



# **Interlinkages between Climate, Peace and Security and the Rule of Law in the Context of West Africa and the Sahel**

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INTERLINKAGES  
BETWEEN  
CLIMATE, PEACE  
AND SECURITY  
AND THE RULE OF  
LAW IN THE  
CONTEXT OF  
WEST AFRICA AND  
THE SAHEL



## **EXECUTIVE SUMMARY**

Referred to by the United Nations Secretary-General as “the defining issue of our time”, the impact of climate change extends to every sector and region. While climate change affects all sectors, there remains a significant gap in contextualised research and data on its specific impact on peace and security, from a rule of law perspective in general, including in West Africa and the Sahel, the region of focus of this study. More specific analysis is also needed on its impact on the rule of law, justice and corrections systems, institutions, infrastructure and services.

Consideration should be given to advocating for and prioritizing the below strategic approaches and policy recommendations based on the following findings:

A comparison of available data shows a compelling **correlation between the level of rule of law adherence, climate-related vulnerabilities, overall state fragility, and the peace and security situation across a majority of West African countries**. This implies using the rule of law as a strategic entry point and foundational approach to reduce climate insecurity and fragility and build resilience, while at the same time, promoting integrated strategies linking climate resilience, rule of law, peacebuilding and conflict prevention.

Existing evidence demonstrates that climate change acts as a threat-amplifier, undermining peace, security and sustainable development. In the West Africa and the Sahel region, the **climate crisis exacerbates rule of law and justice challenges** associated with resource degradation and scarcity, declining livelihood conditions, displacement and migration, and cross-border and transnational dynamics including crimes impacting the environment. **These compounded pressures place additional strain on already fragile rule of law institutions and service provision and delivery therein, and create additional legal protection and justice needs**. Climate change disproportionately affects people living in poverty and in rural areas, particularly women, youth, smallholder farmers, migrants, indigenous communities, and people in detention. These impacts further entrench structural inequalities and existing vulnerabilities, underscoring the climate crisis as a crisis of (in)justice, whereby those who have contributed the least to climate change are most severely affected by its consequences. Within the justice sector, prisons and inmates, cumulating vulnerabilities, deserve special attention in climate security strategies to prevent further climate-related incidents in the region’s overcrowded facilities.

As climate risks intensify across the region, Governments are required to develop and implement adaptation and mitigation strategies. However, some laws and policies may produce unintended effects, impacting the security situation particularly in conflict and fragile settings. While several countries have adopted **National Adaptation Plans (NAPs)**, the latter largely **overlook the effects of climate change on rule of law and justice systems, challenges and responses to these**. This gap extends to regional and subregional frameworks on climate change and risks. To develop efficient strategies to build climate resilience and enhance coping capacities, it is essential to **conduct rule of law-informed climate security risk assessments** and review legal and policy frameworks to prevent malpractices. These strategies should explicitly address rule of law challenges and integrate targets in the rule of law, justice and corrections areas.

**The rule of law offers powerful tools to address climate security risks, and promote climate justice and resilience.** It can support climate-affected communities through legal empowerment, accessible dispute resolution mechanisms, participatory and inclusive natural resource governance, and recognition of customary and indigenous rights. There is also

significant scope to enhancing constitutional and legal provisions in response to climate-related risks. By establishing a protective legal environment, such frameworks can safeguard both people and ecosystems from climate-induced destabilising effects, ensure adequate natural resource governance, while empowering individuals and institutions to hold governments and the private sector accountable. Embedding climate considerations into justice sector strategies is essential to enhance institutional preparedness and resilience of justice and prison systems. This includes both hard resilience (infrastructure, energy, technology) and soft resilience (legal frameworks, institutional capacity, and knowledge systems). Accountability mechanisms such as climate litigation, specialised or arbitral justice, loss and damage frameworks, and regulations - particularly concerning the private sector and extractive industries - can further advance climate justice. Evidence-based approaches, cross-sectoral coordination, and strengthened partnerships are critical to ensure effective responses to the interconnected climate risks and rule of law challenges.

**Without timely action, the status quo compounded by the escalating climate security risks are likely to widen the climate justice gap, further harm vulnerable and at-risk populations, and forgo critical opportunities to strengthen climate preparedness and resilience through the rule of law.** Drawing on the present analysis, the following recommendations merit advocacy and actions at national, regional and subregional levels:

**Advocate for the integration of rule of law and justice into climate adaptation strategies and climate risk assessments:**

Promote and advocate for the implementation of an integrated approach to climate change adaptation and mitigation strategies and policies at the regional, subregional and national levels, which takes into account rule of law challenges and responses to these.

These should be based on rule of law-informed climate security risk assessments, to better inform the development of efficient strategies, including from a gender and human-rights-based approaches.

Encourage the review of National Adaptation Plans for identifying potential maladaptation practices that risk exacerbating injustice, vulnerabilities and discrimination, as well as environmental degradation.

Building on the lessons learned from the COVID-19 pandemic response, encourage that the justice and corrections systems are part of emergency and disaster response plans.

**Encourage the establishment of climate-smart, resilient and protective rule of law systems:**

Advocate for the adoption or review of constitutional and legal frameworks that support efficient climate change adaptation and mitigation strategies based on the rule of law as well as green, low-emission and climate-resilient strategies, establish a protective environment for climate-affected populations and protect the ecosystem and environment from degradation. This could be done through the use of the Model Climate Change Law Framework for Africa.

Encourage the establishment of legal and institutional frameworks that ensure inclusive, participatory, rule of law and human rights-compliant governance of natural resources. This should include the establishment of appropriate dispute resolution mechanisms.

Advocate for justice sector policies and strategies to integrate climate change considerations, including mitigation and adaptation measures.

Promote the establishment of green and climate-smart rule of law, justice and corrections institutions, including through integrating sustainability principles into their management

frameworks, using architecture, infrastructure and materials to withstand extreme weather events, reduce the carbon footprint, facilitate the transition to green energy, and through accelerating dematerialization and digitalisation.

Enhance the preparedness of justice systems to respond to the consequences of climate change. This could include targeted capacity-building support to judges, prosecutors, investigators, lawyers, informal dispute resolution mechanisms, and legal aid/assistance providers on environmental, land and climate justice as well as on legal frameworks and caselaw, and crimes impacting the environment. This would also require training of lawyers and CSOs/NGOs on environmental and climate justice and strategic litigation. Academia and research institutes could also be supported and encouraged to develop environmental and climate justice and caselaw.

Enhance the preparedness of prison systems and inmates to adapt to and mitigate the effects of climate change, particularly through including them in emergency response plans; anticipating and preventing climate-induced prison crises through early warning and predictive planning; promoting alternatives to custodial sentences – especially for women particularly those detained with their children, minors, elderly people, and people with mental or physical disability –; and through embedding sustainability and green job creation into rehabilitation and reintegration strategies.

Encourage and implement National Action Plans on Business and Human Rights; the conclusion and harmonization of regulations and contracts related to extractive industries so as to include environmental safeguards, requirements in terms of human rights and rule of law compliance, restoration or compensation in the event of harm to communities or the environment; as well as the criminalization, investigation and prosecution of environmental crimes, including through cooperation in law enforcement, investigation and judicial matters. This should be combined with support to the formalization of informal small-scale mining, licensing these mining activities in compliance with human rights and the rule of law, and enhancing capacity-building to prevent further damage to the environment.

**Place specific focus on people-centered justice targeting those affected at the local level:**

Promote inclusive and people-centered climate justice strategies and measures targeting those disproportionately affected at the local level and in rural areas, particularly women, youth, small holder farmers, herders, migrants and indigenous communities.

Such a strategy could combine legal empowerment of communities, enhanced access to dispute resolution mechanisms, participatory and inclusive natural resource governance, recognition of customary and indigenous rights, and climate-resilient prisons.

**Enhance data collection and analysis to address the knowledge gap, contribute to early warning and anticipate justice needs:**

Address the knowledge gap through commissioning contextualised research to examine the impact of climate change on justice systems from a peace and security perspective in West Africa and the Sahel.

Consider undertaking separate contextualised research examining climate peace and security from a prison perspective in West Africa and the Sahel.

Use data collection, analysis and early warning to inform the response and enhance the preparedness of the justice sector, while anticipating increasing pressure on justice systems.

**Enhance coordination and build strategic partnerships across and between sectors:**

Strengthen strategic partnerships, cooperation and coordination across and between sectors, including the justice and prison sector, to enhance the efficiency of climate action efforts, including through fostering multidisciplinary research, initiatives and responses.

## **I. BACKGROUND AND JUSTIFICATION**

Referred to by the United Nations Secretary-General as the “defining issue of our time”<sup>1</sup>, climate change is having severe effects on the West Africa and the Sahel region, where temperatures have increased by approximately 1.5°C since the pre-industrial period. Projections suggest that temperatures could rise by up to 3°C by 2050 if global emissions trends are not curbed. It is assessed that 3.3 to 3.6 billion people live in contexts that are highly vulnerable to climate change, particularly in rural areas<sup>2</sup>. The effects of climate change have exposed millions of people to food insecurity and increased water scarcity, with the largest impacts observed particularly on the Africa continent<sup>3</sup>. Erratic rainfall patterns have resulted in prolonged droughts and severe floods. In West Africa, the 2024 flooding season was particularly severe, affecting millions across the region, as per the assessment of the 2024 Seasonal Forecast for Agro-Hydro-Climatic Characteristics for the Sahelian and Sudanian zones<sup>4</sup>. Countries like Niger, and Nigeria and Senegal have experienced torrential rains leading to widespread displacement and casualties<sup>5</sup>. In the Sahel, desertification is advancing rapidly, reducing arable land by two to three per cent each year, exacerbating food insecurity that affects nearly 30 per cent of the population. Rise in sea-level and coastal degradation also lead people to displacement and migration. These changes are also fueling conflicts over resources, contributing to the displacement of nearly nine million people across the region<sup>6</sup>. The situation underscores the urgency of National Adaptation Plans (NAPs), as required under the United Nations Framework Convention on Climate Change (UNFCCC), which several countries in the region are developing to build resilience against climate change’s negative impacts. These NAPs must integrate elements of rule of law and justice, ensuring that adaptation efforts are more inclusive, equitable, and anchored in legal frameworks that protect vulnerable communities, uphold human rights, and promote social cohesion amidst the growing pressures of climate change.

The adoption of NAPs also responds to West African people’s expectations from their governments. Based on the survey carried out by the United Nations Development Programme (UNDP) on Peoples’ Climate Vote<sup>7</sup>, about 50 per cent of respondents from the region are very worried about the effects of climate change, and 17.8 per cent extremely worried. About 47.4 per cent reported that climate change has affected big decisions impacting their lives, 27.8 reported a little. And most importantly, 92.4 per cent, consider that their country should strengthen their commitments to better address climate change. Therefore, while West African people express serious concern about the impact of climate change which affects their lives in a significant way, the overwhelming majority of them expect governments to strengthen their action in response to climate change.

Against this backdrop, UNOWAS plays a central role in preventing conflict, tensions, sustaining peace and consolidating peacebuilding efforts and political stability in West Africa and the Sahel. In line with its functions, the Office also advocates with and provides technical advice to regional and national counterparts to address the adverse implications of climate change on peace and security. In the discharge of its mandate, UNOWAS carries out political advocacy, conducts climate security risk assessments and strengthens partnerships with the Economic Community of West African States (ECOWAS) and other regional bodies, including the African Union Pan-African Great Green Wall Initiative, the Lake Chad Basin Commission, the Liptako Gourma Authority, the Permanent Interstate Committee for Drought in the Sahel, and the Regional Climate Centre for West Africa and the Sahel (AGRHYMET/CILSS). In May 2024, jointly with the Liptako Gourma Authority, AGRHYMET/CILSS and ECOWAS, a regional Working Group on Climate Change, Peace, and Security was established during the

2024 Seasonal Forecast Forum for Agro-Hydro-Climatic Characteristics for the Sahelian and Sudanian zones (PRESASS). Its objective is to support regional institutions and countries in better understanding the interlinkages between climate change, peace, and security, with ongoing consultations involving experts, think tanks and research institutions. At the same time, the Office is mandated to promote good governance, respect for the rule of law and human rights, including by facilitating exchange of information and sharing of good practices and by providing support to build local and national capacities to foster peace, to strengthen rule of law institutions, and promote good governance, dialogue and mediation at the community, local and national levels.

The present paper bridges all three interconnected aspects of the UNOWAS mandate, political engagement for conflict prevention and peace, the climate, peace and security and the promotion of the rule of law, good governance and human rights. The objectives of this paper are to enhance understanding on the interlinkages between climate, peace and security and the rule of law particularly in the context of West Africa and the Sahel and inform the work and political engagement on these issues, as well as UNOWAS' advocacy with regional and national actors and relevant partners in the region.

## **II. SCOPE AND METHODOLOGY**

**Scope:** While the paper covers the 16 West African countries falling with the mandate of UNOWAS, it is intended to outline key issues, based on information and data collection and analysis, as well as provide illustrative case studies. It is not aimed at providing an exhaustive account and analysis of risks, challenges and developments in all countries. Where relevant, the paper draws on good practices and lessons learned from and outside the region.

**Definitional issues:** The UNFCCC defines climate change by “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere, and which is in addition to natural climate variability observed over comparable time periods” (article 1, para. 1). As to climate security, while there is no universally accepted definition, there is a common understanding, across organisations including the United Nations, that climate change acts as a threat multiplier that exacerbates existing vulnerabilities and conflicts. This definition recognizes the complex interplay between environmental changes and security risks, emphasizing how climate-related stressors such as resource scarcity, extreme weather events, and environmental degradation can contribute to instability, conflict, and displacement.<sup>8</sup> There is a large consensus that climate change alone may not directly cause conflict, but amplifies existing threats and challenges, making it a critical issue for peace and security globally.<sup>9</sup> Climate, peace and security refers to the impacts of the climate crisis on peace and security.

