

**A CRITICAL APPRAISAL OF THE EVOLUTION OF THE LEGAL PROTECTION OF  
INTERNALLY DISPLACED PERSONS IN INTERNATIONAL LAW.**

**BY**

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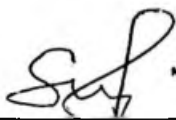
**A THESIS SUBMITTED TO THE SCHOOL OF POSTGRADUATE STUDIES,  
NASARAWA STATE UNIVERSITY, KEFFI IN PARTIAL FULFILMENT OF THE  
REQUIREMENTS FOR THE AWARD OF DEGREE OF MASTERS OF LAWS (LLM)**

**FACULTY OF LAW  
NASARAWA STATE UNIVERSITY, KEFFI  
NIGERIA.**

**JANUARY, 2020**

## DECLARATION

I hereby declare that this thesis has been written by me and it is the result of my research work. It has not been presented, nor intended to be presented for a degree in any other University in compliance with the regulations for an award of degree of Masters in Intellectual Property Law and Policy. All quotations are indicated, and sources of information specifically acknowledged by means of references.



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## CERTIFICATION

This thesis "A Critical Appraisal of the Evolution of the Legal Protection of Internally Displaced Persons in International Law" meets the regulations governing the award of degree of Masters in Law of the School of Postgraduate Studies, Nasarawa State University, Keffi and is approved for its contribution to knowledge.

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## **DEDICATION**

This work is dedicated to God Almighty for his infinite goodness and mercy upon me and granting me the wisdom, knowledge, good health and the means to complete this research work.

## ACKNOWLEDGEMENTS

I would like to say a special thank you to my darling Mum, for always pushing me to be the best version of myself, for all her love and support financially, spiritually and physically.

To my supervisor, Dr Elijah Okebukola, I say a very big thank you for your guidance, patience, and constructive criticisms which aided the progress of this research work tremendously.

I would like to say thank you to the Dean of Faculty of Law, Nasarawa State, Keffi, The School of Postgraduate Studies Nasarawa State, Keffi, my lecturers, and all the staff of the Faculty of Law, Nasarawa State, Keffi, for all the tireless efforts put into the Master program to ensure that it runs smoothly without too much discomfort the students.

For my siblings Joe, Onyeche, Enuwa, Omega and Anuga, thanks for your support and encouragement. You all are the best.

I would like to say a very big thank you to all my friends especially Rinret, Vicky, Sarah, Kamji, Ene, Joy, for all your support.

Finally I would like to appreciate everyone at Shibany Attorneys, Barr Christian Ameh, Barr Adams, Barr Arin, for your support during this program

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- The Third Geneva Convention "relative to the Treatment of Prisoners of War"
- The Fourth Geneva Convention "relative to the Protection of Civilian Persons in Time of War"

## ABSTRACT

*Internally displaced persons (IDPs) are "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" (Guiding Principles on Internal Displacement, 1998). Internal displacement is a menace in countries, especially sub-Saharan Africa. Affected persons are made to flee their shelters due to occurrences like armed conflicts, natural disasters or war. At the end of 2017, some 40 Million people were internally displaced due to armed conflict, generalized violence or human rights violations according to the Internal Displacement Monitoring Centre. (IDMC).<sup>1</sup> The Guiding Principles are the outcome of a comprehensive two-part study, entitled 'Compilation and Analysis of Legal Norms', which examined international human rights law, international humanitarian law and international refugee law, by analogy, and concluded that while existing law provided substantial protection for the rights of internally displaced persons, there were significant areas in which it failed to provide an adequate basis for their protection and assistance. The method adopted in this research is the doctrinal method with the primary source being the UN guiding principles on internal displacement. This paper examined the different instruments that provide protection for the internally displaced internationally. During the course of this research, the researcher discovered that there isn't sufficient provisions for the internally displaced internationally and some provision has to be made for that.*

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<sup>1</sup> Unhcr 'Internally Displaced People' <https://Unhcr.Org/Internally-Displaced-People.Html> . accessed 14August,2019

