

**ANALYSIS OF THE LEGAL FRAMEWORK FOR THE PROTECTION OF
INTERNALLY DISPLACED PERSONS IN NIGERIA**

BY

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DECLARATION

I declare that the work in this Dissertation entitled ‘Analysis of the Legal Framework for the Protection of Internally Displaced Persons in Nigeria’ has been carried out by me in the Department of Public Law. The information derived from the literature has been duly acknowledged in the text and a list of references provided. No part of this project thesis was previously presented for another degree or diploma at this or any other institution.

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CERTIFICATION

This Dissertation entitled ‘Analysis of the Legal Framework for the Protection of Internally Displaced Persons in Nigeria’ by Amina Salihu INGAWA meets the regulations governing the award of the degree of Master of Laws of the Ahmadu Bello University, and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

This Dissertation is dedicated to my late husband Engineer Aminu Abubakar. He was there through it all, from the very beginning, right by my side, honest and true, till the end of his time. May Allah (SWT) unite us in Jannah and make the highest level in paradise be his final abode.

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ABSTRACT

Globally, the number of internally displaced persons (IDPs) has been on the increase and yet, the international response to the problem of internal displacement is still not corresponding to the magnitude of the problem. The African Union Kampala Convention on IDPs is the first binding regional treaty on IDPs and it provides a framework for the protection of IDPs in the region. Despite the adoption of the Convention, African Member States have been hesitant in domesticating the Convention and aligning their national legislations with the requirements of the Convention; even when Africa is home to about 16 million IDPs as at mid-2017. Armed conflict and gross violations of human rights as well as environmental and natural disasters are the major causes of internal displacement. The problem of internal displacement has been at the fore front in Nigeria since the unprecedented rise in the number of IDPs in 2012 and 2014. Several factors have led to internal displacements in Nigeria, but out of the current 2.1 million IDPs in Nigeria, about 90% of them have been displaced as a result of the Boko Haram insurgency in the North East. The Kampala Convention is yet to be domesticated in Nigeria and the draft national policy on IDPs is also yet to be adopted by the Federal Government. Thus, the research focused on the legal and institutional framework for the protection of IDPs in Nigeria. The research methodology used is doctrinal method and as such, the source of information relied on consists of relevant text books, Statutes, Articles in Journals, Internet Materials and Conference Papers. The research found that there is no specific legal framework for the protection of IDPs in Nigeria but the framework of protection is deduced from different legislations and the mandates of some government agencies as well as other Ministries and Departments of the government. Similarly, despite the involvement of several Ministries, Departments and Agencies of Government, the response is still far from meeting the needs of Nigeria's IDPs. Lack of coordination and clarity of roles between the different actors responding to the needs of IDPs is a significant challenge. The research concluded by recommending that the president and the National Assembly of Nigeria should ensure the speedy passage and signature of the bill to domesticate the Kampala Convention in Nigeria and further ensure that the roles and responsibilities of all actors involved in the response to the problem of internal displacement in Nigeria are clearly defined and the coordination mechanisms strengthened. The research further recommended that all authorities with the responsibility of finding durable solutions for IDPs should be empowered legally and financially to handle their mandates and should also have direct systematic consultation with the IDPs and also involve them in all decision making processes that would affect them.

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ABBREVIATIONS

ADSEMA – Adamawa State Emergency Management Agency

AU – African Union

CFRN – Constitution of the Federal Republic of Nigeria

CHR – Commission on Human Rights

CIREFCA – International Conference on Central American Refugees

CRSR – Convention Relating to the Status of Refugees

CSOs – Civil Society Organizations

DTM – Displacement Tracking Matrix

ECOSOC – Economic and Security Council

ECOWAS – Economic Community of West African States

FEPA – Federal Environmental Protection Agency

GPID – Guiding Principles on Internal Displacement

IAC – International Armed Conflict

ICCPR – International Covenant on Civil and Political Rights

ICESR – International Covenant on Economic, Social and Cultural Rights

ICRC – International Committee of the Red Cross

IDMC – Internal Displacement Monitoring Centre

IDPs – Internally Displaced Persons

IGAD – Intergovernmental Authority on Development

IHL – International Humanitarian Law

IMTF – Inter Ministerial Task Force

IOM – International Organization for Migration

IPCR – Institute for Peace and Conflict Resolution

IRC – International Rescue Committee

MDAs – Ministries, Departments and Agencies

MDGs – Millennium Development Goals

MS – Member State

NCFRMI – National Commission for Refugees, Migrants and Internally Displaced Persons

NEMA – National Emergency Management Agency

NGOs – Non Governmental Organizations

NHRC – National Human Rights Commission

NIAC – Non International Armed Conflict

NRC – Norwegian Refugee Council

NRCS – Nigerian Red Cross Society

OAU – Organization of African Unity

OCHA – Office for the Coordination of Humanitarian Affairs

PCNI – Presidential Committee on North East Initiative

RPBA – Recovery and Peace Building Assessment

RSG – Representative of the Secretary General

RUWASSA - Rural Water Supply and Sanitation Agency

SADC – Southern African Development Community

SEMA – State Emergency Management Agency

SSI – Safe School Initiative

TWG – Technical Working Group

UDHR – Universal Declaration of Human Rights

UN – United Nations

UNFPA – United Nations’ Population Fund

UNHCR – United Nations’ High Commissioner for Refugees

UNICEF – United Nations Children’s Education Fund

UNOCHA – United Nations Office for the Coordination of Humanitarian Affairs

VSF – Victims Support Fund

WEFA – World Economic Forum on Africa

WHO – World Health Organization

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background of the Study

Since time immemorial, torture, inhuman and degrading treatment, religious and political persecution and other violations of human rights have forced people to flee¹. People who have been so forced to flee or to leave their homes or places of habitual residence become displaced. Thus, under international law, Displaced Persons are persons or group of persons who have been forced or obligated to flee or to leave their homes or places of habitual residence, in particular, as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and they must have either remained within their own national borders (as Internally Displaced Persons - IDPs) or they must have crossed an internationally recognized state border(as Refugees).²

The plight of displaced persons has over recent years become a formidable problem of global significance and implications. Their ever increasing numbers pose enormous challenges to the international community and have even proved capable of sparking tensions in areas and regions that were previously untroubled. Simple requirements as to food, shelter, medical care, and hygiene, through sheer quantitative needs, create huge logistical problems in terms of procurement, adequate and equal distribution.³ The internal displacement of persons presents a

¹Rehman J. (2010) *International Human Rights Law*, Second Edition, Pearson Education Limited. P. 641

²Ladan, M.T.(2006) *Protection of Displaced Persons Under International Human Rights and Humanitarian Laws; A Case Study of the Causes of Displacement in Nigeria*, A Paper Presented at a National Seminar Organized by the ICRC Country Office, Abuja for Law Teachers in Nigerian Universities, Held at Rock View Hotel, Abuja between June 22 – 24, 2006. p.3

³ Ibid

serious global challenge, more serious perhaps than the refugee crisis. In terms of numbers and sheer impact, the internal displacement is more troubling⁴.

As at the end of 2014, there were 59.5 million forcibly displaced people in the world out of which 19.5 million are refugees while 38.2 million of them were internally displaced persons⁵. This was the highest number ever recorded and over 25 times the number of internally displaced persons (IDPs) counted in 1982.⁶ Some of this increase is undoubtedly the result of better and more comprehensive means of estimating the number of IDPs, but it also reflects the increasingly protracted nature of displacement, as well as the increasing use of displacement as a strategy in civil conflicts⁷. Out of the global estimate of 38 million people forcefully displaced by armed conflict and generalized violence in 2014, Nigeria accounted for at least one million.⁸

Most of the refugees and displaced persons originate from the developing States of Africa, Asia and Latin America. Approximately 50 percent of these refugees are women while around 44 percent are children⁹. Africa bears a disproportionate and truly staggering toll of the global problem of internal displacement¹⁰. Africa has many more IDPs than refugees and Africa is, and has long been, the region with the largest number of IDPs in the world¹¹. The continent is home to about 10.4 million people displaced by conflict in Sub – Saharan African countries, making up

⁴ Rehman J., Op.cit, p.1 at p. 673

⁵ UNHCR. (2015). *Global Trends: Forced Displacement in 2014*. Retrieved on 5th July, 2014 from <https://reliefweb.int/report/world/unhcr-global-trends-forced-displacement-2014>

⁶ Brookings – LSE Project on Internal Displacement. (2014). *Mapping the Response to Internal Displacement: The Evolution of Normative Developments*. Retrieved on 5th July, 2014 from <https://www.brookings.edu/wp-content/uploads/2016/06/Mapping-the-Resource-to-Internal-Displacement-The-Evolution-of-Normative-Developments-October-10-2014-FINAL.pdf>

⁷ Ibid

⁸ Internal Displacement Monitoring Centre. (2015, May). *Global Overview 2015: People Internally Displaced by Conflict and Violence*. Retrieved on 11th June, 2015 from <http://www.internal-displacement.org/library/publications/2015/global-overview-2015-people-internally-displaced-by-conflict-and-violence>

⁹ Rehman J. Op.cit, p.1

¹⁰ Ladan M.T Op.cit, p. 1

¹¹ Ferris, E. *Internal Displacement in Africa: An Overview of Trends and Opportunities*. A Paper Presented at Annual Conference “African Refugee and Immigrant Lives: Conflict, Consequences, and Contributions” Organized by Brookings-LSE Project on Internal Displacement, held at Ethiopian Community Development Council, May 2-4, 2012.p.1

40% of the world's population of IDPs who have been displaced as a result of conflict. There are almost four times as many IDPs as there are refugees in Africa. The number is even higher when the 8.16 million people displaced by natural disasters in 2012 are included¹². There were 12.5 million IDPs in the 21 Sub-Saharan countries that IDMC monitors as at the end of 2013, more than a third of the global total¹³.

As at December, 2015, there were an estimated 40.8 million IDPs in the world as a result of conflict and violence, three quarters of which (about 30 million people) were located in 10 countries including Nigeria, DRC, Sudan and South Sudan.¹⁴ The number of internally displaced persons in Nigeria is approximately a third of the IDPs in Africa and 10 per cent of IDPs in the world.¹⁵

Multiple complex causes trigger displacement, providing significant challenges to governments and humanitarians on the ground. Displacement is generally caused by armed conflict, violence, gross violations of human rights, natural disasters and development projects. However, armed conflict has been and still is the most significant cause of flight.¹⁶

With 3.3 million IDPs in 2014, Nigeria had the largest population of persons displaced by conflict in Africa. 470,500 persons were displaced in Nigeria in 2013 alone placing it as the

¹² Kiwali, D (2013). From Durable Solutions to Holistic Solutions: Prevention of Displacement in Africa. *African Journal of Legal Studies*, Vol. 6/Numbers 2-3, p. 266

¹³ Internal Displacement Monitoring Centre. (2013, December). *Internal Displacement Updates: Sub Saharan Africa*. Retrieved on 8th June, 2014 1:05pm from www.internal-displacement.org/Sub-saharan-africa/

¹⁴ Internal Displacement Monitoring Centre. (2016) *Grid 2016; Global Report on Internal Displacement*. Retrieved on 16th February, 2017 4: 15 pm from www.internal-displacement.org/globalreport2016/

¹⁵ Nicholas, I. (2014, May 23) Nigeria Sets New Record; Now Has Africa's Highest Number of Displaced Persons. *Premium Times*. Retrieved on 13th June, 2015 2:17pm from <https://www.premiumtimesng.com/news/161344-nigeria-sets-new-record-now-has-africas-highest-number-of-displaced-persons.html> See also Internal Displacement Monitoring Centre. (2014, May) *Global Overview: People displaced by Conflict and Violence, 2014*. Retrieved on 5th July, 2015 3:00 pm from <http://www.internal-displacement.org/assets/publications/2014/201405-global-overview-2014-en.pdf>

¹⁶ Kalin, W. (2001) 'Flight in Times of War'. *IRRC* Vol. 83 No. 843 p. 629

country with the third highest number of displaced persons in the world. Nigeria was only ranked behind Syria with 6.5 million IDPs and Colombia with 5.7 million IDPs¹⁷. Thousands of displaced Nigerians have fled to Chad, Cameroon and Niger as Refugees¹⁸.

Between July and October 2012, National Emergency Management Agency (NEMA) estimated in a published report that a total of 7.7 million people were affected by the flood disaster across the federation. Out of the affected population, 2.1 million people were internally displaced¹⁹. In February 2015, the displacement tracking matrix of the International Organization for Migration (IOM) identified nearly 1.2 million IDPs living in the North-eastern States of Nigeria. In addition, NEMA registered over 47,000 IDPs in central part of Nigeria.²⁰ As at the end of August, 2016, there were an estimated 2.1 million IDPs in Nigeria, almost 90 percent of which had fled the Boko Haram insurgency in the North east.²¹

Natural and human made disasters in the country such as flood, drought, food insecurity, forced relocations, as well as conflict and violence have led to massive population movements within and outside borders particularly in recent years²². Displacement of population through evictions and development projects and policies is also a regular occurrence in Nigeria, and happens at both federal and state levels. The nature of this displacement is such that uproots entire suburbs

¹⁷ Nicholas I. op cit p.3

¹⁸ Campbell J. (2014, March 18). Refugees and Internally Displaced Persons in Northern Nigeria; Africa in Transition. Retrieved on 10th January, 2015 from <https://blogs.cfr.org/campbell/2014/03/18/refugees-and-internally-displaced-persons-March-18>.

¹⁹ Ladan M.T (2015) *Strategies for Adopting the National Policy on IDPs and Domesticating in Nigeria the African Union for the Protection and Assistance of IDPs in Africa*. A Paper Presented at the National Summit on IDPs in Nigeria, Organized by the Civil Society Legislative Advocacy Centre (CISLAC), Abuja, held at the Institute for Peace and Conflict Resolution, Ministry of Foreign Affairs, Abuja, from 19-20th August, 2015.p.2

²⁰ Ibid

²¹ Internal Displacement Monitoring Centre. (2016) *Grid 2016; Global Report on Internal Displacement*. Op.cit p.3

²²Internal Displacement Monitoring Center. (2013, July). *Nigeria, Fragmented Response Amidst Boko Haram Attacks and Flood Season*. Retrieved 4th May, 2017 11:18am from <http://www.internal-displacement.org/sub-saharan-africa/nigeria/2013/fragmented-response-to-internal-displacement-amid-boko-haram-attacks-and-flood-season>

or areas, often without sufficient notice, alternatives or compensation²³. There are also deeper-seated factors underlying this phenomenon of mass displacement in Nigeria. Under development, poverty, unequal distribution of wealth, unemployment, ethnic tensions, subjugation of minorities, intolerance, absence of democratic procedures, and many other factors have been cited as causes²⁴.

An increase in attacks by the extremist Boko Haram sect, heavy-handed counter insurgency operations and ongoing inter-communal violence have been quoted as reasons for the unprecedented rise in IDPs in Nigeria²⁵. Boko Haram, and the efforts by the government to defeat it, account for the figure of over one million internally displaced persons in Borno, Yobe, and Adamawa states²⁶. An upsurge of that violence has affected civilians in the region. Since the start of 2014, the conflict is reported to have led to more than 4,000 deaths²⁷. The insurgents have used suicide attacks, bombings and raids, almost exclusively targeting the civilian population. The insurgents have also reportedly killed kidnapped, used forced conscription and abducted women and girls.²⁸

While there is a 60-year old convention on refugees and a dedicated UN agency to protect and assist refugees, the corresponding system for responding to internal displacement is much weaker. The United Nations' Guiding Principles on Internal Displacement (UN GPID) are widely recognized as the prevailing normative framework for IDPs and while these principles are

²³ Nuhu, S.A, (2015) *Internal displacement in Nigeria: Giving Teeth to the Kampala Convention*. A Paper presented at the Annual ICRC Workshop on International Humanitarian Law for University Teachers, Abuja, Nigeria on 16th to 19th June 2015.

²⁴ Ladan M.T Op cit p. 1

²⁵ Nicholas I. Op cit p.3

²⁶ Campbell J.(2014, June 12) Nigeria's Internally Displaced Population a Humanitarian Disaster Waiting to Happen (2014) Retrieved on 19th January, 2015 4:45 pm from <http://blogs.cfr.org/campbell/2014/06/12/nigerias-internally-displaced>

²⁷ UNHCR. (2014, October). *International Protection Considerations with Regard to People Fleeing the North Eastern Nigeria (The States of Borno, Yobe and Adamawa) and Surrounding Regions-Update 1*. Retrieved on 5th July, 2015 1: 18 pm from <http://www.refworld.org/docid/5448e0ad4.html>

²⁸ ibid

drawn from binding international law, the Principles themselves are not a legally binding instrument. Again, there is an absence of a dedicated UN agency to address the needs of IDPs (though progress has been made in recent years in assigning responsibility for IDP issues to existing UN agencies). Rather it is the responsibility of national governments to protect and assist those displaced within the borders of their countries²⁹.

However, while internal displacement is certainly not new, the way it is understood, studied, and responded to has evolved over time among policymakers, practitioners, scholars, and IDPs themselves. In the last 25 years, significant momentum in the development of normative standards relating to internal displacement, has translated into important outcomes in the lives of IDPs. The most noteworthy accomplishment was the development of the Guiding Principles on Internal Displacement in 1998 which set the foundation for global, regional and national approaches and initiatives to internal displacement³⁰.

Although the GPID have influenced the creation of regional instruments geared towards the protection of IDPs, there is need for a stronger legal framework that would effectively cater for the needs of this extremely vulnerable group of people. It is against this background that this research is being undertaken in order to analyze the legal protection of the rights of internally displaced persons in Nigeria and to further examine the responsibility of Nigerian government on internal displacement and internally displaced persons with a view to proffering suggestions and recommendations.

²⁹ Ferris, E. Op cit p. 2

³⁰ Brookings – LSE Project on Internal Displacement. (2014). Op cit p.2

1.2 Statement of the Problem

Internal displacement of civilian populations and their need for human rights protection is one of the crucial human rights issues of the post-Cold War era. As Kofi Annan, the former UN Secretary-General observed in study on the issue, internal displacement has emerged as one of the great human tragedies of our time: ‘The severity of the problem, both in intensity and scope, is obvious from the numbers of the displaced ... and the fact that virtually no region of the world is spared from this epidemic.’³¹ The increased significance and magnitude of the phenomenon is linked to the incidence and intensity of internal strife and internal armed conflict over the past decade.³²

In addition to the large number of IDPs, the extreme circumstances under which IDPs live make the governance of internal displacement even more important and urgent.³³ The consequences of displacement are manifold and can deprive the persons concerned of the essentials they need to survive. Loss of home, loss of employment, loss of security of person, threats to life and liberty, deprivation of food, loss of adequate healthcare and loss of education opportunities are amongst the harsh and immediate consequences of such a displacement³⁴.

United Nations High Commissioner for Refugees (UNHCR) attends to the needs of the world’s refugees, and a dedicated international treaty, the 1951 Convention Relating to the Status of

³¹Bagshaw, S. (1999) *Developing the Guiding Principles on Internal Displacement; The Role of a Global Public Policy Network*. Case Study for the UN Vision Project on Global Public Policy Networks (GPPP). Retrieved on 2nd January, 2015 from <http://www.globalpublicpolicy.net/CaseStudyAuthors.html>

³² ibid

³³Maru, M.T. (2011)The Kampala Convention and its Contribution in Filling the Gap in International Law. *Journal of Internal Displacement*, Vol.1 No.1, p.93

³⁴Ladan, M.T Op cit p.1

Refugees (CRSR)³⁵, sets forth their rights. In contrast, no organization has a global mandate to protect and assist the much larger number of IDPs, who are in far more desperate straits, when their own governments fail to do so.³⁶

The formulation of the GPID in 1998 was a significant milestone in the evolution of the normative framework with respect to the protection of and assistance to IDPs.³⁷ They have inspired significant developments in international, regional and domestic laws. The adoption by the African Union (AU) of the first legally binding regional Convention on IDPs (Kampala Convention) in 2009 and the Great Lakes Protocol on IDPs adopted in 2006 are concrete examples of the influence of the guiding principles as a source of law³⁸.

Nigeria ratified the Kampala Convention on 17th April 2012 and is therefore legally bound to respect, observe and comply with its provisions.³⁹ The consequence of that ratification by Nigeria is the drafting of the National Policy on IDPs.⁴⁰ However, despite the ratification of the Kampala Convention by Nigeria, the draft National Policy on IDPs is yet to be adopted by the federal cabinet despite persistent advocacy on the issue.⁴¹ Similarly, the Convention is yet to be domesticated as part of Nigeria's national legislations. As such, there is no specific legal framework for the protection of IDPs in Nigeria.

³⁵ *Convention Relating to the Status of Refugees*, (CRSR) 195.189 UNTS 150. Retrieved on 3rd March, 2015 from <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>

³⁶ Bailey, L.C. (2014) Out of Africa: Towards Regional Solution for Internal Displacement. *Brooklyn Journal of International Law*, Vol.39:1, p.364

³⁷ Abebe A.M. (2011) Special Rapporteurs as Law Makers: The Developments and Evolution of the Normative Framework for Protecting and Assisting Internally Displaced Persons. *The International Journal of Human Rights*, Vol. 15 No. 2 pp.286-287

³⁸ Ibid

³⁹ Ladan, M. T. (2013) *National Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria*. A Paper presented at a workshop for Judges and Kadis on Refugee law, organized by the National Judicial Institute, Abuja, held at the NJI, Abuja on April 20, 2013.

⁴⁰ Ibid

⁴¹ Internal Displacement Monitoring Centre. (2014, December). *Nigeria: Multiple Displacement Crisis Overshadowed by Boko Haram*. Retrieved on 13th March, 2015 from www.internal-displacement.org/sub-saharan-africa/nigeria/2014/nigeria-multiple-displacement-crises-overshadowed-by-boko-haram/

Nigeria's NEMA is responsible for overall disaster management in the country and it has been supporting IDPs in the emergency phase of their crisis. However, NEMA does not have the legal mandate, expertise and resources to extend the support beyond the emergency phase by providing durable solutions for them. Similarly, the National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) is expected to take charge of the plight of IDPs after the emergency phase of their displacement with a view to finding durable solutions for them. Although, its mandate was extended by the Federal Government, the enabling law has still not incorporated this expansion.

Again, despite the fact that there are other institutions that have been responding to the plight of IDPs in Nigeria and that several others have been put in place in response to the problem of internal displacement in Nigeria, the response is far from meeting the needs of the IDPs in Nigeria. Lack of coordination between the several actors has been a challenge due to lack of clarity of roles and responsibilities as well as inter agency rivalry, competition for resources and lack of accountability for funds received. Again, some of the Ministries, Departments and Agencies (MDAs) of government who have been given mandates relating to response to the problem of internal displacement do not have the funds to fulfil their mandates nor the skills and expertise to handle humanitarian problems.

Thus, it is based on these problems that the following research questions are formulated:

1. What is the legal framework for the protection of IDPs in Nigeria?
2. What are the challenges of the framework of protection for IDPs in Nigeria?

3. How can the framework of protection for IDPs in Nigeria be more comprehensive, better coordinated and effectively strengthened?

1.3 Aims and Objectives of the Research

In view of the above research questions, this research aims at bringing into immediate focus the international, regional and domestic legal and institutional frameworks available for the protection of internally displaced persons in Nigeria. Thus, the objective of the research is to achieve the following:

1. To analyze the legal and institutional framework of protection available to displaced persons in Nigeria and to identify the challenges of the available framework of protection.
2. To examine the possibility of strengthening the framework of protection and further highlight the responsibility of the Nigerian government on displacement and displaced persons.

1.4 Justification of the Research

On a daily basis, the number of people becoming displaced all over the world is increasing. Nigeria in particular is witnessing an unprecedented rise in the number of internally displaced persons and most of them living in very appalling conditions. This research is being undertaken in order to bring to fore front the protection which is available to these persons and how best to fully avail them of such protection in Nigeria. It is also important so as to curtail the rise in the number of people being displaced by addressing the common causes of displacement in Nigeria.

Thus, the research will be useful to law enforcement officials, government agencies charged with responsibilities of handling matters relating to displacement of persons, displaced persons themselves, social workers, the general public and students of public international law.

1.5 Scope and Limitation of the Research

The scope of this research is limited to the legal and institutional framework of protection available to internally displaced persons in Nigeria. The research examined the historical background to the emergence of international protection for IDPs and the framework of protection available to them generally. The research focused on what is obtainable in Nigeria and further highlighted the responsibility of the Nigerian Government with regard to the protection of IDPs in all phases of their displacement and the prevention of internal displacement.

1.6 Research Methodology

Doctrinal method is mainly adopted in this research. This involved consulting Statutes, International Treaties, Conventions and Resolutions, Textbooks of both foreign and local authors, Journals, Case Laws, Seminar and Conference Papers from Internet and other relevant materials. The research also relied on data and statistics primarily from the Internal Displacement Monitoring Center (IDMC) and the office of the UNHCR in assessing the situation of internal displacement in Africa and Nigeria. NCFRMI and NEMA were also consulted to find out how they have implemented and enforced the legal protection for IDPs in Nigeria.

1.7 Literature Review

Several books, articles and conference papers were consulted in the course of writing the research. Akande⁴² analyzed the development of disaster risk management in international law, the rights of victims of disaster in international law as well as the international legal framework for disaster risk management. The writer also examined the obligations of States on disaster risk management in international law and the domestic implementation of same. The role of stakeholders in disaster risk management was also examined as well as disaster myths and realities. The writer also discussed the challenges of disaster risk management and proffered recommendations in that regard.

Indeed the writer analyzed and examined the concept of disaster risk management in a very comprehensive and articulated manner. The only limitation, as regards the topic of this thesis, is that although the rights of victims of disaster, including IDPs, were highlighted, the write up did not specifically focus on the issue of internal displacement.

Mattiolo⁴³ analyzed the legal provisions of existing international law regulating the phenomenon of internal displacement and their adequacy to address the specific needs of IDPs. He further examined the impact of the GPID in the assistance to and protection of IDPs worldwide and their implementation at the regional and domestic levels. He also analyzed the operational response put in place by the international community to face the growing needs of IDPs and examined its strengths and weaknesses. The writer did not examine the impact of the regional instruments that were influenced by the GPID on the problem of internal displacement.

⁴² Akande, I.F (2018) International Law and Disaster Management. In: Bamgbose, O.A (Ed) *The Law and Practice on Disaster Issues* (pp. 81-119) Safari Books Ltd, Ibadan.

⁴³ Mattiolo, M. (2015) Protection of IDPs in Armed Conflict in 2014: A Critical Review of Law and Practice. In: Bellal, A.(ed) *The War Report: Armed Conflict in 2014* (pp. 447-475) Oxford University Press, UK

Phoung in her book *The International Protection of Internally Displaced Persons*⁴⁴ explored the conceptual similarities and differences between refugees and IDPs. The writer further examined the legal protection of the internally displaced under human rights and humanitarian laws and went on to analyze refugee law as a point of comparison. A legal analysis of the Guiding Principles on Internal Displacement was also presented in the book.

Further still, the institutional framework and the protection strategies for the internally displaced were also discussed. As a case study, the writer also analyzed the internal displacement in Bosnia and Herzegovina and further discussed the issue of sovereignty and intervention. Although the writer had discussed extensively the protection available to IDPs and all the issues surrounding such protection, the fact that the African Union (AU) had taken a step further after the emergence of the Guiding Principles on Internal Displacement was not taken into consideration in the book. Thus, the impact of the AU Convention for the Protection and Assistance of Internally Displaced persons in Africa adopted on October 23, 2009 on the internally displaced in Africa was not examined.

Rehman in his book *International Human Rights Law*⁴⁵ dedicated a whole chapter on Rights of Refugees and Internally Displaced Persons. The rights of displaced persons were analyzed in detail but the writer did not examine the general causes of displacement.

Morjane in his article titled *The Protection of Refugees and Displaced Persons*⁴⁶ also discussed how the UNHCR co-operate and co-ordinate with other agencies which have a protection mandate to guarantee protection to refugees and IDPs. He noted that in order to address the

⁴⁴ Phoung, C. (2004) *The International Protection of Internally Displaced Persons*. Cambridge University Press, New York.

⁴⁵ Rehman J. Op.cit p. 1

⁴⁶ Morjane, K.(2006) *The Protection of Refugees and Displaced Persons* In: Bertrand G. Ramcharan (ed.) *Human Rights Protection in the Field*. pp. 79-85

physical insecurity of people of concern to the office, the UNHCR has promoted and applied a number of actions and activities in partnership with states, members of the donor community, other international agencies, operational partners and refugees themselves.

The writer emphasized that the group of civilians that is perhaps at greatest need of protection are the internally displaced due to the lack of smoothly functioning and predictable arrangements to deal with them. He noted that there is need for a more efficient way to protect IDPs. In the entire write up the legal framework for the protection of IDPs was not examined. There was no discussion also of the general causes of displacement neither was there any mention of the rising trend of internal displacement in Nigeria and the kind of protection available to the IDPs in the region.

Levitt in his article titled *Conflict Prevention, Management and Resolution: Africa- Regional Strategies for the Prevention and Protection of Displaced Persons: The cases of the OAU, ECOWAS, SADC and IGAD*⁴⁷ examined the preparedness of certain African regional actors to protect displaced persons in times of armed conflict and further prescribed formulas to strengthen the capabilities of such actors. The writer assessed the conflict maintenance capacities of African regional actors such as the OAU (AU), ECOWAS, SADC and IGAD and their partners to provide physical and legal protection to displaced persons in times of armed conflict and went ahead to recommend strategies to increase protection.