Rule of law is closely linked to peace and security. Respect for the rule of law generates an enabling environment for achieving peace and security. It helps prevent violent crime and conflict by providing legitimate processes for the peaceful resolution of grievances, promoting accountability and the fight against impunity. In a report of UN Secretary-General rule of law was described as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.<sup>10</sup> Rule of law and inclusive governance as reflected in Sustainable Development Goal (SDG) 16 also act as enablers for the realization of SDG 13 related to climate action and the 2030 Agenda.<sup>11</sup>

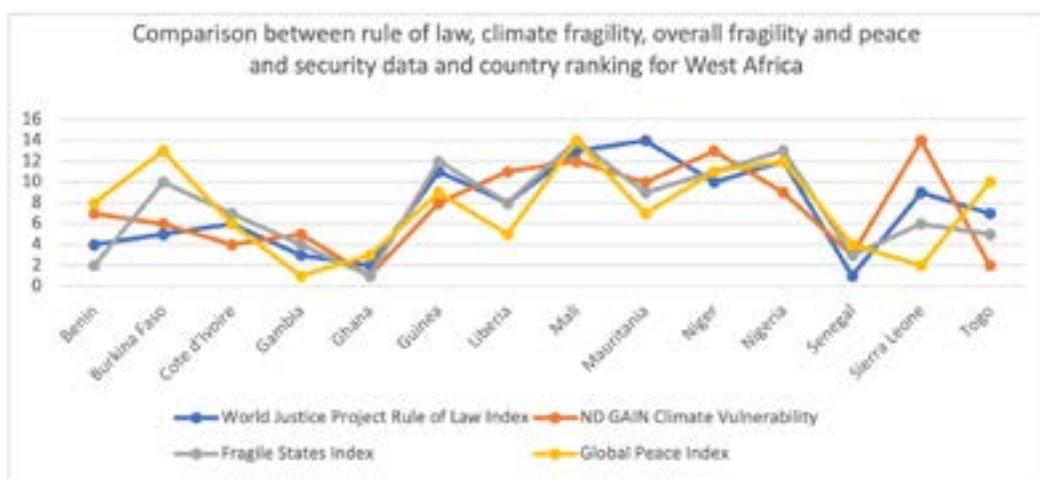
Justice is a notion underpinning the very climate action agenda. It lies at the heart of the conceptualization by the UNFCCC of loss and damage, acknowledging that the impacts are felt most severely by those least responsible for climate change, *i.e.* developing countries and vulnerable populations.<sup>12</sup> The notion of climate justice emerged in response to climate change and has different meanings across national and international contexts. In the national context, climate justice entails the recognition that climate change results from greenhouse gas emissions, for which specific actors may be held liable. At the international level marked by North/South dynamics, the responsibility for these emissions is mainly attributed to developed countries since the pre-industrial era, that owe a “climate debt” to developing countries that are seriously impacted but have the least contributing to these emissions.<sup>13</sup> Both in its individual or collective and interstate dimensions, it is enshrined in major international instruments, including the UNFCCC and the Paris Agreement, through the principles of equity and common but differentiated responsibilities. In its individual aspect, climate justice derives from the human right to a healthy environment, as recognized implicitly in a number of international and regional human rights instruments and treaties, such as the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), the 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the 1989 Convention on the Rights of the Child (CRC), the 1981 African Charter on Human and Peoples’ Rights (ACHPR) and the 1990 African Charter on the Rights and Welfare of the Child.

**Methodology:** The development of the present paper followed a three-phase process. The first phase involved a preliminary desk review and analysis of relevant material, including international and regional legal and policy instruments, United Nations reports and publications, national legislation and policies, academic articles and reviews, research institutes, think tanks, NGOs and CSOs, monographs, caselaw and data. In the second phase, key informant interviews were conducted with 26 stakeholders, including 14 women and gender experts. This phase also involved refining the research parameters and completed the desk review. The third phase entailed the drafting of the paper and peer review to finalise the draft in October 2024. The paper was subsequently updated and complemented prior to its publication in June and early July 2025, taking into account significant developments.

### **III. ANALYSIS OF THE INTERLINKAGES BETWEEN CLIMATE, PEACE AND SECURITY AND THE RULE OF LAW**

In line with the United Nations Climate Security Mechanism conceptual approach,<sup>14</sup> the present paper distinguishes between risks resulting from the direct and indirect effects of climate change which are captured under section 3.1. and risks resulting from the impact of climate change on complex systems, outlined under section 3.2. These risks affect the peace and security situation at different levels, including at the sub-national level through the impact on natural resources, livelihoods and local grievances, national or regional levels, amplifying pre-existing rule of law challenges. While sections 3.1. and 3.2. focus on rule of law implications of the impact of climate change on security, section 3.3. addresses the potentials of using rule of law to positively impact climate justice, action and sustainable peace and development.

#### **A. Analysis of data on rule of law, climate fragility and peace and security**



Prior to the analysis of risks and challenges, it is useful to also look at the analysis of data to assess the interlinkages between climate peace and security and the rule of law.

The above chart demonstrates a compelling correlation between the rule of law adherence, climate-related vulnerabilities, overall state fragility, and the peace and security situation across a majority of West African countries, based on the comparison of four global databases covering 14 of the 16 West African countries. The latter include the World Justice Project Rule of Law Index that assesses the level of adherence to the rule of law; the Notre Dame Global Adaptation Initiative (ND-GAIN) country index measuring the vulnerability to climate change; the Fragile States Index Country Dashboard measuring vulnerability to conflict or collapse by assessing pressures related to political, social, and economic instability; and the Global Peace Index that measures the level of peacefulness in countries.<sup>15</sup> Countries ranking closer to 1 experience less challenges and more rule of law compliance, and those ranking closer to 14 face stronger fragilities and less rule of law adherence.

In terms of policy implications, this correlation underscores the need 1) to strengthen the rule of law – legal, policy and institutional frameworks – as a foundational approach to reduce climate insecurity and fragility and build resilience, by promoting inclusive governance, establishing a protective legal environment for safeguarding the rights of affected and vulnerable communities

and protecting the environment from degradation, and resolving disputes over natural resources and environmental degradation peacefully, and/or fighting corruption. This implies embedding climate considerations into justice sector policies and reform, and including governance and rule of law targets in climate adaptation plans. This should be combined with an approach that would 2) promote integrated strategies linking climate resilience, rule of law, peacebuilding and conflict prevention. It would also require fostering multilevel cooperation to address the intertwined challenges of climate change, conflict, and governance breakdowns, to advance sustainable peace and security outcomes.

The analysis of data taking into account the four different datasets on 14 highlights overlapping fragilities and risk exposure of West African countries:

- Rule of law: According to the World Justice Project Rule of Law Index (2024), 10 out of 14 West African countries fall within the bottom 30 per cent of 142 countries assessed globally, and four (4) within the bottom 20 per cent, indicating serious challenges in the adherence to the rule of law in terms of accountability, justice delivery, law enforcement and corruption.
- Climate fragility: Based on the Notre Dame Global Adaptation Initiative (ND-GAIN) Index (2025), 13 of the 14 countries in the subregion are ranked among the top 30 per cent most climate-vulnerable countries out of 187 assessed, and eight (8) among the top 20 per cent. This underscores the acute exposure of West African states to climate-related risks and their limited adaptive capacity.
- Overall state fragility: The Fragile States Index (2024) places 10 of the 14 West African countries within the top 30 per cent most fragile states globally out of 179 countries, and seven (7) within the top 20 per cent, reflecting multiple vulnerabilities across political, economic, and social dimensions.
- Peace and security: According to the Global Peace Index (2024), 8 of the 14 countries are ranked in the bottom 30 per cent of 163 countries and four (4) in the bottom 20 per cent, highlighting elevated levels of violence, insecurity, and conflict-related pressures.

Thus, the majority of the 14 countries for which data is available, 10 in average, feature among the 30 per cent of countries presenting the strongest overlapping vulnerabilities, while an average of six (6) countries are among the 20 per cent most vulnerable countries worldwide. This is critical to establish the sensitive context to which the following assessment of climate risks and rule of law challenges applies to.

## B. Climate change as conflict and threat-multiplier for rule of law challenges

The typology of risks resulting from the effects of climate change is largely based on the UNOWAS paper on “Pathways, from climate change to conflicts and the disturbance of peace”. Under each category, specific rule of law challenges are highlighted. There is often no direct link of causality. Yet, in many instances, climate change exerts indirect effects on the rule of law situation and exacerbates existing issues, particularly in fragile areas, acting as a “threat multiplier” that worsens injustice and insecurity.<sup>16</sup>

### i. Resource scarcity and environmental degradation

**Resource scarcity and degradation:** In many West African countries, climate change leads to water scarcity, desertification and periodic erratic rainfalls which in turn give rise to floodings and land/resource degradation. The impact of climate change is most severe when climate-driven scarcities arise in fragile settings. It is also widely recognized that climate change causes

increased competition over dwindling resources, such as water, arable land, and pasture, which can intensify existing tensions and fuel conflicts. According to an experts' survey, 47 per cent of respondents in Mali and Niger believe that climate change effects are among key drivers of intercommunal and intracommunal violence.<sup>17</sup> Moreover, people affected by the increasing drought season in Central Sahel are approximatively 14 per cent more likely to hold negative attitudes towards members of another ethnic community.<sup>18</sup> Yet, evidence points to an indirect link between climate change, resource scarcity and conflict, aggravated by the poor governance of natural resources in the region.<sup>19</sup>

**Poor resource management and discrimination:** More than resources scarcity, poor resource management is believed to be one of the main reasons underlying escalation of communal conflicts (61 per cent of respondents).<sup>20</sup> The literature review on West Africa also points to governments fostering local grievances through poor or divisive natural resource management, heightening vulnerability to climate change impacts and fueling violent conflicts, which in turn elevate the likelihood of resource-related conflicts that can be politicized by elite.<sup>21</sup> Women and girls, youth and indigenous people are assessed to be disproportionately affected by lack of access to land and resources, and encounter hurdles in claiming their rights and solving disputes, in the absence of protective legal frameworks and judicial/dispute resolution mechanisms.<sup>22</sup> Often assuming the role of caretakers, women are heavily dependent on these resources, yet often lack equal ownership rights, particularly over land. Instead, they must rely on male family members for access, limiting their ability to participate in household decisions about agriculture and resilience strategies.<sup>23</sup> Water scarcity in West Africa also leads women and adolescent girls to walk longer distances to fetch water, during which they are particularly exposed to the risks of sexual and gender-based violence (SGBV), including assault, harassment and rape.<sup>24</sup> In the Centre-North region of Burkina Faso, a high number of SGBV cases were reported during outings to fetch essential household items, such as water and firewood.<sup>25</sup> Water scarcity may also lead to intimate partner violence triggered by the inability to meet household responsibilities<sup>26</sup> or women being punished by their husbands when they delay at the water point.<sup>27</sup> An inadequate protective environment, lack of access to services and justice often prevent them to report these acts and seek support and accountability, especially in conflict-affected countries where services are already disrupted. Moreover, while most countries have enacted laws promoting gender equality and prohibiting sexual and gender-based violence, many have not outlawed domestic violence, and even if they do exist, they lack enforcement.<sup>28</sup> Ghana and Nigeria have for instance both criminalised domestic violence, however, their effectiveness is undermined by weak enforcement mechanisms, limited institutional and law enforcement capacities, obstacles in accessing justice for survivors as well as cultural norms that prevent the reporting and prosecution of these cases.<sup>29</sup>

**Climate change, violent extremism and unlawful exploitation of resources:** The surge in violence in Mali since 2012 and the expansion of extremist and armed groups and transnational crime networks across the Sahel-Saharan regions and in the Lake Chad Basin have reignited concerns about the connection between climate change and terrorism. The climate and conflict nexus suggests that conflict and terrorism stem from heightened competition over resources diminished by climate change.<sup>30</sup> In addition, crimes committed by extremist, armed groups and criminal networks, against the environment<sup>31</sup> such as the unlawful exploitation of natural resources further exacerbate environmental degradation, give these groups a financial advantage to sustaining their criminal activities and financial incentives to attract new recruits.<sup>32</sup> They also impair the capacity of natural ecosystems to mitigate or adapt to climate change, and worsen climate change effects and the loss of biodiversity.<sup>33</sup> In addition to further destabilizing climate change- and conflict-affected communities, the crimes committed by these groups strain already overloaded justice systems, often ill-equipped to address these

crimes and understand their impact on environmental degradation, particularly in conflict settings where justice services may be disrupted. Adding to this complexity, illegal logging in tropical forest areas aggravates the effects of climate change and the loss of biodiversity, contributes to conflicts over land and resources and to the disempowerment of local and indigenous communities.<sup>34</sup>

**Environmental rights defenders:** Environmental and land rights defenders and climate justice advocates play an important role in promoting sustainable natural resource management, safeguarding the environment and ecosystems and protecting the rights of communities especially those of marginalised and indigenous peoples. Through their advocacy, monitoring, and community mobilisation, they uphold environmental and climate justice, demand accountability for ecological harm, and champion inclusive, equitable governance of land and resources. Their efforts are key to advancing the Sustainable Development Goals, strengthening climate resilience, and fostering peace, justice, and the rule of law. However, they are particularly exposed to risks to their lives and physical integrity. According to Global Witness, between 2012 and 2023, 2,106 environmental defenders were reportedly killed worldwide. In 2023 alone, 196 were allegedly killed including 116 on the African continent.<sup>35</sup> While official numbers are low for West Africa, this may be due to underreporting and difficulty to document cases. To address this gap, the West African Frontline Grassroot Defenders' Directory has been launched in 2024. It will complement existing global data on reprisals compiled by environmental organizations and contribute to a more comprehensive understanding of emerging trends in attacks against environmental and land rights defenders.<sup>36</sup>

From a rule of law perspective, addressing these risks requires appropriate legal, policy and institutional frameworks to be in place to regulate the governance, exploitation and access to natural resources, prevent and address environmental degradation, as well as dispute resolution mechanisms that are inclusive and do not further perpetuate existing discrimination patterns. It also entails the need to devise climate change adaptation and mitigation strategies that take into account prevention, investigation and prosecution of emerging crime patterns relating to unlawful exploitation of resources. This also creates the need to equip the law enforcement and justice systems with the skills and capacities to address these criminal trends and disputes, and have laws and policies in place to protect environmental and land rights defenders.