## CHAPTER ONE

### INTRODUCTION

#### 1.1 BACKGROUND TO STUDY.

Internal displacement is a menace in countries, especially sub-Saharan Africa. Affected persons are made to flee their shelters due to occurrences like armed conflicts, natural disasters or war. At the end of 2017, some 40 Million people were internally displaced due to armed conflict, generalized violence or human rights violations according to the Internal Displacement Monitoring Centre. (IDMC).<sup>1</sup> Another research carried out at the end of 2014, estimated there were 38.2 million IDPs worldwide, the highest level since 1989, the first year for which global statistics on IDPs are available. The countries with the largest IDP populations were Syria (7.6 million), Colombia (6 million), Iraq (3.6 million), the Democratic Republic of the Congo (2.8 million), Sudan (2.2 million), South Sudan (1.9 million), Pakistan (1.4 million), Nigeria (1.2 million) and Somalia (1.1 million).<sup>2</sup>

Internal displacement has always existed and often takes place prior to external displacement which is seen as the last option. Forced to abandon their homes and livelihoods, the internally displaced are often the most forgotten and neglected people in the many forgotten and neglected emergencies around the world. As former Secretary-General Kofi Annan has noted, 'internal displacement is the great tragedy of our times. The internally displaced people are among the most vulnerable of the human family'. Indeed, in situations of danger, people generally prefer to stay within their own community or at least within their own country, close to their homes, envisaging return. Sometimes, people are not able to leave the country because they have limited means of

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<sup>1</sup> Unhcr 'Internally Displaced People' <https://Unhcr.Org/Internally-Displaced-People.Html> . accessed 14August,2019

<sup>2</sup>Unhcr 'Internally Displaced People' <Http://Unhcr.Org/556725e69.Html>. accessed 14August,2019

transportation. Moreover, external displacement may not be an option, because when population movements spill over into neighboring countries, some countries close their borders, as Turkey did when Iraqi Kurds were fleeing repression in Iraq in 1991.<sup>3</sup>

It is well recognized, and often emphasized, that because internally displaced persons (IDPs) remain within their country, they should, in accordance with established principles of international law, enjoy the protection and assistance of their own governments. Indeed, governments regularly insist that they have the primary responsibility for ensuring the security and welfare of their internally displaced populations. That responsibility for protecting and assisting the internally displaced rests first and foremost with their national authorities is a core concept reflected in the *Guiding Principles on Internal Displacement*, which set forth the rights of IDPs and the obligations of governments towards them, and also is a central tenet guiding international and regional approaches to internal displacement.<sup>4</sup>

This study examines the legal protection available for internally displaced persons internationally under different instruments, compares it to protection available to refugees and at the end it recommends areas for improvement.

Beyond the broad contours of the problem of Internal Displacement, there has not always been a clear understanding of the concept of internal displacement. Indeed, a number of issues have been the subject of intense and often heated debate. Among the key questions have been: Who should be considered to be an “internally displaced person”? Is it right to single out these people as a distinct category of concern? If so, for long should they be considered as IDPs?<sup>5</sup>

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<sup>3</sup> Catherine Phuong, *The International Protection Of Internally Displaced Persons* ( Cambridge University Press 2004).

<sup>4</sup> *Addressing Internal Displacement: A Framework For National Responsibility* (The Brookings Institution Press 2005).

<sup>5</sup> Erin Mooney “The Concept Of Internal Displacement And The Case For Internally Displaced Persons As A Category Of Concern.” (Unhcr 2005).

The need for international standards for the protection of internally displaced persons became apparent in the 1990s when the number of people uprooted within their own countries by armed Conflict, ethnic strife and human rights abuses began to soar. The first global IDP estimate compiled in 1982 comprised only 1.2 million people in 11 countries. By 1995, there were an estimated 20 to 25 million IDPs in more than 40 countries, almost twice the number of refugees. Unlike the case of refugees, there is no international universal treaty which applies specifically to IDPs. The Guiding Principles presented by the then Representative of the UN Secretary General on IDPs, M. Francis Deng, to the UN Commission on Human Rights in 1998, were therefore a milestone in the process of establishing a normative framework for the protection of IDPs. The Guiding Principles are consistent with and reflect international human rights and humanitarian law, as well as refugee law by analogy. The principles interpret and apply these existing norms to the situation of displaced persons. Although not a binding legal instrument, the principles have gained considerable authority since their adoption in 1998. The UN General Assembly has recognized them as an important international framework for IDP protection and encouraged all relevant actors to use them when confronted with situations of internal displacement. Regional organizations and states have also deemed the principles a useful tool and some have incorporated them into laws and policies.<sup>6</sup> This Study examines the Provisions of the Guiding Principles and other international instruments that provide protection for IDP's.

