discrimination	The principle of equality and non-discrimination requires that the entire CCAP processes should avoid and eliminate any and all forms of discrimination and ensure equal and effective protection against discrimination (OHCHR, 2018). Therefore, the CCAP processes should “pay attention to historical or persistent prejudice against groups of individuals” and recognise that the impacts of climate change “can both result from and reinforce existing patterns of discrimination and take effective measures against the underlying conditions that cause or help to perpetuate discrimination” (OHCHR, 2018). This also calls for taking affirmative or other targeted actions, where necessary, to ensure the inclusion of underrepresented, discriminated or more vulnerable groups (SIDA, 2015). This further requires that the HBRA to CCAP process ensures that those susceptible to discrimination have timely access to information and participate in decision-making and effective remedies that pertain to CCAP so that they do not experience further discrimination (OHCHR, 2018). Also important, the entire CCAP processes should themselves adhere to and comply with this principle of equality and non-discrimination.
Principle 6: Provision of education awareness, timely access to information and public participation in decision-making	The enjoyment of human rights in the context of a HRBA CCAP calls for measures to ensure that members of the public, especially those most vulnerable to the impacts of climate change are well educated, have timely access to information and can therefore participate in the climate decisions that affect their human rights. A HRBA to CCAP should provide measures for CCAP education and awareness to the public. Therefore, education awareness should strengthen the capacity of the public, including those most vulnerable, to respond effectively to the adverse impacts of climate change (OHCHR, 2018). This also means building the capacity of the public to understand the adverse impacts of climate change, to participate in decision-making and where necessary, to seek remedies for the violation of their rights.
	The right of access to information calls for the CCAP processes to ensure that all relevant information is available to the public to enable them to understand the adverse impacts of climate change on human rights and the CCAP processes (OHCHR, 2018). This calls for measures to regularly collect, update and disseminate information about CCAP (OHCHR, 2018).

	<p>Such measures should enable the public to take protective measures, including by the dissemination of information to the most vulnerable persons and communities for disaster risk preparedness and management (OHCHR, 2018). Moreover, the information should be disseminated timeously for it to be effective (OHCHR, 2018).</p>
	<p>The right to public participation creates the basis for the public to participate in CCAP (OHCHR, 2018). This includes participation in the decisions relating to the CCAP processes, thereby promoting not only their human rights but sustainable development as well (OHCHR, 2018). The effectiveness of public participation is in enabling the early involvement of all members of the public, especially the most vulnerable to climate change (OHCHR, 2018). This in turn means availing all CCAP drafts and all relevant information and allowing the public ample opportunity, means and time to comment (OHCHR, 2018). It is also crucial to ensure that the most vulnerable groups are fairly represented and are given adequate opportunity to express their views and have those views included in the final decisions, with clear justifications, where necessary (OHCHR, 2018). This means that there must also be measures in place to eliminate inequalities in participation that are based on age, gender, seniority, ethnicity, political affiliations, disability, minority, and vulnerability (SIDA, 2015).</p>
<p>Principle 7: Access to effective remedies for violations of human rights</p>	<p>The principle of access to effective remedies for violations of human rights is critical for a HRBA to CCAP. It is necessary to ensure that people whose rights may be violated in the CCAP processes have access to judicial and other procedures for effective remedies (OHCHR, 2018). The remedies should be available for the violation of substantive rights as well as for the procedural rights of access to information and public participation in decision-making, which may occur either directly or indirectly from the CCAP. This also means the remedies should be available for actions by duty-bearers who fail to comply with the domestic laws of the country in the CCAP processes (OHCHR, 2018). Moreover, the public should be made aware of these remedies and how to access them, by adopting measures to eliminate obstacles to access such as language, illiteracy, expense, and distance (OHCHR, 2018).</p>
<p>Principle 8: Accountability and transparency</p>	<p>Accountability in CCAP calls for the identification of the human rights-holder and corresponding duty-bearers on various levels and to enhance the capacities of the duty-bearers to be accountable to rights-holders (SIDA, 2015). This calls for the translation of universal standards to locally determined benchmarks for measuring progress and enhancing accountability (UNICEF, 2007). On the other hand, transparency in CCAP requires that the entire processes are clear and publicised. This entails having measures to ensure that the public is able to access relevant information and knowledge regarding CCAP.</p>
<p>Principle 9: Empowerment and</p>	<p>The strengthening of people, local communities and those most vulnerable to climate change must be the ultimate goal of CCAP (SIDA, 2015). Therefore, CCAP should include measures to build the capabilities and capacities of people to claim their human rights and to hold those responsible to account in the processes and aftermath of CCAP (UNICEF, 2007). This means ensuring</p>

