

## Promoting equality in the interpretation and application of regional refugee law

- Who is a refugee under the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa?
- Promoting equality in the interpretation and application of Africa's expanded refugee definition across all situations of displacement

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Image source: <https://www.internal-displacement.org/expert-opinion/drought-stricken-communities-hit-by-destructive-floods-in-the-horn-of-africa>

# Who is a refugee under Africa's expanded refugee definition?

## 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa

### Article I(2)

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

2 key components:

- Collective component
- Individual component







# Promoting equality in the interpretation and application of Africa's expanded refugee definition across all situations of displacement

1. The rules do not differ depending on the context or 'cause' of displacement
1. Principled and practical guidance promotes consistency, fairness and the equal application of the law
  - Supporting refugee decision-makers with practical indicia of 'events seriously disturbing public order'

# Supporting refugee decision-makers with practical indicia of ‘events seriously disturbing public order’

Key concepts in “Public order”, Art I(2): maintenance of **societal stability, public peace, public safety** and **public security**, the effective operation of the **rule of law** and the protection of **individual rights and freedoms**.

**Disturbances to public order can be assessed against indicators relating to the following:**

1. **Government services** are failing to meet the basic needs of individuals
2. **Government institutions** are weak and function ineffectively
3. Ineffective protection of individuals’ **rights to live free from harm**
4. Failure to respect and implement the **rule of law** fairly, impartially, and without discrimination
5. **Management of public protests** is coercive, repressive and contrary to human rights law
6. **Civil conflict** is not effectively limited
7. **Government accountability** is limited
8. **Other circumstances** that result in a disturbance to general societal stability, public peace, public safety or public security

**A ‘serious’ disturbance is one where:**

- It affects society at large (widespread or generalised)
- The State is unable or unwilling to restore and ensure public order and protect its citizens from threats to the rights to life, physical integrity and/or liberty of individuals

Thank you!

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