The writer also offered comprehensive suggestions and solutions to monitor and avert population displacement and protect displaced persons. In the write up however, the efforts of the AU with

⁴⁷ Levitt, J. (2001) Conflict Prevention, Management and Resolution: Africa – Regional Strategies for the Prevention of Displacement and Protection of Displaced Persons: The Cases of the OAU, ECOWAS, SADC AND IGAD'. *Duke Journal of Comparative and International Law*, Vol. 11 No. 39, pp. 39 - 79.

regard to Kampala Convention for the Protection and Assistance of IDPs in Africa was not appraised. As such the effectiveness or otherwise of the Convention in the protection of the rights of IDPs in Africa was not analyzed.

Giustiniani in an article titled *New Hopes and Challenges for the Protection of IDPs in Africa: The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa*⁴⁸ highlighted the problem of internal displacement as one of the pressing challenges the international community is experiencing today. The writer further examined the international legal instruments which seek to protect displaced persons. The writer focused primarily on the AU Convention for the Protection and Assistance of IDPs in Africa.

However, at the time of the write up, the Convention had not come into force and the crucial issue after the convention had come into force would be compliance. Thus, the instrumentality of the Convention in enhancing the protection for IDPs in Africa was not discussed.

Orchard in his article titled *Protection of Internally Displaced Persons: Soft Law as a Norm generating Mechanism*⁴⁹ looked into the use of soft law, in particular the UN Guiding Principles on Internal Displacement and the international recognition of the principles and their adoption in domestic legislations as a tool for the promotion of the protection of IDPs.

The writer explored how state practice towards the internally displaced had changed. Also, one aspect of the Principles was given special attention by the writer; that against forcible return of IDPs from camps or other resettlement areas to their homes when their lives may be in danger.

⁴⁸Giustiniani, F. Z. (2011) New Hopes and Challenges for the Protection of IDPs in Africa: The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa. *Denver Journal of International Law and Policy*, Vol. 39, pp. 347- 370.

⁴⁹Orchard, P.(2010) Protection of Internally Displaced Persons: Soft Law as a Norm-generating Mechanism. *Review of International Studies*, Vol. 36 pp. 281-303

Again, the writer focused on two similar cases of forcible return of IDPs: the closure of the Kibeho camp in Rwanda in 1995 before the creation of the General Principles and the closure of Znamenskoye camp in Russia in 2002, after the creation of the General Principles. However, the writer did not take into cognizance the influence of the Guiding Principles on the creation and adoption of the AU Kampala Convention on IDPs in Africa.

Abebe⁵⁰ in an article titled '*Special Rapporteurs as Law Makers :The development and Evolution of the Normative Framework for Protecting and Assisting Internally Displaced Persons*' examined the development and evolution of the UN Guiding Principles on Internal Displacement and other relevant supplementary soft-laws prepared within the mandate of the special rapporteur on the human rights of internally displaced persons. By showcasing the increasing recognition and acceptance of the guiding principles as an authoritative framework governing the issue of internal displacement at the national, regional and international levels, the article illustrated how the Guiding Principles exemplified the role of special procedures of the Human Rights Council in the development of international human rights law with respect to emerging and challenging human rights issues.

Recent attempts by other special procedures of the Human Rights Council to develop relevant soft-laws within their mandate have partly been inspired by the success of these principles. The article specifically identifies how the mandate-holder has developed a successful and unique relationship with the United Nations and regional organizations to further augment the relevance and influence of the GPID. It discusses the ground-breaking codification of regional treaties on internal displacement in Africa as evidence of this unique collaboration and cooperation.

⁵⁰Abebe A.M. (2011) op cit. p.8

Again Abebe in another article titled *The African Union Convention on Internally Displaced Persons: Its Codification, Background, Scope and Enforcement Challenges*⁵¹ discussed the codification background of the Kampala Convention and its legal sources. He further examined its scope and identified some of the key issues with direct bearing on its enforcement and implementation. He analyzed the key provisions of the Convention and examined them in light of existing international instruments as articulated in the GPID. The article is limited in the fact that due to its time frame, it did not examine the impact of the Kampala Convention after its coming into force and how the various African states have responded to their obligations under the Convention after ratification.

Ache and Majinge in an article titled *International Law as a Mechanism to Advance the Rights of the Displaced in Africa: Examining the Role of the African Union Convention for the Protection and Assistance of the Internally Displaced Persons in Africa*⁵² discussed generally the issue of forced displacement in Africa and further examined the rules which have served as the benchmark for the protection of IDPs in Africa. The writers reviewed the international legal framework for the protection of the displaced, specifically examining the 1951 Refugee Convention and its 1967 Protocol and its wide impact for the protection of the displaced. The article further examined the gaps in protection for IDPs as well as the role and impact of the GPID. The article also examined the efforts leading to the creation of the Kampala Convention. The salient features of the Kampala Convention were also analyzed. The writers further provided

⁵¹ Abebe, A.M., (2010) *The African Union Convention on Internally Displaced Persons: Its Codification, Background, Scope and Enforcement Challenges*. *Refugee Survey Quarterly*, Vol.29, No.3, pp.28 – 57.

⁵² Ache, C., & Majinge, R.C. (2013). *International Law as a Mechanism to Advance the Rights of the Displaced in Africa: Examining the Role of the African Union Convention for the Protection and Assistance of the Internally Displaced Persons in Africa*. In: Yusuf A.A.(ed) *African Year Book of International Law*, pp.413 - 449

an in-depth analysis of the extent to which the Convention addresses the core challenges facing IDPs in Africa.

The limitation of the article is that it did not address the impact of the Kampala Convention on internal displacement in Africa and whether or not the Convention has triggered a comprehensive approach to the problem by State parties to the Convention.

Bailey in an article titled *Out of Africa: Toward Regional Solutions for Internal Displacement* examined the legal framework applicable to IDPs and analyzed the implication of a regional solution to the problem of internal displacement. He further explored the regional conditions, provisions and limitations of the Kampala Convention and went on to consider transferring the AU's approach to the Arab region through implementation of a similar convention by the Arab League. The writer, however, did not examine the rate of compliance by State Parties to the Kampala Convention with their obligations under the Convention post ratification and the effect of the oversight system put in place under the Convention with regard to its ability to compel compliance.

Maru in an article titled *The Kampala Convention and its Contribution in Filling the Gap in International Law*⁵³ discussed the impact of displacement on IDPs in Africa and further analyzed the background to the creation of the Kampala Convention, its provisions and objectives. He also analyzed the extent to which the Convention fills the protection gap that exists in international law in the areas of internal displacement and went on to identify its contribution to international law as well as its strengths and weaknesses. The article was written prior to coming into force of

⁵³ Maru, M.T. (2011) Op.cit. p.7

the Convention and therefore the effectiveness of the Convention in addressing the problem of internal displacement in Africa was not examined.

Similarly, Kiwali D., in an article titled *From Durable Solutions to Holistic Solutions: Prevention of Displacement in Africa*⁵⁴ discussed the individual, operational and contextual challenges to prevention of displacement and protection of and assistance of IDPs in Africa. He further examined the Kampala Convention as an African solution to an African problem and went on to analyze its provisions relating to durable solutions for IDPs and the possibility of eradicating the causes of displacement in Africa. The writer did not however examine the challenges and/or limitations of the Convention with regard to its implementation by State parties after ratification.

With specific reference to Nigeria, Kolawole in an article titled *Towards the Evolution of Legal and Institutional Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria*⁵⁵ analyzed the available international legal instruments for the protection of IDPs and further assessed the emerging trend of legal protection for IDPs in Africa with regard to the Kampala Convention. The writer further examined the impact of displacement on IDPs in Nigeria as well as the legal and institutional responses to the problem of internal displacement in Nigeria. The writer asserted that the non-justiciability of economic, cultural and social rights in Nigeria is one of the root causes of internal displacement. The limitation of the article is that it did not take into account the recent response to internal displacement in Nigeria by the Federal Government post 2013 when the article was written.

⁵⁴ Kiwali, D. (2013) Op.cit. p.3

⁵⁵ Kolawole, A.A. (2013) Towards the Evolution of Legal and Institutional Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria. *OIDA International Journal of Sustainable Development*, 06:05 pp. 141 - 153. Retrieved from <http://www.ssrn.com/link/OID-intl-Journal-sustainable-Dev.html>

Nuhu in a paper titled *Internal displacement in Nigeria: Giving Teeth to the Kampala Convention*⁵⁶ examined the different dimensions of displacement in Nigeria by highlighting the causes of displacement and also analyzing the IDP figures and statistics. The paper also examined the legal and institutional framework for IDPs protection in Nigeria. The paper however, did not provide an in-depth analysis of the framework. Again, all the different institutional mechanisms put in place by the Federal Government especially with regard to the North East were not analyzed.

Ladan in a paper titled *National Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria*⁵⁷ also recognized the rising increase in the number of IDPs in Nigeria. The write up clarified some key terms on the issue of internal displacement and further identified the causes of displacement in Nigeria and the effect/impact of such displacement. The writer further highlighted the legal, policy and institutional framework for the protection of IDPs in Nigeria and then identified the legal instruments guiding Nigeria in her effort to protect and assist IDPs in Nigeria.

IDP management and protection in Nigeria were also analyzed in the work. Furthermore, the writer discussed the emerging challenges relating to IDPs and the way forward in that regard. The plight of the existing IDPs in Nigeria in terms of the kind of protection that is actually available to them and the effectiveness or otherwise of the protection was not examined.

Again, Ladan, in another paper titled *Strategies for Adopting the National Policy on IDPs and Domesticating in Nigeria the African Union for the Protection and Assistance of IDPs in*

⁵⁶ Nuhu, S.A (2015, June) Op.cit. p.5

⁵⁷ Ladan, M. T (2013). Op.cit p.8

Africa⁵⁸ highlighted the trends in internal displacement in Nigeria between 2011- 2015 and further analyzed the framework for national responsibility to prevent internal displacement, protect and assist IDPs through a national policy and implementing legislation for the domestication of the Kampala Convention. The writer also highlighted the fundamental characteristics of a national response to the problem of internal displacement and asserted that the effect of a national responsibility must take into account all causes of displacement, all groups affected, all needs of IDPs, all phases of displacement, all authorities involved as well as all affected areas. The paper further identified the strategies for adopting the draft national policy Vis a Vis the domestication of the Kampala Convention in Nigeria. The writer buttressed the need for a monitoring and evaluation framework of implementation of the policy and the domestication bill.

The paper touches directly on the topic of this thesis and the writer adequately addressed all the issues therein but the only limitation of the paper is that it did not address the trends on internal displacement in Nigeria beyond 2015.

Sidi, in a Paper titled *Management of Internally Displaced Persons in Nigeria*⁵⁹ analyzed the concepts, principles and objectives of disaster management as well as the impact of disasters generally. The writer further examined the disaster management system in Nigeria and the impact of displacement on IDPs. The writer also highlighted the role of NEMA in management of IDPs and the humanitarian imperative of the Kampala Convention for Nigeria. The paper also examined the emergencies in Nigeria with regard to the 2012 flood and the ongoing insurgency in the North East. The paper also briefly identified the challenges facing NEMA. The writer

⁵⁸ Ladan, M. T. (2015, August) Op.cit p.4

⁵⁹ Sidi, M.S. (2015, October) *Management of Internally Displaced Persons in Nigeria*. Paper Presented at the Executive Intelligence Management Course (EIMC) 8, Held at the DSS Institute, Abuja.

however, did not give detailed account of the challenges facing NEMA and more so, the paper focused solely on NEMA's response to internal displacement in Nigeria without looking into the efforts of similar government agencies that have responded to the problem.

ICRC in a report titled *Internal Displacement in North East Nigeria: Operationalizing the Kampala Convention in Borno, Adamawa and Yobe States*⁶⁰ assessed the situation of IDPs in Borno, Adamawa and Yobe states through the framework of the Kampala Convention. The report, which is based on findings from the research carried out in those states and the FCT, highlighted the gaps and challenges in meeting the needs of IDPs and provided concrete recommendations on how to improve protection, assistance and durable solutions for IDPs.

The report is very comprehensive in that it provided an in depth analysis of the issue of internal displacement in the North East. The only limitation of the report is that it focused solely on internal displacement in North Eastern Nigeria.

1.8 Organizational Layout

Chapter one mainly deals with the introductory part of the whole research. It gives the background of the study, the general overview of the research problem, the justification for the research, the aims and objectives of conducting the research, the methodology adopted in conducting the research and the analysis of some of the literature on the subject of the research.

Chapter two focuses on conceptual discourse on displaced persons generally. It analyses the concept of displacement as well as the different classes of displaced persons under international

⁶⁰ International Committee of the Red Cross. (2016, December). *Internal Displacement in North East Nigeria: Operationalizing the Kampala Convention in Borno, Adamawa and Yobe States*. Retrieved on 30th March, 2017 2:00pm from <https://reliefweb.int/report/nigeria/internal-displacement-north-east-nigeria-operationalising-kampala-convention-borno>

law. The chapter further examines the causes of internal displacement and concludes with the historical background to the emergence of legal protection for IDPs.

Chapter three analyses the legal framework for the protection of IDPs in Nigeria with regard to the international human rights provisions that have been incorporated into the Constitution of the Federal Republic of Nigeria, 1999 and the African Charter on Human and People's Rights, as well as humanitarian law provisions of the Geneva Conventions and their Additional Protocols. The chapter further examined the role of NEMA Act, the UN GPID and the Kampala Convention in addressing internal displacement in Nigeria.

Chapter four focuses on the institutional and administrative framework for the protection of IDPs in Nigeria. The mandate of NEMA and the NCFRMI and the newly established North East Development Commission were examined. In the same vein, the institutional response of the Federal Government to internal displacement in the North East as well as the response of international organizations and Non-Governmental organizations to internal displacement in Nigeria were also analyzed.

Chapter five contains the summary of the whole research and the key findings of the research. The chapter concludes with recommendations aimed at addressing the findings in the research.

CHAPTER TWO

CONCEPTUAL DISCOURSE AND THE DEVELOPMENT OF THE PROTECTION OF IDPS IN NIGERIA

2.1 Introduction

Refugees and the internally displaced are categories of persons which share many similarities such that people in both categories often find themselves in the same material conditions.¹ Although IDPs and refugees often face similar factual conditions and require similar kinds of assistance, the two groups are classified separately under international law, legally distinct by virtue of their differing relationships with their states of nationality or habitual residence.²

However, for most people as evident from the media coverage, the term “refugee” refers to anyone who has been forced to leave his home. Whether the person has left the country or not is seen as irrelevant.³ The legal terminology is however more precise, as it requires the refugee to be outside his or her country of origin because of fear of persecution.⁴ The refugee definition contained in the 1951 Refugee Convention⁵ as modified by the 1967 Protocol⁶, indicates that IDPs are not refugees because they are still within their country of origin. They have not crossed a frontier, which is a precondition for refugee hood.⁷

¹ Phoung C. (2004) Op.cit p.12 at p.13

² Bailey, L.C. (2014) Op.cit p. 8 at p.362

³ Phoung, C. Op.cit P.13

⁴ ibid

⁵ Article. 1 & 2, Convention Relating to the Status of Refugees, op cit p.8

⁶ *Protocol Relating to the Status of Refugees, 1967*. 606 UNTS 267 Retrieved on 3rd March, 2015 9:30 am from <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>

⁷ Phoung C. Op.cit P.13 at p.1

The transboundary nature of the situation of refugees imposes a responsibility on the international community to meet refugees' needs. The act of crossing the border takes that person out of the sovereignty of his home state and implicates international law. In contrast, IDPs are, by definition, displaced within the borders of their home state. As such, under traditional notions of sovereignty, the home state retains primary responsibility for IDPs needs. Very often, however, conditions within the home state have caused the displacement, so the home state is unable or unwilling to meet those needs. Nonetheless, because IDPs remain within their state, they do not become the concern of international law as do refugees.⁸

This chapter therefore aims to examine the meaning of displacement and also critically distinguish the two concepts of refugees and IDPs, highlight the causes of displacement and give a brief historical background to the emergence of the legal protection for IDPs.

2.2 The Concept of Displacement

Displacement is defined, under the Cambridge Advanced Learners' Dictionary, as the situation in which people are forced to leave the place where they normally live.⁹ Displacement also refers to forced movement of persons from their locality or environment and occupational activities.¹⁰ Displacement is generally caused by armed conflict, violence, gross violations of human rights, natural disasters and development projects. Situations of mass displacement generally put considerable stress on affected communities and negatively impact the overall stability and development of the territorial state. In some cases displacement may also fuel tensions and

⁸ Bailey Op.cit p.8

⁹ <https://dictionary.cambridge.org/dictionary/english/displacement>.

¹⁰ Adeyemo, D.D, (2018) *Human Right-Based Approach to Disaster Risk Management*. In: Bamgbose O.A. (ed) *The Law and Practice on Disaster Issues*. Safari Books Ltd, Ibadan. p.63

conflict and consequently, if not properly addressed, frustrate peace building efforts.¹¹ Robert Goldman and Walter Kälin, pointed out that:

Displacement breaks up the immediate family...cuts off important social and cultural community ties; terminates stable employment relationships; precludes or forecloses formal educational opportunities; deprives infants, expectant mothers, and the sick of access to food, adequate shelter, or vital health services; and makes the displaced population especially vulnerable to acts of violence, such as attacks on camps, disappearances, or rape.¹²

Displacement impoverishes individuals, families and communities. Impoverishment can be understood as a loss of natural capital, human-made physical capital, human capital and social capital. There are nine risks or processes that cause the impoverishment of people affected by displacement: landlessness, joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, loss of access to common property and services, social disarticulation and the loss of education opportunities¹³.

The millions of people caught in the midst of violent conflict without the basic necessities of life present a political and strategic concern, not to mention a profound humanitarian and human rights problem, requiring international action. Conflict and massive displacement can disrupt stability, turn countries into breeding grounds for lawlessness and terrorism, and undermine regional and international security.¹⁴

¹¹ Giustiniani F.Z.(2011) Op.cit p.15

¹² Cohen, R and Deng, F.M. (1998) *Masses in Flight; The Global Crisis of Internal Displacement*. Brookings Institution Press, Washington. pp. 74,92

¹³ Internal Displacement Monitoring Centre. (2012, October). *Internal Displacement in Africa: A Development Challenge. Exploring Development Initiatives to Alleviate Internal Displacement caused by Conflict, Violence and Natural Disasters*. Retrieved on 10th March, 2015 8:30 am from <http://www.internal-displacement.org/library/publications/2012/internal-displacement-in-africa-a-development-challenge/>

¹⁴ Cohen, R. (2006) *Strengthening Protection of IDPs: The UN's Role*, Georgetown Journal of International Affairs. p.101-102

When people are displaced, they are forced to move to areas of relative safety which could be either within the boundaries of their state, as IDPs or across international borders of a state, as refugees. Thus displaced persons would either be IDPs or refugees.

2.3 Meaning of Refugees

The word “refugee” refers to “any person who has fled the country of his nationality to avoid persecution or the threat of persecution. It also refers to all persons fleeing their country because of an armed conflict or internal disturbance”.¹⁵

Under the UNHCR Statute¹⁶, a person is considered to be a refugee meriting international protection when

...owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it.¹⁷

Examining this definition, it is clear that the UNHCR Statute envisages the international protection for a person who has crossed an international border for fear of persecution and who owing to such fear cannot avail himself such protection.¹⁸ Reading the refugee definition as provided for both under the Statute and the 1951 Convention, one may note that the definitions

¹⁵Verri, P.(1992) Dictionary of the International Law of Armed Conflict. ICRC. p.96

¹⁶ 1951 Refugee Convention & Protocol Relating to the Status of Refugees, Op.cit pp. 8 and 24

¹⁷Article 6 (A) (ii), *Statute of the Office of the United Nations High Commissioner for Refugees*, U.N.G.A. Res.428 (V), Annex 5. Retrieved on 3rd June, 2015 3:17pm from <http://www.unhcr.org/3b66c39e1.pdf>

¹⁸ Ache, C., & Majinge, R.C.(2013) op cit p. 17 at p.424

do not afford or extend protection to IDPs because of the non-crossing of the international frontiers criterion.¹⁹

According to Olson, refugees differ from other, spontaneous or sponsored migrants, largely in the circumstances of their movement out of one area to another and the effects these have on them in the settlement and adjustment phases of their relocation. He states that “Refugees are forced to leave their homes because of a change in their environment which makes it impossible to continue life as they have known it. They are coerced by an external force to leave their homes and go elsewhere”.²⁰

Olson identified the following five types of external compulsions that alone or in concert create refugees. These are; physical dangers (e.g., floods, volcanic eruptions, etc.); economic insufficiency (e.g., drought, famine); religious persecution; ethnic persecution; and ideological persecution.²¹

According to Shacknove, a refugee is a person fleeing life threatening conditions. He stated further that in legal and political circles, among those officials who formulate refugee policies for states and international agencies, the meaning is considerably more circumscribed and that the predominant, generation-old concept advanced by international instruments, municipal

¹⁹ ibid

²⁰ Olson, M. E.(1979) Refugees as a Special Case of Population Redistribution. In L. A. P. Gosling and L. Y. C. Lim. (Eds.), *Population Redistribution: Patterns, Policies and Prospects*. (pp. 130-152) United Nations Fund for Population Activities, New York. Cited in Nuhu, S.A.(2011)*An Appraisal of the Convention for the Protection of IDPs in Africa*.LL.M Thesis (Unpublished), Faculty of Law, Bayero University, Kano.p.43

²¹ Ibid

statutes and scholarly treaties identifies the Refugee as, in essence, a person who has crossed an international frontier because of a well-founded fear of persecution.²²

Before the UNHCR was created and the 1951 Convention (CRSR) adopted, refugee instruments were situation specific. Between the world wars, attention focused on specific groups or categories, such as German and Russian refugees, for whom special international arrangements were adopted.²³ The International Refugee Organization (IRO) created in 1947 as a UN Agency, took a similar approach and its mandate covered very specific groups of displaced persons.²⁴ The 1951 Convention was thus the first international legal text not to focus on any particular group of refugees.²⁵

The conceptualization of the refugee problem upon which the 1951 Convention is based is probably rooted in the political situation which prevailed at the end of the Second World War. The wording of the 1951 Convention may have been influenced by the events which had just occurred in Europe and resulted in the persecution and killing of millions of people, many of whom were targeted because of some attribute or aspect of their identity.²⁶ As a result the definition focused mainly on civil and political rights, as it establishes that a refugee is a person who:

²² Shacknove A.E.(1985) Who is a Refugee? *Ethics*, Vol. 95, No.2,p.274

²³ Hathaway J.(1991)*The Law of Refugee Status* Butterworths, Toronto. pp 2-6. Cited in: Phoung C. Op.cit p.16

²⁴ Phoung C. Op.cit p.13 at p.16

²⁵ Ibid

²⁶ Ibid

...as a result of events occurring before 1 January 1951 and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.²⁷

After entry into force of the CRSR in 1954, it soon became clear that the problem of refugees was not going to be limited to dealing with the effects of and aftermath of the Second World War. The emergence of conflicts after 1st January 1951 initiated a flow of new refugees who could not claim or benefit from the protection of the CRSR.²⁸ On October 4, 1967, the UN Protocol Relating to the Status of Refugees extended the scope of the definition of ‘refugee’ laid down in Article 1 of the CRSR to include any persons to whom it otherwise applied.²⁹ Thus, the 1967 Protocol deleted the temporal and geographical limitations of the 1951 Convention.³⁰

In essence, the asylum seeker must demonstrate the existence of a ‘well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion’ to obtain refugee status.³¹

It has been argued that the current refugee definition is inadequate because the persecution-based standard is too restrictive³² and as such regional variants of the refugee definition were devised in order to compensate for the deficiencies of the 1951 Convention.³³

The construction of an expanded refugee definition was first undertaken by African states in 1969 and by Latin American states fifteen years later. The aim was to address the specific

²⁷ Article 1(A)(2), 1951 Refugees Convention. Op.cit p.8

²⁸ Ladan, M.T.(2006) Op.cit p.1

²⁹ Ibid

³⁰ Phoung C. Op.cit p.13 at p.17

³¹ Ibid

³² Ibid p.18

³³ Ibid p.19

problems encountered by African and Latin American states and which the 1951 definition does not cover.³⁴

In comparison to the CRSR OF 1951, the Organization of African States (OAU) Convention of 10 September 1969³⁵ Governing the Specific Aspects of Refugee Problem in Africa gives a broader definition of the term ‘refugee’, taking into account of most of the root causes of the refugee problem.³⁶

The second paragraph of Article 1 of the OAU Convention states that:

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

This treaty, which codifies a broad definition of the term “refugee” inaugurated the era of the “open door policy.” In the wake of liberation struggles and the subsequent eruption of wars of succession, various African States, moved by a strong ideological call for Pan-African solidarity, accepted and gave shelter to significant numbers of refugees fleeing from those conflicts.³⁷

On the American continent, the refugee crisis of the 1980s in Central America reinforced the idea that a wider refugee definition was needed and that those refugees should be granted asylum until voluntary repatriation became possible. This is the approach underlying the 1984 Cartagena

³⁴ Ibid

³⁵ *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*, 1001 UNTS 45. Retrieved on 12th January, 2015 from www.chr.up.ac.za/chr_old/hr_docs/african/docs/oau/oau//.doc

³⁶ Ladan (2006) Op.cit p.1

³⁷ Giustiniani, F.Z. (2011) Op.cit. p.15 at p.351

Declaration on Refugees³⁸ which enlarged the refugee definition following the model of the OAU Convention.³⁹

The 1984 Cartagena Declaration includes in its refugee definition ‘persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order’.⁴⁰

The refugee definition was thus expanded in order to cover a wider range of situations in which people are compelled to move across borders. In the two definitions mentioned above, more emphasis is also put on the causes of displacement and the wider political context of the country of origin.⁴¹

Also, industrialized countries implicitly acknowledge that the 1951 definition is outdated by allowing some individuals denied refugee status for not meeting the requirements of the refugee definition to remain in the country on humanitarian grounds. To some extent, the development of the concept of temporary protection also shows that they are ready to admit some groups who, even though they do not always qualify for refugee status, are in need of protection. However, persons who are allowed to remain, but are not granted refugee status, cannot benefit from the rights attached to this legal status. In particular, the right to non-refoulement is the most important right which is granted to all refugees and originally only to them.⁴² Article 33 of the 1951 Convention states that a refugee should not be returned to his or her country if he or she

³⁸ Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama. Available at https://www.oas.org/dil/1984_cartagena_declaration_on_refugees.pdf Accessed on 5th March 2017 7:05 am

³⁹ Kalin, W. (2001) Op.cit p.3 at p.638

⁴⁰ Giustiniani F.Z. Op.cit. p. 15 at p.29

⁴¹ Phoung C. Op.cit p. 13 at p.28

⁴² Ibid

would face any threat to his or her life or liberty. This principle of non-refoulement has been considered to be the cornerstone of the international refugee protection system. It has since been developed in the context of human rights more generally.⁴³

The regional definitions mentioned above demonstrate that the citizen/state bond can be severed in many ways other than by persecution. In fact, persecution does not capture the essence of refugee hood, namely the failure of the state to protect the citizen's basic needs.⁴⁴ The responsibility to provide protection, which includes not merely the physical security of the individual, is the *raison d'être* (reason or justification for existence) of the sovereign state. The notion of basic needs suggests that the state is to protect the individual's political and civil as well as economic and social rights, hence the inadequacy of focusing solely on political persecution.⁴⁵

Thus, Shacknove gives a wider definition by further defining a refugee as a 'person whose government fails to protect his basic needs, who has no remaining recourse than to seek international restitution of these needs and who is so situated that international assistance is possible'.⁴⁶

It has been argued that this definition has the merit of challenging the current legal definition and attempts to reconstruct a new definition from the first basic premise that a bond exists between the citizen and the state and that this bond has been severed in the case of refugee hood. Several elements of the current definition (the criteria of persecution, importance of border-crossing) are challenged, and this could lead to the inclusion of at least some internally displaced persons in

⁴³ Ibid

⁴⁴ Shacknove A. Op.cit p. 29 at p.277

⁴⁵ Phoung C. Op.cit p.13 at p.21

⁴⁶ Shacknove A. Op.cit at p.282

this definition. However, this does not go as far as to acknowledge that all internally displaced persons can be considered as refugees as it still presupposes that people are within the reach of international assistance. The principle of sovereignty is thus not completely abandoned, but the formula challenges the existing legal definition.⁴⁷

2.4 Meaning of Internally Displaced Persons (IDPs)

As a preliminary remark, it must be noted that ‘there is no firm agreement on what should be included in the definition of internally displaced persons’. Views vary as to who should be considered to be internally displaced; which situations require international action; and what form it should take.⁴⁸ As in the case of refugees, the issue of protection remains central, and the challenge is to find a precise, but flexible definition which would cover all those who are internally displaced and in need of international protection.⁴⁹ A first attempt was made by the then UN Secretary General Boutros-Ghali in his Analytical Report in 1992 which defined IDPs as: “Persons who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disasters; and who are within the territory of their own country.”⁵⁰

This 1992 definition was too narrow in some respects, in particular its temporal and numerical criteria. To limit the IDP concept only to those who had fled their homes “suddenly or unexpectedly” overlooked that in a number of situations, such as in Burma, Ethiopia and Iraq, the displacement of populations was not a spontaneous event but an organized state policy

⁴⁷ Phoung C. Op.cit p. 13 at pp.21-22

⁴⁸ Ibid, p.28

⁴⁹ Ibid, p.33

⁵⁰ Analytical Report of the Secretary-General on Internally displaced persons, E/CN.4/1992/23, 14 February 1992 (hereinafter the Analytical Report). Retrieved on 3rd March, 2015 10:00 am from <http://repository.un.org/handle/11176/188685>

implemented over years or even decades.⁵¹ Similarly, the criterion of being “forced to flee” would exclude all those situations where populations did not flee but were obliged to leave their homes, as for instance with the forced evictions of minorities during the war in Bosnia or, in the summer of 2005, in Zimbabwe with the home demolitions and forced removal of more than half a million people.⁵² Also problematic was the notion of people fleeing “in large numbers” as in reality many displaced fled in small groups or even on an individual basis.⁵³