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<sup>6</sup>Guiding Principles On Internal Displacement <<http://www.internal-displacement.org/internal-displacement/guiding-principles-on-internal-displacement>>. accessed 16 August, 2019

## **1.2 STATEMENT OF RESEARCH PROBLEM**

Legal protection for internally displaced persons has really evolved from being non-existent to the present guiding Principles on internal displacement. Despite the provision of the guiding principles, there's still a question that lingers; is there adequate protection available for internally displaced persons internationally? This is our research problem and to examine this thoroughly, we have to go through the evolution of the legal protection available to internally displaced persons internationally.

## **1.3 RESEARCH QUESTIONS**

1. How have the legal instruments providing protection for internally displaced persons evolved?
2. Do these instruments provide sufficient protections for the internally displaced?
3. In what ways can the international community improve on these provision to make sure internally displaced persons are sufficiently protected?

## **1.4 AIMS AND OBJECTIVES OF THE STUDY**

The aim of this research work is to examine the evolution of the legal protection available to internally displaced persons internationally.

The objectives of this research work are as follows:

1. To examine the legal framework for the protection of the internally displaced persons internationally.
2. To provide a critique of those provisions as to determine their sufficiency in providing legal protection for the internally displaced.
3. To proffer suggestions on how to improve the legal protection of the internally displaced without affecting the sovereignty of states.

### **1.5 SIGNIFICANCE OF STUDY.**

This research work will look at the provisions of the guiding principles on internal displacement and provide suggestions for areas of improvement. It will also compare the legal protection available to refugees with that available to the internally displaced and look for how to achieve a balance. This research will be of benefit to scholars, students, researchers and also the international community as a whole as it addresses a serious global issue.

### **1.6 SCOPE OF THE STUDY.**

This study will cover the protection available for internally displaced persons internationally. The scope will be limited to the legal protection available internationally alone and not domestically. Major emphasis will be on the guiding principles on internal displacement. Other legal instruments providing for basic human rights will also be examined.

### **1.7 SYNOPSIS OF THE CHAPTERS**

This research comprises of six chapters. Chapter one provides an introduction of the background to the study, the statement of research problem, the research questions, aims and objectives of this research, the significance of this research, the scope and limitation of this research, and the synopsis of the chapters.

Chapter Two dealt with literature review, its conceptual framework, the review of previous studies and the theoretical framework.

Chapter Three dealt with the research methodology, the research design, population, sample and sampling technique, method of data collection, technique for data analysis and model specification, the justification of method.

Chapter Four dealt with the meaning of internally displaced persons, the distinction between internally displaced persons and refugees in their definition and a comparison of the legal provisions available to both. It also dealt with the guiding principles on internal displacement, (its weaknesses and possible areas of improvement); the protection of internally displaced persons under international human rights law and international humanitarian law. Some regional legal protection for the internally displaced were also examined such as the International Conference on the Great Lakes Region Protocol on Internally Displaced Persons (2006); African Union Convention for the protection and assistance of internally displaced persons in Africa. This chapter also dealt with internal displacement as a human rights issue.

This research work concluded with Chapter five by way of; Summary of Findings, Observations, Recommendations, Contribution to Knowledge, limitation of the study, Suggested Areas for Further Studies and Conclusion.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.1 CONCEPTUAL FRAMEWORK

Some research has undoubtedly been conducted on the legal protection available to internally displaced persons which are very useful in this research work. However, this research goes in to identify the insufficiency of those legal protections available to the internally displaced and also proffer possible areas of reform and this make this research unique. This present research aims to cover the gap in literature.