**Table summary:**

Thematic area	Climate security risks	Rule of law challenges
Resource scarcity and degradation	Heightened inter/intra-communal tensions, polarization and violence, increased grievances against States	Absence of or insufficient legal frameworks to protect the environment and communities from environmental degradation, inability of justice systems to handle climate-induced disputes over resources, increasing disputes against States for inaction and breach of due diligence duty

Poor resource management and discrimination	Politicisation of grievances, elite capture, escalation of communal conflicts that may lead to violence  Marginalisation of women, youth, and indigenous groups, unresolved land disputes that may lead to aggravating discrimination and justice gap	Divisive and inequitable governance of natural resources, lack of inclusive, accountable, and transparent regulatory frameworks and mechanisms on resource governance  Discriminatory land tenure systems, absence of protective legal frameworks, lack of legal aid and dispute resolution mechanisms, persisting obstacles in accessing justice
Gender inequality and SGBV	Increased exposure to SGBV including intimate partner violence during resource collection, under-reporting of SGBV cases	Weak enforcement of laws protecting women and girls, gaps in SGBV/domestic violence laws, cultural norms, obstacles to accessing justice, and disrupted services in conflict-affected areas, persistent impunity
Illegal resource exploitation and crimes impacting the environment	Financing of armed groups and criminal networks, environmental degradation, recruitment incentives, impaired ecosystems, worsening climate impacts, biodiversity loss	Violations and weak enforcement of legal frameworks related to exploitation of natural resources and crimes impacting the environment, corruption, lack of preparedness of justice systems to investigate, prosecute and try these crimes, lack of accountability
Environmental rights defenders	Threats, harassment, killings, shrinking civic space for defenders limiting their ability to protect communities and the environment from risks	Lack of or insufficient legal protection and recognition for defenders, underreporting of attacks against defenders and impunity

## ii. Deteriorating livelihood conditions

Employing about 60 per cent of the labour force and representing approximately 35 per cent of West Africa's Gross Domestic Product (GDP) according to the Food and Agriculture Organisation (FAO), the agricultural sector is particularly vulnerable to shifting climate patterns. Climate change can undermine livelihoods which heavily depend on agriculture and natural resources for subsistence purposes. Women who hold most of the agricultural responsibilities are more severely impacted.<sup>37</sup> This may in turn lead to increased poverty and unemployment, pushing affected communities, especially young men and women, to turn to alternatives and sometimes illegal activities as a source of income, compounding the financial instability including through withdrawal from needed loans or getting into excessive debt, or creating conditions conducive to recruitment by extremist groups and organized crime,<sup>38</sup> and thus potentially to the commission of serious crime. For instance, in the Lake Chad Basin, climate change amplifies armed conflict in an already volatile region. Climate-induced drought and diminishing waters of Lake Chad, along with population growth, overexploitation of the Lake and mismanagement of natural resources have left farmers, herders and fishermen struggling for survival. Such hardship has prompted especially young people to join Boko Haram.<sup>39</sup>

Climate change is likely to disrupt food production, leading to increased prices and market volatility, which heightens the risk of protests, unrest, and civil conflict.<sup>40</sup> This, combined with global pressures like population growth and energy demands, worsens food insecurity and impact livelihoods. Furthermore, volatile prices and high food costs can trigger public unrest, riots, breakdown of democratic governance and instability, especially in countries already affected by poverty, poor governance and a weak social contract.<sup>41</sup> Climate change also

impacts smallholder farmers who produce about one third of the food worldwide yet manage merely 12 per cent of the agricultural land.<sup>42</sup>

There is also evidence that climate change worsens drivers of child marriage. Child marriage often constitutes a coping mechanism for families grappling with instability.<sup>43</sup> Climate change may drive families to marry their daughters as an alternative source of income, following loss of assets and opportunities for income generation and displacement.<sup>44</sup> Local socio-cultural contexts, such as bride price or dowry practices, further influence how these factors impact child marriage.<sup>45</sup> Significant variations have been reported between rural and urban areas. Moreover, in certain countries, changes in minimum-age-at-marriage laws are not effective in curbing early marriage, for instance in Benin and Mauritania, where trends have shown marginal decline.<sup>46</sup>

Therefore, specific legal and justice needs may arise from loss of livelihoods, in relation to civil claims particularly employment, insurance and debt related disputes, crime including theft, robbery, terrorism-related crime and gender-based violence.<sup>47</sup>

**Table summary:**

Thematic area	Climate security risks	Rule of law challenges
Livelihood loss and economic strain	Increased poverty, unemployment, and financial instability, which may lead to turning to alternative means of subsistence including destabilizing crime	Rise in civil disputes and claims particularly in relation to employment, insurance, debt disputes, limited legal aid and access to justice and inadequate legal protection and remedies for livelihood loss
Youth vulnerability and crime	Rise in theft, robbery, organized crime, and terrorism-related offences	Absence of or insufficient legal deterrents and legal protection to prevent youth recruitment into crime, diversion from prosecution and detention for those not directly involved in violent crimes, overburdened justice systems
Food insecurity and civil unrest	Protests, riots, and breakdown of public order and democratic governance	Fragile institutions unable to manage unrest and uphold democratic governance Poor governance, weak social contract, and limited institutional resilience
Gender inequality and child marriage	Increased child marriage as a coping mechanism	Ineffective or weak enforcement of minimum-age-at-marriage laws especially in rural areas, cultural norms, legal loopholes
Smallholder farmer protection	Loss of income, land insecurity, and poverty	Lack of legal recognition and assistance for smallholder farmers, limited land rights, rise of civil disputes and claims, obstacles in accessing justice

### **iii. Displacement, migration and shifting mobility patterns**

While local communities affected by the climate crisis may already face significant justice challenges and obstacles in their daily lives, displacement further compounds these

vulnerabilities.<sup>48</sup> The literature review highlights the importance of climate change and environmental factors in West African migration. Migration is both a result of climate change and a cause of conflict, which give rise to rule of law challenges. In response to the impacts of climate change, people may choose to stay and adapt, be forced to leave, or migrate as a coping strategy in search of better living and working conditions. Economic factors, along with social and political influences, also significantly shape migration decisions, reflecting the complex interplay of various drivers beyond just climate change.<sup>49</sup> For instance in Ghana and Nigeria, while challenging environmental conditions seem to be a pushing factor for migration, economic drivers are equally significant. With respect to Burkina Faso, climate change related factors such as droughts, erratic rainfall or declining soil fertility push people to migrate along economic drivers such as the availability of land and the level of income.<sup>50</sup>

There are multiples forms of mobility in West Africa and the Sahel: long distance migration such as nomadism, transhumance, temporary cross-border migration to neighbouring countries or relocation to other continents, short-distance migration such as rural to urban or peri-urban areas, and forced displacement due to violence, conflict and climatic shocks.<sup>51</sup> In the context of the region, this paper focuses on the types of migration most affected by climate change, related to pastoralism, rural-urban migration and migration to other countries.

**Pastoralism and farmers-herders' dynamics:** One of the most destabilizing forms of migration in West Africa is believed to be related to transhumance. Although it has been practiced for centuries, climate change has changed transhumance patterns, which often gives rise to farmer-herders conflicts. In the Sahel, rainfall variability, shifts in access to water, and agricultural encroachment can cause unpredictable changes in herd movements, potentially disrupting established transhumance routes, corridors, and seasonal migration, and leading pastoralists to regions where cooperation agreements are not in place.<sup>52</sup> Herds from the north typically move further south in search of water, possibly later than usual practice, due to delays in the rainy season caused by increasingly erratic climate conditions.<sup>53</sup> In Nigeria and in Central Sahel, clashes between farmers and herders have caused around 1,556 casualties since 2020, based on data collected by the Armed Conflict Location and Event Data (ACLED).<sup>54</sup> Nigeria alone accounts for almost 80 per cent of the casualties. The increased use of firearms has exacerbated farmer-herder conflicts, particularly in areas already destabilized by the Boko Haram insurgency, or ethnic violence. Farmer-herder conflicts, compounded by prevailing insecurity, are especially intense in regions like central and northern Mali and Nigeria, where access to weapon has exacerbated violence. In these areas, weak state authority and broken dispute resolution mechanisms have allowed the proliferation of small arms, making traditional conflicts deadlier and leading to cycles of revenge killings between communities.<sup>55</sup> Moreover, in the context of poor natural resource management and in the absence of commonly accepted regulatory frameworks and mechanisms, there may be a stronger inclination towards resorting to weapons for self-defense or as a means of asserting control.<sup>56</sup>

**Rural-urban-peri-urban migration:** The impact of climate change and environmental degradation also drive people away from rural areas. As a result, migration may shift climate security risks to locations not directly affected by climate change.<sup>57</sup> Nigeria's major cities have seen an influx of migrants for which they were not prepared. The latter settle in precarious situations and informal settlements with limited access to livelihood, making them more vulnerable to recruitment into criminal gangs and violent groups.<sup>58</sup> This trend has been accompanied by a rise in insecurity, including local banditry, kidnapping, and cattle rustling. Some perpetrators of these crimes are believed to be migrants dislodged from their communities by climate change and environmental issues. These individuals, facing harsh conditions in the cities/ urban areas and unable to return home, would resort to criminal activities as a coping mechanism. Some apprehended criminals, generally operate across the Lake Chad

basin area, adding a cross-border dimension to this issue.<sup>59</sup> Besides, this type of large-scale migration has led to identity-based tensions with residents, where violence has increasingly been reported along ethnic and religious lines. Others move to peri-urban areas, where they face similar challenges such as urban banditry as observed in Diffa/ Niger in 2023 during the joint UNOWAS-UNOCA technical assessment in the Lake Chad Basin countries. If not addressed properly, rapid and unregulated urbanization will lead to the growth of informal peri-urban settlements lacking legal status, posing significant challenges in protecting the rights of climate migrants. These migrants often face violations of basic rights, violence, food insecurity and lack of access to land and resources, and exclusion from essential services.<sup>60</sup> Increasing crime in populated urban areas may also increase the caseload of courts as well as the prison population in already overcrowded detention facilities, putting an extra strain on the justice sector.

**Long-distance migration to other countries:** According to an experts' survey, most respondents (87 per cent) anticipate increased mobility in the Central Sahel due to climate change.<sup>61</sup> They identify factors such as rising violence (72 per cent), soil degradation (61 per cent), loss of livelihoods (55 per cent), and food insecurity (40 per cent) as potential drivers. However, most expect this mobility to remain intra-regional, primarily directed towards coastal West African countries. While 84 per cent believe climate-related mobility will stay within Africa, 59 per cent think some movement could reach Europe or other continents.<sup>62</sup> It should also be noted that intraregional migration is facilitated by the 1979 ECOWAS Protocol on the Free Movement of Persons, the Right of Residence and Establishment and the 2008 Common Approach on Migration.

In many instances, migrants are well integrated into the economy and society of their destination country. However, those working in the informal sector or with irregular status and the refugee population are often the most vulnerable. Migrants in irregular situations, especially unaccompanied minors and women, are particularly prone to discrimination, exploitation, and marginalization, and deprived of their basic rights and freedoms. On migration routes, in transit and destination countries, women and girls are particularly exposed to sexual and gender-based violence including sexual exploitation.<sup>63</sup>

In the Sahel, men tend to be more inclined to migrate than women, yet the "Kantché phenomenon" in Niger stands out as an exception. This refers to the seasonal migration of women from rural Niger to cities in Algeria, also in response to the effects of climate change, where they beg on the streets and send money back to their families, some of whom are reportedly exploited and coerced into prostitution.<sup>64</sup>

Displacement and migration patterns will most likely generate higher and specific demands for legal documentation and assistance, filing for citizenship, residence or asylum, specific protection needs for women and unaccompanied minors, family reunification, as well as issues related to access to basic public, social services, housing and employment in the region or country of relocation.<sup>65</sup> Crime patterns, such as human trafficking, work exploitation, sexual and gender-based violence and exploitation affecting the migrant population may give rise to complaints too. However, those in irregular situation may not be inclined to file complaints which may in turn lead to perpetuating impunity for and continuation of these crimes. On their part, farmer-herder conflicts create specific legal and justice needs that could combine informal/traditional and formal dispute resolution mechanisms, the strengthening of legal frameworks and policy reform.

**Table summary:**

Thematic area	Climate security risks	Rule of law challenges
Pastoralism and farmer-herder dynamics	Cycles of violence, revenge killings, inter-communal tensions facilitated by proliferation of small arms and light weapons	Absence of and inadequate regulatory frameworks for transhumance, weak state presence in rural areas, weak dispute resolution mechanisms
Urban migration and informal settlements	Increasing levels of crime, rising tensions with host communities/residents, and exclusion from services	Lack of legal status and protection especially for informal settlements, strain on justice and law enforcement systems, overcrowded detention facilities
Cross-border and long-distance migration	Human trafficking, SGBV, exploitation, deprivation of rights and discrimination affecting particularly women, girls and unaccompanied minors	Gaps in legal protection for migrants, especially in irregular situations, weak enforcement of laws, limited access to justice, reluctance to report crimes, impunity for perpetrators
Legal documentation and assistance	Statelessness, denial of rights, and exclusion from public services	Rising claims and demands in relation to legal identity, residence, citizenship and asylum procedures, limited legal assistance and aid, obstacles in accessing justice

#### iv. Rule of law institutions and services under climate stress

Extreme weather events, such as floods, heatwaves and drought can damage critical infrastructure, disrupt services, hinder access to justice, and strain government capacities to deliver rule of law services. While climate change impacts all sectors, there is no comprehensive research that examines the impact of climate change on rule of law, justice and corrections institutions, infrastructure and services at country and regional levels. Of grave concern is the situation in prisons, and the extent to which access to justice may be hindered. In its 2023 report, Penal Reform International reported that rising temperatures, heatwaves and the frequency and intensity of natural hazards seriously impact prisons and inmates.<sup>66</sup> Prisons and inmates are particularly vulnerable to the impacts and risks related to climate change.<sup>67</sup> Inmates entirely rely on the prison system for all services. Yet, West Africa lacks a contextualized analysis of climate, peace and security and penitentiary systems.

**Physical and material exposure of infrastructure and assets to climate risks:**<sup>68</sup> In West Africa, police stations, courts and prisons are often not designed to withstand extreme weather events such as floods, droughts, heatwaves, or storms. This is particularly problematic with respect to detention facilities, particularly prisons where individuals are confined and may be detained for prolonged periods of time. The construction materials used may not allow for effective insulation of the infrastructure. For instance in Senegal, from an infrastructural standpoint, the buildings currently serving as penitentiary facilities are not adequately suited to accommodate detainees. Most were repurposed from their original functions and previously served as warehouses, police stations, or military buildings. As a result, they feature architectural designs and construction materials ill-suited for detention purposes, cramped spaces, poor ventilation, shared detention cells, and/or unsuitable location, often situated in urban and densely populated areas and/or visible to the public. These facilities are largely remnants of the colonial era, with little to no renovation or rehabilitation over the years, and

their condition has steadily deteriorated due to time and exposure to the adverse weather conditions. In addition, prisons often lack proper ventilation and cooling systems as well as water drainage systems making them particularly vulnerable to heatwaves and flooding.