It has been found that a great majority of the people do not flee ‘unexpectedly or suddenly’, but that a different pattern of displacement exists. People may first flee to a nearby town or village in search of security and still go back to their farms during the day to pursue their normal economic activities. If the degree of violence reaches a higher level, people then consider going further and leaving their property for a longer period. Moreover, people tend to flee in small groups in order not to attract attention.⁵⁴

The definition eventually arrived at by the Representative of the Secretary-General therefore eliminated any requirements regarding time or the minimum number of persons affected.⁵⁵ Several important nuances were introduced. In recognition that people could become internally displaced not only as a consequence of suffering the causes of displacement but also in anticipation of such effects, reference was made to people having fled “as a result of or in order to avoid the effects of” the causes listed in the definition. As persons did not necessarily have a home, reference was also made to “habitual places of residence”. Finally, the criterion of being

⁵¹ Mooney E. (2005) The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern. *Refugee Survey Quarterly*, Vol. 24, Issue 3, p.11

⁵² Ibid

⁵³ Ibid

⁵⁴ Phoung, C. Op.cit p.13 at p.34

⁵⁵ Mooney, E. Op.cit p.11

“within the territory of their own country” was altered to “who have not crossed an internationally recognized State border”, to reflect the possibility of sudden border changes, for instance as had occurred with the break-up of the former Yugoslavia and the dissolution of the Soviet Union.⁵⁶

The definition that eventually emerged from the Representative’s deliberations is contained in the introduction to the GPID⁵⁷. They define internally displaced persons as:

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

The various causes of internal displacement identified in the 1992 working definition all were retained. However, in recognition that internal displacement was not necessarily limited to these causes alone, the definition in the Principles prefaces the list of causes with the qualifier “in particular” so as not to exclude the possibility of other situations that meet the key core criteria of involuntary movement within one’s country.⁵⁸

This definition is clearly an improvement on the 1992 definition since it removes all the elements which had proved problematic. It has been argued that it represents ‘the broadest definition in use at the international or regional level’. It has been emphasized that this definition reflects ‘the descriptive and non-legal nature of the term “internally displaced persons”’. In contrast to the

⁵⁶ Ibid

⁵⁷UN (1998) Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, 11 April, 1998. Retrieved on 5th April, 2015 from <http://www.un-documents.net/gpid.html>

⁵⁸ Mooney, E. Op.cit p.35

1992 Analytical Report, the Guiding Principles explicitly refer to development-induced displacement.⁵⁹

Involuntary departure and the fact that the individual remains within his/her country are the two defining elements of an IDP. The first element distinguishes IDPs from individuals who left their homes out of choice and could have otherwise safely remained where they lived. The second element explains why IDPs are not refugees. Refugees, by definition, are outside their country of nationality or habitual residence. In other respects, however, both categories of displaced persons often face similar risks and deprivations. The definition mentions some of the main causes of internal displacement, including armed conflict, violence, violations of human rights and disasters. Also, the term “homes or places of habitual residence” does not necessarily refer to a house or a building but can also refer to designate land on which groups traditionally live or depend for their livelihoods, as in the case of nomads or pastoralists.⁶⁰

The IDP definition simply describes the factual situation of a person being uprooted within his/her country of habitual residence. It does not confer a special legal status or rights in the same way that recognition as a refugee does. This is not necessary for IDPs because, unlike refugees who require a special legal status as result of being outside their country and without its protection, IDPs remain entitled to all the rights and guarantees as citizens and other habitual residents of a particular State.⁶¹

The definition of IDPs in the Kampala Convention is identical to that used in the Guiding Principles. It defines IDPs as:

⁵⁹ Phoung C. Op.cit p.13 at p.36

⁶⁰ UNHCR Handbook for the Protection of Internally Displaced Persons. Retrieved on 5th May, 2015 from <http://www.unhcr.org/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html>

⁶¹ Ibid

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognized State border.⁶²

This definition mirrors the one enshrined in the Guiding Principles and, as such, is not a legal definition, but, in the words of Special Representative Kalin, “a descriptive identification of the category of persons whose needs are the concern of the Guiding Principles.”⁶³ The term in fact merely describes the situation of an individual being displaced within one’s country of habitual residence.⁶⁴ In conformity with the approach first espoused by the Guiding Principles, the AU Convention does not create a new special legal status for IDPs, but rather strives to ensure that the currently recognized needs are adequately addressed. As a consequence, recognizing that IDPs are individuals who are entitled to the whole range of rights attributed to them by international human rights and humanitarian law instruments, the Convention judiciously declares that the protection it provides is not prejudiced. Accordingly, it also requires States to refrain from and prevent discrimination against IDPs “in the enjoyment of any rights or freedoms on the grounds that they are internally displaced persons.”⁶⁵

Thus, IDPs are citizens within their own country who have been displaced from their homes due to either man made or natural disasters. Because IDPs have not crossed any internationally recognized state border, they remain within the responsibility of their national authorities and are

⁶² African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) Available at <https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa> Accessed on 12th March, 2016 9:05 am.

⁶³ Giustiniani F.Z. Op.cit p.15 at p.354

⁶⁴ Ibid

⁶⁵ Ibid

entitled to all their rights as citizens first and other specific rights that emerged due to their vulnerable state or condition as IDPs.

2.5 Causes of Internal Displacement

People are displaced for many reasons. The root causes of internal displacement are varied: they include natural disasters, inter-state conflicts, intra-state conflicts, human rights violations, development projects and internal strife, to cite only some of the most common situations producing internal displacement.⁶⁶ Slow-onset disasters like drought and desertification, both of which are affected by climate change, also cause displacement.⁶⁷

2.5.1 Armed Conflict and Gross Violations of Human Rights

Armed conflict, generalized violence or human rights violations are among the most commonly discussed reasons for internal displacement. The majority of IDPs fleeing for this reason are in sub-Saharan Africa, followed by the Middle East and North Africa.⁶⁸ It has been argued that in Africa, at least half of the countries and 20 percent of the continent's population has been affected by frequent armed conflict and that almost all African countries have been implicated in serious human rights violations.⁶⁹

By the end of 2016, there were 40.3 million people internally displaced by conflict and violence across the world.⁷⁰ There were 6.9 million new internal displacements by conflict and violence in

⁶⁶ Phoung, C. Op.cit, p.13 at p.26

⁶⁷ Brookings – LSE Project on Internal Displacement. (2014). op cit p.2

⁶⁸ Ibid

⁶⁹ Kidane, W. (2011) Managing Forced Displacement by Law in Africa: The Role of the New African Union IDPs Convention. *Vanderbilt Journal of International Law*. Vol.4, No.1, p.10

⁷⁰ Internal Displacement Monitoring Centre (May, 2017), *2017 Global Report on Internal Displacement* Retrieved on 11th October, 2017 1:35pm from <http://www.internal-displacement.org/global-report/grid2017/#on-the-grid>

2016.⁷¹ Sub-Saharan Africa overtook the Middle East as the region most affected, with almost one million new displacements in the Democratic Republic of Congo as a result of violent clashes in the provinces of North Kivu, South Kivu and Kasai.⁷² Significant levels of displacement continued in the Middle East, with Syria, Iraq and Yemen experiencing close to two million new displacements in total during 2016.⁷³

2.5.2 Environmental and Natural Disasters

One of the most immediate effects of disasters is the displacement of victims.⁷⁴ Disasters such as floods, earthquakes, tsunamis etc. may force people out of their residences and homes.⁷⁵ Apart from disrupting their normal course of life such as food, clothing and shelter, victims stand health risks in the outbreak of disasters especially when their access to basic supplies and infrastructure which are essential to health is seriously affected.⁷⁶ Disaster induced displacement may also increase the economic impacts of disasters because displacement increases the need for emergency measures, costly evacuation and resettlement plans which have huge monetary costs and economic implications.⁷⁷

Disasters continue to bring about the highest numbers of new displacements each year, while conflict-related displacement has been on an overall upward trend over the last decade.⁷⁸ As the main triggers of forced displacement currently recorded, armed conflicts and disasters brought on by sudden onset natural hazards show few if any signs of abating nor do their many

⁷¹ Ibid

⁷² Ibid

⁷³ Ibid

⁷⁴ Adeyemo, D.D, (2018) Op.cit p.25

⁷⁵ Ibid

⁷⁶ Ibid

⁷⁷ Ibid

⁷⁸ IDMC (2017) Op.cit p.39

underlying drivers, which include poverty and inequality, fragile and weak governance, rapid urbanization, climate change and environmental degradation.⁷⁹

There were an estimated 227.6 million displacements due to disasters between 2008 – 2016. In 2016 there were 24.2 million new displacements by disasters triggered by sudden onset hazard events.⁸⁰ A majority of these occur in low and lower-middle income countries and as a result of large-scale weather events, and predominantly in South and East Asia.⁸¹ While China, the Philippines and India have the highest absolute numbers, small island states suffer disproportionately once population size is taken into account.⁸²

Since 2008, an average of 26.4 million people have been displaced by disasters each year. This is equivalent to one person every second.⁸³ Similarly, an average of 22.5 million people have been displaced by climate- or weather-related disasters each year and that is equivalent to 62,000 people every day.⁸⁴ In 2015, alone, climate-related disasters displaced 14.7 million people.⁸⁵

The United Nations and the Internal Displacement Monitoring Centre (IDMC) find that while they cannot predict whether the people involved will be permanently or temporarily displaced, in

⁷⁹ Ibid

⁸⁰ Ibid

⁸¹ Ibid

⁸² Ibid

⁸³ IDMC. *Global Estimates 2015; People Displaced by Disasters* (July, 2015) Retrieved on 11th December, 2017 12:05 pm from <http://www.internal-displacement.org/assets/library/Media/201507-globalEstimates-2015/20150713-global-estimates-2015-en-v1.pdf>

⁸⁴ Ibid

⁸⁵ United Nations Convention to Combat Desertification. *Fleeing Climate Change: Impacts on Migration and Displacement* (December, 2016) Retrieved on 11th December, 2017 4:15pm from <http://knowledge.unccd.int/publications/fleeing-climate-change-impacts-migration-and-displacement>

2008 alone some 36 million people were uprooted by sudden-onset natural disasters, including 20 million displaced by disasters associated with climate change.⁸⁶

Over the past two decades, the number of recorded disasters has doubled from approximately 200 to over 400 per year; and nine out of 10 disasters have been climate-related.⁸⁷ The total number of people affected by natural disasters over the past decade has reportedly tripled to two billion people, an average of more than 200 million people directly affected each year.⁸⁸

Similarly, in Africa drought and desertification have also led to displacement of people. According to the Economic Commission for Africa, drought and desertification are core threats to sustainable development in the region. Two-thirds of Africa is classified as deserts or drylands and the region is especially susceptible to land degradation.⁸⁹ In fact, it is estimated that two-thirds of African land is already degraded to some degree and that land degradation affects at least 485 million people or sixty-five percent of the entire African population.⁹⁰ Desertification in Africa is both a major cause and consequence of poverty and resource depletion, which threatens economic growth, food security, and political stability.⁹¹ Droughts are particularly deadly in Africa. According to the World Bank, between 1970 and 2010 over 800,000 deaths in Africa were directly attributable to drought. In comparison with other types of disasters, the Bank found that droughts produce the largest declines in GDP and tend to exacerbate conflict.⁹²

⁸⁶ Cohen, R & Bradley, M. (2010) Disasters and Displacement: Gaps in Protection. *International Humanitarian Legal Studies*, Vol.1, p.97

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ Ferris, E. Op.cit p.2 at p.4

⁹⁰ Ibid

⁹¹ Ibid

⁹² Ibid

While drought has been a historically frequent occurrence in many parts of Africa, climate change could even make the situation worse. The Intergovernmental Panel on Climate Change's 2012 report on extreme weather events reported that longer and more intense droughts had been experienced in West Africa and further predicted further that several regions, including southern Africa will see an increase in drought intensity.⁹³ Given the reality that climate change is occurring and that the effects of climate change are likely to be felt in Africa with increased variability of rainfall, more extreme weather events, and greater drought, it has been suggested that African leaders and international agencies would do well to think more about preparing for disasters – and in creating the infrastructure to both prevent and respond to those displaced by disasters.⁹⁴

Despite these figures, IDMC reports that disaster induced displacement is the least reported impacts of sudden-onset disasters.⁹⁵

2.5.3 Development Projects

Studies suggest that more people are displaced as a result of development projects than armed conflict.⁹⁶ Examples of displacement-inducing projects include dams; urban infrastructure projects such as electrification, roads, highways, and canals; and projects linked to the extractive industry.⁹⁷ People are also displaced by development projects such as urban renewal measures, development of natural parks and construction undertaken in association with sporting events.⁹⁸

While there are no comprehensive figures for those displaced by such initiatives, the best

⁹³ Ibid

⁹⁴ Ibid

⁹⁵ IDMC (October, 2017) *Global Disaster Displacement Risk: A Baseline for Future Work* cited in Adeyemo, D.D Op.cit p.25

⁹⁶ IDMC, *Training on the Protection of Idps: Development-Induced Displacement 1*, <http://www.internaldisplacement.org/8025708f004be3b1/httpinfo> cited in Kidane, W., Op.cit p.39

⁹⁷ Kidane, W. Op.cit p.39

⁹⁸ Brookings – LSE Project on Internal Displacement. (2014). Op.cit p.2

estimate is that around 15 million people per year are displaced by development-project activities.⁹⁹

It is trite to note that apart from the apparent causes of internal displacement, there are underlying factors that are actually the root causes of displacement. These include poverty, unequal access to economic resources, illiteracy, bad and/or irresponsible governance; corruption, unemployment as well as lack of strong institutional mechanisms that could effectively predict natural/ environmental disasters and thereby give people likely to be affected the opportunity to make informed decisions. According to Maru, bad governance contributes to poverty and conflict, which in turn, contributes to unemployment, migration and displacement.¹⁰⁰

2.6 Causes of Internal Displacement in Nigeria

The Boko Haram insurgency and heavy handed counter insurgency operations, development projects, sudden onset and slow onset natural disasters, and various types of conflict and violence including the ongoing inter communal violence in southern Kaduna and the Middle Belt region have led to massive displacement of people across Nigeria. Indeed it has been asserted that in Nigeria, most of the incidences of internal displacement occur because of violent conflicts with ethnic religious and political undertones.¹⁰¹ The complex causes of internal displacement in Nigeria are thus briefly analyzed below.

⁹⁹ Ibid

¹⁰⁰ Maru, M.T. (2011) Op.cit p.7 at p.92

¹⁰¹ Ladan (2013) Op.cit p.8

2.6.1 Inter communal conflict/violence

Protracted inter-communal conflicts regularly lead to death and displacement throughout Nigeria.¹⁰² They are fueled by disputes over land and broadly overlapping ethnic, religious, political and regional divisions, but much focus is placed on the religious element.¹⁰³ Many of these clashes take place in Nigeria's Middle Belt, which is made up of the country's central states and forms the crossroads between the mainly Muslim north and the predominantly Christian south.¹⁰⁴ Violence between nomadic Muslim herders, who are seen as "settlers", and Christian farmers, who are seen as "indigenous", flare up regularly. The conflict, essentially over rival claims on land and economic resources, has caused widespread loss of life, destruction of property and internal displacement.¹⁰⁵ At least 40,000 people in this region fled their homes in 2012 and Nigeria was ranked among ten countries whose civilians were most at risk, as a result, in large part, of violence in the Middle Belt.¹⁰⁶

Tensions between communities have been aggravated by prejudicial government policies that relegate millions of Nigerians to second-class citizens by discriminating against "non-indigenes" or "settlers" who are unable to prove roots linking them to the original inhabitants of an area¹⁰⁷. The principle behind the concept of "indigenization" was to protect the identity, rights and interests of the country's numerous minority groups. It has turned, however, into a powerful means of exclusion under which non indigenes are denied access to already limited resources and

¹⁰²Internal Displacement Monitoring Centre. (2013, July) Op.cit p.4

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ Ibid

opportunities in terms of education, land ownership, participation in political affairs and public sector jobs.¹⁰⁸

A pilot survey carried out in 2007 by the National Commission for Refugees, Migrants and IDPs (NCFRMI) shows that between 2001 and 2007, communal clashes between indigenes and settlers resulted into the internal displacement of about 1, 200,000 persons in the South Eastern states of Delta, Bayelsa, Akwa Ibom, Cross River, the Middle Belt Benue state and the North Eastern Taraba state.¹⁰⁹ In a fact finding survey, the figure of displacement due to ethno-religious violence in the Northern states of Adamawa, Kano, Kaduna, Kwara, Plateau, and Taraba in 2007 alone was put at 678,000.¹¹⁰ Similarly communal conflicts over boundaries between neighboring communities (Ife/ Modakeke in Osun State, Umuleri and Agwuleri in Anambra state, the dispute between Taraba and Plateau over Mambilla Hills etc has claimed not less than 780,000 persons living in displacement.¹¹¹ Again, the recent conflict in Southern Kaduna has produced about 2,000 IDPs.¹¹²

Indeed, the question of citizenship and indigeneity, as well as religious sentiments have been at the fore front of most of the ethnic/religious conflict in Nigeria. Minor misunderstandings usually make people previously living together peacefully to instantly take sides on the basis of ethnic/religious sentiments and this further leads to crisis resulting into destruction of lives and property and the displacement of many. It is submitted that poverty and unequal access to basic resources and education are the major contributory factors that lead to these conflicts. Where all

¹⁰⁸ Ibid

¹⁰⁹ Kolawole, A.A., Op.cit p.19

¹¹⁰ Ibid

¹¹¹ Ibid

¹¹² Andrews Agbese & Ali Ahmed, Kafanchan (2017, February 25). IDPs Face Tough Times in Southern Kaduna. *Daily Trust*. Retrieved on 7th April, 2017 from <https://www.dailytrust.com.ng/news/general/idps-face-tough-times-in-southern-kaduna/186815.html>

members of a community (whether indigenes or settlers, muslims or christians) have equal access to all services within the community and where also the youth are sufficiently educated, the occurrence of these conflicts would be very minimal.

2.6.2 The Boko Haram Insurgency and Heavy Handed Counter Insurgency Operations

Since 2009, the Islamist militant group Boko Haram (Jama'atu Ahlu s-Sunnati lil-Da'wa wal-Jihad / Islamic State West Africa Province group) has carried out increasingly frequent and sophisticated attacks and bombings. These and the heavy-handed counter insurgency operations against the group have caused significant number of deaths, the destruction of property and significant displacement.¹¹³ The states worst hit are the North eastern states of Adamawa, Bauchi, Borno and Yobe states. A counter terrorism attack coordinated by the Nigerian Joint Task Forces against the sect in April 2013 resulted into so many civilian casualties that left the town of Baga in Borno state desolate as hundreds of persons were displaced from that town and its environ. A reprisal attack was launched by the sect against the civilian population of Bama town of same state in May 2013 resulting in further displacement of persons.¹¹⁴

In essence, as a result of the non-international armed conflict between the Nigerian Government and the armed opposition, more than 1.76 million people are internally displaced in the North Eastern region of Nigeria.¹¹⁵ Borno, Adamawa and Yobe States currently have the largest

¹¹³ IDMC(2013) Op.cit p.4

¹¹⁴ Kolawole, A.A., Op.cit, p.19

¹¹⁵ International Organisation for Migration (IOM). (2016). *Nigeria Emergency Operations – Situation Report 16 -31 October, 2016*. Retrieved on 7th August, 2017 1:08 pm from <https://reliefweb.int/report/nigeria/nigeria-emergency-operations-iom-regional-response-situation-report-16-31-october>

number of IDPs, with approximately 1.68 million persons who have been displaced as a result of the conflict.¹¹⁶

In particular, Borno, Adamawa and Yobe States experienced a critical increase in IDPs throughout 2015 and 2016.¹¹⁷ In February 2015, the number of IDPs displaced as a result of the armed conflict was estimated at 946,000; by October 2016, this figure had risen to an estimated 1.68 million.¹¹⁸ Of these, the majority are located in Borno State, including approximately 528,000 IDPs in Maiduguri Metropolis, Borno State, and 864,000 IDPs in areas outside of Maiduguri Metropolis, often beyond the reach of humanitarian actors.¹¹⁹ While 22% of these IDPs are residing in official IDP camps and camp-like settings, the majority are residing within the host community.¹²⁰

The Boko Haram insurgency in Nigeria has been the major cause of internal displacement in recent times. As stated above also, most of the IDPs are not living in camps but live with friends and relatives elsewhere. As such, the figures presented can best be described as estimates. Furthermore, it can also be argued that the Boko Haram insurgency manifested itself that way due to lack of education, poverty, insincerity on the part of leaders, as well as the inability of authorities to hold some few influential people to account.

2.6.3 Forced Evictions

More than two million urban Nigerians, mainly slum-dwellers and other marginalized people, have been forcibly evicted from their homes since 2000, most notably in Abuja, Lagos

¹¹⁶ Ibid

¹¹⁷ International Committee of the Red Cross - ICRC (2016, December) Op.cit p.22

¹¹⁸ Ibid

¹¹⁹ Ibid

¹²⁰ Ibid

and Port Harcourt.¹²¹ Evictions are sanctioned by state governments and carried out in the name of security and urban renewal, but they have taken place without adequate consultation, notice, compensation or offers of alternative accommodation.¹²² In addition to breaching victims' right to adequate housing, forced evictions amount to arbitrary displacement and often lead to violations of other human rights, such as health care, education and livelihood opportunities. They have led to intra-urban displacement and left thousands of people homeless.¹²³

In Lagos, Rivers and Ogun states to mention but a few there had been forced eviction of people from their homesteads in the name of security and development projects.¹²⁴ Thus from the old indigenous Karu, Bwari and Gbagy ethnic groups in the FCT, Abuja to the Abonema Waterfront residents in Rivers state to the inhabitants of the slums and shanties of Maroko, Makoko and Ijora Badia in Lagos state, thousands of persons have been rendered homeless and displaced in Nigeria through forced evictions by federal or states governments in Nigeria often without adequate provision for resettlement or compensations.¹²⁵ This had in turn led to displacement as each group seeks to re-establish homesteads in unfamiliar places either in the urban or rural settings.¹²⁶

When forced evictions occur in Nigeria it often affects people who are not so educated and therefore unaware of their rights to say, compensation or even, consultation and resettlement. Even where educated people are affected, most at times people are usually reluctant to enforce their rights either because there is no confidence in the justice system in Nigeria or because they

¹²¹ Kolawole, A.A Op.cit p. 19

¹²² Ibid

¹²³ Ibid

¹²⁴ Ibid

¹²⁵ Ibid

¹²⁶ Ibid

cannot afford the mechanisms for the enforcement of such rights. As such, when people are aware of their rights and the process of enforcing the rights are relatively easy, the displacement of people due to forced evictions will be highly minimized.

2.6.4 Recurrent Floods

Floods are a regular occurrence in Nigeria, particularly in lowlands and river basins, where the most vulnerable communities live and work. Mud bricks used for construction in many rural areas offer little or no resistance to the flood floodwaters, leading to the loss of homes and food stocks.¹²⁷ Displacement is caused not only by heavy rains and overflowing water courses but also by the mismanaged release of water from dam reservoirs, both in Nigeria and in upstream locations in neighboring countries.¹²⁸ As a result of the neglect of dam structures and blockage of natural water drainages, excess water cannot be discharged in time and accumulates, prompting dam authorities to open waterways when the dam reaches maximum capacity.¹²⁹

The most devastating floods in the last 40 years hit the country between July and October 2012, causing the world's second largest disaster induced displacement event of the year.¹³⁰ The floods affected populated areas of the vast river plains of the Benue and Niger rivers and their Tributaries across 33 of the country's 36 states. An inter-agency assessment carried out in 14 of the affected states estimated that around 5.7 million animals had been killed and two million hectares of farmland lost.¹³¹ States worst hit were Lagos, Kogi, Benue, Niger and Bayelsa.¹³² Available data from NEMA though hazy suggests that about 3,871,530 have been displaced due

¹²⁷ IDMC (2013) Op.cit p.4

¹²⁸ Ibid

¹²⁹ Ibid

¹³⁰ Ibid

¹³¹ Ibid

¹³² Kolawole, A.A., Op.cit p.19

to the resulting floods.¹³³ The resultant loss and damages is estimated as worth over N2.29tn which is equivalent to one quarter of the total Gross Domestic Product of the Country just in three months.¹³⁴

Displacement due to flood is a combination of both man made and disaster induced displacement. Thus, efficient and effective management of dam reservoirs, good drainage systems, building of structures according to laid down standards, as well as good weather forecast and early warning systems could go a long way in mitigating the factors that give rise to flood and also minimize the level of internal displacement caused as a result of it.

2.6.5 Desertification

Desertification caused by climate change as well as human activities, including deforestation, is a cause of internal displacement in at least 11 northern states.¹³⁵ Many of these areas have a land-based economy and are also affected by worsening violence. It has been estimated that 350,000 hectares of land are lost to the desert each year, forcing people to migrate south towards the volatile Middle Belt region.¹³⁶ Their search for fertile land and a place to settle puts them in direct competition with “indigene” communities over scarce resources.¹³⁷ In essence, the struggle for fertile land had in several instances degenerated into communal clashes; and the encroachment by herdsmen in search of grazing land for their cattle on farms has also led to crisis such as the ongoing crisis in the Middle belt region of the country.

¹³³ Ibid

¹³⁴ Ibid

¹³⁵ IDMC (2013) Op.cit p. 4

¹³⁶ Ibid

¹³⁷ Ibid

Internal displacement is a direct consequence of these conflicts. Importantly, the government had put in place policies, programs and projects aimed at overcoming desertification such as the FADAMA I,II, III, River Basin Authority, Federal Environmental Protection Agency (FEPA), States Environmental Protection Agencies, the Arid Zone Aforestation Project, Global Tree Planting Project, etc, but duplication and lack of consistency and implementation are some of the challenges of these measures.¹³⁸

2.6.6 Post Election Violence and Other Causes

Analysts have always expressed fears that the level of conflict and with it the level of internal displacement, may increase each time general elections year draw nearer.¹³⁹ These fears were confirmed when NEMA reported (in April 2011) that about 65,000 persons were displaced internally due to post-election violence and are spread across the following six Northern states: - Bauchi, Kaduna, Kano, Niger, Katsina and Sokoto.¹⁴⁰ Admittedly, most of Nigeria's elections are followed with conflicts and crisis. The reason for the crisis is also deeply rooted in lack of confidence in the electoral system and ethnic/religious divisions within the country; with each group clamoring for its own candidate.

Corruption, poverty, inequality and unequal access to basic services as well as lack of accountability by people entrusted with public funds are at the root of these divisions. More so the elections are not always free and fair as snatching of ballot boxes and rigging of elections have become common practices. When people have the confidence that elections are credible and that who so ever is elected into office will give all people equal opportunities and would not

¹³⁸ Kolawole, A.A. Op.cit p.19

¹³⁹ Ladan (2013) Op.cit p.8

¹⁴⁰ Ibid

treat the office as a means to enrich either himself, his tribe or his religion, then the need to identify with candidates based on tribe or religion would be less and confidence in the electoral process would be restored. As such, the likelihood of the occurrence of post-election violence would be highly diminished.

Other causes of internal displacement in Nigeria include the case of the returned Bakassi Peninsula dwellers. Between 2004 and 2008 about 150,000.00 residents of Bakassi had become displaced within several riverine states in Nigeria.¹⁴¹ Furthermore, recent studies have also shown that internal displacement in Nigeria is not only caused by natural and human-made disasters, armed conflict and ethno-religious-political conflicts but also due to extreme poverty, lack of equal access to socio-economic resources and balanced development, high unemployment rate among able-bodied and frustrated youths.¹⁴² These factors, play very vital roles especially with regard to human made disasters. When there is fairness, transparency and accountability in governance, efficient leadership not based on sentiments for any particular group, well-structured management of resources, equal access to resources and youth who have access to quality education and employment, so many man-made disasters in Nigeria will be avoided.