#### 2.2 REVIEW OF PREVIOUS STUDIES

**Phuong**<sup>7</sup> explained the concept of internal displacement, its progression and gives estimates as to the number of internally displaced persons internationally. She also examines the conceptual differences and similarities between internally displaced persons and refugees. The author also examined the different laws that apply in times of internal conflict with her primary focus on the guiding principles on internal displacement as she analysed in details the legal effect of the guiding principles. She examined the concept of internal displacement as a human rights issue and also a humanitarian issue. The author discussed the institutional framework for the protection of the internally displaced and explained the role of the United Nations High Commissioner for Refugees (UNHCR) with regards to internally displaced persons in details. She discussed the issue of state sovereignty as it affects the level of help the international community may render to the internally displaced. This book is very relevant to this current research as it treats in details the legal

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<sup>7</sup> Catherine Phuong, *The International Protection Of Internally Displaced Persons* (Cambridge University Press 2004).

provisions available for internally displaced persons and also other legal issues internally displaced persons experience. The book was quite detailed as it takes the reader on a journey from the basics of internal displacements to the legal provisions and institutions and finally provides some suggestions on how to make the laws protecting the internally displaced more effective.

**Weiss and Korn**<sup>8</sup> examined the history of internal displacement and its legal provisions. They observed that over the past two decades, the ratio of refugees to internally displaced persons that is, forced migrants who physically remain within their own countries has seen a dramatic reversal. They stated that when IDP data were first gathered in 1982, there was one IDP for every ten refugees at present the ratio is approximately 2.5:1<sup>9</sup>. The authors further examined the evolution of the legal protections for the internally displaced starting from the appointment of Francis M. Deng from the Brookings Institution by Boutros Ghali<sup>10</sup> to when the guiding principles on internal displacement was birthed. They also discussed the laying of the institutional foundations such as the United Nations High Commissioner for Refugees (UNHCR). They discussed the process and stages through which the guiding principles on internal displacement passed through and its reception by different countries. The authors discussed the roles of the Representative of the secretary general on Human Rights of Internally Displaced Persons (RSG) and the Project on Internal Displacement. This book is relevant to this research because it examines the evolution of the legal protections available to the internally displaced and also the institutions that are concerned with the subject matter. This book however failed to explain the meaning of internal displacement.

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<sup>8</sup> T.G Weiss And D.A Korn, *Internal Displacement; Conceptualization And Its Consequences*( Routledge 2006).

<sup>9</sup> Ibid At P2.

<sup>10</sup> Sixth Secretary General Of The United Nations Assembly (From January 1992- December 1996).

Beau and others<sup>11</sup> addressed the problem of internal displacement with statistics from the global Internally Displaced Persons database. They examined the factors causing displacement as mainly conflict induced although natural disasters also contribute a small portion. They also observed that 'conflict induced displacement' include armed conflict, generalized violence, the systematic violation of human rights and the forced displacement or 'dislocation' of people as a primary military or political objective of either government or rebel forces. The authors identified that in the countries with the highest rate of displacement, the lack of respect for fundamental human rights and humanitarian law principles by security forces or insurgent groups and usually both – has been a leading cause of the mass flight of civilians. Indiscriminate attacks, massacres, torture and other inhuman treatment are part and parcel of the vast majority of conflicts in the book. They also examined the human rights and humanitarian issues that internal displacement raise and also the legal provision that apply to displaced people under International Human Rights law and International Humanitarian law. They authors profiled different countries in different regions in the world with displacement issues and identified the human rights and humanitarian issues in those regions. Lastly, they examined the provisions of the guiding principles on internal displacement.

The authors did a great job with explaining the situation internally displaced people face and also the human rights and humanitarian issues that arise in internal displacement in those countries. However, they didn't say much about legal protection available to the internally displaced persons. This book is relevant to this research because it gives an insight on the legal protection available to the internally displaced under International Human Rights Law and International Humanitarian Law.

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<sup>11</sup> Christophe Beau And Others, *Internally Displaced People: A Global Survey* ( 2<sup>nd</sup>EdnEarthscan Publications Limited 2002).

**Jacques**<sup>12</sup>observed that conflict creates displacement and displacement in turn spreads conflict. She examined how the law applicable in situations of armed conflict, namely international humanitarian law (IHL), deals with the issue of displacement. She also observed that International humanitarian law protects civilians from becoming internally displaced persons or refugees by expressly prohibiting forced displacement. The author examined the protection against forced displacement in international and non-international armed conflicts under international humanitarian Law and also the category of false displacement that international Humanitarian Law provides protection for. She discussed in details the provisions of International Human Rights Law in armed conflict that leads to displacement. The author further discussed the concept of forced displacement as an international crime and also examines internally displaced persons as civilians in times of war. This book is relevant to this research as it discusses the protection of the internally displaced under Humanitarian Law.