Climate-related damage to prison infrastructure may compromise the ability to ensure safety and security. Hence, inadequately secured prisons may become targets for armed groups, or trigger violence, mass escapes including of high-risk prisoners and radicalization, especially when overcrowded, under-resourced and/or kept in inhumane conditions, thereby likely to put the civilian population at risk and undermining accountability as well as efforts to maintain peace and security in fragile settings.<sup>69</sup> Nigeria's National Emergency Management Agency reported, on 19 September, that approximately 1.6 million people in 30 states had been affected by flooding from April to September 2024, with 634,035 individuals displaced and 94,741 homes destroyed. In this context, in September 2024, as a result of torrential rain which caused significant flood, the Maiduguri correctional centre in the northeastern Borno state, one of the states the most affected by terrorism threats and attacks, faced an incident of mass escape, while merely 200 detainees could be evacuated to another facility.<sup>70</sup> In turn, the difficulty or impossibility to organise evacuations heightens the inmates' exposure to the consequences of climate change and threats to their lives.

Moreover, the sensitive assets the police, courts and prisons hold are at risk of being damaged or destroyed, particularly in the event of floods. These may include criminal records, court files, prison registries, sealed evidence, weaponry and public order equipment. However, rule of law and security institutions in many countries in the region still heavily rely on hard copy files and lack proper digital systems and digital backup files. Thus, destruction or damages to these sensitive materials could seriously hamper access to justice for detainees and litigants and undermine the proper conduct of judicial processes.

**Service disruption and overload:** Extreme weather events may also disrupt court operations, the delivery of legal aid and assistance, delay critical hearings and aggravate case backlogs, undermining the right to a fair trial within a reasonable delay. In prisons, disruption of water and food supply, water and food scarcity, destruction of food stocks and medicine can also impact the hygiene, nutrition and health of inmates, while power interruption will likely undermine the ability to ensure security.<sup>71</sup> In addition, destruction or damages to vocational and educational materials may disrupt services and jeopardise their professional training and reintegration, and thus expose them to heightened reoffending risks.

In a region where the demand for justice is already high, with the effects of climate change, justice problems and demand are likely to increase due to conflicts over dwindling resources, loss of livelihood, displacement and migration, urbanization, and crimes impacting the environment.<sup>72</sup>

**Conditions of detention, health and safety risks:** In Benin, Amnesty International reported that at least 46 inmates died in four prisons within a period of six months in 2023, pointing to inhumane conditions of detention and prison overcrowding compounded by an unprecedented heatwave.<sup>73</sup> According to reports received on 5 November 2024, in the night of 3 to 4 November, two additional inmates of the prison of Abomey-Calavi in Benin reportedly died from heatwaves and lack of sufficient ventilation of their cell. In Porto Novo, the prison holds up to six times its capacity, which stresses the already ill-suited facility infrastructure.

Poor conditions of detention and extreme heat particularly affecting pregnant and breastfeeding female inmates have also been criticized in Senegal,<sup>74</sup> where a number of prisons recently experienced a wave of hunger strikes, also denouncing the lack of doctors and health care.<sup>75</sup> A 2023 groundbreaking study of United States' prisons analysing data from 2011 to 2019, found a correlation between rising temperature/heatwaves and mortality, particularly heart-

disease related mortality and suicide, affecting especially elderly people.<sup>76</sup> This has been the only study that has examined the impact of heatwaves on prisons based on scientific data. Juvenile facilities, where they exist, are equally impacted.<sup>77</sup>

According to the World Prison Brief data, the average occupancy rate for West African prisons stands at 168.8 per cent of the official capacity, and up to over twice their capacity for instance in Benin, Cote d'Ivoire Liberia and Mali. The past decade has seen an average of 65 per cent increase in the prison population, which is now estimated at 156,697 inmates for the subregion (no disaggregated data available).<sup>78</sup> However, for instance in the case of Benin, certain prisons reportedly host up to six times their capacity. Already not equipped to handle such a large population, the prison administration is largely unprepared to respond to the effects of climate-induced emergencies and disasters in overcrowded prisons. If no action is taken, prisons are very likely to face an increasing number of deaths.

A study also found unmitigated exposure to heat augments the propensity of violent events.<sup>79</sup> In turn, such violent behaviours may result in extending incarceration, as those who act violently are more likely to receive disciplinary sanctions. In addition, the situation may be exploited to lead inmates into a path of radicalisation. Not only does extreme heat endanger the lives of detainees, but there is also evidence that it strains prison staff, contribute to high turnover, staff shortages, fosters irritability and impairs the corrections staff's ability to respond swiftly to security incidents.<sup>80</sup>

There is also evidence of a correlation between deteriorating conditions of detention, creating anxiety for inmates and leading to prison breaks and mutinies. Deaths in custody frequently give rise to violent protests. The spread of the COVID-19 pandemic and its impact on prison settings have also shed light on the limits of the prison administration's capacities in implementing appropriate distancing and hygiene measures in overcrowded and ill-suited prisons.<sup>81</sup> Moreover, poor hygiene and limited access to clean water as a result of climate-related events create conditions conducive to the spread of waterborne diseases.

**Table summary:**

Thematic area	Climate security risks	Rule of law challenges
Infrastructure vulnerability	Facility damage, mass escapes, loss of life, and security breaches	Prisons, courts, and police stations not climate-resilient, outdated infrastructure, lack of climate-proof design and materials
Overcrowding and inhumane conditions	Deaths in custody, hunger strikes, radicalization, and violent protests	Detention facilities exceed capacity, poor ventilation and sanitation, chronic overcrowding, lack of healthcare, and inadequate emergency preparedness
Service disruption	Case backlogs, denial of fair trial, and delayed justice	Extreme weather delays hearings and disrupts legal aid Limited mobility, lack of contingency planning, and weak infrastructure
Data and record loss	Loss of evidence, court files, and detainee records	Reliance on hard copy files, lack of digital backups, absence of digital systems and data protection protocols

Health and safety	Spread of disease, increased mortality, and staff burnout	Exposure to heat, poor hygiene, and lack of medical care. Inadequate health services, poor ventilation, and insufficient water and food supply
Institutional overload	Increased caseloads, prison population growth, and system strain	Rising demand for justice due to climate-related disputes, under-resourced institutions, limited staffing, and lack of climate-sensitive planning

#### v. Cross-border and transnational issues

Most of the issues outlined above have a cross-border and transnational dimension in the context of West Africa and the Sahel, which in the context of an increasingly polarized and fragmented region, are becoming even more challenging to tackle. In addition, the prevalence of violence is higher in West Africa's borderlands than in other parts of the region, with the 0-10km zone near borders seeing the highest levels of violent incidents and fatalities. Border populations experience 67 per cent more violence compared to non-border areas.<sup>82</sup>

Similarly, natural resources and tensions around them do not stop at the borders of a country. The situations around the Lake Chad Basin and the triborder area of Liptako Gourma illustrate conflicts around natural resources on border areas.<sup>83</sup> According to research, transboundary water management often gives rise to tensions. While shared water resources can foster cooperation, they can also intensify conflicts, particularly in regions with histories of armed conflict or interstate tensions. Although armed conflicts over water have been rare, rising competition due to climate impacts could change this. Managing water resources in transboundary basins, especially those affected by fragility or conflict, will become increasingly complex, as political factors and power imbalances often overshadow water governance.<sup>84</sup>

Crimes impacting the environment and climate, such as wildlife trafficking, illegal logging, fishing crimes, and illegal mining, considered as some of the most lucrative transnational criminal activities, pose a significant threat to the peace, security, and sustainable development of West Africa. While these activities harm communities, further aggravate the impact of climate change, degrade the environment and reduce biodiversity at the local level, they can also weaken and put an extra strain on law enforcement and justice institutions due to their links with corruption and economic crimes and their involvement of multiple countries, from the origin, transit to the destination country/ies, or throughout the supply chain. Criminal networks often use the same channels to traffic both natural resources and other illegal goods, with the profits sometimes fueling conflict and instability in the region.<sup>85</sup> Lack of accountability and impunity for these crimes are a major issue, also enabling these practices and networks to thrive.<sup>86</sup>

Moreover, as part of the crimes impacting the environment, illegal waste trafficking in West Africa remains a largely overlooked issue, despite its considerable role in worsening environmental pollution, ecosystem and health degradation, and greenhouse gas emissions, thereby compounding the impacts of climate change. These challenges are further compounded by the pressures of rapid population growth and accelerating urbanisation. Waste trafficking would typically flow from developed to developing countries, where the lack of environmental legislation and ecological standards offer private enterprises cost-saving advantages. From the million metric tons of electronic waste, also known as e-waste, that are generated globally each year, it is estimated that up to 80 per cent are exported to developing countries, particularly in Asia and West Africa.<sup>87</sup> However, precise data and estimates on illegal waste trafficking and disposal, including e-waste, are lacking, largely because once the waste is illegally disposed

of, it often leaves no traceable record of its existence.<sup>88</sup> Despite existing e-waste legislation in both Ghana and Nigeria, the complexities and growing scale of illegal e-waste in these countries have been examined through the lens of global political economy.<sup>89</sup> As the global use of electronic goods and devices continues to grow, the risk of an increase in trafficked e-waste also rises.

On the other hand, the widespread practice of small-scale mining in the Sahel especially of gold by informal and non-accredited miners which leads to severe environmental degradation and compounding the effects of climate change, is also a significant source of livelihood, and may contribute to development and create labour opportunities. While it is important to address gold trafficking from a law enforcement and criminal perspective, it is also critical to help formalising and licensing these mining activities in compliance with human rights and the rule of law, and enhancing capacity-building to prevent further damage to the environment. This would also contribute to development, and bring millions of dollars of fiscal revenue every year.<sup>90</sup>

**Table summary:**

Thematic area	Climate security risks	Rule of law challenges
Borderland insecurity	High levels of violence, arms proliferation, and impunity	Weak state presence and legal enforcement in border zones Limited access to justice and law enforcement in remote areas; additional stress on rule of law and security institutions
Transboundary resource conflicts	Escalation of water and land disputes, interstate tensions	Lack of legal frameworks and mechanisms for shared resource governance
Environmental and climate crimes	Degradation of ecosystems, financing of armed groups, link with corruption and economic crimes	Inadequate cross-border enforcement, ill-equipped rule of law institutions, complexity for justice systems to handle these cases, lack of accountability, need for efficient law enforcement and judicial coordination across borders
Illegal waste trafficking	Pollution, health risks, and climate impact	Absence of or poor enforcement of environmental laws, poor regulation of private sector, lack of traceability, data gaps, legal loopholes, and limited monitoring capacity
Informal mining and resource exploitation	Environmental degradation, lost fiscal revenue	Unregulated small-scale mining, lack of licensing and oversight, need for formalization, rights-based regulation, and capacity-building
Transnational criminal networks	Entrenched organized crime, use of shared trafficking routes for multiple illicit goods regional instability	Weak cross-border law enforcement and judicial cooperation

### C. Rule of law and climate maladaptation risks

As climate change increases, Governments are required to develop and implement adaptation and mitigation strategies. These policies may produce unintended negative effects, particularly in conflict and fragile settings and can increase the risk of conflict.<sup>91</sup>

**Risks of a top-down/institutional approach:** An intervention placing too much focus on a top-down approach and institutional approach to address climate-induced disputes could potentially result in further marginalizing affected populations and/or exacerbating vulnerabilities. Since 2019, 77 per cent of countries in the region experienced a decline in overall Rule of Law. Concerning access to justice, 38 per cent have seen diminished access to civil justice, and since 2019, and 54 per cent have experienced a deterioration in their criminal justice systems.<sup>92</sup> With respect to corruption, in 2023, the region had an average score of 35.31, while the global average was 43. Scores within the region ranged from 62 for Cabo Verde to 22 for Guinea-Bissau. Since 2019, 31 per cent of countries in the region have seen an increase in corruption, while 12.5 per cent have shown no signs of improvement.<sup>93</sup> For instance in Mali, corruptive practices have allegedly prevented the resolution of land-use conflicts, as local officials and judges received bribes from both parties, which prevented adjudication.<sup>94</sup> Similarly, rent-seeking practices among public officials have reportedly increased since the 1990s democratization process, whereby smallholder farmers and pastoralists alleged being used as “milking cows”.<sup>95</sup> Still in Mali, the Forest Service, strengthened under the sustainable development agenda, has been feared for fining women collecting fuelwood and herders grazing livestock, despite Sahelian landscapes greening since the 1980s droughts. This has led to widespread resistance among rural populations, especially pastoralists, who feel increasingly marginalized by state policies, and some have aligned with violent extremist groups as a form of resistance.<sup>96</sup> Thus, devising a strategy with a strong focus on promoting access to formal justice may be counterproductive due to the barriers in accessing formal justice, distance to courts, and widespread corruption by public officials.

**Discriminatory laws:** In certain instances, laws and regulations may have discriminatory effects and become sources of additional tensions. For instance, in Nigeria, at the state level, anti-grazing laws were introduced in Benue and Taraba in 2017-2018 in an attempt to curb resource-based violence. The ban resulted in a massive outflow of herders and their cattle to neighbouring states, which gave rise to deadly clashes with sedentary farmers. While the laws were suspended after these incidents, it was argued that they might have contributed to creating longer term tensions between communities.<sup>97</sup>

Others may also perpetuate deeply entrenched gender-based discrimination by omitting to have a gender lens and including gender-sensitive provisions. Cultural norms and legal frameworks often entrench systemic barriers, undermining women’s rights to access and control land and resources. This may further increase the vulnerability of women to the effects of climate change, exacerbating their tenure insecurity and exclusion from decision-making over land and resources.<sup>98</sup> Therefore, it is critical to apply a gender lens when reviewing legislation.