2.7 Impact of Displacement on IDPs in Nigeria

A common thread binding all IDPs is vulnerability. IDPs belong to that special group of human beings whom the international humanitarian law has labeled as being vulnerable. This vulnerability stems from a number of factors. First is that more often than not IDPs are brutally forced to leave their homestead for unfamiliar terrains without any valuable goods or means of

¹⁴¹ Kolawole, A.A., Op.cit 19

¹⁴² Ladan (2013) Op.cit, p.8

procuring livelihood. This is true for all IDPs whether displaced by flood, communal conflicts climate change or any other natural or manmade disaster¹⁴³ because during the violent conflicts or natural disaster, which forced IDPs to leave, most houses and properties are destroyed, looted or burnt down.¹⁴⁴ Most IDPs in Nigeria flee to neighboring communities that are safe, usually taking refuge in temporary shelters such as schools, public buildings and places of worship among others, hence, lacking access to necessities of life such as food, water and shelter.¹⁴⁵

IDPs in Nigeria face so many challenges ranging from insecurity, lack of access to justice (especially, in cases of human rights violations), to all forms of exploitation and abuse having camped in congested shelters, isolated, insecure and inhospitable areas, some having been largely separated from their families.¹⁴⁶ Under such circumstances, there have been reports of breakout of epidemic and widespread of diseases among them often resulting into deaths especially of children and women due to lack of healthcare facilities.¹⁴⁷ More so, the needs of unaccompanied children and teenagers, the elderly and sick, the handicapped and pregnant women are not adequately attended to, due to fragmented and uncoordinated humanitarian response to the needs of IDPs.¹⁴⁸

Furthermore, women and young girls are especially open to sexual attacks even by their so called keepers (the security personnel put on camps) and since most of them might have lost the father figure in their household, the sense of loss is much pronounced in such circumstances.¹⁴⁹ A study conducted on adolescence living in IDP camps as at June 2010 after displacement by the 2010

¹⁴³ Kolawole, A.A, Op.cit, p.19

¹⁴⁴ Ladan (2013) Op.cit , p.8

¹⁴⁵ Ibid

¹⁴⁶ Ibid

¹⁴⁷ Kolawole, A.A. Op.cit p.19

¹⁴⁸ Ladan M.T.,(2013) Op.cit p.8

¹⁴⁹ Kolawole A.A., Op.cit p.19

Jos ethno/ religious clash reported that under such conditions adolescence quickly become hardened to the inhumane conditions and adopted the coping strategy of repression.¹⁵⁰ The result is that the female adolescence having suffered sexual molestations in turn are ready to offer themselves as commercial sex workers to make ends meet while the male would readily put up themselves for recruitment for armed conflicts.¹⁵¹ With this seeming hardening of minds through repression, internally displaced populations, and especially groups like children, adolescence and women often experience profound psychosocial distress related to displacement.¹⁵²

Again, the often insecure nature of camps provided makes IDPs especially vulnerable to subsequent attacks. Thus IDPs who have been displaced by communal clashes live with fear and may often go into hiding for fear of being attacked again. This is especially true of IDPs who have been displaced by the Boko Haram insurgency in the Northern part of Nigeria.¹⁵³

While some efforts are made by humanitarian and faith-based organizations and government agencies to address some of the basic needs of IDPs, their vulnerability tend to be increased by barriers to accessing healthcare services, education, employment, economic activities and information for participation in decision making affecting their lives.¹⁵⁴ With some IDPs camped in school buildings, education is usually disrupted for both local communities and displaced children.¹⁵⁵

¹⁵⁰ Ibid

¹⁵¹ Ibid

¹⁵² Ibid

¹⁵³ Ibid

¹⁵⁴ Ladan (2013) p.8

¹⁵⁵ Ibid

Even when the situation of most IDPs improves, potentially durable solutions have remained out of the reach of specific groups with particular needs or vulnerabilities.¹⁵⁶ These include the elderly or sick people, widows barred from recovering the property they had lived in, or members of minorities facing discrimination, marginalization and exclusion or whose livelihoods depend on a particular attachment to their areas of origin or settlement.¹⁵⁷ For such groups, strategies or incentives that had encouraged others to move towards a durable solution may not have been effective or accessible, and the tailored support they needed to rebuild their lives was not available.¹⁵⁸

Internally displaced persons also often lose their source of livelihood as a result of their displacement. Those who were farmers may have lost their farms, livestock, etc. People who were independent suddenly become dependent on aids from humanitarian organizations, government agencies, etc. This could have serious psychological effect on them. While in camps, the right to privacy, family life and dignity of human person become highly challenged. Furthermore, some family members become separated or missing and security at the camps is also not guaranteed.

Agencies tasked with the management of IDPs are also marred with issues of lack of coordination, corruption and lack of accountability for funds received. Thus, the aid IDPs are expected to get does not actually get to them as and at when due and so most of them try to engage in some sort of petty businesses in order to survive. In that regard, there is a tendency of some going into crime, prostitution and other vices just to make ends meet. Again, clean water and other hygiene/health amenities are not easily accessible to IDPs and in some camps, even

¹⁵⁶ Ibid

¹⁵⁷ Ibid

¹⁵⁸ Ibid

movement in and out of the camps is restricted. Also, most of the IDPs are not adequately consulted on issues relating to finding durable solutions for them. Further still, since a large number of IDPs are not in camps, they become a burden to friends and relatives who may have their own financial challenges.

2.8 Historical Background to the Emergence of Legal Protection for Internally Displaced Persons

The history and background of the special procedure on the human rights of IDPs can be looked at from the vintage points of two important periods. The first one covers the period from 1992 to 2004 in which the first Representative of the Secretary General (RSG), Mr Francis Deng, led a process of developing the GPID. The second period started in 2004 which saw the appointment of Professor Walter Kalin and the reinvigoration of the terms of reference of the mechanism. The GPID came about at a time when the imperative of developing a robust response to the plight of IDPs emerged as an urgent task whilst international scrutiny of states over the treatment of their own nationals was increasing.¹⁵⁹

One of the first situations of large-scale internal displacement to attract international concern was that of Sudan in the early 1970s. Following the 1972 Addis Ababa Agreement putting an end to a protracted civil war and which provided for the return and resettlement of refugees and internally displaced persons, the UN's Economic and Social Council requested that UNHCR coordinate humanitarian assistance on behalf of these populations: it referred to 'the assistance required for

¹⁵⁹Abebe, A.M. (2011) Op.cit p.8 at p.288

voluntary repatriation, rehabilitation and resettlement of the refugees returning from abroad as well as of persons displaced within the country.¹⁶⁰

In 1990, the Economic and Social Council requested the Secretary-General to initiate a UN system-wide review to assess the experience and capacity of UN entities in the provision and coordination of relief assistance to and protection of refugees, displaced persons and returnees.¹⁶¹

In addition, the General Assembly assigned to all in-country Resident Coordinators the function of coordinating assistance to IDPs in the field. The next year, the UN created the post of Emergency Relief Coordinator to further improve the UN's ability to respond to emergency situations, including those involving displaced populations. Even so, these were minor steps which might have done little had it not been for the Gulf War.¹⁶²

The Gulf War was pivotal in increasing the exposure of the IDP problem both through the efforts of the international media and because it necessitated an international response. In the aftermath of the liberation of Kuwait, uprisings among the Kurdish and Shiite populations of Iraq were crushed by Saddam Hussein, causing massive displacement. Beginning in April, 1991, at least 1.5 million refugees fled Iraq and sought asylum in Iran and Turkey. An additional one million more were internally displaced in the north after Turkey closed its borders with Iraq. The result was a humanitarian crisis of epic proportions, with a death rate of between 400 and 1,000 per day among the IDPs due to 'hypothermia, exposure, exhaustion, and bacteria-ridden drinking water, which led to pneumonia, diarrhea, and cholera.'¹⁶³

¹⁶⁰Phoung, C., Op.cit p.13 at p.6

¹⁶¹Bagshaw, S., Op.cit p.7 at p.5

¹⁶² Orchard, P., Op.cit p.15 at p.288

¹⁶³ Ibid

This crisis was in full glare of the media who had been in the region to follow the Desert Storm operation, and stayed to report the subsequent uprisings. Public pressure led to a major policy reversal inside the George H.W. Bush Administration. Whereas the US government had previously argued against intervening in Iraq, with the President suggesting that he did ‘not want to see US forces pushed into this situation, brutal, tough, and deplorable as it is,’ he announced that he had directed ‘the US military to begin immediately to establish several encampments in northern Iraq.’ The President went on to single-handedly redefine potential reasons for intervention, noting that while ‘some might argue that this is an intervention into the internal affairs of Iraq [. . .] I think the humanitarian concern, the refugee concern, is so overwhelming that there will be a lot of understanding about this.’¹⁶⁴

The crisis, the lack of an immediate UN response, and the need for a military intervention all highlighted ‘the deficiencies of the existing institutional framework [. . .]’.¹⁶⁵ More broadly, the intervention in Iraq, along with UN involvement in other IDP situations including Sudan in 1989 and Somalia in 1992

highlighted both the possibilities and dangers of ad hoc responses [. . .]. The perception that the UN had fallen short of an appropriate response when faced with a rapidly unfolding and highly visible humanitarian emergency generated a new debate on access, intervention and humanitarian assistance at the UN, which set the stage for new approaches to internal displacement.¹⁶⁶

However, the major impetus behind international recognition of the problem of internal displacement lay with a group of Non-Governmental Organizations (NGOs), mobilized as a result of problems encountered in gaining access in the field to large numbers of ‘internal

¹⁶⁴ Ibid

¹⁶⁵ Ibid

¹⁶⁶ Ibid, p.290

refugees' who were in need of assistance and protection. ¹⁶⁷For Martin Macpherson of the Friends World Committee for Consultation (Quakers), Beth Ferris of the World Council of Churches (WCC), and Roberta Cohen of the Refugee Policy Group (RPG) there was an urgent need to raise the issue at the international level. ¹⁶⁸

In January 1990, the Quaker UN Office in Geneva brought together diplomats and representatives of intergovernmental and non-governmental organizations to discuss the issue and ways in which to proceed. Although the discussions were productive they were also cautious. The Cold War was winding down and there was uncertainty over the future and the manner in which the UN could proceed with an issue so clearly within the domestic jurisdiction of states. ¹⁶⁹ Representatives of the UNHCR and the United Nations Development Programme (UNDP) and a number of diplomats questioned whether this was an issue for the UN, that its magnitude and internal nature raised too many potential problems for the UN. ¹⁷⁰ These NGOs considered options about where to raise the problem.

Two options would not work: UNHCR's Executive Committee was primarily concerned with refugees, while the General Assembly was both a political body and less accessible to NGOs. This informal coalition was left with approaching the Commission on Human Rights (CHR now UN Human Rights Council). ¹⁷¹Working with the International Committee of the Red Cross

¹⁶⁷ Bagshaw, S. Op.cit p.7 at p.6

¹⁶⁸ Ibid

¹⁶⁹ Ibid

¹⁷⁰ Ibid

¹⁷¹ Orchard, P. Op.cit p.15 at p.290

(ICRC) and UNHCR, this group prepared a draft resolution which called on the Commission to request the Secretary-General to prepare an Analytical Report on IDPs.¹⁷²

The Analytical Report prepared by the Secretary-General underlined that if the UN human rights system is to play any credible role in the wider ‘humanitarian’ response, the establishment of a special focal point ought to be the first order of business. It facilitated the ground on which the CHR requested the Secretary General to appoint a Representative on IDPs.¹⁷³

In 1992, following the submission of the Analytical Report, the CHR requested the Secretary-General, Boutros Boutros-Ghali, to appoint a Representative of the Secretary-General (RSG) on Internally Displaced Persons.¹⁷⁴ He chose Francis Deng, who had served as the Minister of State for Foreign Affairs of the Sudan among other posts. He was also an active academic who had coined the notion of sovereignty as responsibility. This left him in an excellent position to talk to governments.¹⁷⁵

Deng was tasked with examining the extent to which existing international human rights, humanitarian, and refugee law was applicable to IDPs. In partnership with other experts and institutions, Deng carried out consultations for several years to review existing international law and to identify gaps in IDP protection.¹⁷⁶ His efforts were also assisted by high officials within the UN system, including Sadako Ogata, the UN High Commissioner for Refugees, and a number of NGOs including the US Committee on Refugees and the Norwegian Refugee Council (NRC). Deng also created a project within the Brookings Institution on Internal Displacement

¹⁷² Ibid

¹⁷³ Ibid, p.291

¹⁷⁴ Orchard, P., Op.cit p.15 at p.291

¹⁷⁵ Ibid

¹⁷⁶ Brookings – LSE Project on Internal Displacement. (2014) op cit. p.2

with Roberta Cohen, a senior fellow at the Brookings Institution and the former US Deputy Assistant Secretary of State for Human Rights.¹⁷⁷

The idea that protection and assistance for IDPs could be drawn from existing international law was at the core of Deng and his team's priorities. Rather than "reinventing the wheel" and trying to create new norms and laws, they agreed to base a normative framework for IDPs on international human rights and humanitarian law that had already been agreed upon and supported by states. The hope was that states would be more likely to support application of existing international law to IDPs rather than to embark on the arduous process of negotiating a new convention or treaty.¹⁷⁸

This team determined that existing international humanitarian and human rights law and analogous refugee law did provide substantial coverage for the internally displaced.¹⁷⁹ However, there were also areas where existing law failed to provide sufficient protection. The Comprehensive Study reviewed both the legal and institutional challenges of protecting IDPs.¹⁸⁰

The RSG and the team of international lawyers were convinced that elaboration of a binding international treaty is neither feasible nor desirable. Their decision to privilege 'soft-law' over a binding international treaty was informed by a combination of considerations. First, it was thought that treaty-making in the human rights field is quite complex and time consuming, which the urgent nature of the crisis of displacement could not tolerate. Secondly, even if a convention or protocol is adopted, such an instrument may still be threatened with slow ratification and reservations by states. Thirdly, since the problem of internal displacement involves the

¹⁷⁷ Orchard, P., *Op.cit* at p.291

¹⁷⁸ Brookings – LSE Project on Internal Displacement. (2014) *op cit*. p.2

¹⁷⁹ *Ibid*

¹⁸⁰ Abebe, A.M (2010) *Op.cit* p. 17 at p.288

application of distinct legal regimes (i.e. human rights and humanitarian law), a comprehensive codification process may lead to a merger, not only in one instrument, but in a single provision, of distinct categories of law. Fourthly, it was also suggested that existing international legal instruments provide a limited framework for protection and assistance.¹⁸¹

Following submission of the first part of the compilation to the Commission in 1996, the Representative and the legal team began to develop, on the basis of the compilation and at the request of the Commission, a comprehensive normative framework of protection and assistance for the internally displaced. This resulted in the elaboration of a set of guiding principles which were finalized in January 1998 and submitted to the Commission on Human Rights at its fifty-fourth session as the Guiding Principles on Internal Displacement.¹⁸²

The Guiding Principles are meant to provide concrete guidance to states, to enhance the capacity of the UN system to respond to situations of internal displacement, to raise greater awareness on the plight of IDPs, and to ensure more effective protection and assistance to IDPs. They provide a foundation for states, the UN, NGOs and other actors to respond to IDP situations in all phases of displacement, from prevention to response to durable solutions. The Guiding Principles not only set the basic standard for the legal protection of IDPs globally, but also provided a platform for subsequent regional and national frameworks for IDP protection and assistance.¹⁸³

Because Deng and his team based the Guiding Principles on existing human rights, humanitarian and refugee laws that were already widely accepted, the Guiding Principles weren't starting from

¹⁸¹ Ibid. pp.289-290

¹⁸² Bagshaw, S., Op.cit, p.7 at p.15

¹⁸³ Brookings – LSE Project on Internal Displacement. (2014) op cit. p.2

scratch. This gave them both authority and credibility that they may not have otherwise had if entirely new norms and standards were being presented.¹⁸⁴

2.9 Impact of the Guiding Principles on Internal Displacement

Despite the fact that the principles were not drafted or formally approved by an intergovernmental process, UN agencies, regional organizations, NGOs, and a growing number of governments have begun to cite them and to use them as the basis for policies, laws, and programs for the internally displaced.¹⁸⁵

Initially, within the UN system, both the Commission on Human Rights and the General Assembly were cautious in receiving the principles, going only so far as to “take note” of them and of the representative’s intention to use them in his work. But with each passing year, the language in the Resolutions became stronger as the principles became better known and began to be used internationally.¹⁸⁶

In 2000, the CHR adopted stronger wording, welcoming that the Representative, as well as UN agencies and other organizations, were using the GPID. In 2002 the CHR not only welcomed their dissemination and use by states, but also expressed its appreciation of them as an ‘important tool for dealing with situations of internal displacement.’ The General Assembly has passed similar language, welcoming the use and dissemination of the principles, that they are an

¹⁸⁴ Ibid

¹⁸⁵ Cohen, R. (2004) The Guiding Principles on Internal Displacement: An Innovation in Standard Setting. *Global Governance*, Vol.10, p.467

¹⁸⁶ Ibid, p.469

important tool for dealing with situations of internal displacement, and encouraging UN agencies, regional organizations and NGOs to disseminate and apply them¹⁸⁷

By 2003, the commission expressed “appreciation” of the Guiding Principles, called them “a standard” and an “important tool,” welcomed the fact that “an increasing number of States, United Nations agencies and regional and non-governmental organizations were applying them,” and also welcomed their “dissemination, promotion and application” worldwide¹⁸⁸.

This certainly came close to endorsement even if not adoption.¹⁸⁹ Even the Security Council began to cite the principles in its resolutions and presidential statements. Secretary-General Kofi Annan supported the principles as soon as they were completed, calling them one of the “notable achievements” in the humanitarian area.¹⁹⁰ In a report to the Security Council in 1999, he called on that body to encourage states to observe the principles in situations of mass displacement¹⁹¹ and also recommended that the General Assembly and the Economic and Social Council (ECOSOC) encourage Member States to develop national laws and policies “consistent with” the Guiding Principles.¹⁹²

At the 2005 UN World Summit, Heads of State and Government affirmed the Guiding Principles as “an important international instrument for the protection of internally displaced persons.”

¹⁸⁷ Orchard, P., Op.cit., p.15 at p.294

¹⁸⁸ United Nations Commission on Human Rights, Res.2003/51 (23 April, 2003) Retrieved on 19th May, 2015 8:00am from <http://www.refworld.org/docid/3f7aa2264.html>

¹⁸⁹ Cohen, R., Op.cit p. 64

¹⁹⁰ United Nations Report of the Secretary General to the Economic and Social Council. *Strengthening the Coordination of Humanitarian Assistance*, UN DOC.E/1998/67 (12 June 1998) Retrieved on 3rd February, 2015 10:00am from <http://www.un.org/documents/ecosoc/docs/1998/e1998-67.htm>

¹⁹¹ United Nations, Report of the Secretary General to the Security Council. *Protection of Civilians in Armed Conflict*, UN DOC.S/1999/957, Recommendation 7. Retrieved on 16th February, 2015 10:30am from <http://www.un.org/en/sc/documents/sgreports/1999.shtml>

¹⁹² United Nations, Report of the Secretary General to the Economic and Social Council, *Strengthening the Coordination of Emergency Humanitarian Assistance*, UN DOC.E/2003/85 (2003) Retrieved on 16th February, 2015 11:00am from http://ap.ohchr.org/documents/alldocs.aspx?doc_id=3380

Since then, the General Assembly has regularly affirmed the importance of IDP protection and the Security Council has adopted a number of resolutions relating to IDPs.¹⁹³ That same year, an ICRC study on customary international humanitarian law recognized the role of the Guiding Principles as a source of customary law. According to the study, the prohibition of forced displacement is a rule of customary international law and therefore binding on all states. Thus, the Guiding Principles are gradually being crystallized in binding principles and obligations.¹⁹⁴

In the field, UN humanitarian and development agencies began to use the principles. UNHCR developed programs based on the principles to benefit IDPs in Sri Lanka. Other agencies used the principles as a checklist to monitor and assess IDP needs. Still others organized training sessions around the principles to raise awareness of the problems of the internally displaced. The Office for the Coordination of Humanitarian Affairs (OCHA) printed 10,000 copies of the principles and began disseminating them worldwide.¹⁹⁵

A number of regional and sub-regional intergovernmental organizations—including the African Union, the International Conference on the Great Lakes Region, the Economic Community of West African States (ECOWAS), the Inter-American Commission on Human rights of the Organization of American States, the Organization for Security and Cooperation in Europe and the Council of Europe—have drawn on the Guiding Principles in their own policies and legislations.¹⁹⁶

Among the most notable examples, in 2006 the Guiding Principles were incorporated into law in Africa when 11 states adopted a binding Pact on Security, Stability and Development in the

¹⁹³ Brookings – LSE Project on Internal Displacement. (2014). Op.cit p.2

¹⁹⁴ Ibid

¹⁹⁵ Cohen, R. Op.cit p.64

¹⁹⁶ Ibid

Great Lakes Region, The Pact comprises 10 protocols and one of the most important of them is the Protocol on the Protection and Assistance to Internally Displaced Persons, which entered into force in June 2008. Member States of the International Conference on the Great Lakes Region are required to enact national legislation to domesticate the Guiding Principles into their legal system, and to encourage IDP participation in developing such legislation. This was the first time a group of states agreed to develop binding international law on internal displacement.¹⁹⁷

The Protocol on Internally Displaced Persons also contributed to the development and adoption of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention.¹⁹⁸ The Kampala Convention is the first binding regional treaty on internal displacement. It was developed over a five-year period, adopted in 2009 by the African Union (AU), and entered into force in December 2012 upon the ratification by twelve Member States. This Convention incorporates the Guiding Principles and sets out specific obligations for States, the AU and humanitarian agencies for all phases of displacement and applies to all types of internal displacement, whether caused by conflict, human rights violations, development projects, disasters, or climate change.¹⁹⁹

Nigeria ratified the Kampala Convention on 17 April 2012 and rewrote the draft policy on IDPs in July 2012 to incorporate the provisions of the Convention. Other prominent examples of regional commitments to the Guiding Principles and their incorporation into domestic law are found in the Organization of American States and the Council of Europe. The rights of IDPs have also been affirmed under the jurisprudence of African Commission on Human and Peoples’

¹⁹⁷Brookings – LSE Project on Internal Displacement. (2014). Op.cit p.2

¹⁹⁸ Ibid. p.9

¹⁹⁹ Ibid

Rights²⁰⁰, the Inter-American Court of Human Rights²⁰¹ and the European Court of Human Rights²⁰². All of these bodies have drawn on the Guiding Principles to address IDP issues.²⁰³

A number of materials have also been developed to help states implement the Guiding Principles. For instance, in 2008, the Brookings Institution-University of Bern Project on Internal Displacement published a manual for law and policymakers, based on the Guiding Principles, and aimed at guiding national authorities in developing domestic law and policy relevant to IDPs.²⁰⁴ The manual includes helpful examples of laws and policies developed by states to address IDP needs in specific sectors, ranging from education to compensation for land and property.²⁰⁵

While global and regional norms are important, the way in which they are translated into national policies affecting the “on the ground” daily lives of IDPs is most important.²⁰⁶ To date, over 26 countries have adopted or issued policies, laws or decrees relating to internal displacement.²⁰⁷ Other countries like Georgia, Nigeria, Somalia and Yemen are in the process of developing or drafting legislation on IDPs.²⁰⁸

While these tools are important resources for governments to use in addressing internal displacement in their own particular contexts, the most important determinant of strong policies

²⁰⁰See *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*, Communication 276/2003; and *Malawi Association and Others v. Mauritania*, Communication 54/91. Cited in Brookings – LSE Project on Internal Displacement. (2014)., op cit p.2 at p.10

²⁰¹ See *“Mapiripan Massacre” v. Colombia*, Judgment, September 15, 2005. Cited in Brookings – LSE Project on Internal Displacement. (2014)., Op.cit p.2 at p.10

²⁰² See *Soltanov and Others v. Azerbaijan*, Judgment, January 13, 2011; and *Isayeva v. Russia*, Judgment, 24 February 2005. Cited in Brookings – LSE Project on Internal Displacement. (2014)., Op.cit p.2 at p.10

²⁰³ Brookings – LSE Project on Internal Displacement. (2014)., Op.cit p.2 at p.10

²⁰⁴ Ibid

²⁰⁵ Ibid

²⁰⁶ Ibid

²⁰⁷ Ibid

²⁰⁸ Ibid

for IDPs is the political commitment on the part of governments. Often this political commitment has been triggered by active engagement of civil society groups.²⁰⁹ In Nigeria, despite its ratification of the Kampala Convention, the Federal Government is yet to adopt the policy, and/or enact a domestic law to implement the Convention. The absence of such frameworks as a means of clearly defining roles and responsibilities has, and will continue to, hamper humanitarian and development efforts to mitigate the effects of internal displacement. They are also essential to a holistic approach in supporting IDPs' search for durable solutions, and in preparing for and preventing future displacement.²¹⁰

As seen above, the GPID have been instrumental in the development of a strong system of protection for IDPs under international law. However, as concise as the GPID or the Kampala Convention may be, unless the provisions are effectively implemented by State Governments, they will remain sources of protection for IDPs only in theory. Again, since the GPID are not legally binding, they are only to serve as a guide to States with the problem of internal displacement and cannot be enforced against any State. In contrast though, the AU Convention is a legally binding instrument and as such, the AU has some sort of influence in promoting compliance by Member States.

Furthermore, refugees and IDPs share many similarities in terms of their protection needs which are basically the same. Both groups are vulnerable and in need of protection as they have been forced to leave their places of habitual residence. Certain characteristics of IDPs put them in a realm different from that of refugees. Internal displacement could be caused by armed conflict, natural disasters, development projects or other factors. It is not necessarily caused by conflict or

²⁰⁹ Ibid p.11

²¹⁰ Ladan, M.T.(2015) Op.cit p.4

persecution, as with the case of the strict definition of refugees. In fact, the Guiding Principles on Internal Displacement as well as the Kampala Convention recognizes that there are no limited causes of internal displacement. Equally too, the framework of protection for the two groups are indeed distinct simply because of the border crossing element. As such, IDPs suffer from a weaker international legal and institutional framework of protection than refugees because IDPs are within the borders of their home countries and therefore are supposed to be protected by the governments of their countries. As stated earlier, with IDPs, most times, the governments are either unwilling or unable to protect them.

The increasing number of IDPs around the globe and the conditions in which they live has prompted a stronger response from the international community to their plight. The Guiding Principles on Internal Displacement as well as the regional instruments created on the influence of the Guiding Principles present new hopes for the effective protection of the rights of IDPs. The challenge, however, remains the commitment of various governments to implement the provisions of those international and regional instruments.

CHAPTER THREE

LEGAL FRAMEWORK FOR THE PROTECTION OF INTERNALLY DISPLACED PERSONS IN NIGERIA

3.1 Introduction

Indeed it could be argued that a framework of protection for internally displaced persons does exist under international law because some standards for the protection of IDPs are found in international human rights laws, specifically the Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), and, in Africa, the 1981 African Charter on Human and Peoples' Rights as well as in humanitarian law, which comprises the four Geneva Conventions of 1949 and the two Additional Protocols of 1977.¹ In recent times, the UN GPID (1998) and in Africa, the Kampala Convention (2009) offer more comprehensive standards for the protection of IDPs.

The fact that the Kampala Convention is yet to be domesticated in Nigeria presents an enormous barrier to its mission as a document formulated to effectively protect IDPs in all phases of their displacement in Africa.² As such, currently, there is no specific legal framework for protection and assistance for IDPs in Nigeria.³ Notwithstanding, efforts have been made to incorporate the above international standards and provisions into the legal and institutional frameworks that aim to cater for the needs of the IDPs in Nigeria.

¹ Deng, F.M. (1995) Dealing with the Displaced: A Challenge to the International Community. *Global Governance*, Vol.1, p.51 Retrieved on 18th February, 2015 8:00pm from <http://www.jstor.org/stable/27800100>

² There is a draft bill currently before the National Assembly which seeks to domesticate the Kampala Convention.

³ ICRC (December, 2016) Op.cit p.22

Many provisions of the Kampala Convention are reflected in the Constitution of the Federal Republic of Nigeria 1999 (As Amended)⁴, as well as the African Charter on Human and People's Rights (Ratification and Enforcement) Act 1983, both of which apply to all persons in the territory of Nigeria, including IDPs.⁵

Generally, the legal framework for the protection of IDPs in Nigeria can be deduced from the provisions of the Constitution of the Federal Republic of Nigeria 1999, As Amended (1999 Constitution), the African Charter on Human and Peoples' Rights⁶, the Kampala Convention (2009), the UN Guiding Principles on Internal Displacement (1998), the Geneva Conventions and their Additional Protocols 1 & 2 of 1977⁷, the National Emergency Management Agency (NEMA) Act, 1999⁸, the mandate of the National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI), the national response mechanisms to internal displacement in the North East as well as the recently established North East Development Commission.

3.2 The Constitution of the Federal Republic of Nigeria, 1999 (As Amended)

The Constitution of the Federal Republic of Nigeria 1999 (As Amended), hereinafter referred to as the 1999 Constitution, contains provisions which are of direct relevance to IDPs. These are the provisions relating to fundamental human rights (civil and political rights) guaranteed for all citizens as well as those relating to social, economic and cultural rights. These categories of

⁴ Cap C20 LFN 2004

⁵ Ibid

⁶ Cap. A.9 LFN 2004

⁷ Cap. G.3, Vol. 7 Laws of the Federation of Nigeria, 2004

⁸ Decree No.12 of 1999 now Cap. N. 34 LFN 2004

rights recognized in the 1999 Constitution are the human rights also guaranteed under the ICCPR and the ICESCR.⁹

Basically, it is argued that IDPs, as citizens of Nigeria are entitled to all the rights guaranteed under the 1999 Constitution because they remain citizens of Nigeria irrespective of how they were displaced: - either by Natural or Human – made Disasters, armed conflict, generalized violence or development project induced. Hence it is the primary responsibility of government through its national authorities to ensure the promotion and protection of the constitutionally guaranteed rights of IDPs under chapter 4 of the 1999 Constitution.¹⁰

By these provisions, all citizens in Nigeria are entitled to the Right to life, human dignity, personal liberty, privacy and family life, fair hearing, freedoms of religion, expression, assembly, association, movement, from non-discrimination and to acquire and own immovable property.¹¹ Equally, although economic, social and cultural (ESC) rights are not justiciable under the 1999 Constitution, by virtue of Chapter 2 of the 1999 Constitution, the Government is to direct its policies towards ensuring that all citizens have adequate opportunity for securing adequate means of livelihood, suitable employment, adequate medical and health facilities, adequate educational opportunities, suitable and adequate shelter, suitable and adequate food, etc.¹²

Further, as the primary purpose of Government, the State is constitutionally obligated to ensure the promotion of the security and welfare of all the people (including IDPs).¹³ This can be done

⁹ Nigeria signed and ratified both Covenants on 29th July, 1993. See Lists Depicting Nigeria's Status of Ratification of U.N Human Rights Instruments. Retrieved on 11th November, 2017 8:00am from http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/NHRC_NGA_UPR_S4_2009anx_RatifiedHumanRightsInstruments.pdf

¹⁰ Ladan, M.T. (2013) Op.cit p.8

¹¹ See S.33-43 of the 1999 Constitution

¹² See generally S. 15 – 20 of the 1999 Constitution

¹³ S.14(2)(b) of the 1999 Constitution

by ensuring the progressive realization of the Fundamental, political, social, economic, educational, environmental and foreign policy objectives of the State.¹⁴

Also, as a signatory to the International Human Rights Instruments, Nigeria has certain obligations under international law. This is because by becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights.¹⁵ The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights.¹⁶ The obligation to protect requires States to protect individuals and groups against human rights abuses.¹⁷ The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.¹⁸ Again, through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties.¹⁹ In essence, States remain primarily responsible for ensuring protection of human rights.