**Helton and others**<sup>13</sup>explained the meaning of forced displacement as it relates to Refugees and the internally displaced. They also gave a brief background about how the legal protection came into being and examined the guiding principles on internal displacement. They also explained the challenges of international protection for the displaced and suggested possible areas of improvement. The authors discussed rights and responsibilities for protection of the displaced both as internally displaced persons and as refugees with a focus on international human rights law. This book is relevant to this research as it gives a unique perspective on the rights of the internally displaced. The book however discussed more about refugees and their plight and focused minutely on the internally displaced.

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<sup>12</sup> Melanie Jacques, *Armed Conflict And Displacement: The Protection Of Refugees And Displaced Persons Under International Humanitarian Law* (Cambridge University Press 2012).

<sup>13</sup> Arthur Helton And Others, *Human Rights And Refugees, Internally Displaced Persons And Migrant Workers* (MartinusNijhoff Publishers 2006).

**Cohen and Deng**<sup>14</sup>opined that internally displaced persons are the largest ‘at risk’ population in the world yet there is a difficulty in identifying who they are and gathering information about them. They examined the data compiled by the US Committee for Refugees (USCR) which defines the internally displaced, examines the causes and impacts of internal displacement and so on. The authors looked at how internal displacement evolved over the years from a few thousands to millions of people being internally displaced. This book is relevant to this research because it gives more statistical insight on internal displacement and also traces the history. However, much emphasis was not placed on the laws available to the internally displaced internationally.

**Abebe**<sup>15</sup>explains the dilemma the world faces with the constant rise in the rate of people who are internally displaced and he also gives the most recent statistics as to the number of people displaced in the world. He observed that the most innovative legal developments concerning internal displacement have taken place in Africa with the first ever continental binding treaty on internal displacement- The African Union Convention of the Protection of and Assistance to Internally Displaced Persons (also known as the Kampala Convention). The author focused mainly on evolution, scope and implementation of the Kampala Convention. He also examined the relevance of key developments especially in International Human Rights and Humanitarian Law to the development of the Legal Protection available to Internally Displace Persons. The author discussed the Vienna Declaration and Plan of action for Human Rights which calls on states to give special attention including through intergovernmental and humanitarian organizations and finding lasting solutions to questions related to internally displaced persons including their voluntary and safe return and habilitation. He explained that International Criminal law is directly relevant to

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<sup>14</sup> **Roberta Cohen And Francis Deng, *Masses In Flight: The Global Crisis Of Internal Displacement.* (Brookings Institution Press 2012)**

<sup>15</sup>**Allehone M. Abebe, *The Emerging Law Of Forced Displacement In Africa* (Routledge 2017).**

situations of forced displacement as the Statute of the International Criminal Court (ICC) includes Internal Displacement in the list of its war crimes. The author discussed state responsibility for providing protection and assistance to Internally Displaced Persons. He also discussed the role of the Security Council in providing the legal protection for the internally displaced and the provisions of the guiding principles on internal displacement. This book is very relevant to this research as it discussed the legal protections available to the internally displaced with special focus on the Kampala Convention.

**Kalin**<sup>16</sup> explained the provisions of the guiding principles in depth. He started from the first general principle that provides that internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. He explains this principle as being the embodiment of equality and non-discrimination. The author went further to explain in details all the other principles according to what they provide for including the general principles, principles relating to protection from displacement, principles relating to protection during displacement, principles relating to Humanitarian assistance and finally principles relating to return, resettlement and reintegration. This book is relevant to this research as it discusses the provisions of the guiding principles on internal displacement in depth. These principles are still the main legal protection available internationally for the protection of the internally displaced so it is very important to this research. However the author concentrated solely on the guiding principle and its provisions and that made the book a boring read.