**NAPs:** The UNFCCC requires States Parties to adopt national adaptation and mitigation plans (NAPs). While over 80 per cent of States Parties to the Convention (five out of six of all States Parties) have adopted one,<sup>99</sup> merely seven (7) of the 16 countries of the region have adopted NAPs. An analysis of the nine publicly available NAPs shows a limited level of integration of rule of law issues such as implementation and enforcement of international and domestic legal frameworks (e.g. Liberia), measures to review domestic legislation and regulations (e.g. Benin and Burkina Faso), measures to enhance the governance of natural resources (e.g. Niger). However, none of them explicitly integrates justice sector considerations let alone the specific situation of prisons and detention centres.<sup>100</sup> Policy papers and research largely

recommend integrated approaches to climate, peace and security, with the involvement of all sectors including the justice sector, for climate change strategies to be fully effective and efficient.<sup>101</sup> Furthermore, because of the UNFCCC's state-centered approach, adaptation programmes typically lack a regional focus, missing an opportunity to address transboundary climate-fragility risks.<sup>102</sup>

From a gender perspective, climate solutions that overlook violence against women and girls (VAWG) may result in unintended harm, as pointed out in the landmark report of the Spotlight Initiative which documents the extent to which the climate crisis fuels gender-based violence. It cites a number of studies that found significant higher risks of more frequent and severe intimate partner violence during heatwaves, as well as human trafficking and sexual exploitation. It also draws attention to malpractices. For instance, carbon credit schemes have coincided with increased risks of harassment and assault for women with contested land rights, while mining for energy minerals in support of the green transition has been linked to risks of violence and exploitation against women workers. The report calls for the integration of a gender lens in climate adaptation and mitigation strategies to address these risks, the vulnerabilities and differentiated needs of women, ensure their meaningful participation in the design of solutions, while building their resilience and ensure the effectiveness of positive outcomes of climate interventions for women.<sup>103</sup>

**Regional and subregional response:** The Africa Climate Security Risk Assessment (ACRA) represents the first continent-wide analysis of the interlinkages between climate change and security across Africa. It identifies climate-related security pathways across the five regions of the continent, including West Africa, and examines response mechanisms, emerging good practices and policy recommendations. The findings aim to inform the development of the Common African Position on climate change, peace and security. While it does not include a thorough analysis of rule of law challenges, ACRA underscores that climate security challenges are deeply entwined with rule of law and justice deficits, and that there can be no peace without justice. When laws and regulations governing natural resources and the environment are poorly coordinated and/or enforced, in the absence of legal resource, climate shocks may escalate into conflict and instability. Therefore, ACRA recommends promoting climate justice and environmental justice through a rights-based approach, recognizing and giving effect to the human right to a clean, healthy and sustainable environment, while ensuring that conflict prevention and resolution mechanisms are in place. It further recommends leveraging on Africa's collective voice and action through the adoption of the Common African Position on climate change, peace and security.<sup>104</sup>

By contrast, the ECOWAS Regional Climate Strategy and Action Plan for the period 2022-2030 does not explicitly address climate justice and rule of law issues. It sets out actions and expected results required in the sectors of agriculture, livestock and fisheries, energy, transport, natural ecosystems and biodiversity, water and coastal zones, health, climate services, industry and water, with the exclusion of justice and security.<sup>105</sup> However, as part of the action plan, it includes support to Member States in transposing directives to national law.

A review of the implementation of the ECOWAS Protocol and Regulation on Transhumance, adopted in 1998 and 2003 respectively, demonstrates a number of positive developments and benefits in some Member States; yet their partial enforcement has also given rise to farmer-herder conflicts.<sup>106</sup> However, more than 20 years after the adoption of the last instrument, considering recent climate change related developments, interlocutors consulted concurred that the subregional frameworks would need to be revised. Yet, ongoing attempts to do so have met with strong resistance from Governments.

It should also be noted that at the international level, there is no recognised international

legal status for climate refugees, as climate change is not considered a basis for international protection as refugee. The 1951 Convention relating to the Status of Refugees recognises refugee status only to those fleeing persecution on five specific grounds—race, religion, nationality, political opinion, or membership in a particular social group—without addressing environmental factors. Instead, at the continental level, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention, addresses internal displacement caused by both armed conflict and natural or human-made disasters. In 2020, the ECOWAS Commission adopted its Regional Migration Policy, which recognises the importance of addressing the impact of climate change on migration and requires Member States to take action to mitigate the effects of climate change on migration. However, the implementation of these instruments remains limited.<sup>107</sup>

**Energy transition:** Advancing climate change adaptation and mitigation necessitates reducing greenhouse gases emissions and transitioning away from fossil fuels to low-carbon and renewable energy sources. However, the increasing demand for minerals and metals required by this energy transition heightens the risk of crime and corruption in mineral extraction and exploitation, and raises concerns about human rights compliance and labour conditions in supply chains.<sup>108</sup> In addition, the extraction itself may be harmful to the environment. Improperly managed uranium mining can result in long-lasting radioactive contamination posing significant environmental and health risks. Conversely, bauxite mining involves extensive topsoil removal requiring long-term land rehabilitation.<sup>109</sup> West Africa holds significant reserves of minerals. For instance, Guinea and Ghana possess large bauxite reserves to be found under dense forests and which have application in nearly all technologies used for a cleaner energy. Niger hosts the highest-grade uranium deposit identified in Africa over the past five decades. Whereas Nigeria is particularly rich in lithium. A study led by the University of Cape Coast in Ghana found that mining activities in the Ahafo region have adversely affected women's access to safe drinking water, agricultural land, and other essential means of livelihood. From an environmental perspective, it concluded that the regulatory framework governing the mining sector in Ghana does not adequately address the negative environmental impacts associated with such operations.<sup>110</sup> Therefore, it is critical to regulate this sector and develop strategies to ensure rule of law and human rights compliance, and prevent and address harm to the environment.

These issues show the importance of reviewing NAPs, strategies, legislation and policies to identify potential risks of maladaptation. In carrying out country visits and climate security risk assessments, rule of law aspects could be taken into account by UNOWAS and partners, and relevant indicators developed to have a set of data that could serve as baseline for the region and assess areas of progress and in need of improvement.

#### **D. Rule of law as enabler for climate action and justice**

The rule of law offers powerful tools to address climate security risks, and promote climate justice and resilience. The following legal avenues could help enhance climate action and justice through the rule of law, with attention to the rights of affected and at-risk populations at the local level.

##### **i. Rule of law as a tool for empowering climate-affected communities and people**

**Legal empowerment and legal aid or assistance:** Since the most immediate effects of climate change are primarily visible at the local level, using rule of law to empower climate-affected communities and people represents a key strategic approach to target those directly

impacted, in line with the requirement of a people-centered approach as enshrined in the UN Secretary-General New Agenda for Peace and New Vision for the Rule of Law. The Panafrican NGO Natural Justice has for instance worked with community members to build their legal capacity to file formal complaints for instance in Senegal in relation to the zircon mining project in Niafrang which met with the resistance from local communities due to its impact on their livelihoods and land.<sup>111</sup> This resulted in the submission of several appeals with public authorities and before domestic courts, which compelled the Minister of Mines and Geology to facilitate a consultation between the company and community members and to the eventual withdrawal of the mining license. In areas where disputes oppose local communities or community members with other actors, legal aid and assistance could be provided and in the absence of state services, similar to initiatives implemented in many crisis and conflict-affected countries, mobile legal aid clinics or mobile courts could be deployed to respond to the needs of climate change affected communities.<sup>112</sup>

Land, environmental, and climate injustices are often shaped by power dynamics and structures that perpetuate gender inequalities, limiting women's access to and control over land and resources, as well as decision-making. Considering the differentiated effects on women and men, legal empowerment strategies should apply a gender transformative approach to effectively advance land, environmental and climate justice, while addressing gender inequalities. To this end, based on the context, it is recommended that justice defenders follow a three-phased strategy, consisting of 1) securing women's land tenure rights on both individual and communal levels; 2) making sure they are involved in decision-making processes, 3) addressing climate-induced impacts or violations aggravating the effects of climate change and land/resource degradation in a gender-responsive way.<sup>113</sup>

**Informal dispute resolution mechanisms:** Since 2019, 54 per cent of countries within the region have experienced a reduction in access to alternative dispute resolution mechanisms according to data from the World Justice Project.<sup>114</sup> Yet, these are often perceived as more accessible, less corrupt and more user-friendly than formal justice institutions. However, interlocutors consulted felt that the advent of democracy had weakened the role of traditional, customary and religious authorities.

In Liberia, due to the large dissatisfaction with the performance of the judiciary (73 per cent of respondent lawyers), alternative dispute resolution mechanisms have been implemented to reduce court's workload and are also perceived as more accessible, familiar and fair by litigants. In this context, the Feedback Grievance Redress Mechanism (FGRM) was established.<sup>115</sup> This initiative focuses on resolving disputes related to boundary demarcation for conservation and community forests, damage to farms and crops caused by wildlife near protected areas, and harm to community forests. It also addresses forced displacement from protected areas and livelihood activities lacking benefit-sharing transparency. Noteworthy is that it uses local traditional dispute resolution mechanisms as an entry point, while providing the possibility of appeals to statutory courts, thereby building on the complementary between formal and informal justice. In Mali, according to a survey carried out in the regions of Mopti and Menaka, 90 per cent of respondents considered the judicial system to be inaccessible, and a majority of people do not believe that their decisions are fair or that people follow them, especially as the security forces are often not present to ensure their enforcement, or are not mobilized by justice services for this purpose.<sup>116</sup> Therefore, alternative dispute resolution mechanisms are often preferred to formal courts. Certain localities in the country have land commissions in place to facilitate conciliation and mediation between parties in agricultural land disputes, prior to referral to formal courts, to contribute to the development and management of land management policy and issue an opinion on all land issues referred to them.<sup>117</sup> Mali also has a combination of traditional, customary and religious authorities who are regularly requested

to handle land related disputes, yet without necessary specialised knowledge of statutory and customary law. At the second consultation meeting organized between formal and traditional justice mechanisms in Mali in 2023 under the auspices of the United Nations Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA), cadis and customary authorities requested specific training on land law and solicited the presence of assessors when handling this type of disputes, as well their own participation in land commissions when handling disputes.<sup>118</sup> Similar mechanisms are in place in the region, such as the land conciliation commission and the village development councils in Burkina Faso.<sup>119</sup>

Many other countries have endogenous mechanisms in place, which could play a critical role in contributing to dispute and conflict resolution, and where additional work could be done to promote complementarity between formal and informal justice mechanisms to handle disputes arising from the consequences of climate change.

**Community protocols and agreements:** In the West African region, local populations conclude community protocols and agreements to regulate the governance of land and natural resources on their territories, and to lay down the rights within the communities as well as relationships with other actors. A good practice from Benin is the development of a community protocol by the Degbe Aguinninnou community to seek formal recognition of the rights of the community and the history of conservation of sacred natural sites. It includes rules and guidelines aimed at preserving the culture and the environment and to guarantee the economic and social benefits from any activities related to their natural resources. It lays down the rights of the community, legal recognition, rules related to inclusive participation in decisions affecting these protected areas, as well as legal information and customary rules related to the management of natural resources as well as domestic laws and policies governing the collaboration with external actors.<sup>120</sup> Of interest is that the Government was developing at the same time National Guidelines for Access and Benefit Sharing defining biocultural community protocols. Thus both processes mutually informed each other, which shows the potentials of building more synergies and complementarity between informal agreements and domestic legislation and policies.

**Recognition of customary and indigenous rights:** Climate change poses significant threats to the lives and lands occupied by indigenous communities. However, by tapping into their traditional knowledge, they can help develop efficient strategies to help cope with climate change challenges. Despite their crucial role in preserving ecosystems, few governments properly recognize the essential contributions of Indigenous peoples and local communities in managing and safeguarding or protect their lands. To shed light on this issue, Natural Justice carries out legal analyses on Indigenous peoples' and local communities' conserved territories and areas (ICCAs), and explores the way in which Indigenous peoples and local communities work within international and national legal frameworks to safeguard their rights and build resilience, for instance in Senegal.<sup>121</sup> These analyses could also inform climate risk assessments carried by UNOWAS and relevant partners, and serve advocacy for the recognition of indigenous and customary rights. Moreover, some indigenous peoples also have their own justice systems in place that are vital mechanisms for governance, dispute resolution and community resilience. The Special Rapporteur on the independence of judges and lawyers underscored their crucial role in advancing culturally resonant, accessible and effective justice, particularly where indigenous peoples face systematic discrimination in formal justice systems. She therefore called on States to recognise indigenous peoples' justice systems in their constitutions or laws.<sup>122</sup>

**Climate-resilient prisons:** As the region has witnessed rising temperatures, drought, floodings, reduced soil fertility and damages to land and crops, this situation has also impacted

prisons. Correctional facilities could however be part of adaptation and mitigation strategies, to enhance their preparedness to address climate change disruptions. While the United Nations System Common Position on Incarceration does not mention the effects of climate change on prisons, it recommends placing focus on shifting policies towards prevention and alternatives, strengthening prison management and improving prison conditions, and advancing the rehabilitation and social reintegration of offenders.<sup>123</sup>

Green prisons and farming projects have been implemented in different countries, making greater use of environmental-friendly and energy-efficient prison management practices while supporting the rehabilitation and social reintegration of inmates. These initiatives also important to address climate security risks by enhancing the resilience of correctional institutions to climate-induced hazards such as extreme weather and resource scarcity and reducing the environmental impact of correctional facilities. They further improve food security, promote rehabilitation through skill-building, and foster social reintegration, collectively contributing to climate adaptation, environmental justice, and the prevention of conflict linked to ecological stress. Sustainable prison designs incorporating renewable energy, water conservation, and waste management not only lower carbon emissions but also protect vulnerable incarcerated populations from climate-related health and safety threats.