capacity development	that the public, including those most vulnerable, know their rights and how they are being addressed; how decisions are made and by whom; and the mechanisms that will enable them to seek redress in cases of violations (UNICEF, 2007). This extends to ensuring that the locals that are most vulnerable benefit from the CCAP by taking ownership of the processes as agents of change. Conversely, the CCAP processes must put in place measures that build the capacity of public officials and other duty-bearing actors to uphold their human rights obligations (SIDA, 2015). This includes adopting measures to avail the necessary resources, including financial, human and technical resources (SIDA, 2015). In addition, it is necessary to recognise the legal, moral, spiritual or cultural authority of all relevant duty-bearers (SIDA, 2015). Building the capacity of duty bearers also involves setting up institutional measures for coordination between levels and sectors (SIDA, 2015).
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Source: Deduced from literature reviewed by the authors.

TABLE 2: HRBA MAJOR ELEMENTS AND INDICATORS WITH CODES

HRBA MAJOR ELEMENTS AND INDICATORS	Code
1: VULNERABLE GROUPS	VUL
A mapping has been done to identify the vulnerable groups	Vul 1
The PROJECT addresses issues related to the situation of vulnerable persons	Vul 2
The PROJECT identifies practical/cultural barriers to the participation of women and/or girls	Vul 3
The PROJECT commits climate finance to strengthen capacity of the vulnerable groups, including women and girls, the elderly, persons with disabilities, Indigenous Peoples, and local communities	Vul 4
The PROJECT is relevant to women, men, girls and boys living in poverty/under oppression	Vul 5
The PROJECT is relevant to people with disabilities	Vul 6
2: PARTICIPATION	PAR
The PROJECT guarantees meaningful and effective public participation	Par 1
The PROJECT guarantees access to information	Par 2
The PROJECT facilitates the effective participation of vulnerable groups	Par 3
Participation has occurred early in the decision-making process when all options are open	Par 4
The PROJECT commits to ensuring the free, prior, and informed consent of all peoples in climate action	Par 5
The PROJECT recognises the important role of traditional knowledge	Par 6
3: GENDER RESPONSIVENESS	GEN
Gender equality is effectively mainstreamed across all areas covered by the PROJECT	Gen 1
Capacity enhancement is gender responsive	Gen 2
4: NON-DISCRIMINATION	NDs

The PROJECT commits to recognising and strengthening community-based natural resource management and tenure systems	NDs 1
The PROJECT refers to and includes plans for the creation of decent work and quality jobs, including for youth and people in vulnerable situations	NDs 2
The PROJECT establishes processes to fulfil the rights of communities impacted by climate adaptation	NDs 3
The PROJECT calls for building climate resilience and ensuring a just transition by guaranteeing social protection for all	NDs 4
5: ACCOUNTABILITY	ACC
There is an obligation to carry out human rights and/or environmental and social impact assessments	ACC 1
The PROJECT implementers have capacity to monitor commitments made by contractors	ACC 2
6: TRANSPARENCY	TRA
All relevant PROJECT information is available	Tra 1
All relevant PROJECT information is accessible in local language	Tra 2
All the relevant PROJECT information is available in sign language	Tra 3
7: COMPLIANCE, MONITORING & EVALUATION	CME
The PROJECT commits to effectively monitoring the gendered impacts of its implementation, including using gender-disaggregated data and indicators	CME 1
The PROJECT identifies or seeks to establish compliance mechanism for those negatively affected by climate change and/or climate adaptation	CME 2
The PROJECT prioritises funding and capacity strengthening to ensure compliance	CME 3
8: REMEDIES	REM
The PROJECT identifies a compliance mechanism to remedy for those whose rights are violated	Rem 1
The PROJECT ensures access to remedy for those whose rights are violated	Rem 2
9: VALUE FOR MONEY	V4M

The investment in the PROJECT is worth the benefits derived from it	V4M 1
10: SUSTAINABILITY	SUS
The PROJECT will likely continue after the withdrawal of funders/partners	Sus 1
The PROJECT aligns with existing national policies, programmes and strategies	Sus 2

Source: based on a framework developed by the authors.