Reaffirming human rights protection for internally displaced persons thus amounts to reminding the state of the fact that internally displaced persons should still benefit from the same protection as anyone else in the country. Not only should the state treat the internally displaced like the rest of the civilian population, but it should also provide extra protection for these vulnerable populations.²⁰

¹⁴ Ladan, M.T. (2013) Op.cit p.8

¹⁵ United Nations Human Rights Office of the High Commissioner; *International Human Rights Law*. Retrieved on 11th November, 2017 3:00pm from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Phoung, C. Op.cit p.13 at p.44

Furthermore, since basic ESC rights form part of international customary law, governments unable to protect them adequately are obliged to avail themselves of international cooperation. It could be argued further that individuals are also entitled to receive international assistance when such rights are at risk, even if the government concerned is unwilling to request such assistance.²¹

Further still, it has been asserted that a major issue that the Nigerian state must address urgently is the issue of the non-justiciability of the economic, social and cultural rights of its citizens.²² It has been argued that Nigeria ought to take steps to make justiciable economic, social and cultural rights of the citizens and that the non-justiciability of ESC rights is one of the root causes of internal displacement in Nigeria.²³ It was also observed that the feelings of high inequality in the distribution of national wealth and development is often perceived by minority communities in Nigeria especially the oil producing states of the Niger Delta and this has led to violent agitations in that area of Nigeria.²⁴

In other communities also, communal clashes are often predicated on tensions which are built up on the lack of confidence in the government to provide infrastructural facilities for the common good.²⁵ Similarly, the lack of guarantee for ESC rights has led to mass unemployment and consequent idleness on the part of the mass of the educated youth.²⁶ It has also fueled some of the tensions often displayed during ethno/ religious clashes as these youths become willing tools

²¹ Deng, F.M., *Op.cit* p.71 at p.52

²² Kolawole A.A. *Op.cit* p. 19

²³ *Ibid*

²⁴ *Ibid*

²⁵ *Ibid*

²⁶ *Ibid*

for such clashes and have been catalytic for the increase in the number of internally displaced.²⁷ Thus, the justiciability of ESC rights would not only serve to reduce some of the tensions often displayed during violent clashes but would have reduced the causal factor in cases of internal displacement caused by other factors such as floods, erosions and other such preventable or manageable causes of internal displacement. Further, justiciability of ESC right translates to empowerment which translates to employment and good standard of living.²⁸

3.3 The African Charter on Human and Peoples' Rights (ACHPR) - 1986

Although strongly influenced by the UDHR, the two International Covenants on Human Rights and the regional human rights Conventions, the African Charter reflects a high degree of specificity due in particular to the 'right' and place it accords the responsibilities of human beings.²⁹ The distinctive features of the African Charter are as follows: First, the Charter not only provides for the first generation rights (civil & political rights) but also provides for social, economic and cultural rights. Secondly, the Charter recognizes some third generation or solidarity rights as belonging to all peoples.³⁰

The African Charter further created the African Commission on Human and People's Rights, to promote human and people's rights and ensure their protection in Africa.³¹ In 1998, the Protocol to the Charter on the establishment of an African Court of Human Rights was also adopted and

²⁷ Ibid

²⁸ Ibid

²⁹ Danladi, K.M.,(2016) *Introduction to International Human Rights Law and Practice*. Ahmadu Bello University Press Limited, Zaria p.58

³⁰ Ogbu O.N., (2013) *Human Rights Law and Practice in Nigeria*. 2nd Revised Edition, Vol. 1, Snaap Press Ltd, Enugu. p.74

³¹ Article 30, *African Charter on Human and People's Rights* (ACHPR), 1981. Retrieved on 6th August 2016 5:16pm from <http://www.humanrights.se/wp-content/uploads/2012/01/African-Charter-on-Human-and-Peoples-Rights.pdf>

work on the elaboration of an additional protocol concerning the rights of women in Africa is in progress within the framework of the African Commission on Human and People's Rights.³²

The State parties to the Charter are required to recognize the rights, duties and freedoms enshrined therein and further undertake to adopt legislative or other measures to give effect to them.³³ State Parties also have duties under the Charter to guarantee the independence of the courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by it.³⁴ These two latter provisions emphasize the need for education, information and an independent administration of justice in order to ensure the effective protection of human rights.³⁵ Again, several provisions of the Charter are couched in the form of duties of the State Parties to ensure certain rights.

State Parties to the Charter have certain duties imposed by the Charter which include the duty to promote the rights and freedoms contained in the Charter³⁶. By this, the State Parties have obligations to reach out to their internally displaced in order to safeguard the rights guaranteed to them by the Charter. Further still, by virtue of the Charter, individuals within the States have duties which include duty to the family, society, the State and the international community³⁷; duty to respect and not discriminate against fellow beings³⁸; duty to preserve national community³⁹; duty not to compromise the security of his state of origin or residence⁴⁰; duty to

³² Danladi, K.M. Op.cit p.76

³³ Article 1 ACHPR

³⁴ Article 26 ACHPR

³⁵ Danladi, K.M., Op.cit p.76

³⁶ Article 25 ACHPR

³⁷ Article 27 ACHPR

³⁸ Article 28 ACHPR

³⁹ Article 29(2) ACHPR

⁴⁰ Article 29(3) ACHPR

preserve and strengthen social and national solidarity⁴¹; and duty to preserve the independence and territorial integrity of his country.⁴²

Thus, in addition to the above constitutional rights, IDPs in Nigeria like any other individual or group, are guaranteed their civil, political, social, economic, environmental and developmental rights under Articles 2-24 of the African charter.⁴³ This cluster of rights includes rights to education, housing/shelter, health, food, employment, social security, adequate standard of living, safe environment, cultural life and development.⁴⁴ Since Nigeria has ratified and domesticated the African Charter on Human and Peoples' Rights⁴⁵, the Charter is fully applicable in Nigeria⁴⁶ and thereby IDPs in Nigeria are also entitled to all the rights guaranteed therein.

However, although there are similar rights under both the African Charter and the Constitution, there are also some important differences. The African Charter contains some socio-economic rights that are not justiciable under the Constitution.⁴⁷ It has been suggested that there can be no conflict between the Charter and the Constitution, since the Charter has merely 'strengthened' the fundamental rights embodied in the Constitution and that socio-economic rights under the African Charter are similarly not 'justiciable', notwithstanding the 'mandatory nature of the

⁴¹ Article 29(4) ACHPR

⁴² Article 29(5) ACHPR

⁴³ Cap A9 LFN 2004, Ladan, M.T., (2013) Op.cit p.8

⁴⁴ Ibid

⁴⁵ The African Charter was incorporated as part of Nigeria's domestic legislation in 1983

⁴⁶ See *General Sani Abacha & Ors v. Chief Gani Fawehinmi* (2000) 4 SCNJ

⁴⁷ Oba A.A., (2004) The African Charter on Human and Peoples' Rights and Ouster Clauses Under the Military Regimes in Nigeria: Before and After September 11. *African Human Rights Journal*, Vol.4 pp.288-289

language used in the Charter'⁴⁸. This argument is premised on the reasoning that socio-economic rights in human rights documents are never meant to be justiciable.⁴⁹

It is true that the obligation to promote and ensure economic and social rights may be resource – incentive and not immediately achievable of fulfilment but it has been further argued that obligations to respect and protect these rights are easily subjected to adjudication and that the Committee of Economic and Cultural Rights has identified several rights which would seem to be capable of immediate application by the judiciary.⁵⁰

Whatever might be the argument in respect of economic and social rights, all countries signatory to those human rights documents are required to take some steps individually or through international assistance and cooperation, to the maximum of its available resources with a view to achieving progressively the full realization of the rights recognized therein by all appropriate means including particularly the adoption of legislative measures.⁵¹ In particular, the African Charter provides for the duties of States to respect, promote and protect the rights guaranteed thereunder.⁵²

Thus, all efforts must be made to ensure that IDPs have access to basic necessities of life including food, shelter, clean water, clothes, health care, education, etc. and that they are adequately protected from all sorts of inhuman and degrading treatment including rape, slavery and/or abductions. Admittedly, the precarious conditions faced by IDPs make it difficult for the governments to adequately protect them, but more efforts must be made to provide all necessary

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Danladi, K.M (2016) Op.cit p.76

⁵¹ Ibid

⁵² See Article 1, 25 and 26 of the ACHPR

assistance to them and ensure the protection of their human rights guaranteed under the 1999 Constitution and the African Charter.

In analyzing the legal provisions of human rights law which apply to internally displaced persons, one seeks to demonstrate that states have duties towards these populations, negative obligations (not to displace them, not to inflict inhuman treatment upon them, etc.), as well as positive obligations (to provide sufficient food for them or health services for instance, but also to prevent others displacing them).⁵³ It is further submitted that the wide array of rights enshrined in the corpus of human rights law is applicable to situations common to the displaced. They cover the minimum standards of human existence and dignity: physical protection, shelter, food, clothing, basic health, work, and the integrity of the person and the family as the most fundamental social unit.⁵⁴ As such, the condition of being displaced is not a reason for IDPs to be deprived those basic rights.

Finally, it has been asserted that human rights law does not directly address some of the most critical situations affecting the displaced, such as forcible displacement or return to unsafe areas and access to humanitarian assistance. A more elaborated right to humanitarian access and humanitarian assistance, including the right to food, has therefore been advocated.⁵⁵

In essence, human rights instruments have provisions that cater for IDPs as individuals within their States but there are peculiar conditions faced by IDPs, which requires special consideration, that are not covered. These areas that buttress the special needs of IDPs are the gaps and grey

⁵³ Phoung, C., *Op.cit* p.13 at p.44

⁵⁴ Deng, F.M *Op.cit* p.71 at pp.51-52

⁵⁵ *Ibid*

areas in protection; and as such it is ultimately impracticable to rely solely on provisions of human rights to provide a cover for IDPs around the world.

3.4 The 1949 Geneva Conventions and their Additional Protocols

International humanitarian law (IHL), which codifies the principle that those not directly participating in the hostilities shall be treated humanely, contains provisions that are of great value to the displaced.⁵⁶ As armed conflict constitutes the main cause of forced displacement, including internal displacement, humanitarian law inevitably plays a crucial role as a source of protection for the internally displaced. Humanitarian law seeks to provide means of protection which are adapted to exceptional circumstances.⁵⁷

The Geneva Conventions and their Additional Protocols are at the core of international humanitarian law.⁵⁸ They specifically protect people who are not taking part in the hostilities (civilians, health workers and aid workers) and those who are no longer participating in the hostilities such as the wounded, sick and shipwrecked soldiers and prisoners of war.⁵⁹ The four Geneva Conventions of 1949 are:

1. The Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.
2. The Geneva Convention II for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.

⁵⁶ Deng, F.M., Op.cit p.71

⁵⁷ ICRC (2014) International Humanitarian Law: Answers to Your Questions. Retrieved from <https://www.icrc.org/en/publication/0703-international-humanitarian-law-answers-your-questions> on 5th August 2015 9:17am

⁵⁸ ICRC (2010, October) The Geneva Conventions and their Additional Protocols. Available at <https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm> Accessed on 15th September, 2018 12:10pm

⁵⁹ Ibid

3. The Geneva Convention III relative to the Treatment of Prisoners of War.
4. The Geneva Convention IV relative to the Protection of Civilian Persons in Time of War.⁶⁰

The Additional Protocols to the Geneva Conventions are:

1. Additional Protocol I of 1977 relating to the Protection of Victims of International Armed Conflicts.
2. Additional Protocol II of 1977 relating to the Protection of Victims of Non International Armed Conflicts.
3. Additional Protocol III of 2005 relating to the Adoption of an Additional Distinctive Emblem.⁶¹

Having ratified the Geneva Conventions of 1949 on 20/6/1961 and the Additional Protocols 1-2 of 1977 on 10/10/1988, Nigeria further domesticated the Geneva Conventions as an Act, Cap. G.3, Vol. 7 Laws of the Federation of Nigeria, 2004.⁶² As such Nigeria is legally bound by the provisions of the Conventions and their Protocols.

Internally displaced persons benefit from the same protection provided for all civilians in times of armed conflict. However, Humanitarian law provides a more comprehensive protection during international armed conflicts to which the Fourth Geneva Convention and Protocol I apply, whereas the law regulating non-international armed conflicts (NIAC) is less elaborate. However,

⁶⁰ ICRC (2014) Op.cit at p. 81 at p.14

⁶¹ Ibid

⁶² Ladan, M.T., (2013) Op.cit p.8

it is during internal conflicts that the highest numbers of internally displaced persons are often produced and the need for specific protection against the government or other warring parties arises.⁶³

During internal armed conflicts Article 3 common to the 1949 Geneva Conventions, as well as the fundamental guarantees of Article 4 and the more specific provisions of Articles 13-18 of Additional Protocol II, are fully applicable to internally displaced persons.⁶⁴

3.4.1 Provisions of Additional Protocol II Relevant to IDPs

The provisions of Protocol II of the Geneva Convention, which deals with ‘the protection of victims of non-international armed conflicts’, and which are of relevance to IDPs include:

- (a) Article 4, which states that “all persons who do not take a direct part or who have ceased to take part in hostilities... are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction...”
- (b) Article 13, which states that “the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations,” and that “acts or threats of violence, the primary purpose of which is to spread terror amongst the civilian population, are prohibited.”
- (c) Article 14, which states that “starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose,

⁶³ Ibid, p.24

⁶⁴ Deng, F. M., Op.cit p. 71 at p.636

objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas... crops, livestock, drinking water installations and supplies...”

(d) Article 17, which states that “the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand.”⁶⁵

Article 17 of Protocol II which expressly prohibits transfers of population is of special importance to the internally displaced. It reads:

1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.
2. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.⁶⁶

By virtue of these provisions, displacement of civilians can be considered by the authorities, exceptionally and temporarily, when justified by imperative military reasons or if the security of the population so demand.⁶⁷ It should be exceptional in the sense that the prohibition of forced displacement is the rule and that any displacement that may occur during the conflict must

⁶⁵ Nair, P. *Towards A Regime for the Protection of Internally Displaced Person*. Retrieved on 13th June, 2015 7:20am from www.worldlii.org/int/journals/ISILYBIHRL/2001/10.rtf

⁶⁶ Phoung, C., Op.cit p.13 at p.46

⁶⁷ Mattiolo, M. Op.cit, p. 12 at p.453

remain the exception and temporary, meaning that the displaced shall be allowed to return by the concerned party within the shortest possible time.⁶⁸

Again, Article 4(3) (a) and Article 28 (2) of Additional Protocol II provides special protection to children who are displaced and/or separated from their families as a result of an armed conflict and it provides that in NIAC, children are entitled to receive education including religious and moral education.⁶⁹

However, while useful, the above provision applies only to persons displaced because of armed conflict, and only to states party to Protocol II. It does not cover intercommunal violence or other cases of internal disturbances that create internal displacement.

3.4.2 Article 3 Common to the 1949 Geneva Conventions

This Article sets out basic rules of protection that apply in all internal armed conflicts and these rules are confirmed and supplemented by rules of customary law. The ideal situation is for the internal or non-international armed conflict to be regulated and governed by domestic law with due regard to application of human rights law.⁷⁰

Common Article 3 provides minimum protection in non-international armed conflicts. It is regarded as a treaty in miniature, representing a minimum standard from which belligerents should never depart.⁷¹ It is particularly relevant to IDPs as it categorically prohibits, in the case of armed conflicts not of an international character, intrastate or civil wars (in the vernacular)

⁶⁸ Ibid

⁶⁹ Ibid, p.454

⁷⁰ Wigwe, C.C., (2010) *International Humanitarian Law*. Readwide Publishers, Osu-Accra, Ghana. p.24

⁷¹ Deng, F.M., Op.cit p.71

violence to life and/or person, the taking of hostages, and outrages on personal dignity of persons.⁷²

Common Article 3 is said to enshrine ‘elementary considerations of humanity’.⁷³ It provides that civilians shall be treated humanely and without discrimination. To this end, it gives a short list of prohibited acts thus:

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) Taking of hostages;
- (c) Outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.⁷⁴

Based on all the foregoing provisions, the ICRC emphasizes that the Geneva Conventions and their Additional Protocols already make provision for the protection of the internally displaced during periods of armed conflict. As internally displaced persons are in principle civilians, they are protected before, during and after their displacement by all the rules that protect civilians in an armed conflict situation.⁷⁵

⁷² Ibid

⁷³ Phoung, C, Op.cit p.13 at p.45

⁷⁴ Ibid

⁷⁵ Nair, P., Op.cit p.84

IHL expressly prohibits compelling civilians to leave their places of residence unless their security or imperative military reasons so demand. All possible measures must be taken to ensure that displaced civilians have satisfactory conditions of shelter, hygiene, health, safety and nutrition, and that members of the same family are not separated. Rules requiring parties to a conflict to allow relief consignments to reach civilians in need also afford protection to IDPs. All these rules are recognized under customary IHL and apply during both international and non-international armed conflict.⁷⁶

Thus, during internal armed conflicts Article 3 common to the 1949 Geneva Convention, as well as the fundamental guarantees of Article 4 and the more specific provisions of Articles 13-18 of Additional Protocol II, are fully applicable to internally displaced persons in Nigeria.

While all the humanitarian law provisions seem very much useful for the protection of IDPs, as they are meant to offer some kind of coverage for civilians during armed conflict and in a way even prevent displacement, in practice most organized non-state actors do not respect these rules of humanitarian law (either knowingly or unknowingly). In Nigeria, Boko Haram frequently carries out indiscriminate attacks on civilians and civilian objects like their houses, farms, places of worship, livestock, etc. The same group have killed and abducted civilians without any regard including woman and children. They have killed and abducted children in schools. As such their attacks are not limited or targeted at the armed forces of the state alone. This has resulted in the rise in the number of IDPs in Nigeria, as people flee to protect their lives and those of their children.

⁷⁶ ICRC (2014) Op.cit p. 81

Therefore, deliberate effort must be made to ensure that , during internal armed conflict, civilians are not adversely affected by the consequences of war, and the provisions of Additional Protocol II and Common Article 3 translate to practical realities for the civilian populations. This could also be a challenge since armed groups may not be aware of their human rights obligations even if such obligations have binding effect also on them.

Again, as stated earlier the protection available under international humanitarian law applies only to persons displaced because of armed conflict. It does not cover displacement due to communal violence (like the Southern Kaduna conflict and that in middle belt involving Fulani herdsmen in Nigeria) as well as other internal disturbances like religious/ethnic uprisings. In Nigeria, several people have become displaced due to communal violence and ethnic/religious tensions across the country. International humanitarian law has not provided any kind of protection for people who become victims in those situations. Human rights law then becomes the applicable law in that regard. Notwithstanding, the provisions relating to the protection of IDPs in situations of armed conflict apply to IDPs in Nigeria.

3.5 National Emergency Management Act, 1999

The legal response so far on IDPs in Nigeria has been channeled through some Acts of its National Assembly.⁷⁷ One of these Acts is the National Emergency Management Agency (NEMA) Act⁷⁸ which created the National Emergency Management Agency by its S. 1.⁷⁹ By S.6 (a) of the Act, NEMA is mandated to formulate policy on all activities relating to disaster management in Nigeria and coordinate the plans and programs for the efficient and effective

⁷⁷ Kolawole, A. A., Op.cit p.19

⁷⁸ *National Emergency Management Agency Act, 1999* (Decree No.12 of 1999 now Cap. N. 34 LFN 2004)

⁷⁹ Ibid

response to all disasters at national level.⁸⁰ Further by Section 6(j), it is also mandated “to distribute emergency relief materials to victims of “natural or other disasters.”⁸¹ The agency is also charged with the duty of assisting in the rehabilitation of victims.⁸² By S. 8 of the Act each of the 36 states of the federation and the FCT is expected to reciprocate that Act as its Law and create an agency in the name of State Emergency Management Agency (SEMA) for similar purposes as the federal NEMA.⁸³

NEMA asserts that IDP management is part and parcel of disaster management.⁸⁴ Therefore, all facets of disaster management cycle- Prevention, Mitigation, Preparedness, Response and Recovery are applicable to IDPs and they constitute components of IDP management since IDPs are product of natural and human made disasters.⁸⁵ NEMA further contends that when disasters are prevented or mitigated, there will be limited IDPs to contend with and it will be relatively easier to manage them efficiently and effectively.⁸⁶

With respect to the mandate of the NEMA in the management of all disasters in Nigeria, it submitted that the NEMA is to respond only when a crisis qualifies as a disaster. As such other internal disturbances not termed as disasters, but which creates internal displacement are not covered by the NEMA Act.

⁸⁰ Kolawole, A.A, Op.cit p.19

⁸¹ Ibid See also S. 6(a-o) of the Act for other functions of the Agency

⁸² Kolawole, A.A Op.cit p.19

⁸³ Ibid

⁸⁴ Sidi, M.S.(2015) Op.cit. p.21

⁸⁵ Ibid

⁸⁶ Ibid

3.6 The UN Guiding Principles on Internal Displacement (GPID)

The GPID, as stated earlier were developed to bridge the gaps in the framework of protection for IDPs that exist within international human rights and humanitarian laws. The GPID draw their authority from the fact that they are based upon, reflect and are consistent with international human rights law and international humanitarian law, as well as international refugee law where it can be applied by analogy. Yet the Guiding Principles go beyond a simple compilation and restatement of those human rights and humanitarian law guarantees that are applicable to situations of internal displacement. They provide a fully-fledged framework for identifying protection needs and for planning, implementing and monitoring protection activities.⁸⁷

The principles, thirty in number, provide guidance to all actors that deal with the internally displaced, whether governments, insurgent groups, international organizations, or NGOs. They apply to all phases of displacement. They offer standards for protection against arbitrary displacement, innovatively enunciating a right not to be arbitrarily displaced. They set forth standards for protection during displacement, tailoring the full range of civil, political, economic, social, and cultural rights to the specific needs of IDPs. Finally, they offer standards for protection during return, resettlement, and reintegration. In short, they provide a comprehensive international minimum standard for the treatment of IDPs.⁸⁸

They clearly acknowledge that primary responsibility for the displaced rests with their governments⁸⁹, but they also stipulate that offers of aid from international humanitarian

⁸⁷ Kalin, W. The Role of the Guiding Principles on internal Displacement. Retrieved on 2nd June, 2016 5:30pm from <http://www.refugeelawreader.org/en/en/english/section-i-introduction-to-international-refugee-law-background-and-context-1/i4-other-categories/i41-idps/9446-kalin-the-role-of-the-guiding-principles-on-internal-displacement-1/file.html>

⁸⁸ Cohen, R., (2004) Op.cit p.64

⁸⁹ Principles 3, 25 of the GPID

organizations shall not be regarded “as an unfriendly act or interference in a State’s internal affairs.” Consent for international aid is not to be “arbitrarily withheld,” particularly when the authorities concerned are “unable or unwilling” to provide the required assistance.⁹⁰ Further they emphasize that, in providing assistance, international humanitarian organizations should pay attention to “protection needs and human rights” and take “measures” in this regard⁹¹. Therefore, under the principles, IDPs must have access not only to material assistance but also to protection from violence and abuse—in short, to enjoy the full range of human rights.⁹²

The normative framework found in the Guiding Principles not only sets out the norms to be observed but also provides a framework for dialogue on IDP issues, thereby lending support to the development of effective strategies for preventing and effectively responding to internal displacement.⁹³ In a number of countries, including in West Africa, training workshops bringing together representatives of national and local government, civil society, IDP communities and international agencies have raised awareness and understanding of the Guiding Principles and stimulated the development of national strategies promoting their application.⁹⁴

Significantly, UN agencies, regional organizations, NGOs, and a growing number of governments have begun to cite the principles and use them as the basis for policies, laws, and programs for the internally displaced.⁹⁵ Nigeria has completed the process of developing a policy on internal displacement, a recent revised draft of which reveals the comprehensive response that

⁹⁰ Cohen, R.(2004), Op.cit p.64

⁹¹ Principle 27 of the GPID

⁹² Cohen R. (2004), Op.cit p.64

⁹³ Ladan M.T., (2013) Op.cit p.8

⁹⁴ Ibid

⁹⁵ Cohen, R. Op.cit p.64

Nigeria takes to displacement, addressing all its causes including conflict, natural disasters and development projects.⁹⁶

The GPID form the basis for the protection of IDPs globally. They have carefully recognized the unique position occupied by IDPs and further clearly outlined a framework for their protection. As such most national policies and legislations on IDPs as well as a growing number of regional and sub regional instruments on IDPs have incorporated them. One of the most outstanding impact of the GPID is the development and adoption of the AU Kampala Convention in Africa which came into force in December 2012.

3.7 The African Union Convention for the Protection and assistance of Internally Displaced Persons in Africa (The Kampala Convention)

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) is the first ever binding legal instrument dealing with internal displacement and it is the first continent-wide regional treaty governing internal displacement in Africa.⁹⁷ It is widely acknowledged and praised by various actors including the United Nations General Assembly (UNGA), the United Nations Human Rights Council (UNHRC), the United Nations High Commissioner for Refugees (UNHCR), the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG), and the African Commission on Human and Peoples' Rights (ACHPR).⁹⁸ The Kampala Convention incorporates the GPID and further sets out specific obligations for States, the AU and the humanitarian

⁹⁶ Ladan, M.T (2013), Op.cit p.8

⁹⁷ Abebe, A.M., (2010) Op.cit p.17 at p.28

⁹⁸ Ibid

agencies. It also covers all phases of displacement and applies to all types of internal displacement.

The Convention establishes active involvement on the part of the AU and reflects a general conception of internal displacement as a regional problem requiring the cooperation of myriad regional actors. The Convention in this way envisions a solution to the common situation of a state's inability or unwillingness to independently meet the needs of its IDPs that calls on the involvement of neighboring states parties, local civil society organizations, and the AU itself.⁹⁹ The Convention sends an important message to the international community; the drafting of this text shows that Africa intends to deal with internal displacement in a much more serious and proactive manner.¹⁰⁰

The Kampala Convention represents an innovative and comprehensive framework to address both the needs of those displaced, as well as the needs of the communities that take them in and offer refuge. It draws on international humanitarian law (IHL) as well as international human rights law to form a basis, not only for humanitarian response, but also for sustained and holistic engagement across a range of internal displacement stakeholders.¹⁰¹

3.7.1 Effectiveness of the Kampala Convention in Addressing the Problem of Internal Displacement in Africa

Examining the Kampala Convention it can be argued that the document includes several elements which are ground breaking in advancing the protection of IDPs. Specifically, the

⁹⁹ Giustiniani, Z. F., Op.cit p.15 at p.360

¹⁰⁰ibid

¹⁰¹ IDMC (2013) The Kampala Convention One Year on: Progress and Prospects. Retrieved on 13th April, 2016 6:08pm from <http://www.internal-displacement.org/library/publications/2013/the-kampala-convention-one-year-on-progress-and-prospects/>

Convention recognizes the central obligation of States to provide protection to those displaced within their own borders. This recognition is essential not only to reassure states of the respect of their sovereignty, but also concretizes the widely recognized principle in international law, that states are the primary duty bearers when it comes to the responsibility of protecting their citizens. International assistance may be sought only when states are unable or unwilling to discharge such a role.¹⁰²

The Convention compels States to address the problem of internal displacement through solidarity and burden sharing. Clearly this concept of solidarity and burden sharing can positively contribute to the global debate among countries to view the question of internal displacement as a challenge whose solution lies in the ability of countries to address the root causes of displacement which are more often than not economic, social and political challenges.¹⁰³

Consequently, under the Kampala Convention, the responsibility of addressing the plight of IDPs is placed on all states. In line with the principle of the responsibility to protect, the intervention role of international and regional mechanisms such as the AU is clearly stipulated.¹⁰⁴ As such, another historical contribution of the Kampala Convention relies on its success to combine the principles of state sovereignty as a responsibility to protect nationals, and international solidarity to assist states with internal displacement crises. These duties stipulated under the Kampala Convention entail some form of responsibility of intervention by the international community. This is particularly correct with regard to the mandate of the AU to intervene in a Member State

¹⁰² Ache, C. & Majinge, R.C., Op.cit p.17 at p.444

¹⁰³ Ibid, p.447

¹⁰⁴ Maru, M.T., Op.cit, p.7 at p.120

when an internal displacement crisis constitutes grave circumstances namely, war crimes, genocide or crimes against humanity.¹⁰⁵

So far however, the AU has not intervened in any Member State (MS) in relation to the Kampala Convention. But the existence of the provision is significant because it presents hope for those displaced persons within a country with no resources or willingness to adequately cater for them. It is essential though to make it possible for such intervention even where the displacement crisis does not constitute grave circumstances like genocide. Where it is obvious that a Member State is unwilling or unable to cater for its displaced, the AU should be able to intervene in order to save lives and protect the IDPs.

Furthermore, the Convention recognizes non-traditional causes of displacement such as climate change, natural disasters and development induced projects. This recognition will enable the affected population to seek and receive compensation from actors causing displacement.¹⁰⁶ With regard to this provision, a lot of sensitization has to be done to enlighten the affected people on their rights, because, most times when development induced displacement occurs, it affects people in the rural areas who are not so educated and may not be aware that they have right to certain remedies. Also, where natural disaster or climate change occurs leading to displacement, the persons concerned should know that they are entitled to some form of compensation by the state governments.