In the past decade, Sri Lanka has faced severe weather patterns which have made food production increasingly difficult and impacting the prison system's ability to meet the minimum living conditions for prisoners. In support of the Government's strategy to mitigate food insecurity, the United Nations Office on Drugs and Crime (UNODC) in partnership with the FAO established two green model prisons in the Mahara Maximum Security Prison and the Pallansena Youth Correctional Centre. Both prisons were equipped with greenhouses, mushroom production facilities, solar-powered water systems, and various tools and machinery. Corrections staff and inmates were trained in best agricultural practices and how to use the new facilities, which will be useful skills to facilitate their reintegration process.<sup>124</sup>

In the Democratic Republic of the Congo (DRC), Mali and South Sudan, peacekeeping operations have supported prison authorities in implementing green prison initiatives. In the DRC, the UN Mission has supported the implementation of green sustainable prison security and food security initiatives at five prisons since 2020, including a solarized borehole in 2024 and a biogas digester at Uvira Prison in 2022 which converts waste into a renewable fuel alternative, kitchen gardens in all priority prisons and the installation of solar energy systems and a 35-acre penitentiary farm at Luzum detention centre for sentenced male prisoners.<sup>125</sup> Similarly in South Sudan, the peacekeeping operation has been implementing the green corrections initiative aimed at making prisons and correctional facilities more environmentally sustainable, and accompanying inmates in their gradual social reintegration, combining sustainable agriculture, recycling and energy efficiency. This initiative is part of the priorities defined in the 2021-2024 Strategic Plan of the National Prisons Service of South Sudan (NPSS).<sup>126</sup> Similar projects were implemented in Mali under MINUSMA and the Global Focal Point for the Rule of Law Prisons Mandela Project, for instance through the creation of production units at the Kénioroba agricultural correctional centre as part of a strategy to promote food self-sufficiency, vocational training for inmates and prisoner reintegration.<sup>127</sup>

Governments in West Africa could consider implementing similar initiatives. In this respect, the United Nations Interregional Crime and Justice Research Institute (UNICRI) and Penal Reform International (PRI) recently issued a guide outlining five key strategies that have been implemented in countries around the world to make prisons greener and more sustainable. It recommended integrating sustainability principles into prison management frameworks including human rights compliance and rehabilitation strategies, monitoring and evaluating

the impact of green prison projects to inform the future, promote alternatives to imprisonment, encourage cross-sector collaboration, involving environmental agencies, civil society and private sector, and create financial incentives and mechanisms to encourage investment into green prisons.<sup>128</sup> To be truly sustainable this should be part of a broader justice reform.

A 2024 study by Prison Insider, which assesses the extent to which the prison administrations across the world take into account climate emergencies, found that overcrowding, staff shortages and inadequate training exacerbate vulnerabilities to climate change emergencies and prisons and inmates are still largely overlooked in emergency response plans.<sup>129</sup> The COVID-19 pandemic also showed the importance of integrating rule of law, justice and corrections institutions into national emergency response plans. The United Nations System Common Position on Incarceration recognizes the disproportionate impact COVID-19 had in prisons when already overburdened and ill-equipped, the need to engage into prison reforms, reduce the overuse of incarceration and enhancing coordination between the justice and health sectors. Similarly, prisons should be part of climate change adaptation and mitigation strategies to reduce risks on inmates, prison staff, infrastructure and the society at large, including strategies to address prison overcrowding and promote alternatives to custodial sanctions.

Policymakers are just starting to touch upon this issue. On the occasion of the Nelson Mandela Day 2023, the Group of Friends of the Nelson Mandela Rules came together in Vienna for a special meeting to discuss how to mitigate the impact of climate change on prison management.<sup>130</sup> The ICPA has addressed linkages between climate change and justice systems mainly through its Healthcare Network (HN).<sup>131</sup> The presentation on the topic *Towards Humane Prisons: How to Integrate the Challenge of Climate Change* made at the 2024 ICPA Conference underscored the critical need for sustainable practices and public health engineering to mitigate climate-related risks within prison environments. It advocates for the integration of climate resilience into the planning, design, construction, and management of correctional infrastructure to uphold humane conditions for both inmates and staff.<sup>132</sup> In her 2024 report to the Human Rights Council, the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment addresses the issue of safeguarding prisons and prisoners against climate change and natural hazards. She recommends that States update disaster risk plans to include prisons, integrate prisons into climate change mitigation and adaptation strategies, map high-risk prison locations, establish early warning systems and evacuation procedures, and use innovative designs for prison construction and refurbishment to adapt to climate change.<sup>133</sup>

Policy fora such as the New York-based Member States Groups of Friends on Climate, Peace and Security, on the Rule of Law and on Corrections as well as the Vienna-based Group of Friends on the Nelson Mandela Rules, prison-focused NGOs such as Penal Reform International together with climate change-focused institutes as well as regional human rights mechanisms such as the African Commission on Human and Peoples' Rights, its Special Rapporteur on conditions of detention<sup>134</sup> as well as United Nations human rights Special Rapporteurs could be key stakeholders to engage with to bring this issue to the political agenda.

## ii. Rule of law as a tool for climate action and climate-resilient justice system

**National legal frameworks:** Enshrining the State's duty to protect the environment and individuals' right to a healthy environment in the constitution, the highest normative instrument, establishes a strong legal foundation for long-term climate justice and accountability. This ensures that environmental protection is prioritised and helps respond to climate-related

risks that threaten security, social and political stability and human rights. Most importantly, constitutional recognition empowers individuals and institutions to hold governments to account, promote climate resilience and safeguard both people and ecosystems from climate-induced challenges and effects. In West Africa, 11 of the 16 West African countries recognise the right to a healthy environment and/or the State's duty to protect the environment in their constitution.<sup>135</sup> Noteworthy is that the Constitution of Côte d'Ivoire recognises environmental protection as a duty for every individual, the community and the State. The Constitutions of The Gambia and Ghana go a step further by including comprehensive provisions on the governance of land, the environment, and natural resources, underscoring the recognition that these issues are fundamental and warrant constitutional enshrinement.<sup>136</sup> It is also noteworthy that Niger's former 2010 Constitution explicitly enshrined the obligation of national and international enterprises to comply with environmental legislation, safeguard human health, and contribute to the protection and improvement of the environment, an example that may be considered good practice in aligning corporate responsibility with constitutional environmental governance.<sup>137</sup> The Constitution of Benin adopts a more progressive stance by establishing the State's obligation to safeguard the environment and to ensure the sustainable use and management of natural resources in a manner that preserves the ecological balance and meets the needs of present and future generations.<sup>138</sup>

At the ordinary legislative level, Nigeria is the only country of the subregion that has adopted a comprehensive Climate Change Act in 2021. It also established a Climate Change Council invested with powers to make climate change decisions on climate change matters, including recommending legislative measures for climate change adaptation and mitigation, as well as a House of Representatives Committee on Climate Change and a National Climate Change Advisory Committee at the policy level. Noteworthy is that it is a multisectoral body which also includes the Minister of Justice as well as a representative of women, youth, persons with disabilities as well as a representative from of a civil society organisation.<sup>139</sup> Other countries in the region could follow suit. More recently, in March 2025, the Ivorian National Assembly endorsed the draft law on combating climate change.<sup>140</sup> Presented by the Minister of Environment, Sustainable Development and Ecological Transition, it seeks to reinforce the country's efforts to protect the environment by setting ambitious targets to reduce greenhouse gas emissions, enhance adaptation to the impacts of climate change, promote the use of renewable energy, and strengthen forest conservation. It also establishes a consultative and advisory structure on combating climate change, as well as a technical and operational body responsible for steering climate action and carbon markets.<sup>141</sup> The next step will be its review by the Senate before its promulgation. A comprehensive climate change legislation is also in the making in Liberia, which will include provisions for establishing a national carbon market.<sup>142</sup> To ensure the rule of law supports efficient adaptation and mitigation strategies and establishes a protective environment for climate-affected populations and areas, national legislation and regulations should be developed and reviewed, based on strong people-centered and gender-sensitive approaches.

In 2025, marking the 10 years of the Paris Agreement, a collaboration between the African Group of Negotiators Experts Support (AGNES) and the Africa Network of Parliamentarians on Climate Change (ANPCC/RPACC) produced the first Model Climate Change Law Framework for Africa (MCCL).<sup>143</sup> Developed through an inclusive process and comparative legal analysis, the MCCL offers a robust framework for African countries to enact stand-alone climate legislation. Key provisions include the domestication of international climate agreements, climate budgeting, institutional coordination, carbon markets regulation, public participation, access to justice and parliamentary accountability. More specifically, from a peace and security perspective, it includes provisions on adaptation and mitigation scenarios

to inform national and sectoral adaptation and mitigation plans. More specifically, it requires the definition of a long-term outcome and a goal for climate adaptation and resilience, including to enhance adaptive capacity, strengthen resilience and reduce vulnerability, the assessments of the impacts on infrastructure, land use, ecosystem services and society, the prioritization of indigenous peoples, local communities, vulnerable groups and gender. The origin of this initiative dates back to 2024. Recognising the critical need for legislative action, the AGNES facilitated regional consultations with parliamentarians across Africa to address the legislative gap in climate governance. These efforts culminated in the 2024 Abidjan Declaration, which endorsed the creation of the ANPCC/RPACC and mandated AGNES to develop a Model Climate Change Law. Previously, UNEP had issued a Guidebook on national legislation for adaptation to climate change.<sup>144</sup> In collaboration with UNDP, UNEP also developed a Guidebook on assessing, selecting and implementing legal instruments to support green low-emission and climate-resilient development.<sup>145</sup>

**Sectoral policy frameworks:** Among the eight national multiyear justice sector policies or strategic plans of West African countries that were reviewed, none of them clearly include climate change considerations into their strategy.<sup>146</sup> However, the Sierra Leone justice sector strategic plan includes an analysis of the environmental context, and acknowledges the important contribution of the Judiciary in ensuring that cases related to the protection of the environment are compliant with due process and in ensuring that the Judiciary implements more environmental-friendly working methods.<sup>147</sup> Also noteworthy is the previous Burkina Faso 10-year strategic plan which mentions climate hazards as risks in its justice sector policy results framework, in relation to the outcome on humanizing conditions of detention.<sup>148</sup> While national climate change adaptation and mitigation plans should integrate rule of law and justice elements to be more efficient, justice sector policies should also take into account climate change related considerations, also to set priorities to enhance their preparedness in tackling rule of law consequences of climate change.

**Capacity-building of justice sector:** Justice systems need to be prepared to adapt to and mitigate the effects of climate change, both in terms of direct impact on infrastructure and services and the indirect impact on disputes and criminal behaviours. Like with other rule of law institutions and state services, Governments should invest in making justice system infrastructure more resilient and in adapting their services to climate change effects including extreme weather events. Investigators, prosecutors, judges and lawyers also need to be trained on environmental law as well as on the rights of climate-affected groups and people, *i.e.* the rights of women and girls, indigenous and customary law and the rights of migrants.<sup>149</sup> In addition, the justice systems should be equipped to address emerging disputes or increasing crimes accelerating ecosystem degradation, such as environmental crimes.<sup>150</sup> The justice systems must prepare for how climate change will affect criminal activity. Addressing these impacts will likely involve extending criminal sanctions on climate-related offenses and implementing practical measures, such as strengthening judicial cooperation.<sup>151</sup> Justice actors should also be made aware of the specificities of certain cases which could cause irreparable harm or aggravate environmental degradation if not timely and properly handled, and should work with scientists and experts in assessing damages for climate justice purposes.<sup>152</sup>

**Interpretation of law:** Through UN General Assembly resolution A/77/L.58 adopted in March 2023, at the behest of the Republic of Vanuatu, supported by grassroots youth organizations, an advisory opinion on climate change has been requested from the International Court of Justice (ICJ) on the obligations of States under international law in respect of climate change, and on the legal consequences under these obligations for States in the event they have caused significant harm to the climate system and the environment, by their acts or omissions. While the public hearings before the ICJ were held in December 2024<sup>153</sup>, the opinion had not been

issued at the time the present paper was being finalised.

At the same time, the Republic of Vanuatu requested a legal opinion from the International Tribunal for the Law of the Sea (ITLOS). On 21 May 2024, the ITLOS issued a landmark advisory opinion on the protection of the marine environment from climate change-induced pollution, clarifying the legal responsibilities of States to address climate change, which affects both the ocean and the atmosphere.<sup>154</sup> ITLOS explicitly declared that greenhouse gas emissions constitute pollution of the marine environment and recognised that States have obligations under the law of the sea which are additional to those enshrined in the 2015 Paris Agreement. It also clarified that States have obligations to take all necessary actions to prevent, reduce, and control them, exercising due diligence to ensure that non-State actors comply with mitigation measures.

At the continental level in the Americas, in January 2023, the Foreign Ministers of Chile and Colombia also requested an advisory opinion from the Inter-American Court of Human Rights (IACtHR) on the scope of State obligations for responding to the climate emergency under the American Convention on Human Rights. In the landmark opinion issued in May 2025, the IACtHR establishes that States' duty to prevent irreversible harm to the climate and the environment has the status of a *jus cogens* norm, reflecting a peremptory norm from which no derogation is permitted, and which has a binding effect on States irrespective of their consent. It recognises that States have both individual and collective responsibilities to mitigate climate change, regulate corporate conduct, and uphold environmental democracy by ensuring public participation, access to information, and access to justice. Moreover, it underscores the intrinsic connection between a stable and healthy environment and effective enjoyment of fundamental human rights, notably the rights to life, health, food, water, and adequate housing.<sup>155</sup>

In May 2025, in a historic legal move, the Pan African Lawyers Union (PALU), in collaboration with the African Climate Platform, Environmental Lawyers Collective for Africa, Natural Justice and Resilient40, submitted a petition to the African Court on Human and Peoples' Rights (ACHPR), seeking an advisory opinion on the scope of African States's duty to fulfill their human rights obligations amidst the climate crisis under international and regional legal frameworks. This case further aims to establish a precedent clarifying the scope of African States' obligations to protect future generations and vulnerable populations, as well as on applicable obligations for a just and equitable transition, adaptation and mitigation, compensation for loss and damage, regulation of third-party activities, including the duty-of-care principle for States and corporations in addressing climate change impacts.<sup>156</sup>

While advisory opinions of international or regional courts are not binding *per se*, they could be used as a basis for other legal actions, including at the domestic level.

**Strategic litigation:** Strategic litigation refers to the deliberate selection and pursuit of legal cases with the aim of achieving broader systemic change – whether in law, policy, judicial interpretation, or public awareness – by leveraging the potential of individual cases to create a wider ripple effect. Climate litigation is an essential tool in addressing climate peace and security challenges because it can help hold governments, the private sector, and other actors accountable for their contributions to aggravating the impact of climate change and failures to act, which may have destabilizing effects on the peace and security situation of a country. It can help enforce legal duties to reduce emissions, adapt to and mitigate climate risks.

At both regional and national levels, interlocutors and consulted research did not reveal a robust body of caselaw on climate change and environmental issues in West Africa, despite a growing global trend of such cases being brought before courts. According to the United Nations Environment Programme (UNEP), the total number of climate change-related legal cases has more than doubled worldwide, including in developing and island countries, rising from 884 in

2017 to 2,180 in 2022.<sup>157</sup> In this regard, youth, women's organizations, local communities, and indigenous peoples, among others, are playing an increasingly important role in bringing these cases to court. This demonstrates that climate litigation is gaining momentum to advance climate action and justice. However, as environmental and climate litigation begins to develop, communities, judges, and justice actors are not sufficiently aware or trained on this issue.