TABLE 3: MEAN AND STDEV OF HRBA ELEMENTS AND INDICATORS

	COUNTRY SCORES (STANDARD DEVIATION)				
	MALAWI	ETHIOPIA	TANZANIA	ZIMBABWE	
VULNERABILITY				CHI	MUTARE
Vul 1	3.5 (1.91)			4.28 (.046)	*2.94 (1.92)
Vul 2	3.4 (1.85)			4.67 (0.49)	*2.89 (2.0)
Vul 3	33.1 (1.65)			4.67 (.049)	*2.89 (1.97)
Vul 4	*2.5 (1.54)			4.67 (0.49)	3.11 (1.84)
Vul 5	3.05 (1.85)			4.67 (0.49)	*2.83 (2.01)
Vul 6	3.35 (1.74)			*2.56 (1.38)	3.22 (1.73)
Global VUL score	3.15 (1.77)			4.25 (0.63)	*2.98 (1.91)
PARTICIPATION				CHI	MUTARE
Par 1	3.25 (.174)			4.5 (0.99)	*2.61 (1.97)
Par 2	3.3 (1.78)			4.56 (0.78)	3 (1.88)
Par 3	3.3 (1.78)			4.44 (0.51)	*2.89 (2.0)
Par 4	3.1 (1.62)			4.56 (0.78)	*2.83 (1.82)
Par 5	3.15 (1.66)			4.67 (0.77)	*2.72 (1.90)
Par 6	*2.75 (1.59)			4.39 (0.78)	*2.89 (1.97)
Global PAR score	3.14 (1.7)			4.52 (0.77)	*2.82 (1.92)
GENDER				CHI	MUTARE
Gen 1	*2.95 (1.64)			4.67 (0.77)	3.0 (2.06)
Gen 2	*2.55 (1.36)			4.5 (0.99)	3.06 (1.89)
Global GEN score	*2.75 (1.5)			4.58 (0.87)	3.03 (1.98)

NON-DISCRIMINATION				CHI	MUTARE
NDs 1	*2.5 (1.28)			4.61 (0.50)	*2.56 (2.01)
NDs 2	*2.85 (1.69)			4.56 (0.78)	*2.56 (2.01)
NDs 3	3.15 (1.66)			4.39 (0.98)	3.06 (1.73)
NDs 4	*2.8 (1.54)			4.39 (1.14)	*2.78 (1.86)
Global NDs score	*2.83 (1.54)			4.49 (0.85)	*2.74 (1.90)
ACCOUNTABILITY				CHI	MUTARE
Acc 1	*2.8 (1.51)			4.39 (0.98)	*2.72 (1.93)
Acc 2	*2.8 (1.70)			3.44 (1.50)	3.34 (1.58)
Global ACC score	*2.8 (1.61)			3.92 (1.24)	3.06 (1.76)
TRANSPARENCY				CHI	MUTARE
Tra 1	3.5 (1.91)			4.117 (1.10)	3.17 (1.62)
Tra 2	3.3 (1.78)			*2.06 (1.16)	*1.72 (1.07)
Tra 3	*2.0 (1.03)			*1.44 (0.51)	*1.44 (0.62)
Global TRA score	*2.93 (1.57)			*2.56 (0.92)	*2.11 (1.10)
COMPLIANCE, MONITORING AND EVALUATION				CHI	MUTARE
CME 1	3.2 (1.70)			*2.39 (1.50)	*1.61 (1.04)
CME 2	3.25 (1.74)			3.67 (1.41)	*2.78 (1.86)
CME 3	*2.75 (1.52)			3.78 (1.35)	*2.72 (1.90)
Global CME score	3.07 (1.66)			3.28 (1.42)	*2.37 (1.60)
REMEDIES				CHI	MUTARE
Rem 1	3.35 (1.81)			4.44 (0.78)	*2.89 (2.0)
Rem 2	3.2 (1.70)			3.94 (1.3)	*2.72 (1.90)