Another important element within the Kampala Convention, which could contribute to the international discussion towards a comprehensive internationally binding instrument, is the

¹⁰⁵ Ibid

¹⁰⁶ Ache, C., & Majinge, R.C., Op.cit. p.17 at p.447

question of accountability for those that cause displacement.¹⁰⁷ The Kampala Convention acknowledges and recognizes the possibility of enforcing human rights against non-state actors. It requires State Parties to exercise criminal accountability for those who cause displacement. This is a notable achievement in the general development of accountability in international law.¹⁰⁸

This development on the accountability front is a welcome development, mainly because the private and multinational companies involved in the exploitation of natural resources especially in conflict ridden countries, have in some cases caused massive displacement to pave way for their activities with little scrutiny both at the domestic and international level.¹⁰⁹ Similarly the fact that States Parties are required to provide compensation and reparation for displacement could contribute to the need for both state and non-state actors to take into account the plight of those likely to be displaced, by involving them in decision making before they undertake projects likely to displace them.¹¹⁰

The government involved must be strongly committed in order to be able to give life to this provision because, as noted earlier, most times governments are not willing to protect their internally displaced. Again, some of the companies involved may be closely connected to the people in control of the government and due to that connection the government may not be willing to enforce the above provision against them. However, this is one of the instances where the AU should be able to intervene to compel the state government or the companies to provide

¹⁰⁷ Ibid

¹⁰⁸ Ibid

¹⁰⁹ Ibid, p.448

¹¹⁰ Ibid

the required compensation or reparation and also include those likely to be displaced in the decision making processes.

Again, it has been stated that protection and provision of aid is an immediate and temporary intervention. Thus, Paragraph 5 of the Preamble of the Kampala Convention states that one of the objectives, and perhaps the second important one next to prevention, is to search for durable solutions to protracted displacement and situations of IDPs.¹¹¹ Unless IDPs regain their livelihood and the cause of their internal displacement ceases, their status as IDPs in need of a special protection and assistance would continue for long time, thus becoming a protracted displacement without a foreseeable end.¹¹² As temporary as they are, protection and provision of aid need to be conducted with long-term vision and efforts to ensure that the status of IDPs comes to an end at some point. Thus, a long-term solution is required to end internal displacement. This is what is called durable solution.¹¹³

The Kampala Convention provides three kinds of sustainable ending of internal displacement. These are: sustainable return to their areas of origin, integration into the local areas of destination, or relocation to another area of settlement (resettlement)¹¹⁴. As part of the freedom of movement and residence and the capability of the IDPs to earn their livelihood and re – establish their normal lives, durable solutions to internal displacement takes a form of long – term intervention by States Parties.¹¹⁵ It must be noted here that, importantly also, IDPs must be allowed to choose whether to return, relocate or integrate into the local areas. They must be furnished with all relevant information in order to make their decisions.

¹¹¹Maru, M.T., Op.cit. p.7 at p.123

¹¹² Ibid. p.124

¹¹³ Ibid

¹¹⁴ Article 11 AU Kampala Convention

¹¹⁵Maru, M.T., Op.cit p.7 at p.124

Importantly also, Article 14 of the Kampala Convention creates an institutional mechanism for monitoring compliance and follow up of implementation of the Kampala Convention. One component of the mechanism for monitoring and follow up is the Conference of State Parties. The Conference of State Parties is mandated to oversee the compliance of State Parties, interpretation and adjudication of disputes, and enhancing cooperation.¹¹⁶ It empowers the African Court of Justice and Human Rights and the African Commission on Human and Peoples Rights to promote compliance of the States Parties and other responsible actors and adjudicate cases related to the Kampala Convention.¹¹⁷ It has been argued that this mechanism is merely to monitor/oversee and to promote compliance and not an enforcement mechanism as there are no obvious repercussions for non-compliance. As such compliance with the provisions of the Convention is largely based on the will and commitment of the Member States.

Again, the Kampala Convention addresses the issue of assistance to host communities. Generally, aid is provided in camps that are expressly set up to deliver humanitarian services to civilians in need. Yet the ever-growing tendency to concentrate humanitarian activities in such artificial agglomerates brings with it serious problems. In the first place, IDP camps provide the displaced with services of higher quality than those available to civilians who remain in their place of residence.¹¹⁸ On the one hand, this creates dependency because those in camps have no incentive to go back to their homes and, on the other hand, it worsens the plight of poor local communities, which are left without sufficient resources to cope with the displacement crisis.¹¹⁹

¹¹⁶ Ibid, p.123

¹¹⁷ Ibid, p.126

¹¹⁸ Giustiniani, Z.F., Op.cit, p.15 at p.365

¹¹⁹ Ibid

Consequently, camps contribute to the perpetuation of the emergency situation, rendering difficult or impeding the transition toward restoration and development.¹²⁰

The Kampala Convention appears to take account of these problems in various respects. Apart from the important reaffirmation of States' primary duty to provide protection and assistance "to internally displaced persons within their territory or jurisdiction without discrimination of any kind," Article 5.5 also calls upon States to extend their assistance to host communities.¹²¹ Host communities are often the most neglected group during displacement crises, even though the host may not have lesser needs and the burden of supporting displaced people can be extremely heavy and expensive. The said provision is also a progressive element with respect to the Guiding Principles – which does not address the issue – and draws inspiration from a similar provision of the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons.¹²²

The provision relating to the extension of help to host communities is very vital. Clearly, most of the IDP camps are located within local communities which are also in need of some form of assistance. Thus, where aids come only to the IDP camps, it creates tensions and resentment. The host communities must be included in any intervention provided by either the state governments or humanitarian agencies in order to create unity and peaceful co-existence.

Based on the foregoing, it could be seen that the Kampala Convention is a novel instrument with regard to IDPs which aims to provide a comprehensive framework of protection for all forms of displacement and in all phases of displacement. It covers all aspects that relate to issues of

¹²⁰ Ibid

¹²¹ Ibid

¹²² Abebe, A.M., (2010) Op.cit p.17 at p.52

displacement and is legally enforceable (subject to its domestication). It is however, not without limitations.

Noteworthy potential limitations of the Kampala Convention are the hesitancy of states to ratify it, the questionable strength of the Convention's enforcement mechanism, and the effectiveness of the AU's intervention power.¹²³ The absence of an institutional mechanism for monitoring the situation of internal displacement in Africa is also another notable deficiency because in most African States there is a lack of accurate data on IDPs. Thus, the management of IDPs in Africa will be more efficient if there is a reliable monitoring system about the situation of IDPs.

As all-encompassing and robust as the Convention is in its aim to provide comprehensive protection for IDPs in Africa, its effectiveness still boils down to the commitment of Member States to comply with its provisions by domestication after ratification. At best, it serves as a very strong motivating factor for Member States with problem of internal displacement to put more efforts in the provision of protection and assistance to their internally displaced. Without its domestication by Member States, IDPs may not be able to make claims to their right to protection and assistance as envisaged in the Kampala Convention. It is hoped that the ratification and domestication of the Convention by Member States will translate into a more comprehensive and effective response to the problem of internal displacement in Africa and it will further address the root causes of internal displacement.

¹²³ Bailey, L.C., *Op.cit* p.8 at p.377

3.8 The Applicability of the Kampala Convention in Nigeria

Nigeria has signed and ratified the Kampala Convention for IDPs.¹²⁴ However, in accordance with Section 12 of the 1999 Constitution, the Convention will not take effect until it has been domesticated into Law. What this implies is that although the state is bound by its obligations under international law not to do anything in contravention of the treaty, it cannot be held legally accountable for breach.¹²⁵ In the same vein, under the Convention, States are required to adopt national legislation and policies (in order to give effect to its provisions). But it is obvious that national legislation, policies, and strategies will reflect the realities and specific challenges the State concerned faces. These national legal reforms, however, should comply with States' obligation under the Convention and International Law.¹²⁶

Since ratification, the Kampala Convention has not been domesticated in Nigeria, making the legal application of its provisions within the national legal system subject to the constitutional firewall of Section 12.¹²⁷ However, since 2016, significant efforts have been made to domesticate the Kampala Convention through a Bill sponsored by the Chairman of the House of Representatives Committee on IDPs, Refugees and North East Initiatives.¹²⁸ The Bill was submitted to the House of Representatives in April 2016 and passed the second reading in July

¹²⁴ Nigeria ratified the Convention on 17th April 2012

¹²⁵ Nuhu, S.A.(2015) Op.cit p. 5

¹²⁶ Abebe, A.M (2010) Op.cit p. 17 at pp.54-55

¹²⁷ Adeola, R.,(2016, April 28) Kampala Convention and Protection of IDPs in Nigeria. *Punch*. Retrieved on 19th June, 2016 1:00pm from <http://punchng.com/kampala-convention-protection-idps-nigeria>.

¹²⁸ Bill No. HB. 16.04.501, "Bill for an Act to Enable effect to be given in the Federal Republic of Nigeria to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and for Related Matters," National Assembly Journal, No. 21, Vol. 13, 27 April 2016. Cited in ICRC (2016) op cit, p.21

2016.¹²⁹ The Bill is a positive step as it seeks to domesticate the Convention wholesale, meaning that the entire text of the Convention is contained in the Bill.¹³⁰

Further work is required to ensure that all obligations under the Convention are incorporated into domestic law, including the obligation to criminalize acts of arbitrary displacement that amount to war crimes and crimes against humanity, as contained in article 4(6) of the Convention.¹³¹ Thus, additional legislative provisions will be required in the future to fully domesticate the Convention, including provisions regulating offences, penalties and jurisdiction for the above-mentioned crimes.¹³² In this regard, the African Union Model Law for Implementation of the Convention provides an important reference.¹³³

The relevance of the domestication of the Convention to IDP protection in Nigeria is hinged on the fact that the Convention offers enforceable guidance on the protection and assistance of the IDPs. Unlike the draft IDP policy and the UN GPID, the enforceability of the Kampala Convention elevates the discourse on IDP protection beyond humanitarianism. Consequently, it places the discourse in the realm of binding legal obligations which brings into question issues of accountability.¹³⁴ Also, the Convention offer the IDPs the normative platform to assert a legitimate claim to their protection and assistance which national courts can enforce in instances of non- performance by relevant institutions.¹³⁵

¹²⁹ ICRC (2016) Op.cit p.22

¹³⁰ Ibid

¹³¹ Ibid

¹³² Ibid

¹³³ African Union Model Law for the Implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, articles 54 – 58. Cited in ICRC (2016) Op.cit P.20

¹³⁴ Adeola, R. Op.cit p.101

¹³⁵ Ibid

With the hindsight that the IDPs themselves can assert a claim to protection, the discussion on multi-sectorial national coordination for their protection will be fostered. Thus the domestication of the Kampala Convention in Nigeria is an important step in the right direction of implementing international legal obligations and protecting more than two million IDPs in camps and host communities around Nigeria.¹³⁶

Importantly, it has been asserted that, national law, policy and strategy on internal displacement are tremendously important tools for translating the rights and responsibilities articulated in the Convention into reality and that they are arguably, the key to unlocking the Convention's tremendous protection potential.¹³⁷ Therefore, without translating the ratification of the Kampala convention into national law, the Convention remains a toothless bull dog as far as IDPs in Africa are concerned.

Apparently, the Kampala Convention is not yet enforceable in Nigeria in spite of its comprehensive provisions which aim to effectively tackle the problem of internal displacement in Africa. As such, it is only when the Nigerian government recognizes the problem of internal displacement as a focal point in governance that concrete steps will be taken to domesticate the Convention and give the internally displaced in Nigeria an opportunity to be adequately protected by it. However, despite the absence of a specific legal framework for the protection of IDPs in Nigeria, there are several institutional mechanisms that have been responding to the plight of IDPs.

¹³⁶ Ibid

¹³⁷ Mooney, E. (2009) *Developing National Law, Policy and Strategies around the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*. Statement Delivered at the African Union Civil Society Organizations Pre- Summit on Internally Displaced Persons in Africa, Held in Kampala, Uganda between 13th – 15th October, 2009 p.4

CHAPTER FOUR

INSTITUTIONAL/ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE LEGAL FRAMEWORK FOR THE PROTECTION OF IDPS IN NIGERIA

4.1 Introduction

The institutional and administrative framework for the implementation of the legal framework of protection for IDPs in Nigeria are mainly provided for under the mandate of NEMA and that of the National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI). The National Human Rights Commission and the Institute of Peace and Conflict Resolution also have responsibilities with respect to the protection of IDPs' rights and the prevention and resolution of conflict. These institutions and bodies are often assisted by the Nigerian Red Cross, and other Faith Based and community based organizations, which help in providing immediate relief in the aftermath of violence or disasters. However, this is mostly temporary, and also allows for selectivity of beneficiaries and lack of coordination of relief supplies.¹

Additionally, in line with its obligations under the Kampala Convention, Federal and State Government Ministries, Departments and Agencies have been responding to the needs of IDPs through various protection and assistance interventions, with the support of international and local humanitarian actors, including the International Committee of the Red Cross (ICRC).² With respect to the overall response to the needs of IDPs in Nigeria, the roles of NEMA and the NCFRMI as well as international organizations and NGOs are critical. Particularly, the response to internal displacement in the North East involves a wide range of

¹ Nuhu, S.A, Op. cit p.5

² ICRC (2016) Op.cit p.22

national and international actors including ad hoc committees created to deal with specific challenges. The North East Development Commission is also a recent institution created to handle the reconstruction and reintegration of the Boko Haram ravaged North East.

4.2 The National Emergency Management Agency (NEMA)

The NEMA is established by Section 1 of the NEMA Act.³ The Act further established under S.2, a Governing Council under the Chairmanship of the Vice-President, Federal Republic of Nigeria, for the management of the Agency.⁴ Section 7 of the Act empowers the Council to, among other things manage and superintend the affairs of the Agency; and do such other things which in the opinion of the Agency are necessary to ensure the efficient performance of the functions of the Agency.

NEMA as the coordinating Agency is the vehicle through which the Federal Government coordinate and integrate IDP management in all its facets.⁵ The existing procedures, system and guideline for assistance and protection of IDPs in Nigeria under the NEMA are: -

1. The National Disaster Response Plan approved by the Federal Executive Council in 2002
2. Search and Rescue and Epidemic Evacuation Plan signed by 44 Chief Executives
3. National Disaster Management Framework (NDMF)
4. National Contingency Plan (NCP)⁶

³ Cap. N.34, Vol.10, Laws of the Federation of Nigeria, 2004

⁴ See S.2(2) of the NEMA Act op cit p.88 for members of the Governing Council.

⁵ Sidi M.S., Op.cit p.21

⁶ Ibid

Under the agency, IDP assistance and protection depend on effective and efficient actors in 3 areas:

1. Cluster approach which depend on adequate capacity and predictable leadership in all sectors
2. Coordination which hinges on effective leadership and coordination in humanitarian response and
3. Financing which rest on adequate, timely and flexible financing.⁷

The agency asserts that the National Disaster Management framework and the National Contingency Plan have carefully addressed all these requirements.⁸

Importantly, in situations of emergency, perceived to be beyond the capacity of the affected state to cope, whether natural like the 2012 flood disaster or human induced like the ongoing insurgency in the North East, the government through the coordinating and integrating platform of the NEMA provides to the various needs of the vulnerable populations, ranging from search and rescue, temporary shelter, non-food items, food and nutrition, camp coordination and camp management, protection, security, basic education, water sanitation and hygiene, logistics and telecommunication.⁹

In meeting to these critical needs, NEMA works in close collaboration with the State Emergency Management Agencies (SEMA), Local Government Emergency contact point, relevant Ministries, Department and Agencies (MDAs) across Federal, State and Local

⁷ Ibid

⁸ Ibid

⁹ Ibid

Government.¹⁰ The UN system, local and International NGOs and community based organisations support the efforts of the government.¹¹ To ensure efficient management of camps, trained personnel in camp coordination and camp management (CCCM) are deployed to manage camps and to provide to the specialized needs of vulnerable populations during emergencies.¹² In this respect, NEMA has intervened in the areas of education, water, sanitation and health.

According to information provided by NEMA, in the area of education, emergency education for IDPs Children became a major priority after unprecedented insurgency attacks on students, teachers and schools infrastructure.¹³ In order to rebuild, rehabilitate and restore normalcy in the priority sectors of the affected states, the Federal Government and a coalition of Nigerian Business leaders initiated the Safe Schools Initiative (SSI) Project during the World Economic Forum on Africa (WEFA) in Abuja on the 7th of May, 2014.¹⁴ The SSI Project has provided for the transfer of 2400 students from high risk areas in Borno, Yobe and Adamawa States, 800 each to 43 Federal Unity Colleges across the country and it has also provided for schooling of IDPs at camps through UNICEF.¹⁵

Again, in the area of water and sanitation & Hygiene, the Federal Government is currently complementing the effort of State Governments by deployment of water tankers to provide clean drinking water and sinking of boreholes in some IDPs Camps with severe shortage of water for drinking and domestic use.¹⁶ In meeting to the health needs of the affected population, the Federal Government and other bodies provided medicaments to the

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

University of Maiduguri Teaching Hospital, Specialist Hospital, Nursing Home Maiduguri and other health care facilities.¹⁷ World Health Organization (WHO), United Nations' Population Fund (UNFPA) and other partners support the health response in partnership with states Ministries of Health, and they carry out disease surveillance in communities where they have access.¹⁸

Furthermore, the Federal Government provides medical consumables to Health facilities treating victims of insurgency attacks in the states concerned in complimenting the effort of the state governments.¹⁹ It has also deployed ambulances at strategic locations to support and evacuate victims to hospitals or provide first Aid were necessary.²⁰ The government has also provided its coordination platform to UN Agencies and other humanitarian partners to provide, training and retraining of staff in supply of Reproductive Health kits, supply of First Aid Kits and supply of essential drugs.²¹

However, the reclamation of areas hitherto under the influence of the insurgency has changed the face of needs from relief to rehabilitation and recovery.²² Recently, IDPs have begun to return to their homes, some establishing makeshift settlements in proximity areas where security forces have established a fixed presence.²³ As at September, 2016, NEMA confirmed the return of 5,403 IDPs to their homes after their stay in camps.²⁴ Again, there are plans to

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

²² Ibid

²³ UN Development Programme, UN High Commissioner for Refugees. (2017, February) *Strategy on Protection, Return and Recovery for the North-East Nigeria*. Retrieved on 7th April, 2017 1:15pm from <https://reliefweb.int/report/nigeria/strategy-protection-return-and-recovery-north-east-nigeria-february-2017>

²⁴ Odunsi, W. (2016, September 23) NEMA Confirms Return of 5,403 IDPs to Their Homes From Borno Camps. *Daily Post*. Retrieved on 14th February, 2017 10:00am from <http://dailypost.ng/2016/09/23/nema-confirms-return-5403-idps-homes-borno-camps/>

resettle IDPs living in host communities in the North East to government facilities.²⁵

Importantly also, a Presidential Committee on the North- East has been inaugurated to coordinate the reconstruction of the Boko Haram damaged North -East.²⁶

Preparatory to the challenges of rehabilitation and recovery ahead, the federal government in collaboration with the state governments conducted a rapid assessment of the reclaimed areas in Adamawa, Yobe and Borno States and developed a recovery framework and plan.²⁷ The framework and plan has identified key responsibilities and delineated them to relevant MDAs based on authority and capability.²⁸

Although there is recent improvements in access in Borno state, particularly to some LGA headquarters, access to many of these areas remain tenuous and territories beyond the militarised centres remains, for the most part inaccessible for reasons of security.²⁹ Boko haram attacks on military outposts and convoys as well as suicide attacks including on civilian targets remain frequent occurrences in Borno state.³⁰

However, despite its response to the plight of IDPs in Nigeria, it has been submitted that the NEMA Act is not an IDP specific legal framework and the agency is also not an IDP specific institution.³¹ Further the mandate is to provide emergency relief within the first two-four weeks of the emergency leading to the displacement.³² Thus, On the one hand, NEMA is responsible for overall disaster management in Nigeria, including the coordination of

²⁵ Onyeji, E. (2017, January 18) Boko Haram: IDPs in Host Communities to be Relocated to Government Facilities – PCNI. *Premium Times*. Retrieved on 14th February, 2017 9:15am from www.premiumtimesng.com/regional/north-east/220817-boko-haram-idps-host-communities-relocated-govt-facilities-pcni.html

²⁶ How We Will Reconstruct Boko Haram-Damaged North-Eastern Nigeria – Buhari. (2016, October 27) Press Release. *Premium Times*. Retrieved on 20th February, 2017 8:19am from www.premiumtimesng.com/news/21379-will-reconstruct-boko-haram-damaged-north-eastern-nigeria-buhari.html

²⁷ Ibid

²⁸ Ibid

²⁹ UN Development Programme, *UN High Commissioner for Refugees*. (2017, February) Op.cit p.108

³⁰ Ibid

³¹ Kolawole, A.A., Op.cit p.19

³² Ibid

emergency relief operations as well as assisting in the rehabilitation of the victims where necessary. It has presence in most states of the federation and often supports IDPs in the emergency phase of a crisis, but it does not have the necessary legal mandate and capacity including expertise and resources to address the needs of the people displaced beyond the emergency phase and beyond disaster-induced displacement needing durable solution for return and reintegration.³³

Be that as it may, NEMA has been instrumental in providing camps and camping facilities for IDPs.³⁴ It is however handicapped in providing durable solutions by the twin challenge of funding and its limited time mandate.³⁵ Also, most of the SEMAs are non-functional or have become moribund due to lack of or poor funding by the state governments.³⁶

Other challenges facing NEMA include; poor data management, coordination- disconnect between jurisdictions, cooperation between stakeholders, capacity development (MDAs with responsibilities have limited capacity for humanitarian action), communication- disconnect between communities and populations at risk.³⁷

Although it could be asserted that most IDP camps in Nigeria have felt in some measures, the impact of the response of NEMA, it is submitted that most of the IDPs in camps across Nigeria still live in deplorable conditions, without access to basic necessities of life. This may be due to poor management of resources and relief materials and/or unequal distribution of relief materials provided by NEMA and several other UN and humanitarian bodies, as well as

³³ Ladan, M. T. (2012) *National Response to the Rising Trend of Internal Displacement in Nigeria: Key Issues, Institutional Framework, Gaps and Challenges*. Being A Paper Presented at Civil Society Consultation on the Draft National Internally Displaced Persons (IDP) Policy and Domestication of Kampala Convention in Nigeria, held at Gombe Jewel Hotel, Abuja from May 30th – June 1, 2012.p.8

³⁴ Kolawole, A.A., Op.cit P.19

³⁵ Ibid

³⁶ Ibid

³⁷ Sidi, M.S., Op.cit p.21

the activities of some corrupt government/agency officials. Again, a large number of IDPs are not living in camps but with extended families and not much effort has been made by NEMA to reach out to this category of IDPs. Also, although an Inter-Ministerial Task Force (IMTF) has been created by the Federal Government which is to, among other things, oversee the work of NEMA, it is yet to be seen as to the extent to which the IMTF is monitoring and evaluating the performance of NEMA and whether there is clear accountability for funds received.

4.3 The National Commission for Refugees, Migrants and IDPs

The National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) was established by Decree 52 of 1989 now Cap. N21, Laws of the Federation of Nigeria, 2004 (NCFRMI Act).³⁸ The NCFRMI Act incorporated the 1951 United Nations Convention relating to the status of Refugees, its 1967 Protocol and the 1969 Organization of African Unity Convention Governing Specific Aspects of Refugees Problems in Africa and they together form the guide to the protection and management of asylum seekers and refugees in Nigeria.³⁹ The Commission's mandate was expanded by the Federal Government to cover issues relating to Internally Displaced Persons (IDPs) and the coordination of Migration and Development in 2002 and 2009 respectively.⁴⁰ NCFRMI is mandated to lead and coordinate national action for the protection and assistance of Refugees, Asylum Seekers, Returnees, Stateless Persons, Internally Displaced Persons (IDPs) and Migrants. All these categories of persons are referred to as Persons of Concern to the Commission.⁴¹

³⁸ National Commission for Refugees, Migrants and Internally Displaced Persons; The Commission. Retrieved on 6th June, 2016 11:13am from <http://ncfrmi.gov.ng/the-commission/>

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

To effectively accomplish its mandate, the Commission reviewed its strategic implementation plan (SIP) 2014 – 2016 anchored on the Millennium Development Goals (MDGs) and Vision 20:20:20 of the present administration. The strategy specifically focuses on protection and assistance of persons in need, promotion of migration and development and strengthening institutional capacity.

The Commission is expected to take charge of the plight of the IDPs with the intention of providing durable solutions after the emergency period of their displacement i.e. when NEMA/SEMA is deemed *functus-officio*.⁴² To that end, NCFRMI is supposed to see to their voluntary return to their homestead or resettlement within the host community. Where neither of the above is impossible for the time being, the NCFRMI must map out work plans for the development of facilities for use by migrants and IDPs.⁴³ Again, it is submitted that the NCFRMI is not a specific institution for IDPs and thus lacks the basic mandate to cater for the plight of IDPs.⁴⁴ Although the federal government had expanded NCFRMI's mandate to cover the management of the affairs of IDPs due to their sheer volume, trend and impact of their plight on the Nigerian society the enabling law remains obsolete and does not incorporate new challenges and additional mandate of the NCFRMI on IDPs, Returnees and Stateless Persons.⁴⁵ However, the Act is scheduled to be amended to incorporate the expanded mandate of the Commission to effectively take charge of the affairs of IDPs.

Although the Commission as an agency of the Federal Government of Nigeria has not been on the frontline in the management of the affairs of IDPs, it has provided relief materials in forms of food and non-food items to IDPs across Nigeria; and in the area of empowerment, it has established and maintained skills acquisition centres across the country. The Commission

⁴² Kolawole, A.A., *Op.cit* p.19

⁴³ *Ibid*

⁴⁴ *Ibid*

⁴⁵ Ladan, M.T., (2012) *Op.cit* p.110

also anchored the drafting process of the National Policy on IDPs facilitated by an international non- governmental organization (ActionAid) in conjunction with the members of the Technical Working Group (TWG) and multi stakeholders' consultative forum. The Commission is currently working towards the speedy adoption of the National IDPs Policy, so that it can enforce its very robust provisions.