**Mooney**<sup>17</sup> examined the concept of internal displacement by considering three key questions that commonly arise which are

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<sup>16</sup> Walter Kalin, *Guiding Principles On Internal Displacement Annotations* (The American Society On International Law 2008)

<sup>17</sup> Erin Mooney, 'The Concept Of Internal Displacement And The Case For Internally Displaced Persons As A Category Of Concern' *Refugee Survey Quarterly*, Vol. 24, Issue 3

1. Who is an internally Displaced Person? (the definitional issues)
2. Should the internally displaced be a special category of concern? and finally
3. When does internal displacement end?

The author explored the provisions of the guiding Principles on internal Displacement to answer these questions. He explained the two elements present in internal displacement which are the involuntary nature of the movement and secondly that the movement takes place within National borders. The author also gave a distinction between refugees and internally displaced person. He also discussed the vulnerabilities of internally displaced persons and the legal protection that should be made available to the internally displaced. This book is relevant to this research as it explains the concept of internal displacement in great detail and this is needed for the introductory part of this research. However, the article did not discuss in depth about the legal regimes available to displaced persons.

Wyndham<sup>18</sup> explained the meaning of internal displacement and also the provisions of the guiding principles on internal displacement with focus on the national responsibility. The author stated that an analysis on existing laws and policies on internal displacement reveals that there are four principal models;

1. A brief instrument adopting the Guiding Principles
2. A law or policy developed to address a specific cause or state of displacement.
3. A law or policy developed to protect a specific right of the internally displaced and;
4. A comprehensive law or policy addressing all causes and stages of internal displacement.

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<sup>18</sup> Jessica Wyndham , ' A Developing Trend : Law And Policies On Internal Displacement. [https://www.academia.edu/4946841/A\\_Developing\\_Trend\\_Laws\\_And\\_Policies\\_On\\_Internal\\_Displacement](https://www.academia.edu/4946841/A_Developing_Trend_Laws_And_Policies_On_Internal_Displacement) accessed 1 September, 2019.

The author explained these models further and gave some examples about them. This work is relevant to this research as it shades light on a possible categorization of means of adopting the guiding principles into local legislation however, the article was not very detailed.

**Ajayi**<sup>19</sup> defined internally displaced persons as people who because of circumstances beyond their control have fled their traditional homes as a result of natural or manmade threats to their lives. She further discussed the protection available to the internally displaced under international law citing the Guiding Principles on Internal Displacement and the Kampala Convention. The author discussed the background to the guiding principles and also highlighted its provisions such as the right to life, the right to liberty and security of person and so on. She further explained the three situations in which the guiding principles apply which are;

1. Tension and disturbances which are covered by Human Rights Law
2. Non- International Armed Conflict which are covered by both Humanitarian and Human Rights guarantees and
3. Interstate wars where Humanitarian law is primarily operative.

This work is relevant to this research as it elaborates on the protection available to internally displaced persons under international law in different circumstances.

**Hathaway**<sup>20</sup> discussed international law as a source of refugee rights. He comprehensively defined the term refugees and their protection internationally. The author gave the evolution of the Refugee rights regime and also the convention relating to the status of refugees. He explained the structure of entitlement under the Refugee Convention, the attachment to the Asylum State, the general standard of treatment, the restrictions on refugee rights, and so on. Although this book bothers

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<sup>19</sup>EfgAjayi, 'The Protection Of Internally Displaced Persons Under International Law: A Myth Or Reality?' [https://www.academia.edu/7618623/The\\_Protection\\_Of\\_Internally\\_Displaced\\_Persons\\_Idps\\_Under\\_International\\_Law\\_A\\_Myth\\_Or\\_Reality](https://www.academia.edu/7618623/The_Protection_Of_Internally_Displaced_Persons_Idps_Under_International_Law_A_Myth_Or_Reality) accessed 1 September, 2019.

<sup>20</sup> James C. Hathaway, *The Rights Of Refugees Under International Law* (Cambridge Press 2005)

mainly on Refugee and the protection availed to them internationally, it is very relevant to this research as Refugees and Internally Displaced persons are different sides of the same coin.

**Adewunmi**<sup>21</sup> defined Displaced persons under international law as persons who have been forced or obligated to flee or leave their homes or places of habitual residence. This definition according to her encompasses both refugees and internally displaced persons. She went further to differentiate between Refugees and Internally Displaced Persons. The author explained the protection available to Internally Displaced Persons Internationally with main focus on the Guiding Principles on Internal Displacement. She discussed some other protection available to the internally displaced internationally like protection under international Humanitarian Law and under International Human Rights Law. The author also discussed the Kampala Convention as an innovative instrument to curb internal displacement. This work is relevant to this research as it gives a background to both Internally Displaced Persons law and Refugee law. The author really did a great job in highlighting and discussing briefly the different protection available to displaced persons internationally.