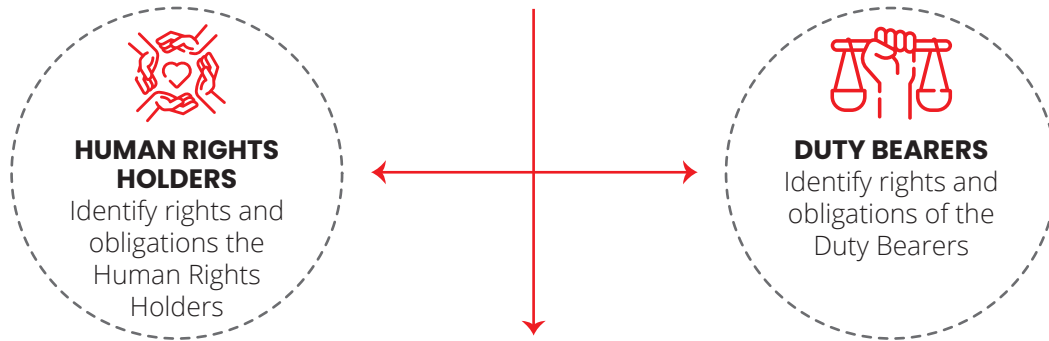
Global REM score	3.28 (1.76)			3.28 (1.42)	*2.81 (1.95)
VALUE FOR MONEY				CHI	MUTARE
V4M score	3.1 (1.62)			4.39 (0.78)	*2.67 (1.94)
SUSTAINABILITY				CHI	MUTARE
Sus 1	*2.7 (1.52)			4.67	*2.83 (2.01)
Sus 2	3.2 (1.70)			4.33	*2.72 (1.90)
Global SUS score	*2.95 (1.61)			4.5 (0.81)	*2.78 (1.96)
Global HBRA score	*3.00			4.07	*2.74

* Need further strengthening for compliance. () values in brackets are STDev of the mean scores.

Source: field data compliance scores computed by the authors.

ANNEXURE 1: PROPOSED TOOLKIT FOR HRBA TO CCAP

DESIGNING AND IMPLEMENTATING AN ACT ALLIANCE PROJECT



HRBA MAJOR ELEMENTS AND INDICATORS GUIDING QUESTIONS



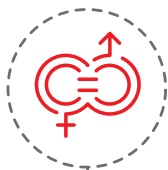
1. VULNERABLE GROUPS (VUL)

- Have vulnerable groups been identified?
- Who are the vulnerable persons?
- Have practical/cultural barriers to the participation of women and/or girls been identified?
- Is there climate financing to build the capacity of the vulnerable groups, including women and girls, the elderly, persons with disabilities, Indigenous Peoples, and local communities?
- Is the PROJECT relevant to women, men, girls and boys living in poverty/under oppression?
- Is the PROJECT relevant to people with disabilities?



2. PARTICIPATION (PAR)

- Will the PROJECT guarantee meaningful and effective public participation?
- Will the PROJECT guarantee access to information?
- Will the PROJECT facilitate effective participation of vulnerable groups?
- Will participation occur early in the decision-making process when all options are open?
- Is the PROJECT committed to ensuring the free, prior, and informed consent of all peoples in climate action?
- Will the PROJECT recognize the important role of traditional knowledge?



3. GENDER RESPONSIVENESS (GEN)

- Is gender equality effectively mainstreamed across all areas covered by the PROJECT?
- Is capacity development gender responsive?



4. NON-DISCRIMINATION (NDs)

- Is the PROJECT committed to recognizing and strengthening community-based natural resource management and tenure systems?
- Will the PROJECT refer to and include plans for the creation of decent work and quality jobs, including for youth and people in vulnerable situations?
- Will the PROJECT establish processes to fulfil the rights of communities impacted by climate adaptation?
- Will the PROJECT call for building climate resilience and ensuring a just transition by guaranteeing social protection for all?



5. ACCOUNTABILITY (ACC)

- Is there an obligation to carry out human rights and/or environmental and social impact assessments?
- Do the PROJECT implementers have capacity to monitor commitments made by contractors?



6. TRANSPARENCY (TRA)

- Is all relevant PROJECT information available?
- Is all relevant PROJECT information accessible in local languages?