Although not a court case, in the landmark decision *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria*,<sup>158</sup> the African Commission on Human and Peoples' Rights found the Nigerian government responsible for environmental and human rights violations in the Niger Delta due to its support to harmful oil extraction practices. The Commission found that Nigeria had violated multiple provisions of the African Charter, including the rights to health (Article 16), a satisfactory environment (Article 24), and housing (implicit in Article 14), by allowing harmful oil operations and repressing community protests. The Commission interpreted Article 24 of the African Charter on Human and Peoples' Rights to include State duties to prevent and remedy environmental harm, including through ordering compensation to affected communities. This was the first decision to recognise environmental rights under the African Charter, setting a powerful precedent for environmental justice and climate litigation in Africa and beyond.

At the domestic level, two rulings by Nigerian courts are worth highlighting. In *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd & Ors*,<sup>159</sup> the Federal High Court held that that gas flaring by Shell and the Nigerian National Petroleum Corporation in the Niger Delta violated the constitutional rights to life and dignity, as well as the right to a healthy environment under the African Charter on Human and Peoples' Rights. It ordered its cessation, and called for amendments to laws, marking a significant step for environmental justice in Nigeria. In 2019, in *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation*,<sup>160</sup> the Supreme Court, on its part, ruled that the plaintiff NGO had *locus standi* (legal standing) to sue over an oil spill caused by pipeline corrosion and negligence, which had contaminated local water sources and harmed the environment. The Court overturned lower rulings, affirming that individuals and public-interest organisations can bring environmental claims without showing direct personal harm. It emphasized that the right to a healthy environment is enforceable under the Nigerian Constitution and the African Charter, and that climate and environmental concerns justify expanded access to justice. This landmark judgment strengthened the legal foundation for climate and environmental litigation in Nigeria.

For strategic litigation on climate related cases to be brought to justice in West African countries, justice professionals including judges, prosecutors and lawyers, as well as CSOs and NGOs should be trained on caselaw and environmental and climate litigation. They should also be trained on the different forms of reparations and compensation. These may include financial compensation for affected communities, assistance with resettlement, restitution such as the restoration of degraded land or ecosystems, rehabilitation such as the cleaning up of contaminated water, the conduct of proper environmental and social impact assessments.<sup>161</sup>

Through the NGO Natural Justice, an African Environmental Lawyers Collective was established in 2021 to identify and build a network of lawyers on the African continent working on climate and environmental justice issues.<sup>162</sup> UNOWAS has also been supporting the revitalization of the West African Bar Association (WABA), bringing together bar association leaders from 15 countries of the region. The WABA could also serve as partner to strengthen the network of lawyers engaging in climate litigation. The New York University School of Law is also hosting within its programme and clinic in the Centre for Human Rights and Global Justice, the Climate Law Accelerator. The latter is a collaborative hub for research, advocacy and strategic litigation on the climate emergency.<sup>163</sup>

**Loss and damage:** A justice lens to climate change highlights that loss and damage result not only from climate hazards but also from differential vulnerabilities to climate change. Adopting a people-centered approach to climate justice requires looking at the issue of compensation. In this respect, a distinction is drawn between economic loss and damage and non-economic loss and damage (NELD). However, the absence of agreement on the definition of loss and damage hinders its assessment and enforcement. The former encompasses “impacts that can be assigned a monetary value, such as damage to infrastructure or loss of earnings or productivity”, while the latter covers “a spectrum of outcomes that are not easily assigned a monetary value and are not typically subject to market transactions”, such as “the loss of life, health, rights, territory, cultural heritage, Indigenous or local knowledge, biodiversity loss and loss of ecosystem services”.<sup>164</sup> Alone in the 55 most climate-vulnerable economies, climate-related damages are estimated to exceed USD 500 billion over the past two decades, with costs expected to rise significantly without strong mitigation and adaptation measures. Yet, addressing loss and damage is challenging due to limited data and technical capacity, and most countries have yet to assess their risks and financial needs. Innovative financing methods, such as levies, debt relief, and special drawing rights, will be essential to meet the growing financial requirements alongside traditional grants and loans. In addition to helping developing countries particularly vulnerable to climate risks manage loss and damage, the funds should be directed toward capacity-building, strengthening institutions, collecting and analysing data, enhancing disaster preparedness, and addressing the impacts of NELD, all while upholding the principles of justice, equity, inclusiveness, and ownership. Governance for loss and damage funding could be supported through the dedicated Loss and Damage Funds, and could include existing institutions supporting humanitarian assistance, disaster risk reduction, risk transfer, development finance and climate finance.<sup>165</sup>

The Warsaw International Mechanism for Loss and Damage (WIM) was formally established in 2013 at the 19th session of the Conference of the Parties (COP19) to the UNFCCC, convened in Warsaw, Poland. It was created to address loss and damage resulting from the adverse impacts of climate change, with particular emphasis on supporting developing countries that are especially vulnerable to such effects. It is nearly ten years later that COP27 countries reached an agreement to establish a new funding mechanism to this end, which was formally established at the Loss and Damage (FRLD) was formally set out at COP28 in Dubai in 2023. Hosted by the World Bank, it has not received all Member States' pledges and is yet to disburse funds.

**Specialised courts:** Certain countries in the world have established specialized courts. In Kenya, the Environment and Land Court was created by the Constitution and operationalized through the Environment and Land Act in 2011.<sup>166</sup> It holds the same status as High Courts and exercises exclusive jurisdiction to handle disputes related to the environment, the use and occupation of, and title to land (Art 162 (b)).<sup>167</sup> As to the National Environment Tribunal, it was created in response to the widespread environmental degradation and the slow pace of ordinary courts, which often led to irreparable harm. A more flexible and specialised dispute resolution system was needed to encourage timely justice in environmental cases, supporting sustainable development, and promoting access to justice including through lower court fees.<sup>168</sup> A groundbreaking research also found that environmental courts in China have played an important role in enforcing environmental law, and have contributed to intensifying environmental regulation and increasing public awareness of environmental issues. Most importantly, in addition to reducing pollution and pushing businesses to boost their investment in environmental efforts, the establishment of environmental courts have increased companies' environmental innovation.<sup>169</sup> Although specialised courts cannot address the climate change issues *per se*, they could be part of mitigation strategies to reduce environmental degradation

and adjudicate disputes related to land and the use of land, which is a key issue in most West African countries. However, in countries where the ordinary justice system is already difficult to access and dysfunctional, setting up such courts, without proper investment and guarantee of accessibility, may yield limited results.

**Judicial cooperation:** The cross-border and transnational nature of crimes linked with the effects of climate change or exacerbating the effects of climate change require cooperation across justice sectors operating in the concerned countries/border areas. In this respect, existing networks could be tapped into, such as the West African Network of Central Authorities and Prosecutors (WACAP).<sup>170</sup> The WACAP was established in May 2013 with the 15 ECOWAS countries, with the support of the ECOWAS Commission and the ECOWAS Community Court of Justice. This was an outcome of the Bamako Declaration on Impunity, Justice, and Human Rights in West Africa, adopted in December 2011, where the ECOWAS States agreed to take specific action to promote mutual legal assistance networks among prosecutors in different countries and develop a regional strategy to facilitate prosecution of persons involved in transnational organized crime.<sup>171</sup> Still with the support of UNODC, the Sahel Judicial Cooperation Platform was created in June 2010 to facilitate the transmission and execution of requests for mutual legal assistance and extradition between its member countries (Burkina Faso, Chad, Mali, Mauritania, Niger and Senegal) in particular in the fight against terrorism and transnational organised crime.<sup>172</sup> At the political level, UNOWAS has been advocating for the establishment of a Forum of Ministers of Justice of West Africa, which was a recommendation from the Niamey Declaration on Impunity, Justice, and Human Rights in West Africa, adopted on 12 September 2018. If created, this platform will help bring legal and judicial matters to the political agenda such as the need to enhance cooperation on judicial matters. There are also other ways accountability for cross-border crimes could be supported, including through capacity-building of judicial practitioners, investigators and prosecutors working on these cases, creating an inventory of relevant cases, defining priority cases for investigation and prosecution, and supporting joint investigations.<sup>173</sup>

**Regulations of private sector and extractive industries:** A review of mining contracts across Sub-Saharan Africa, including in West African countries, shows that provisions related to environmental protection have been increasingly integrated into contractual frameworks. Notably, agreements in Burkina Faso and Côte d'Ivoire include specific environmental safeguards. Moreover, contracts concluded by Mali and Senegal extend these protections to encompass the preservation of cultural heritage, reflecting a broader commitment to sustainable and inclusive development. Contracts signed by the States of Burkina Faso and Senegal further require contractors to establish a dedicated bank account specifically meant to finance the restoration and rehabilitation of mining sites. Notwithstanding these requirements, no specific provisions to promote and protect the rights of local communities are enshrined in the contracts, merely provisions to enhance or build social infrastructure for the benefit of employees and their families. The same article calls for "optimal contractualisation of climate justice in mining contracts", through harmonising contractual standards for climate justice and rationalizing the governance of the extractive industries.<sup>174</sup>

At the international level, 12 of the 16 West African countries have joined the Extractive Industries Transparency Initiative (EITI),<sup>175</sup> thereby committing to transparently disclosing information across the entire extractive industry value chain, from the allocation of extraction rights to the flow of revenues through government and their ultimate benefit to the public. A number of specific albeit non-binding instruments provide guidance to support States in the governance of mining contracts and extractive industry. For instance, the Mining Policy Framework (MPF) developed by the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) offers a compendium of good practices to guide the development of laws,

policies and regulations.<sup>176</sup> The 2011 United Nations Guiding Principles on Business and Human Rights<sup>177</sup> and the 2018 OECD Due Diligence Guidance for Responsible Business Conduct<sup>178</sup> further inform responsible mineral supply chains and corporate accountability frameworks. On the other hand, illegal exploitation of the resources needed for the green transition should be regulated. In this respect, UNODC developed specific guidance on good legislative practices in response to illegal mining and trafficking in metals and minerals.<sup>179</sup>

At the regional level, the African continent has developed policy frameworks and legal tools to ensure that extractive industries contribute to inclusive and sustainable development. The Africa Mining Vision (AMV),<sup>180</sup> first adopted by the African Union in 2009, sets out a comprehensive policy agenda aimed at enhancing transparency, equity, and development impact in the mineral sector, including through its Contract Negotiation Framework. The African Legal Support Facility (ALSF), hosted by the African Development Bank, assists governments in negotiating complex resource contracts by providing legal expertise and model provisions. In West Africa, the ECOWAS Directive C/DIR.3/5/09 on the Harmonization of Guiding Principles and Policies in the Mining Sector as well as the West African Economic and Monetary Union (WAEMU) 2003 Community Mining Code<sup>181</sup> establish standards for environmental protection, community rights, and corporate and social responsibility. In addition, model laws on mining and mineral resources development are being developed under the auspices of the African Union and ECOWAS.

At the policy level, some countries of the region have adopted, with the support of the Office of the High Commissioner for Human Rights (OHCHR) and/or the United Nations Development Programme (UNDP), national actions plans on business and human rights, such as Liberia, which include specific actions to protect and promote human rights in the extractive industry.<sup>182</sup> National action plans on business and human rights are also being developed in a number of countries including Ghana and Senegal. Other address business and human rights issues in their national action plans on human rights, for instance Nigeria that devotes a chapter to business and human rights.<sup>183</sup>

**Arbitral justice:** On the basis of the 1985 United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration, amended in 2006, arbitration may be defined as a method of settling disputes in a consensual way, outside of courts, by impartial arbitrators whose decisions are binding and enforceable. However, arbitration justice typically involves the States and the companies as parties. There is little room for participation of affected local communities. Yet, the Hague Rules on Business and Human Rights Arbitration provide a framework for resolving disputes involving business-related human rights impacts through arbitration. Based on the UNCITRAL Arbitration Rules, they introduce human rights-specific provisions, such as transparency, stakeholder participation, and expertise of arbitrators, to ensure fairness and accessibility. Supporting the implementation of the United Nations Guiding Principles on Business and Human Rights, the Hague Rules on Business and Human Rights Arbitration offer an alternative avenue for remedy and accountability. Local communities could participate in the proceedings as a third party through *amicus curiae*, with the possibility to present submissions or oral arguments, like is often the case in cases of public interest cases.<sup>184</sup>

Given the pervasive impacts of climate change across all sectors, the integration of the rule of law into NAPs alone is insufficient. Experts consulted and research contend that there should be an integrated approach to climate change adaptation and mitigation and emphasized the importance of coordination across and between sectors, including environment, agriculture, water, security, justice, counterterrorism and prevention of violent extremism.<sup>185</sup> Another entry point to enhance the governance of extractive industries and mitigate associated risks lies

in encouraging States to adopt national action plans on business and human rights, or to include dedicated sections on this issue within their broader national human rights action plans. Moreover, the inclusion of climate justice considerations in mining contracts between States and private sector actors could help prevent further exacerbation of climate impacts from extractive activities, while aligning with the urgent need to secure critical minerals for the transition to sustainable energy systems.

### iii. Rule of law as a tool to advance research, accountability and early-warning on climate action

**Monitoring for greater accountability:** The majority of stakeholders consulted emphasized that the challenge lies not in the absence of legal frameworks, which are largely in place across West Africa, but in the lack of accountability and enforcement. Therefore, it is critical to track and monitor the implementation of international, regional and national legal and policy frameworks. A number of groundbreaking UN publications and progress reports referenced in the present paper shed light on the status of implementation. UNEP, for instance, issues adaptation gap reports.<sup>186</sup>

Research institutes, foundations, academia, NGOs and civil society also have a critical role to play in this respect. An example from outside the region is the Project on Environmental Governance Indicators for Latin America and the Caribbean implemented by the World Justice Project. Although looking into broader environmental issues, it collects and assesses data on 11 primary indicators for 10 countries, related to regulation and enforcement, civic engagement, fundamental environmental and social rights, access to and quality of justice, air quality and climate, water quality and resources, biodiversity, oceans, seas and marine resources, waste management and extraction and mining.<sup>187</sup> A similar initiative for West Africa could help establish a baseline on the status of implementation.

**Advancing data collection, analysis and research:** Research and empirical data specifically examining the interlinkages between climate change, peace and security and rule of law remain limited, fragmented and urgently needed.<sup>188</sup> Consulted interlocutors also acknowledged the importance of overcoming silos within the research community and academia, emphasizing the need to foster multidisciplinary research, which to date remains underdeveloped. This is particularly critical to understanding increasing and emerging legal and justice needs, as well as to address the situation in prisons.