**Kalin**<sup>22</sup> stated that one of the main objectives of the Great Lakes Process is to create lasting conditions for security, stability, sustainable development and reconstruction in the region as a whole (Article 2, c Pact on Security, Stability and Development in the Great Lakes Region). He explained the reasons why this protocol is important to the great lakes region and enumerated some of its provisions. The Author wrote that the root causes of displacement. The Protocol on the Protection and Assistance to Internally Displaced Persons establishes a legal framework for the

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<sup>21</sup>AfolasadeAdewunmi, ' Internally Displaced Persons And The Protection Of Their Cultural Heritage In Nigeria.' [https://www.academia.edu/40610262/Internally\\_Displaced\\_Persons\\_And\\_The\\_Protection\\_Of\\_Their\\_Cultural\\_Heritage\\_In\\_Nigeria](https://www.academia.edu/40610262/Internally_Displaced_Persons_And_The_Protection_Of_Their_Cultural_Heritage_In_Nigeria) accessed 3 September, 2019.

<sup>22</sup> Walter Kalin, 'The Great Lakes Protocol On Internally Displaced Persons: Responses And Challenges.' <https://www.brookings.edu/on-the-record/the-great-lakes-protocol-on-internally-displaced-persons-responses-and-challenges/> accessed 1 September, 2019.

protection of IDPs through incorporation of the Guiding Principles into domestic law, providing measures aimed at protecting the physical safety and material needs of the displaced, and creating obligations to prevent and address. He also went further to enumerate some of the challenges the Great Lakes Protocol faces to its implementation such as political obstacles and implementation. This work is relevant to this research as it sheds light on a regional instrument protecting the internally displaced which is the Great Lakes Protocol. The author gave a detailed evaluation of the responses to the protocol and the challenges it faces.

**Goodwin-Gill**<sup>23</sup> defined an Internally displaced person as someone who has moved within the bounds of his or her own country, either for the same sorts of 'refugee-type' reasons, or because of natural or 'man-made' events, for example, earthquake, famine, drought, conflicts, disorder, or development projects, such as high-dam building. The Author also explained the concept of the term refugee as a person who has fled their country of origin in order to escape persecution, other violations of human rights, or the effects of conflict. In international law, the fact of having crossed or not crossed an international frontier is critical, and treaties such as the 1951 Convention and 1967 Protocol relating to the Status of Refugees define a refugee as a person who not only has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, but is also outside their country of nationality (or former habitual residence if stateless), and without the protection of any other State. He also give a historical evaluation of the two terms and the differences between them. This paper is relevant to this research because it gives an insight to the historical evolution of Refugees and Internally displaced persons.

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<sup>23</sup> Guy Goodwin-Gill, 'Refugees And Internally Displaced Persons'  
<https://Pesd.Princeton.Edu/?Q=Node/262> accessed 10 September, 2019

**El-Bushra and Fish**<sup>24</sup> explained Refugees and Internally displaced persons as persons who have been forced to flee from their homes, as individuals or groups. While the experiences of refugees and IDPs are similar in many regards, there are also significant differences. Refugees have crossed international borders and are entitled to protection and assistance from the states into which they move and from the international community through the United Nations (UN) and its specialist agencies. IDPs, on the other hand, are displaced within their own country. Although international law generally provides them with protection, there is no international law or standard specifically covering IDPs, and no UN agency is specifically mandated to ensure their welfare. The Authors went further to explain the legal protection available to the internally displaced and refugees internationally. They also proffered solutions to the problems both groups are facing. This paper is relevant to this research as it explains the similarities and dissimilarities between refugees and internally displaced persons and also the protection afforded them internationally.

**Balarabe**<sup>25</sup> began his paper with an introduction as to who internally displaced people are. He explained where they could be found and why they are a group of concern. The author discussed the rights available to the internally displaced and the organizations responsible for making sure those rights are respected with special focus on the Guiding Principles on Internal displacement and the UNHCR. He also explained the provisions under international humanitarian law and international human rights law on the rights of the internally displaced. This paper is relevant to this research because it discusses the protection available to the internally displaced.