7. COMPLIANCE, MONITORING & EVALUATION (CME)

- Is the PROJECT committed to effectively monitoring the gendered impacts of its implementation, including using gender-disaggregated data and indicators?
- Will the PROJECT identify or seek to establish a complaints mechanism for those negatively affected by climate change and/or climate adaptation?
- Will the PROJECT prioritize funding and capacity strengthening to ensure compliance?



8. REMEDIES (REM)

- Will the PROJECT identify a complaints mechanism as a remedy for those whose rights are violated?
- Will the PROJECT ensure access to remedy for those whose rights are violated?



VALUE FOR MONEY (V4M)

Is the investment in the PROJECT worth the benefits derived from it?



SUSTAINABILITY (SUS)

Is the PROJECT likely to continue after the withdrawal of funders/partners?
Does the PROJECT align with existing national policies, programmes and strategies?



DESIGN AND/OR IMPLEMENT THE PROGRAMME

ENDNOTES

1 Decision 1/CP.16 <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

2 Mombauer D, Link A-C and van der Geest K (2023) "Addressing climate-related human mobility through NDCs and NAPs: State of play, good practices, and the ways forward" *Front. Clim.* 5:1125936 <https://www.frontiersin.org/articles/10.3389/fclim.2023.1125936/full>

3 "Zimbabwe takes a balanced view of human mobility by recognising the potential positive and negative outcomes of human mobility through the use of the terms "voluntary" and "forced" migration. On the one hand, Zimbabwe emphasises the importance of voluntary seasonal migration in search of livelihood opportunities and remittance flows from Zimbabwean emigrants for society and the economy (8 percent of its total GDP in 2019). On the other hand, the NDC acknowledges issues associated with developing illegal and unplanned settlements due to increasing numbers of voluntary and displaced people and refugees due to climate change and conflict (forced migration). Since 2010 the number of refugees in Zimbabwe has doubled, mainly as a consequence of slow-onset migration from ecosystem degradation and environmental events. At the same time, Zimbabwe recognises migrants as marginalised groups which are exposed more directly or indirectly to climate-related hazards, emphasising this group's need for support." (ibid.)

4 Link, A-C, van der Geest, K and Miron, S, "The Gaps in NAPs: More must be done to integrate human (im)mobility into National Adaptation Plans" (2024) *Researching Internal Displacement* https://researchinginternaldisplacement.org/short_pieces/1646/

5 For example, Mombauer et al. (2023) note that, "Ethiopia displays a balanced view of human mobility in its NAP by emphasising that climate change – specifically increases in temperature and droughts, heatwaves, and storms – can have adverse human mobility outcomes, such as making individuals or households more vulnerable or leading to displacements (Federal Democratic Republic of Ethiopia, 2019). At the same time, Ethiopia's NAP also recognises positive outcomes such as seasonal labour migration as an adaptation strategy and possibility to diversify income which otherwise tends to solely depend on agriculture. Accordingly, Ethiopia aims to increase adaptation success by arranging voluntary resettlement and migration opportunities for vulnerable communities and promoting safety nets, asset creation, access to credit, and livelihood diversification." Similarly, Link et al. (2024) wrote that, "[n]otably, most NAPs focus on 'controlling' or 'curtailing' migration, while only a few (e.g., from Ethiopia and Benin) include strategies for supporting migration as adaptation."

6 *Technical Guide on Integrating Human Mobility and Climate Change Linkages into Relevant National Planning Processes* under development by the Task Force on Displacement, UNFCCC; https://unfccc.int/sites/default/files/resource/WIM_TEASER_6.pdf

7 This convention does not mention climate change explicitly but includes, under its grounds for refugee status, "events seriously disturbing public order (Art I (2))." This has been interpreted as holding the "potential to protect people fleeing in connection to the adverse effects of climate change, environmental degradation, and the impacts of disasters" (see Hansen-Lohrey,

C, 'Assessing serious disturbances to public order under the 1969 OAU Convention, including in the context of disasters, environmental degradation and the adverse effects of climate change,' UNHCR Legal and Protection Policy Research Series, September 2023.

8 See article V (4).

9 For the purposes of this study, reference is made only to IGAD and SADC that are directly applicable to the countries under study, namely Ethiopia, Malawi, Tanzania and Zimbabwe.

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