4.4 Institutional Response to Internal Displacement in the North East

The current humanitarian response to IDPs in Borno, Adamawa and Yobe States involves a diverse number of actors, including Federal and State MDAs,⁴⁶ as well as local NGOs and international humanitarian actors.⁴⁷

At the Federal level, the National Humanitarian Forum – chaired by the National Emergency Management Agency (NEMA) and co-chaired by the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) – was re-established in June 2016 as the primary platform for coordination between the various MDAs and between national authorities and international humanitarian actors.⁴⁸ In September 2016, this coordination architecture was reinforced through the creation of an Inter-Ministerial Task Force (IMTF), led by the Federal Ministry of Budget and National Planning, which has been mandated by the President to coordinate the humanitarian response in the North East. The Task Force is

⁴⁶ Major State actors currently involved in assistance and protection include: the State Emergency Management Agency (SEMA) in each of the three States; the National Emergency Management Agency (NEMA); National Human Rights Commission (NHRC); the Victims Trust Fund (VSF); the Presidential Committee for North East Initiatives (PCNI); and State and Federal Ministries for Water Resources, Health, Agriculture, Women and Social Affairs and Education. In addition, Nigerian Red Cross Society (NRCS) is supporting the Government in its role as auxiliary to the public authorities. See ICRC (2016) Op.cit P.21

⁴⁷ ICRC (2016) Op.cit p.22

⁴⁸ Ibid

composed of relevant Federal Ministers, who have been assigned responsibility for sector-specific Working Groups.⁴⁹

Each Minister has appointed a Humanitarian Officer to chair the relevant Working Groups; and the Minister for Budget and Planning has appointed a Chief Humanitarian Coordinator to chair the IMTF.⁵⁰ The IMTF is to oversee the work of NEMA and the Presidential Committee on North East Initiatives (PCNI), which was inaugurated in October 2016 with a three year mandate to develop “the strategy and implementation framework for rebuilding the North East Region.”⁵¹ While this Plan focuses primarily on medium to long term recovery, it also covers, among others, provision of immediate humanitarian relief, decongestion of formal IDP camps, and provision of psychosocial support for victims of sexual and gender based violence.⁵²

At the State level, coordination occurs through the Humanitarian Coordination Forums, chaired by NEMA and/or the relevant State Emergency Management Agency (SEMA), with support from UNOCHA. This Forum exists in all three States and provides a platform for coordination between the State level sector-specific working groups.⁵³ Additionally, ad hoc committees have been created to deal with specific challenges, for example, the High

⁴⁹ The Minister of Agriculture is responsible for food security; the Minister of Education is responsible for Education; the Minister of Health is responsible for Health and Nutrition; the Minister of Interior is responsible for Logistics and Protection; the Minister of Power, Works and Housing is responsible for Shelter; the Minister of Water Resources is responsible for Water, Sanitation and Hygiene; the Minister for Budget and National Planning is responsible for Camp Coordination and Early Recovery; and the Minister of Communications Technology is responsible for Telecommunications. See ICRC (2016) Op.cit, p.21

⁵⁰ ICRC (2016) Op.cit p.22

⁵¹ The Committee was inaugurated by President Muhammadu Buhari on 26 October 2016 and is housed in the Presidency. It has an initial mandate of three years and will “be the apex coordinating body for all interventions in the region including those by the public, private, national and international development partners.” According to the President’s inauguration speech, it will likely be succeeded by a longterm regional development framework. Activities previously carried out by the Presidential Initiative on the North East (PINE) and Safe Schools Initiative, have been taken over by PCNI. See ICRC (2016) op cit p.21

⁵² ICRC (2016) Op.cit p.21

⁵³ Working Groups exist in all three States for the following sectors: Health and Nutrition, WASH, Shelter/NFI/Camp Coordination and Camp Management (CCCM), Education, Food Security, Protection. In Borno and Adamawa, there is also a Child Protection Sub-Working Group and Sexual and Gender Based Violence Sub-Working Group. Each of the sector working groups is chaired by the relevant line Ministry or Agency, with support from international humanitarian organisations. See ICRC (2016) op cit p.21

Powered Committee for Reopening of Schools (Maiduguri), the Technical Committee for Returns from Cameroon (Yola), the Recovery and Rehabilitation Steering Committee (Yobe) and most recently, the Return Task Force (Maiduguri).⁵⁴

Although it appears that there are several actors undertaking different kinds of protection and assistance activities for IDPs, lack of coordination between the different actors has been a challenge due to lack of clarity regarding the roles and responsibilities of the various actors.⁵⁵

With regard to funding, Nigeria's emergency humanitarian response for IDPs in the North East is funded by both the state and federal government primarily through NEMA and SEMA and through adhoc structures such as the PCNI and the VSF (a not for profit foundation overseen by the Presidential Committee on Victim Support Fund – CVSF).⁵⁶ In terms of durable solutions, funds are being directed through the Borno Ministry for Reconstruction, Rehabilitation and Resettlement.⁵⁷ However, despite the important financial commitments from both federal and state governments, it has been shown that many MDAs do not have enough financial resources to fulfil their mandate and most state ministries do not have additional budget to support IDPs. Again, in some cases some state ministries and SEMA do not receive their regular budget.⁵⁸

Even when funds are allocated, there have been numerous challenges in ensuring that food and relief materials reach the beneficiaries.⁵⁹ For example, in August 2016 it was reported in the media that 60 trucks carrying grains intended for IDPs in Borno State, were allegedly diverted by a Government contractor. In response to allegations such as this, the authorities

⁵⁴ ICRC (2016) Op.cit p.22

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ Ibid, p.28

⁵⁹ Ibid

have launched several processes to investigate alleged diversion of relief materials and monitor distribution of assistance.⁶⁰

Again, there is no coordinated or harmonized system at the federal, state or local government levels for monitoring or evaluating assistance to IDPs although monitoring of assistance interventions takes place at varying levels within some of the Ministries and Agencies.⁶¹ For example, at the camp level, monitoring mechanisms range from oversight during distributions, cooking, teaching and cleaning; to consultation with IDPs and coordination meetings to review what each actor is doing. Other monitoring mechanisms include Local Emergency Management Committees, established by Adamawa State Emergency Management Agency (ADSEMA) to oversee distributions.⁶²

Additionally, several ad hoc monitoring and oversight structures have been established at the State and Federal levels, including the Independent Task Force on Feeding, Food Supply and Monitoring of Distribution in IDP Camps, which was established in February 2016 with a mandate to ascertain the number of IDPs in IDP camps and ensure proper records of supply, distribution and use of food items for IDPs.⁶³ More recently, the Senate President has established an Ad Hoc Committee to look into alleged diversion of relief materials by Government contractors⁶⁴ and the Inspector General of Police has recently established a Special Investigation Committee to investigate alleged cases of sexual violence, including sexual exploitation by authorities, in IDP camps in Maiduguri, Borno State.⁶⁵

Despite these existing mechanisms, monitoring and evaluation of assistance and protection interventions is one area where significant improvement is required. Given the important

⁶⁰ Ibid

⁶¹ Ibid

⁶² Ibid

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Ibid

efforts being made by the national authorities, particularly in the area of assistance, it is vital to put in place mechanisms that can help to ensure that Government funds translate into concrete results for IDPs.⁶⁶

Again, while each of these MDAs has important experience and expertise in diverse areas, ICRC observes that the mandate, responsibility and activities of each actor is not always clear and/or understood by others and thus identifying who is doing what and where, remains a challenge.⁶⁷

Since all these diverse actors targeted at the response to the plight of IDPs in the North East have been created or established, the issue of coordination, planning, implementation, accountability, consistency, evaluation and duplication must be effectively handled as well. Where several bodies are addressing the same issue, there is likely to be over reliance on some of them and complacency on the part of others. As such, it is submitted that a few of these actors adequately funded with clear mandates and a system for transparency and accountability as well as a system for monitoring and evaluating their performance would go a long way in providing the much needed assistance and durable solutions for IDPs in the North East.

4.5 The North East Development Commission

The President of Nigeria, Muhammadu Buhari recently signed into law the North East Development Commission (Establishment Act) 2017.⁶⁸ The Act gives the North-East Development Commission (NEDC) the mandate to receive and manage funds allocated by the Federal Government and international donor agencies for the resettlement, rehabilitation,

⁶⁶ Ibid

⁶⁷ Ibid

⁶⁸ Umoru, H. (25th October, 2017) Buhari Assents to North East Development Commission Act, 2017. *Vanguard*. Retrieved 7th November, 2017 10:00pm from <https://www.vanguardngr.com/2017/10/buhari-assents-n-east-devt-commission-act-2017/>

integration and reconstruction of roads, houses and business premises of victims of insurgency.⁶⁹

The commission will among other things coordinate projects and programs within the Master Plan for the rehabilitation, resettlement, reconciliation, reconstruction and sustainable development of the North-East Zone in the fields of infrastructure, human and social services including health and nutrition, education and water supply, agriculture, wealth creation and employment opportunities, urban and rural development and poverty alleviation.⁷⁰

The NEDC aims to provide a sustainable end to internal displacement in the North East by providing durable solutions to IDPs in the region. In that regard its mission to reconstruct and rehabilitate the region will hopefully ensure that IDPs are back in their homes with their means of livelihood returned or enhanced, and their children back in schools. More so, when infrastructure and human and social services are revived, and security of the people is guaranteed, there is hope that to say the least, life will be back to normal for IDPs in the North East region of Nigeria.

4.6 The Role of International Organizations and Non-Governmental Organizations

Apart from the significant efforts being made by national authorities, ministries and agencies geared towards an effective response to the plight of IDPs in Nigeria, several international organizations and NGOs have also played major roles with regard to protection and assistance to IDPs. In some instances, these bodies work in conjunction or collaboration with the national or state agencies in the provision of aids and relief materials to IDPs.

⁶⁹ Ibid

⁷⁰ Ibid

Since July 2014, the International Organization of Migration (IOM) has been working with national authorities, including NEMA, the respective SEMAs and the Nigerian Red Cross Society (NRCS), to collect and disseminate data on the location and number of IDPs in the North East.⁷¹ While not providing an in-depth needs assessment, the Displacement Tracking Matrix (DTM) has played a key role in providing national authorities and humanitarian actors with more accurate estimates on the scale of the humanitarian crisis.⁷² It is imperative to note that the IOM data and statistics on the number of IDPs in Nigeria is the most reliable data available. The national agencies alone do not have the capacity and resources to give accurate data on the number of IDPs in Nigeria.

Concerning protection concerns and vulnerabilities, UNHCR has supported the National Human Rights Commission (NHRC) and other national authorities, to implement an IDP Protection Monitoring Project in the North East.⁷³ Although the Project began with 310 Monitors in 10 States in the North East and North Central, this was scaled back in 2016 to 100 monitors in five States in the North East (Borno State is not included as protection monitoring in Borno is carried out jointly by UNHCR and the International Rescue Committee). The primary aim of the Project is to profile the protection risks and needs of the most vulnerable IDP households, including IDPs residing in camps as well as those residing in host communities.⁷⁴ Indeed ascertaining protection risks and needs of IDPs helps in the development of concrete strategies in response to their needs.

Again, in late 2015 and early 2016, the Office of the Vice President, in collaboration with the State Governments in Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe, as well as the European Union, the UN and the World Bank, carried out a Recovery and Peacebuilding

⁷¹ ICRC (2016) Op.cit, p.22

⁷² Ibid

⁷³ Ibid

⁷⁴ Ibid

Assessment (RPBA) in the six aforementioned States.⁷⁵ Although the assessment was much broader in scope, it included the short and mid-term protection and assistance needs of the affected population, including IDPs in both camps and host communities.⁷⁶ Although the short and mid-term protection and assistance needs are important and necessary, at all times in cases of internal displacement, the long term requirement is the achievement of durable solutions for IDPs in terms of return, resettlement or reintegration. As such, the RPBA was geared towards seeking an end to the internal displacement of the IDPs in that region.

In addition to the DTM, IOM is collaborating with NEMA and SEMA to implement a pilot biometric registration of IDPs in Borno, Adamawa and Yobe States.⁷⁷ As at October 2016, over 362,990 IDPs had been biometrically registered in those States.⁷⁸ It is very important that IDPs have some sort of identification even for security reasons and other factors. Without registration and identification, anybody can claim to be an IDP. Again, with their identification, it is easier for the IDPs to access services meant for them, and it is also easier to trace missing family relatives.

Additionally, the Ministry of Women Affairs and Social Development, with support from the United Nations Children's Education Fund (UNICEF), is implementing a harmonized system for registration and case management of unaccompanied and separated children.⁷⁹ Children are among the most vulnerable groups even among IDPs especially where they have been separated from their families. When they are alone, they become easy targets for exploitation and abuse. It is thus important that these children are treated with the best care possible.

⁷⁵ Ibid

⁷⁶ Ibid

⁷⁷ Ibid, p.36

⁷⁸ Ibid

⁷⁹ Ibid, pp.36-37

Similarly, although NEMA and SEMA are the primary government agencies involved in providing shelter, their interventions are limited to providing shelters within public buildings, and thus humanitarian actors have complemented NEMA's efforts by providing plastic sheeting shelters, tents or other shelter assistance.⁸⁰ For example, since January 2016, several humanitarian organizations (including IOM, UNHCR, International Rescue Committee (IRC) and the Norwegian Refugee Council (NRC)) have facilitated the resettlement of thousands of IDPs previously hosted in schools, through the construction of more than 1,800 reinforced emergency shelters in Bakassi IDP camp, Maiduguri.⁸¹

Additionally, between January 2015 and September 2016, the ICRC provided temporary shelters or tents for 44,196 IDPs living in IDP camps in Adamawa, Borno and Yobe States.⁸² Public buildings or schools could only serve as a temporary shelter for a limited amount of time because school activities in the schools would definitely be affected by the fact that IDPs are camped there. Again, so many people would end up being lumped up in one classroom without any sort of privacy. With the temporary shelters or tents, there is the recognition of the need for members of the same family to stay together in one tent and congestion is minimized to a certain level. Importantly too, public buildings are freed to carry on with their activities.

Furthermore, significant efforts have been carried out in 2016 by a number of State and humanitarian actors, including the Rural Water Supply and Sanitation Agency (RUWASSA), UNICEF, Action Contre la Faim (ACF), Christian Aid, IRC, NRC, Save the Children, Danish Refugee Council (DRC), and Oxfam, resulting in the construction of 4,516 emergency latrines in Borno, Adamawa, Yobe States.⁸³ It had been observed that sanitation is one of the

⁸⁰ Ibid, p.41

⁸¹ Ibid

⁸² Ibid

⁸³ Ibid, p.42

major challenges in many IDP camps, as there are often not enough latrines to meet the needs of IDPs while the few latrines available are often not well built.⁸⁴ Other sanitation facilities such as showers and washing areas are not available.⁸⁵ In addition, solid waste management is either nonexistent or poorly managed.⁸⁶

In response to these challenges, ICRC and NRCS have established joint teams of NRCS volunteers and IDPs in more than 25 IDP camps in Borno, Adamawa and Yobe States, who promote hygiene, cleaning of sanitation facilities and collection/removal of solid waste.⁸⁷ The importance of the provision of functional sanitary facilities for IDPs cannot be over emphasized because, without these facilities, they would be at the risk of several health hazards including outbreak of diseases. Again, despite the efforts of ICRC in this regard, several IDP camps still exist which do not have a single toilet facility and the only option for the IDPs is to resort to the use of the bush.

Several other NGOs have also been involved in humanitarian activities and provision of aids and assistance to IDPs in camps across Nigeria. The role these NGOs play is also a very crucial one as even Nigeria's President, Muhammadu Buhari had made calls to NGOs to assist the government in its effort to cater for the needs of the internally displaced. Some NGOs who have been involved in protection and assistance activities for the IDPs include Greek Medical Charity, Peace Rehabilitation and Reconciliation Initiatives (PRRI), Hope for Borno Project, 1 Ummah, Future Assured and a host of others.

Although the efforts of NGOs in provision of aids and relief materials to IDPs cannot be undermined, it has been argued that the monotonous nature of non-governmental

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Ibid

⁸⁷ Ibid

organizations (NGO) makes their well-intended commitment unrewarding as most do not have the capability or resources to move beyond the usual succor of food, water, and medical support.⁸⁸ While these reliefs are the primary needs of internally displaced persons (IDP), overcrowded and poorly coordinated responses neutralize any well-intended objectives which may exacerbate IDPs plight instead of lessening it.⁸⁹ It has also been stated that in Northeast Nigeria, there are about 126 NGOs doing the same thing, and that only amounts to purely replicated assignments that may not serve IDPs well.⁹⁰ Furthermore, many NGOs lack strategic planning and become disarrayed almost immediately after they arrive at the camps; they relinquish leadership and increasingly rely on unevaluated locals with ethno-religious predisposition to dictate the tunes.⁹¹

Apparently, placing unvetted locals in the vanguard of core responsibilities is one of many banes of NGOs and why local authorities are often frustrated with humanitarian communities.⁹² The response to plight of IDPs in Nigeria by NGOs is not as concise as that by international organizations because the international organizations go as far as conducting researches and assessing the actual protection needs of the IDPs as well as the overall reality of the humanitarian crisis. Furthermore, all interventions are documented with specific accessible data. The NGOs on other hand focus mainly on providing relief materials without necessarily assessing the needs or the actual impact of the crisis.

In all, with regard to the role of international organizations and NGOs in the protection and assistance to IDPs, it is submitted that they have, to a very large, extent assisted the national and state agencies in responding to the needs of IDPs especially in the North East. However,

⁸⁸ Hethrone (2017) *The Way Forward: North East Nigeria IDPs and NGOs*. Retrieved July 18, 2017 12:15pm from <http://hethrone.co/hethrone-articles2334343254454/2017/1/18/the-way-forward-northeast-nigeria-idps-and-ngos>

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ibid

⁹² Ibid

all protection and assistance interventions carried out by them are solely at their discretion. Thus, they choose where to intervene and in that way not all IDPs may benefit from their interventions. Notwithstanding, the fact that all the activities of international organizations in relation to protection and assistance to IDPs are documented and available to the general public is a good way of ensuring transparency and accountability for funds allocated for that purpose. The national and state agencies involved in the management of the affairs of IDPs need to take a cue from this and make all information regarding their interventions available to the general public. Thus, it will be easy to ascertain whether funds received are actually being used the right way.

International organizations have also advocated for a more comprehensive framework of protection for IDPs by the national government especially on the need to domesticate the Kampala Convention. They have played major roles in training agencies' staff and assisting national agencies and the government to realize the full impact of the internal displacement crisis in the country as well as in the assessment of protection needs.

With respect to specific interventions carried out by the international organizations, the assistance activities carried out by ICRC & UNHCR as provided in their websites will be briefly analyzed.

4.6.1 The United Nations' High Commissioner for Refugees (UNHCR)

With regard to its involvement in Nigeria, the UNHCR Factsheet⁹³ points out that as at February, 2016, 2,241,484 IDPs were identified in Adamawa, Bauchi, Borno, Gombe, Taraba, Yobe, Nasarawa and Abuja through the IOM Displacement Tracking Matrix (DTM) and that 8,440 vulnerable persons/at risk have been provided with material assistance in

⁹³ UNHCR (2016) *Nigeria Fact sheet, February, 2016* Retrieved 15th July, 2017 8:03pm from www.unhcr.org/524d86149.pdf

Maiduguri, Borno state, 450 individuals have been trained on skills acquisition in Yola North, Adamawa state and 1,328 vulnerable persons provided with psychosocial support in Adamawa, Borno, Gombe, Bauchi and Yobe states.⁹⁴

Again, the United Nations High Commissioner for Refugees (UNHCR) works closely with government partners, including the NCFRMI, NHRC, NEMA, SEMAs, the Institute for Peace and Conflict Resolution (IPCR), and other UN agencies to ensure the protection of persons of concern and to coordinate their assistance, as well as contribute to inter-agency efforts to protect and assist IDPs.⁹⁵

The agency also works with the following implementing partners: the NRC, IRC, Family Health Initiative (FHI 360), Benue State NGO Network, Justice Development and Peace Commission, NRCS, and RHEMA Care.⁹⁶ In addition to co-leading the Protection Sector Working Group both at the national and sub-national levels, UNHCR actively participates in the Shelter/Non Food Items/Camp Coordination and Camp Management Working Group, Child Protection Sub-Working Group, Sexual and Gender-Based Violence Sub-Working Group, Inter-Sector Working Group and Humanitarian Country Team.⁹⁷

In the area of protection, the Factsheet provides that a total of 21,998 Nigerian returnees were officially registered at the Sahuda border post by UNHCR and partners.⁹⁸ UNHCR worked with IOM in Borno to prepare for biometric registration in Arabic Teachers' Camp (ATC), in advance of their relocating IDPs from this camp to Bakassi on 1 March 2015.⁹⁹ UNHCR provided 35 communal tents to SEMA in Gubio IDP camp in response to shelter demands perpetuated by the influx of displaced families from liberated areas, mainly Mafa into

⁹⁴ Ibid

⁹⁵ Ibid

⁹⁶ Ibid

⁹⁷ Ibid

⁹⁸ Ibid

⁹⁹ Ibid

Maiduguri. The tents provided shelter to over 3,000 individuals who were initially sleeping in the open and living in dire conditions.¹⁰⁰

Again, UNHCR launched the planned shelter project in Adamawa state (Maiha) which included the provision of 12 hectares of land for which compensation has been paid by the state government.¹⁰¹ The project was well received and lauded as a pilot which can be used as a model by the Early Recovery Working Group and the sector will support resource mobilization for the project.¹⁰²

In 2017, UNHCR organized a three day workshop in Abuja for government partners, UN agencies, NGOs, and International Non-Governmental Organizations from 10-13th May on international protection principles for IDPs. The workshop was aimed at fostering a mutual understanding of protection in the North East context with a view to improving coordination, building an effective response and analyzing return strategies.¹⁰³

The information provided here is solely as made available by the UNHCR. It is submitted that despite these assistance activities, most of the IDPs in Nigeria live in camps without basic necessities such as clean water, health services, sanitary facilities, etc. More so, a large number of them are not living in camps but within the host communities or with family and friends and thus reaching them has not been an easy task. Again, although UNHCR is at liberty to select which group of IDPs to assist and the nature of assistance to embark on, the UNHCR has been on the fore front with regard to coordination and collaboration of the activities of different bodies and agencies charged with the responsibility for IDPs; and in that regard it sets up an international standard of performance for the authorities.

¹⁰⁰ Ibid

¹⁰¹ Ibid

¹⁰² Ibid

¹⁰³ UNHCR (2017). *Nigeria Situation: UNHCR Regional Update 01-31 May, 2017* 3:06pm Retrieved July 24, 2017 from <http://reliefweb.int/report/nigeria/nigeria-situation-unhcr-regional-update-01-31-may-2017>

Furthermore, the UNHCR's intervention is simply aimed at complementing the efforts of the government, as the responsibility to protect IDPs rests squarely on the government concerned. As such, in spite of the efforts of humanitarian organizations, the national government must not relent in its effort to provide effective and efficient protection and assistance to IDPs.

4.6.2 The International Committee of the Red Cross (ICRC)

With respect to the interventions by ICRC, it is provided that in 2015, the ICRC significantly scaled up its efforts to deliver such vital aid as food, water, shelter and firewood, provide medical care and restore contact between family members separated by the Boko haram insurgency.¹⁰⁴ In that regard, in cooperation with the Nigerian Red Cross Society, the ICRC distributed food to 538,000 IDPs, mainly in Adamawa, Borno, Gombe and Yobe states, and in Plateau and Edo states, 387,000 IDPs received essential household items, 57,000 people received cash and vouchers with which to buy food and other items.¹⁰⁵

It is further provided that, in relation to livelihood support and micro-economic initiatives, 21,000 people returning to their homes in Adamawa state received food, seed and fertilizer, 31,000 people in Plateau and Kaduna states received fertilizer and/or vouchers for seed and fertilizer, 1,400 widows in Maiduguri with young children received food vouchers that allowed them to buy enough food for six months and 50 of them also benefited from ICRC micro-economic initiatives to help them provide for their families.¹⁰⁶

In the area of water, shelter and sanitation in host communities and camps affected by the armed violence, 176,000 people from Adamawa, Bauchi, Borno, Edo, Kaduna, Plateau,

¹⁰⁴International Committee of the Red Cross (2016) *Nigeria: Facts and Figures, 2015* Retrieved June 18, 2016 11:10pm from <https://www.icrc.org/en/document/nigeria-facts-and-figures-2015>. 1 February, 2016. Also available at reliefweb.int/report/Nigeria/Nigeria-facts-and-figures-2015.

¹⁰⁵ Ibid

¹⁰⁶ Ibid

Rivers and Yobe states benefited from ICRC water, sanitation and hygiene activities and the Nigerian Red Cross and the ICRC carried out hygiene promotion and cleaning work for 50,000 of them¹⁰⁷. 18,000 IDPs living in camps in Adamawa, Borno, Edo and Yobe received shelter or tents while 2,500 people who had returned to Mubi (Adamawa) or had settled in Warsa Piti (Kaduna) built or rebuilt houses with ICRC support.¹⁰⁸ 39,000 residents of the Jos and Maiduguri areas were protected against cholera through the work of hygiene promotion teams and the chlorination of water points and 296 latrines for IDPs were built or renovated in Adamawa, Borno, Edo, Kaduna, Kano and Yobe states.¹⁰⁹

In the area of health, the ICRC supported 12 primary health care centres (PHCs) in Maiduguri, Biu, Dikwa, Yola and Mubi.¹¹⁰ Between them, these centers served 360,000 people (IDPs and their host communities); provided a surgical team at Maiduguri State Specialist Hospital, which operated on people wounded by weapons and on IDPs in need of emergency care; and trained the staff of Nigerian hospitals in the treatment and management of people with weapon wounds.¹¹¹ The ICRC also launched a mental health and psychosocial support programme focusing mainly on IDPs and the NRCS staff received training in basic psychosocial support and counselling skills, and provided psychosocial support to 700 IDPs at a camp in Yola.¹¹²

With regard to restoring family link, the ICRC and the NRCS worked together to help family members contact each other, reuniting them all over the Lake Chad region. The Red Cross

¹⁰⁷ Ibid

¹⁰⁸ Ibid

¹⁰⁹ Ibid

¹¹⁰ Ibid

¹¹¹ Ibid

¹¹² Ibid

provided 2,760 free phone calls for people who had become separated from their families. The ICRC and the NRCS received 1,660 requests to trace missing relatives.¹¹³

Importantly also, the ICRC worked with 30 academics and over 600 students from 22 Nigerian universities to enhance the teaching of International Humanitarian Law in Nigeria.¹¹⁴ The ICRC also worked with academics to carry out a survey in Adamawa, Borno and Yobe states on applying the Kampala Convention.¹¹⁵

In 2016, the NRCS and the ICRC gained access and assisted residents and IDPs living in very difficult conditions in previously inaccessible locations of Borno state such as Sabon Gari, Damboa, Dikwa, Monguno, Gamboru-Ngala and others.¹¹⁶ In the area of emergency relief assistance, 966,084 IDPs, returnees and residents in the North East and the Middle Belt regions of Nigeria received food rations for up to three months, 422,350 IDPs in North East Nigeria and the Middle Belt received essential household items and 95 NRCS, NEMA and SEMA staff country-wide were trained in a humanitarian management program.¹¹⁷

In the area of livelihood support and micro-economic initiatives, 282,381 returnees in the North East and the Middle Belt received agricultural inputs to start farming again, 144,504 IDPs in north-eastern Borno and Yobe states, as well as victims of urban violence in Port Harcourt, Rivers state, received cash to enable them to purchase their priority commodities.¹¹⁸ Again, 1,000 widows/heads of households in Borno state, North East Nigeria, were registered to receive cash that will enable them to provide the basic necessities for their families, while an additional 250 received support for micro-economic initiatives.

¹¹³ Ibid

¹¹⁴ Ibid

¹¹⁵ Ibid

¹¹⁶ International Committee of the Red Cross (2016). *Nigeria: Responding to the Needs of Civilians Affected by Armed Conflict*. Retrieved July 15, 2016 12:13pm from <https://www.icrc.org/en/document/nigeria-responding-needs-civilians-affected-armed-conflict>

¹¹⁷ Ibid

¹¹⁸ Ibid

220 widows/women heads of house-holds living in urban shanty settlements in Niger Delta received training to enhance their capacity to start earning their livelihoods.¹¹⁹

In healthcare, 396,216 patients attended 16 ICRC-supported centres for primary health care and 8 mobile clinics serving IDPs, returnees and residents in North East Nigeria, particularly Adamawa and Borno states, the Middle Belt and the Niger Delta states.¹²⁰ 14,035 children were delivered in ICRC supported clinics while 12,565 children under 5 suffering from severe acute malnutrition were treated in ICRC-supported clinics in Borno South, North East Nigeria.¹²¹ 1,765 mainly weapon-wounded patients were treated by the ICRC surgical team in Maiduguri State Specialist Hospital, Borno, North East Nigeria, out of whom 415 were hospitalized and 321 IDPs benefitted from the ICRC's mental health and psychosocial support program.¹²²

In shelter, water and sanitation, 253,000 IDPs, returnees and residents in North East Nigeria and the Middle Belt received assistance to access water and improve their sanitation and hygiene conditions.¹²³ 1400 returnees in Mubi Adamawa and 720 persons affected by communal clashes in Kaduna and Bangai, Plateau received ICRC support to rebuild 448 houses while 32,700 IDPs living in camps in Adamawa and Borno states, North East Nigeria, live in 5,050 temporary or emergency shelters built by the ICRC.¹²⁴

With regard to restoring family links, 76,803 new tracing files for persons searching for missing relatives were opened by the ICRC and the NCRS. 716 Red Cross messages were exchanged among separated family members. 1,346 free phone calls were made available by

¹¹⁹ Ibid

¹²⁰ Ibid

¹²¹ Ibid

¹²² Ibid

¹²³ Ibid

¹²⁴ Ibid

the Red Cross to persons who were separated from their families.¹²⁵ Between January and end October 2016, the ICRC conducted 36 visits in six camps in Adamawa and Borno states to build a protection dialogue with the camp authorities, security forces, IDPs and their leaders.¹²⁶

Recently, between January to march 2017, almost 286,000 people in the North-East and the Middle Belt regions received food for three months; Over 33,000 people in the North-East and the Middle Belt received essential household items, such as cooking pots and water containers, as well as clothes, hygiene products, and sleeping and shelter materials; 6,000 people (through five agriculture cooperatives) received agricultural machinery and tools to start farming or increase their farming production and over 9,600 people including almost 1,500 widows received cash and basic training on small businesses to help them start a sustainable livelihood.¹²⁷

In the area of health, water and habitat, almost 2,000 displaced persons benefitted from ICRC's mental health and psychosocial support program, over 89,000 displaced persons, returnees and residents in North East Nigeria and Middle Belt got access to clean water; almost 66,000 displaced persons in North East Nigeria improved their sanitation and hygiene conditions; more than 1,000 returnees in Michika (Adamawa) and over 1,000 persons affected by communal clashes in Barkin Ladi, Riyom and Bokkos (Plateau) received ICRC support to rebuild 430 houses; and almost 24,000 displaced persons in camps in Borno State,

¹²⁵ Ibid

¹²⁶ Ibid

¹²⁷ International Committee of the Red Cross (2017) *Nigeria: Responding to the Needs of People Affected by Armed Conflict in 2017*. Retrieved July 18, 2017 9:10am from <https://www.icrc.org/ng/document/nigeria-responding-needs-people-affected-armed-conflict-2017>

North East Nigeria, live in almost 4,000 temporary or emergency shelters built by the ICRC.¹²⁸

With regard to restoring family links, 1,082 new tracing requests were opened by persons looking for relatives with the ICRC or the NRCS; 69 Red Cross messages containing family news were exchanged among separated family members; and 98 free phone calls were made available by the Red Cross to persons searching for their family.¹²⁹

Finally, military and security forces, as well as civil organizations in almost 20 Nigerian states received information on the current humanitarian concerns, ICRC's work, International Humanitarian Law (IHL) and international human rights law.¹³⁰ The ICRC also worked with academics and students from 26 Nigerian universities in order to enhance the teaching of IHL while around 120 national authorities at the state and federal level, community groups as well as humanitarian practitioners were briefed on the ICRC's recommendations to implement the Kampala Convention.¹³¹

As seen above, the ICRC has embarked on very laudable intervention activities for the IDPs in Nigeria. The ICRC has indeed approached the issue of the assessment of the needs of IDPs in a very serious manner as it had carried out a research in Borno, Adamawa and Yobe as well as the FCT in order to assess the situation of the IDPs. In providing assistance to any group of people, it is very crucial that an assessment of their needs is done because it will go a long way in making the assistance provided very much meaningful to the affected group. Without an assessment, the assistance provided may be different from what is actually needed.

¹²⁸ Ibid

¹²⁹ Ibid

¹³⁰ Ibid

¹³¹ Ibid

Again, the ICRC has carried out several enlightenment programs to national authorities, humanitarian bodies, military and security operatives, civil organizations, and academicians in order to bring into lime light the full picture and impact of the internal displacement in Nigeria, and to advocate or make recommendations on the need to implement the Kampala Convention.