The 2023 United Nations Environment Programme Adaptation Gap Report also explores the relevance of remittances – sent by migrants to their families and friends in their origin countries – to bridge adaptation finance gaps and climate justice concerns, and suggests more research on the extent to which governments could encourage these for recipients to use that source of funding to adapt to a problem they might not have contributed to.<sup>189</sup>

**Early-warning and projections:** A multisectoral approach is also needed in data collection and analysis for early-warning purposes. There are different early-warning systems on specific climate change related issues. AGRRHYMET provides agrometeorological seasonal forecast by the Regional Climate Centre. As to PRESASS, it provides seasonal forecasts to inform at the subregional level. These do not include rule of law elements and are not designed for this purpose. However, even those looking at different sets of data do not necessarily analyse data across different datasets. For instance ECOWARN, the ECOWAS Early-Warning and Response Network which collects data from focal points in each Member State, gathers information on five thematic sectors. These include crime and criminality, security, governance and human rights and health and environment. Under the first category, it collects information on different types of crimes, notably cybercrime, money laundering, sexual and gender-based

violence and sexual exploitation and abuse, trafficking in arms and light weapons, trafficking of drugs and goods, human trafficking, trafficking of natural resources, smuggling, extrajudicial violence, and gang violence. Under environment, the system gathers information on climate stress, deforestation and desertification, ecosystem modification, food insecurity, herders/farmer conflict, land control disputes, pollution, urban settlement, and water management. However, ECOWARN does not undertake analysis across these thematic areas, although such an analysis could be useful for instance to enhance the justice systems' preparedness to respond to specific trends. For instance increased farmer-herders conflict could result in heightened risk of extrajudicial violence. Yet, a representative from ECOWAS consulted acknowledged himself the insufficiency of data and the lack of anticipation of decision-makers in response to threats.

#### **IV. CONCLUSION AND RECOMMENDATIONS**

**Key findings from section 3.1.:** While climate change impacts all sectors, there remains a significant gap in contextualised research and data on its specific impact of peace and security from a rule of law perspective in general and in West Africa and the Sahel, the region of focus of this study. More specific analysis is also needed on its effects on rule of law, justice and corrections systems, including institutions, infrastructure and services.

A comparison of available data shows a compelling correlation between the level of rule of law adherence, climate-related vulnerabilities, overall state fragility, and the peace and security situation across a majority of West African countries. This implies using the rule of law as a strategic entry point and foundational approach to reduce climate insecurity and fragility and build resilience, while at the same time, promoting integrated strategies linking climate resilience, rule of law, peacebuilding and conflict prevention.

Existing evidence demonstrates that climate change acts as a threat-amplifier, undermining peace, security and sustainable development. In the region, the climate crisis exacerbates rule of law and justice challenges associated with resource degradation and scarcity, declining livelihood conditions, displacement and migration, and cross-border and transnational dynamics including crimes impacting the environment. These compounded pressures place additional strain on already fragile rule of law institutions, justice service delivery and corrections and create additional legal protection and justice needs. Climate change disproportionately affects people living in poverty and in rural areas, particularly women, youth, smallholder farmers, migrants, indigenous communities, and people in detention. These impacts further entrench structural inequalities and existing vulnerabilities, underscoring the climate crisis as a crisis of (in)justice, whereby those who have contributed the least to climate change are most severely affected by its consequences. Within the justice sector, prisons and inmates, cumulating vulnerabilities, deserve special attention in climate strategies to prevent further incidents in the region's already overcrowded facilities.

**Key findings from section 3.2.:** As climate risks intensify in the region, Governments are required to develop and implement adaptation and mitigation strategies. Only addressing climate change effects through a top-down and not through an inclusive and people-centered approach risks further exacerbating deeply entrenched discrimination, conflict and instability. Besides, some laws and policies may produce unintended negative effects, impacting the security situation particularly in conflict and fragile settings. While several countries have adopted National Adaptation Plans (NAPs), the latter largely overlook the effects of climate change on rule of law and justice systems, challenges and responses to these. This gap extends to regional and subregional frameworks on climate change and risks, where the integration of rule of law issues and the justice sector involvement remain marginal.

To develop efficient strategies to build climate resilience and enhance coping capacities, it is essential to conduct rule of law-informed climate risk assessments. These strategies should explicitly address rule of law challenges and integrate targets in the rule of law, justice and corrections areas. Where strategies and measures are in place, there should be more scrutiny on discriminatory laws and practices and maladaptation strategies to prevent and mitigate any risks and unintended consequences to further harm vulnerable populations.

**Key findings from section 3.3.:** The rule of law offers powerful tools to address climate security risks, and promote climate justice and resilience. It can support climate-affected communities through legal empowerment, accessible dispute resolution mechanisms, participatory and inclusive natural resource governance, and recognition of customary and indigenous rights.

There is also significant scope to enhancing constitutional and legal provisions in response to climate-related risks. By establishing a protective legal environment, such frameworks can safeguard both people and ecosystems from climate-induced destabilising effects, ensure adequate natural resource governance, while empowering individuals and institutions to hold governments and the private sector accountable.

Embedding climate considerations into justice sector strategies is essential to enhance institutional preparedness and resilience of justice and prison systems. Prisons, cumulating vulnerabilities, deserve special attention to prevent incidents, deaths and tensions in already overcrowded facilities. In this respect, a lesson learned from the COVID-19 pandemic response was the importance of integrating the justice sector including prison facilities in emergency response plans. This includes both hard resilience (infrastructure, energy systems, use of technology) and soft resilience (legal frameworks, institutional capacity, and knowledge systems). Investigators, prosecutors, judges and lawyers also need to be trained in environmental law as well as on the rights of climate-affected groups and people, and justice systems should be equipped to address emerging disputes or increasing crimes accelerating ecosystem degradation, such as environmental crimes. Accountability mechanisms such as climate litigation, specialised or arbitral justice, loss and damage frameworks, and regulations - particularly concerning the private sector and extractive industries - can further advance climate justice and help prevent climate security risks and redress climate related impact. While cases on climate change and environmental issues have increasingly been brought to courts worldwide, caselaw remains limited in West Africa. An important precedent in the region could potentially produce a ripple effect and pave the way for more cases to be brought and adjudicated. Strategic litigation may be a productive climate justice strategy in this respect as well as leveraging partnerships with lawyers' networks from the region. Moreover, the cross-border and transnational nature of crimes linked with the effects of climate change or exacerbating the effects of climate change require cooperation across justice sectors operating in the concerned countries/border areas. To promote judicial cooperation, existing networks of justice actors in the region could be tapped into. The regulation of the private sector and extractive industries could also help harmonize standards for the protection of labour, human rights and environmental standards.

Lastly, rule of law can be used as a tool to advance research, accountability and early action to prevent the effects of climate security threats. The majority of stakeholders consulted concurred that the issue was often not the absence of legal frameworks and regulations as such, but rather the lack of enforcement and accountability. Hence the need to track and monitor the implementation of legal and policy frameworks at the national and regional levels. Research institutes, foundations, academia, NGOs and civil society also have a critical role to play in this respect, and good practices such as the World Justice Project' initiative assessing environmental governance based on qualitative and quantitative indicators could also be useful to replicate in West Africa. More efforts are needed to ensure accountability, advance evidence-based research through multidisciplinary approaches, early warning and strengthen capacities to anticipate and respond to climate risks and crises, while addressing rule of law challenges. Strategies to address the interconnected climate risks and rule of law challenges cannot be effectively implemented without evidence-based approaches, and partnerships and coordination within and across sectors.

**Without timely action, the *status quo* compounded by the escalating climate security risks are likely to widen the climate justice gap, further harm vulnerable and at-risk populations, and forgo critical opportunities to strengthen climate preparedness and resilience through the rule of law.** Drawing on the present analysis, the following recommendations merit advocacy and actions at national, regional and subregional levels:

**1. Advocate for the integration of rule of law and justice into climate adaptation strategies and climate risk assessments:**

- ◊ Promote and advocate for the implementation of an integrated approach to climate change adaptation and mitigation strategies and policies at the regional, subregional and national levels, which takes into account rule of law challenges and responses to these.
- ◊ These should be based on rule of law-informed climate security risk assessments, to better inform the development of efficient strategies, including from a gender and human-rights-based approaches.
- ◊ Encourage the review National Adaptation Plans for identifying potential maladaptation practices that risk exacerbating injustice, vulnerabilities and discrimination, as well as environmental degradation.
- ◊ Building on the lessons learned from the COVID-19 pandemic response, make sure that the justice and corrections systems are part of emergency and disaster response plans.

**2. Encourage the establishment of climate-smart, resilient and protective rule of law systems and institutions:**

- ◊ Advocate for the adoption or review constitutional and legal frameworks that support efficient climate change adaptation and mitigation strategies based on the rule of law as well as green, low-emission and climate-resilient strategies, establish a protective environment for climate-affected populations and protect the ecosystem and environment from degradation. This could be done through the use of the Model Climate Change Law Framework for Africa.
- ◊ Encourage the establishment of legal and institutional frameworks that ensure inclusive, rule of law and human rights-compliant governance of natural resources. This should include the establishment of appropriate dispute resolution mechanisms.
- ◊ Advocate for justice sector policies and strategies to integrate climate change considerations, including mitigation and adaptation measures.
- ◊ Promote the establishment of green and climate-smart rule of law, justice and corrections institutions, including through integrating sustainability principles into their management frameworks, using architecture, infrastructure and materials to withstand extreme weather events, reduce the carbon footprint, facilitate the transition to green energy, and through accelerating dematerialization and digitalisation.
- ◊ Enhance the preparedness of justice systems to respond to the consequences of climate change. This could include targeted capacity-building support to judges, prosecutors, investigators, lawyers, informal dispute resolution mechanisms, and legal aid/assistance providers on environmental, land and climate justice as well as on legal frameworks and caselaw, and environmental crimes. This would also require training of lawyers and CSOs/NGOs on environmental and climate justice and strategic litigation. Academia and research institutes could also be supported and encouraged to develop knowledge on environmental and climate justice and caselaw.
- ◊ Enhance the preparedness of prison systems and inmates to adapt to and mitigate

the effects of climate change, particularly through including them in emergency response plans; anticipating and preventing climate-induced prison crises through early warning and predictive planning; promoting alternatives to custodial sentences – especially for women particularly those detained with their children, minors, elderly people, and people with mental or physical disability –; and through embedding sustainability and green job creation into rehabilitation and reintegration strategies (*soft resilience*).

- ◊ Encourage and implement National Action Plans on Business and Human Rights; the conclusion and harmonization of regulations and contracts related to extractive industries so as to include environmental safeguards, requirements in terms of human rights and rule of law compliance, restoration or compensation in the event of harm to communities or the environment; as well as the criminalization, investigation and prosecution of environmental crimes, including through cooperation in law enforcement, investigation and judicial matters. This should be combined with support to the formalization of informal small-scale mining, licensing these mining activities in compliance with human rights and the rule of law, and enhancing capacity-building to prevent further damage to the environment.

**3. Place specific focus on people-centered justice targeting those affected at the local level:**

- ◊ Promote inclusive and people-centered climate justice strategies and measures targeting those disproportionately affected at the local level and in rural areas, particularly women, youth, small holder farmers, migrants and indigenous communities.
- ◊ Such a strategy could combine legal empowerment of local communities, enhanced access to dispute resolution mechanisms, participatory and inclusive natural resource governance, recognition of customary and indigenous rights, and climate-resilient prisons.

**4. Enhance data collection and analysis to address the knowledge gap, contribute to early warning and anticipate justice needs:**

- ◊ Address the knowledge gap through commissioning contextualised research to examine the impact of climate change on justice systems from a peace and security perspective in West Africa and the Sahel.
- ◊ Consider undertaking separate contextualised research examining climate peace and security from a prison perspective in West Africa and the Sahel.
- ◊ Use data collection and analysis to inform early-warning as well as enhance preparedness of the justice sector, while anticipating increasing and emerging justice needs.

**5. Enhance coordination and build strategic partnerships across and between sectors:**

- ◊ Strengthen strategic partnerships, cooperation and coordination across and between sectors, including the justice and prison sector, to enhance the efficiency of climate action efforts, including through fostering multidisciplinary research, initiatives and responses.



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## Annex 1 - Acronyms and Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
AGNES	African Group of Negotiators Experts Support
ANPCC/RPACC	Africa Network of Parliamentarians on Climate Change
ACLED	Armed Conflict Location and Event Data
ACRA	Africa Climate Security Risk Assessment
AGRHYMET/CILSS	Regional Climate Centre for West Africa and the Sahel
ALSF	African Legal Support Facility
AMV	Africa Mining Vision
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CSO	Civil society organisation
DRC	Democratic Republic of the Congo
ECOWARN	ECOWAS Early-Warning and Response Network
ECOWAS	Economic Community of West African States
GDP	Gross Domestic Product
EITI	Extractive Industries Transparency Initiative
FAO	Food and Agriculture Organisation
FGRM	Feedback Grievance Redress Mechanism
FRLD	Fund for responding to Loss and Damage
IACHR	Inter-American Court of Human Rights
ICCAs	Indigenous peoples' and local communities' conserved territories and areas
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
IGF	Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development
IPCA	International Corrections and Prisons Association
ITLOS	International Tribunal for the Law of the Sea
PRESASS	Seasonal Forecast Forum for Agro-Hydro-Climatic Characteristics for the Sahelian and Sudanian zones
MCCL	Model Climate Change Law Framework for Africa
MINUSMA	United Nations Multidimensional Integrated Stabilisation Mission in Mali

MPF	Mining Policy Framework
NAP	National adaptation plan
NELD	Non-economic loss and damage
NGO	Non-governmental organisation
NPSSS	National Prisons Service of South Sudan
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
PALU	Pan African Lawyers' Union
PRI	Penal Reform International
SDG	Sustainable development goal
SGBV	Sexual and gender-based violence
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNCITRAL	United Nations Commission on International Trade Law
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNOCA	United Nations Office for Central Africa
UNODC	United Nations Office on Drugs and Crime
UNOWAS	United Nations Office for West Africa and the Sahel
WABA	West African Bar Association
WACAP	West African Network of Central Authorities and Prosecutors
WAEMU	West Africa Economic and Monetary Union
WIM	Warsaw International Mechanism for Loss and Damage

## Annex 2 - Bibliography

### Interlinkages between climate, peace and security and the rule of law in the context of West Africa and the Sahel

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