Again, the ICRC being an international humanitarian organization can only compliment the efforts of the national government and its agencies. As seen above, it works in collaboration with the national bodies and agencies, and so the national bodies/agencies must strengthen their own mechanisms for providing protection for IDPs without over reliance on the efforts of the ICRC. This is more so because the ICRC notes that given the scale and complexity of the displacement, it has observed with regard to the North East, that throughout 2015 and 2016 the humanitarian response is far from meeting the assistance and protection needs of IDPs.¹³²

From the foregoing analysis, what is clear is that although some level of protection does exist albeit in fragmented and largely uncoordinated manner, a lot needs to be done by Nigeria in order to align herself with her regional obligations under the Kampala Convention by domesticating it into its national legislations. The NEMA and NCFRMI have been instrumental in provision of aid and management of IDPs in camps across Nigeria but NEMA is restricted in its response to only periods of emergency. Again, the NCFMRI need to be empowered legally to compliment the efforts of NEMA in catering for IDPs during the period of displacement and to also fully take up its responsibility with regard to the last phase of displacement in terms of return, relocation or reintegration of IDPs. Furthermore, the draft national policy has undergone yet another review in 2017 and there is hope that once it is

¹³² Ibid

adopted by the Federal Government, concrete measures will be put in place that will comprehensively address the problem of internal displacement in Nigeria.

With regard to the response to the internal displacement in the North East, in addition to the institutional framework mentioned above and the interventions of different humanitarian organizations, several other mechanisms have been put in place which include the national humanitarian forum, the IMTF, the humanitarian coordination forums and a host of adhoc committees created to handle specific challenges. The major problem however is the fact that there is no coordinated or harmonized system at the federal or state level for monitoring or evaluating the assistance to the IDPs. Furthermore, the mandate, responsibility and activities of the actors are not always clear and/or understood and some of the actors are not properly funded while accountability and transparency in the management of funds remains a challenge. International organizations and NGOs have also played major roles in providing assistance and protection to IDPs across the federation. In all there is an urgent need to strengthen the existing legal and institutional framework for the protection of IDPs in Nigeria.

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1 Summary

The recognition of the need for an international framework for the protection of internally displaced persons (IDPs) started as far back as 1992 when Mr. Francis M. Deng led a process of developing the GPID due to the growing numbers of IDPs around the globe. Although under the international human rights law and international humanitarian law, there are several general provisions which cover IDPs, it was apparent that there were gaps in the human rights and humanitarian law instruments and that IDPs as a distinct class of persons needed a specific framework to cater for their unique disposition.

As such, GPID were developed to bridge the gaps and further provide a specific framework of protection for IDPs. The GPID in that regard influenced the creation of regional and sub regional instruments and policies, especially within the African continent, aimed at providing a legal framework of protection for IDPs. The Kampala Convention is one of such instruments and it is the first continent wide legally binding instrument on internal displacement with several ground breaking elements aimed at advancing the protection of IDPs in Africa. Although the Kampala Convention has been praised by various actors, it is limited by the questionable strength of its enforcement mechanism, the effectiveness of the AU's intervention power and the hesitancy of Member States to ratify or domesticate it. Despite being central to the overall discourse on IDPs in Africa, the Kampala Convention is yet to be domesticated in most of the Member States including Nigeria.

The legal, institutional and administrative framework for the protection of IDPs in Nigeria can be deduced from the 1999 Constitution, the African Charter on Human and Peoples'

Rights, the Geneva Conventions and their Additional Protocols, the mandates of National Emergency Management Agency (NEMA), the National Commission for Refugees, Migrants and IDPs, the recently established North East Development Commission as well as other relevant Ministries, Departments and Agencies of Government. The GPID and the Kampala Convention also play significant roles with regard to the framework of protection for IDPs in Nigeria. Again, there are different systems and mechanisms put in place in response to the internal displacement in the North East. Further still, international and local humanitarian organizations, especially the UNHCR and the ICRC have also carried out major assistance activities with regard to IDPs in Nigeria.

From the analysis of the legal and institutional framework of protection of IDPs in Nigeria, it is clear that considerable efforts are being made by the national authorities, particularly in the area of assistance to IDPs but there is an urgent need to strengthen the existing framework by expanding the mandates of some of the agencies concerned especially the NCFRMI, the adoption of the Draft national policy on IDPs and the domestication of the AU Kampala Convention. Again, there must be clear and concise allocation of roles and responsibilities for all MDAs involved with the response to internal displacement in Nigeria and all appropriate funds must be allocated to them. Importantly too, an efficient and effective system for monitoring and evaluation of assistance and protection activities must be put in place in order to ensure that government funds are being channeled in the right way and that it translates into concrete results for IDPs.

5.2 Findings

In the course of this research the following findings were made:

1. There is no specific legal framework for the protection of IDPs in Nigeria as the AU Kampala Convention is yet to be domesticated after being ratified since 17th April, 2012. Significant efforts have been made by national authorities, civil societies and others in developing a National IDP policy. Although the policy was finalized in 2012 and reviewed severally including recently in 2017, it is yet to be adopted by the Federal Government.
2. Although NEMA is responsible for overall disaster management in the country including coordination of emergency relief operations and assisting in the rehabilitation of victims where necessary, and it has supported IDPs in the emergency phase of their crisis, it does not have the legal mandate, capacity, expertise and resources to extend the support beyond the emergency phase and beyond disaster induced displacement. Thus, the need for durable solutions for return and reintegration by IDPs is not adequately addressed by NEMA.
3. The NCFRMI is expected to take charge of the plight of IDPs after the emergency phase of their displacement with a view to finding durable solutions for them in terms of voluntary return to their homes, resettlement or reintegration within the host community. Although, its mandate was extended by the Federal Government, the enabling law has still not incorporated this expansion, as the NCFRMI Act is yet to be amended. Notably too, there is no body or agency responsible for evaluation and monitoring of implementation by the NCFRMI.

4. There are also several institutional mechanisms that have been responding to the needs of IDPs in Nigeria. NEMA, NCFRMI, National Human Rights Commission (NHRC), the Institute for Peace and Conflict Prevention and Resolution, the Nigerian Red Cross Society (NRC), several other Federal and State MDAs (the Victims Support Fund - VSF; the Presidential Committee for North East Initiatives - PCNI; and State and Federal Ministries for Water Resources, Health, Agriculture, Women and Social Affairs and Education) and local humanitarian organizations and companies have all been instrumental in the response to the problem of internal displacement in Nigeria.

The co-ordination architecture of the humanitarian response in the North East, the Inter Ministerial Task Force (IMTF) is also composed of relevant Federal Ministries with responsibilities for sector-specific working groups, and for overseeing the work of NEMA and the PCNI. International organizations like the ICRC and UNHCR and NGOs have also responded to the problem of internal displacement in Nigeria. However, in spite of all these institutional mechanisms, the response is far from meeting the needs of IDPs in Nigeria.

5. It has also been observed that despite the involvement of several actors with regard to different protection and assistance activities for IDPs, lack of coordination between the actors has been a challenge due to lack of clarity of the roles and responsibilities of the different actors. Again, some of the Ministries, Departments and Agencies of government do not have the funds to fulfil their mandates nor the skills and expertise to handle humanitarian problems. Similarly, even where the funds are available, there is the problem of lack of accountability for funds received. There is also lack of strong

mechanisms put in place in order to monitor and evaluate the assistance and protection activities rendered to IDPs by the relevant authorities.

6. In the same vein, it has been observed that although the majority of actors involved in the response to internal displacement in Nigeria are aware of the critical need to consult with IDPs on their protection and assistance needs as well as the need to involve them in decisions that would ultimately affect them, the level of consultation is relatively low especially with regard to involving them in decision making processes.
7. It has been observed that apart from the apparent causes of internal displacement in Nigeria, deeper rooted causes of internal displacement in Nigeria has a lot more to do with extreme poverty, lack of equal access to socio-economic resources and balanced development, irresponsible leadership, corruption and embezzlement of government funds as well as high level of illiteracy and unemployment rate among able-bodied and frustrated youths.

5.3 Recommendations

In view of the above observations, the following recommendations are suggested:

1. The National Assembly and the President of the FRN should ensure the speedy passage and signature of the bill to domesticate the Kampala Convention. Similarly, the Federal Government should ensure the timely adoption of the draft national policy on IDPs.
2. The NCFRMI should be empowered legally to take up its expanded mandate to cater for IDPs. It should establish an efficient data monitoring system to ensure that it has

access to all IDPs across the federation. Again, in its effort to provide durable solutions for IDPs, the NCFRMI should ensure adequate consultation with IDPs. The Federal Government should also establish a body or agency responsible for evaluation and monitoring of implementation by the NCFRMI.

3. The Federal Government should ensure that the roles and responsibilities of all actors involved in the response to the problem of internal displacement are clearly defined and communicated, and all mechanisms put in place to ensure coordination between all stakeholders and/or actors involved should be strengthened while duplicity of roles are minimized. Furthermore, national authorities involved should also ensure effective coordination with international partners and humanitarian actors.
4. The Federal and State governments should ensure that MDAs involved with IDPs have the requisite funding to carry out their responsibilities. The staff of MDAs involved should also be adequately trained with the help of international humanitarian actors in order to have the necessary skills and expertise to handle the response to the needs of IDPs. Likewise, the Federal Government should put in place a strong system for ensuring accountability for all funds received and procedures for monitoring and evaluation of all protection and assistance activities by the various actors should be established. A comprehensive data of the activities should be made accessible to the general public and beneficiaries should be able to give feedback regarding the nature of assistance and protection services received.
5. National authorities should conduct frequent needs assessment exercises as well as wide consultations with the IDPs in order to ascertain all reasonable protection needs and concerns of IDPs. In that regard, protection and assistance activities should, to a reasonable extent, be made to align with the actual needs and concerns of IDPs.

All authorities and actors with the responsibility of finding durable solutions for IDPs should maintain channels of having direct systematic consultation with IDPs and the IDPs should at all times be provided with up to date information regarding issues that would affect their choices of return, reintegration or relocation. Similarly, Federal and State authorities should ensure that upon return, reintegration or relocation, IDPs have access to means of livelihood that would allow them resume their normal lives in the shortest possible time.

6. In order to minimize the occurrence of internal displacement in Nigeria, the Federal Government should take concrete steps to strength the capacity for natural disaster prevention, preparedness and management. Also, appropriate laws should be put in place to ensure that compensation is paid to those that would likely be affected by development projects before the projects are embarked upon. Similarly, all acts of discrimination, favoritism, religious sentiments, ethnicity, corruption, embezzlement and illegal diversion of public funds are effectively addressed and completely phased out. Basic infrastructure should be provided by the government and all children and youth should have equal access to quality education and employment.

BIBLIOGRAPHY

A) BOOKS

- Danladi, K.M. (2016). *Introduction to International Human Rights Law and Practice*. Ahmadu Bello University Press Limited, Zaria.
- Hathaway, J. (1991). *The Law of Refugee Status*. Butterworths, Toronto
- Ladan, M.T. (1999). *Introduction to International Human Rights and Humanitarian Laws*. Ahmadu Bello University Press, Zaria.
- Ladan, M.T. (2007). *Materials and Cases on Public International Law*. Ahmadu Bello University Press Limited, Zaria (2007)
- Mattirolo, M. (2015) Protection of IDPs in Armed Conflict in 2014: A Critical Review of Law and Practice. In: Bellal, A.(ed) *The War Report: Armed Conflict in 2014* (pp. 447-475) Oxford University Press, UK
- Morjane, K. (2006) The Protection of Refugees and Displaced Persons In: Bertrand G. Ramcharan (ed.) *Human Rights Protection in the Field* (pp. 79-85).
- Ogbu, O.N. (2013) *Human Rights Law and Practice in Nigeria*. 2nd Revised Edition, Vol.1, Snaap Press Ltd, Enugu.
- Olson, M. E. (1979) Refugees as a Special Case of Population Redistribution. In L. A. P Gosling and L. Y. C. Lim. (Eds.), *Population Redistribution: Patterns, Policies and Prospects*. (pp. 130-152) United Nations Fund for Population Activities, New York.
- Phoung, C. (2004). *The International Protection of Internally Displaced Persons*. Cambridge University Press, New York.
- Rehman J. (2010) *International Human Rights Law*. Second Edition, Pearson Education Limited.
- Verri, P. (1992) Dictionary of the International Law of Armed Conflict, ICRC.
- Wigwe, C.C., (2010) *International Humanitarian Law*. Readwide Publishers, Osu-Accra, Ghana.

B) ARTICLES IN JOURNAL PUBLICATIONS

- Abebe A.M. (2011) Special Rapporteurs as Law Makers: The Developments and Evolution of the Normative Framework for Protecting and Assisting Internally Displaced Persons. *The International Journal of Human Rights*, Vol. 15 No. 2 pp.286-298

- Abebe, A.M., (2010) The African Union Convention on Internally Displaced Persons: Its Codification, Background, Scope and Enforcement Challenges. *Refugee Survey Quarterly*, Vol.29, No.3, pp.28 – 57.
- Ache, C., & Majinge, R.C. (2013). International Law as a Mechanism to Advance the Rights of the Displaced in Africa: Examining the Role of the African Union Convention for the Protection and Assistance of the Internally Displaced Persons in Africa. In: Yusuf A.A. (ed) *African Year Book of International Law*, pp.413 - 449
- Bailey, L.C. (2014). Out of Africa: Toward Regional Solutions for Internal Displacement. *Brooklyn Journal of International Law*, Vol. 39:1, pp. 353 - 402
- Cohen, R. (2006) Strengthening Protection of IDPs: The UN's Role. *Georgetown Journal of International Affairs*, Winter/Sp ring, pp .101- 109
- Cohen, R. (2004) The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting, *Global Governance*, Vol.10 pp. 459 – 480.
- Deng, F.M. (1995) Dealing with the Displaced: A Challenge to the International Community. *Global Governance*, Vol.1, pp. 45 - 57. Retrieved from <http://www.jstor.org/stable/27800100>.
- Giustiniani F.Z. (2011) New Hopes and Challenges for the Protection of IDPs in Africa: The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa. *Denver Journal of International Law and Policy*, Vol. 39, pp. 347- 370.
- Kalin, W. (2001) Flight in Times of War. *IRRC*, Vol. 83 No. 843 (2001) pp. 629 – 649.
- Kidane, W.(2011) Managing Forced Displacement by Law in Africa: The Role of the New African Union IDPs Convention. *Vanderbilt Journal of International Law*, Vol.4, No.1, pp.1 - 85
- Kiwali, D. (2013) From Durable Solutions to Holistic Solutions: Prevention of Displacement in Africa. *African Journal of Legal Studies*, Vol. 6/Numbers 2-3, pp. 265 – 285.
- Kolawole, A. A. (2013) Towards the Evolution of Legal and Institutional Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria. *OIDA International Journal of Sustainable Development*, 06:05 pp. 141 - 153. Retrieved from <http://www.ssrn.com/link/OID-intl-Journal-sustainable-Dev.html>
- Levitt, J. (2011) Conflict Prevention, Management and Resolution: Africa – Regional Strategies for the Prevention of Displacement and Protection of Displaced Persons: The Cases of the OAU, ECOWAS, SADC AND IGAD. *Duke Journal of Comparative and International Law*, Vol. 11 No. 39, pp. 39 - 79.

- Maru, M.T. (2011) The Kampala Convention and its Contribution in Filling the Gap in International Law. *Journal of Internal Displacement*, Vol.1 No.1, pp. 91 – 130.
- Mooney E. (2005) The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern. *Refugee Survey Quarterly*, Vol. 24, Issue 3, pp. 9 – 26. DOI: 10.1093/rsq/hdi049
- Oba A. A. (2004). The African Charter on Human and Peoples' Rights and Ouster Clauses Under the Military Regimes in Nigeria: Before and After September 11. *African Human Rights Journal*, Vol.4 pp.275 – 302.
- Orchard, P. (2010) Protection of Internally Displaced Persons: Soft Law as a Norm-generating Mechanism. *Review of International Studies*, (2010) Vol. 36 pp. 281-303. DOI: 10.1017/S0260210510000033
- Shacknove A. E. (1985) Who is a Refugee? *Ethics*, Vol. 95, No.2, pp.27

(C) CONFERENCE PAPERS

- Ferris, E. (2012, May) *Internal Displacement in Africa: An Overview of Trends and Opportunities*. Paper Presented at Annual Conference: “African Refugee and Immigrant Lives: Conflict, Consequences, and Contributions”, Organized by Brookings-LSE Project on Internal Displacement, Held at Ethiopian Community Development Council.
- Ladan, M. T. (2015, August) *Strategies for Adopting the National Policy on IDPs and Domesticating in Nigeria the African Union for the Protection and Assistance of IDPs in Africa*. Paper Presented at the National Summit on IDPs in Nigeria, Organized by the Civil Society Legislative Advocacy Centre (CISLAC), Abuja, Held at the Institute for Peace and Conflict Resolution, Ministry of Foreign Affairs, Abuja.
- Ladan, M. T. (2013, April) *National Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria*. Paper presented at a workshop for Judges and Kadis on Refugee law, Organized by the National Judicial Institute (NJI), Abuja, Held at the NJI, Abuja.
- Ladan, M.T. (2012, June) *National Response to the Rising Trend of Internal Displacement in Nigeria: Key Issues, Institutional Framework, Gaps and Challenges*. Paper Presented at Civil Society Consultation on the Draft National Internally Displaced Persons (IDP) Policy and Domestication of Kampala Convention in Nigeria, Held at Gombe Jewel Hotel, Abuja.
- Ladan, M.T. (2006, June) *Protection of Displaced Persons under International Human Rights and Humanitarian Laws; A Case Study of the Causes of Displacement*

in Nigeria. Paper Presented at a National Seminar Organized by the ICRC Country Office, Abuja for Law Teachers in Nigerian Universities, Held at Rock View Hotel, Abuja.

Mooney, E. (2009, August) *Developing National Law, Policy and Strategies around the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*. Statement Delivered at the African Union–Civil Society Organizations Pre-Summit on Internally Displaced Persons in Africa, Kampala, Uganda.

Nuhu, S.A (2015, June) *Internal displacement in Nigeria: Giving Teeth to the Kampala Convention*. Paper presented at the Annual ICRC Workshop on International Humanitarian Law for University Teachers, Abuja, Nigeria.

Sidi, M.S. (2015, October) *Management of Internally Displaced Persons in Nigeria*. Paper Presented at the Executive Intelligence Management Course (EIMC) 8, Held at the DSS Institute, Abuja.

D) INTERNET MATERIALS

Bagshaw, S. (1999) *Developing the Guiding Principles on Internal Displacement; The Role of a Global Public Policy Network*. Case Study for the UN Vision Project on Global Public Policy Networks (GPPP). Retrieved from <http://www.globalpublicpolicy.net/CaseStudyAuthors.html>

Brookings – LSE Project on Internal Displacement. (2014). *Mapping the Response to Internal Displacement: The Evolution of Normative Developments*. Retrieved from <https://www.brookings.edu/wp-content/uploads/2016/06/Mapping-the-Resource-to-Internal-Displacement-The-Evolution-of-Normative-Developments-October-10-2014-FINAL.pdf>

Campbell J. (2014, March 18). Refugees and Internally Displaced Persons in Northern Nigeria; Africa in Transition. Retrieved from <https://blogs.cfr.org/campbell/2014/03/18/refugees-and-internally-displaced-persons-March-18>.

Campbell J. (2014, June 12) Nigeria's Internally Displaced Population a Humanitarian Disaster Waiting to Happen. Retrieved from <http://blogs.cfr.org/campbell/2014/06/12/nigerias-internally-displaced>

Hethrone. (2017). *The Way Forward: North East Nigeria IDPs and NGOs*. Retrieved from <http://hethrone.co/hethrone-articles2334343254454/2017/1/18/the-way-forward-northeast-nigeria-idps-and-ngos>

Internal Displacement Monitoring Centre. (2015, July) *Global Estimates 2015; People Displaced by Disasters*. Retrieved from <http://www.internal-displacement.org/assets/library/Media/201507-globalEstimates-2015/20150713-global-estimates-2015-en-v1.pdf>

- Internal Displacement Monitoring Centre. (2015, May). *Global Overview 2015: People Internally Displaced by Conflict and Violence*. Retrieved from <http://www.internal-displacement.org/library/publications/2015/global-overview-2015-people-internally-displaced-by-conflict-and-violence>
- Internal Displacement Monitoring Centre. (2014, December). *Nigeria: Multiple Displacement Crisis Overshadowed by Boko Haram*. Retrieved from www.internal-displacement.org/sub-saharan-africa/nigeria/2014/nigeria-multiple-displacement-crises-overshadowed-by-boko-haram/
- Internal Displacement Monitoring Centre. (2014, May) *Global Overview: People displaced by Conflict and Violence, 2014*. Retrieved from <http://www.internal-displacement.org/assets/publications/2014/201405-global-overview-2014-en.pdf>
- Internal Displacement Monitoring Centre. (2013, December). *The Kampala Convention One Year on: Progress and Prospects*. Retrieved from <http://www.internal-displacement.org/library/publications/2013/the-kampala-convention-one-year-on-progress-and-prospects/>
- Internal Displacement Monitoring Centre. (2013, December). *Internal Displacement Updates: Sub Saharan Africa*. Retrieved from www.internal-displacement.org/Sub-saharan-africa/
- Internal Displacement Monitoring Centre. (2013, July). *Nigeria, Fragmented Response Amidst Boko Haram Attacks and Flood Season*. Retrieved from <http://www.internal-displacement.org/sub-saharan-africa/nigeria/2013/fragmented-response-to-internal-displacement-amid-boko-haram-attacks-and-flood-season>
- Internal Displacement Monitoring Centre. (2012, October). *Internal Displacement in Africa: A Development Challenge. Exploring Development Initiatives to Alleviate Internal Displacement caused by Conflict, Violence and Natural Disasters*. Retrieved from <http://www.internal-displacement.org/library/publications/2012/internal-displacement-in-africa-a-development-challenge/>
- Internal Displacement Monitoring Centre. *Training on the Protection of Idps: Development-Induced Displacement* 1, [http://www.internal-displacement.org/8025708f004be3b1/\(httpinfo](http://www.internal-displacement.org/8025708f004be3b1/(httpinfo)
- International Committee of the Red Cross (2017) *Nigeria: Responding to the Needs of People Affected by Armed Conflict in 2017*. Retrieved from <https://www.icrc.org/en/document/nigeria-responding-needs-people-affected-armed-conflict-2017>
- International Committee of the Red Cross. (2016, November). *Nigeria: Responding to the Needs of Civilians Affected by Armed Conflict*. Retrieved from <https://www.icrc.org/en/document/nigeria-responding-needs-civilians-affected-armed-conflict>

- International Committee of the Red Cross. (2016, February). *Nigeria: Facts and Figures, 2015*. Retrieved from <https://www.icrc.org/en/document/nigeria-facts-and-figures-2015>
- International Committee of the Red Cross. (2014). *International Humanitarian Law: Answers to your Questions*. Retrieved from <https://www.icrc.org/en/publication/0703-international-humanitarian-law-answers-your-questions>
- International Committee of the Red Cross (2010, October) The Geneva Conventions and their Additional Protocols. Available at <https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm> Accessed on 15th September, 2018 12:10pm
- Kalin, W. The Role of the Guiding Principles on internal Displacement. Retrieved from <http://www.refugeelawreader.org/en/en/english/section-i-introduction-to-international-refugee-law-background-and-context-1/i4-other-categories/i41-idps/9446-kalin-the-role-of-the-guiding-principles-on-internal-displacement-1/file.html>
- United Nation's Convention to Combat Desertification. (2016, December). *Fleeing Climate Change: Impacts on Migration and Displacement*. December, 2016. Retrieved from <http://knowledge.unccd.int/publications/fleeing-climate-change-impacts-migration-and-displacement>
- UNHCR (2016) *Nigeria Fact sheet*. Retrieved 15th July, 2017 from www.unhcr.org/524d86149.pdf
- UNHCR. (2014, October). *International Protection Considerations with Regard to People Fleeing the North Eastern Nigeria (The States of Borno, Yobe and Adamawa) and Surrounding Regions-Update 1*. Retrieved from <http://www.refworld.org/docid/5448e0ad4.html>
- UNHCR. Handbook for the Protection of Internally Displaced Persons. Retrieved from <http://www.unhcr.org/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html>
- United Nations Human Rights Office of the High Commissioner. International Human Rights Law. Retrieved from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>
- Nair, P. *Towards A Regime for the Protection of Internally Displaced Persons* Retrieved from www.worldlii.org/int/journals/ISILYBIHRL/2001/10.rtf
- National Commission for Refugees, Migrants and Internally Displaced Persons; The Commission. Available at <http://ncfrmi.gov.ng/the-commission/>

E) REPORTS AND OFFICIAL DOCUMENTS

- Analytical Report of the Secretary-General on Internally displaced persons. E/CN.4/1992/23, (14 February 1992). Retrieved from <http://repository.un.org/handle/11176/188685>
- Internal Displacement Monitoring Centre. (2017, May). *2017 Global Report on Internal Displacement*. Retrieved from <http://www.internal-displacement.org/global-report/grid2017/#on-the-grid>
- Internal Displacement Monitoring Centre. (2016) *Grid 2016; Global Report on Internal Displacement*. Retrieved from www.internal-displacement.org/globalreport2016/
- International Committee of the Red Cross. (2016, December). *Internal Displacement in North East Nigeria: Operationalizing the Kampala Convention in Borno, Adamawa and Yobe States*. Retrieved from <https://reliefweb.int/report/nigeria/internal-displacement-north-east-nigeria-operationalising-kampala-convention-borno>
- International Organisation for Migration (IOM). (2016). *Nigeria Emergency Operations – Situation Report 16 -31 October, 2016*. Retrieved from <https://reliefweb.int/report/nigeria/nigeria-emergency-operations-iom-regional-response-situation-report-16-31-october>
- United Nations, Commission on Human Rights, Res.2003/51 (23 April, 2003) Retrieved from <http://www.refworld.org/docid/3f7aa2264.html>
- UN Development Programme, UN High Commissioner for Refugees.(2017, February) *Strategy on Protection, Return and Recovery for the North-East Nigeria*. Retrieved from <https://reliefweb.int/report/nigeria/strategy-protection-return-and-recovery-north-east-nigeria-february-2017>
- United Nations, General Assembly. (2005, October). *2005 World Summit Outcome*, para. 139. Retrieved from <http://www.un.org/womenwatch/ods/A-RES-60-1-E.pdf>
- UNHCR. (2017, May) *Nigeria Situation: UNHCR Regional Update 01-31 May, 2017*. Retrieved from <http://reliefweb.int/report/nigeria/nigeria-situation-unhcr-regional-update-01-31-may-2017>
- UNHCR. (2015). *Global Trends: Forced Displacement in 2014*. Retrieved from <https://reliefweb.int/report/world/unhcr-global-trends-forced-displacement-2014>
- United Nations, Report of the Secretary General to the Economic and Social Council. *Strengthening the Coordination of Emergency Humanitarian Assistance*., UN DOC.E/2003/85 (2003) Retrieved from http://ap.ohchr.org/documents/alldocs.aspx?doc_id=3380

United Nations, Report of the Secretary General to the Economic and Social Council. *Strengthening the Coordination of Humanitarian Assistance*. UN DOC.E/1998/67 (12 June 1998) Retrieved from <http://www.un.org/documents/ecosoc/docs/1998/e1998-67.htm>

United Nations, Report of the Secretary General to the Security Council. *Protection of Civilians in Armed Conflict*. UN DOC.S/1999/957, recommendation 7. (September, 1999) Retrieved from <http://www.un.org/en/sc/documents/sgreports/1999.shtml>

F) NEWSPAPER ARTICLES

Adeola, R.,(2016, April 28) Kampala Convention and Protection of IDPs in Nigeria. *Punch*. Retrieved from <http://punchng.com/kampala-convention-protection-idps-nigeria>. Last visited on 19th June, 2016

Agbese, A. & Ahmed, A. K. (2017, February 25). IDPs Face Tough Times in Southern Kaduna. *Daily Trust*. Retrieved from <https://www.dailytrust.com.ng/news/general/idps-face-tough-times-in-southern-kaduna/186815.html>

How We Will Reconstruct Boko Haram-Damaged North-Eastern Nigeria – Buhari. (2016, October 27) Press Release. *Premium Times*. Retrieved from www.premiumtimesng.com/news/21379-will-reconstruct-boko-haram-damaged-north-eastern-nigeria-buhari.html

Nicholas, I. (2014, May 23) Nigeria Sets New Record; Now Has Africa's Highest Number of Displaced Persons. *Premium Times*. Retrieved from <https://www.premiumtimesng.com/news/161344-nigeria-sets-new-record-now-has-africas-highest-number-of-displaced-persons.html>

Odunsi, W. (2016, September 23) NEMA Confirms Return of 5,403 IDPs to Their Homes From Borno Camps. *Daily Post*. Retrieved from <http://dailypost.ng/2016/09/23/nema-confirms-return-5403-idps-homes-borno-camps/>

Onyeji, E. (2017, January 18) Boko Haram: IDPs in Host Communities to be Relocated to Government Facilities – PCNI. *Premium Times*. Retrieved from www.premiumtimesng.com/regional/north-east/220817-boko-haram-idps-host-communities-relocated-govt-facilities-pcni.html

Rising Number of Displaced Nigerians. (Tuesday, August 26, 2014) In: *Leadership Newspaper*, page 3.

Umoru, H. (25th October, 2017) Buhari Assents to North East Development Commission Act, 2017. *Vanguard*. Retrieved 7th November, 2017 10:00pm from <https://www.vanguardngr.com/2017/10/buhari-assents-n-east-devt-commission-act-2017/>