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<sup>24</sup> Judy El-Bushra and Kelly Fish, 'Refugees and Internally Displaced Persons' [https://www.inclusivesecurity.org/wp-content/uploads/2012/04/40\\_refugees.pdf](https://www.inclusivesecurity.org/wp-content/uploads/2012/04/40_refugees.pdf) accessed 10 September, 2019

<sup>25</sup> Kassim Balarabe, 'Protection of Internally Displaced Persons' [https://www.academia.edu/11441914/PROTECTION\\_OF\\_INTERNALLY\\_DISPLACED\\_PERSONS](https://www.academia.edu/11441914/PROTECTION_OF_INTERNALLY_DISPLACED_PERSONS) accessed 15 September, 2019

Nma<sup>26</sup> discussed the origins of displacement worldwide and gave some data to show the percentage of displaced people in the world especially Africa. The author discussed the legal protection available to the internally displaced internationally under the guiding principles on internal displacement, international humanitarian law, international human rights law and the Kampala Convention. The author further explained that internally displaced persons retain the rights and protections guaranteed under existing human rights law, international humanitarian law and domestic law. In situations of armed conflict for instance International Humanitarian Law protects civilians from and during displacement and guarantees the right to basic humanitarian assistance. The author also gave a distinction between refugees and internally displaced persons. This work is relevant to this research in many ways as it discusses the background of displacement and the different instruments protecting the displaced internationally. The paper was quite detailed and self-explanatory.

Silka<sup>27</sup> observed that there are two major differences between the concepts refugees and internally displaced persons. The first is that unlike the internally displaced, refugees have a legal status and the second difference is the trans-boundary element which exists only for refugees. The author also acknowledged the guiding principles on internal displacement as the major document which provides protection for the internally displaced. She also observed that unlike refugees, the internally displaced do not benefit from a special international legal system exclusively geared to ensuring their protection and assistance. The author discussed the relationship between internal displacement, human rights and humanitarian law. This work is relevant to this research because

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<sup>26</sup>Edita Muhammed Nma, 'International Law and Protection of Internally Displaced Persons in Africa; The Nigerian Experience. [https://www.academia.edu/30012407/International\\_Law\\_and\\_Protection\\_Assistance\\_of\\_Internally\\_Displaced\\_Persons\\_IDPs\\_in\\_Africa\\_The\\_Nigerian\\_Experience](https://www.academia.edu/30012407/International_Law_and_Protection_Assistance_of_Internally_Displaced_Persons_IDPs_in_Africa_The_Nigerian_Experience) accessed 15 September, 2019

<sup>27</sup>Magdalene Silka, 'Protection of Internally Displaced Persons: An International Obligation?' Polish Yearbook of International Law (2014) at 250

it gives an in depth analysis of the provisions of international human rights law, international humanitarian law and internal displacement. This paper is quite detailed and I applaud the writer for that. She gave the researcher a different view about the laws protecting the internally displaced from the other views I had for instance, she explained how human rights and internal displacement were different sides of the same coin.

**Mmahi**<sup>28</sup> explained that internally displaced Persons are people who have fled their homes because of violent conflict and persecution arising from insurgency, communal clashes, natural disasters, inter-ethnic conflict, and so on. The author further differentiated between refugees and internally displaced persons with one of them being that there is a comprehensive set of rules for refugees while the internally displaced only have the protection of the guiding principles on internal displacement which isn't binding. He also stated that the internal displacement division of the UN office for the coordination of humanitarian affairs (IDD of UN-OCHA) advocates the guiding principles. The guiding principles are discussed by the author as the main protection available to the internally displaced internationally. This paper is relevant to this research as it discussed the rights available to the internally displaced.

**Maru**<sup>29</sup> gave an insight as to how the Kampala Convention came into force on the 6<sup>th</sup> of December 2012 with 15 ratifications. He explained the Kampala Convention in details and its contribution to international law. This book is relevant because it gives an insight to the Kampala Convention and its provisions protecting the internally displaced in countries that are members of the African Union.

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<sup>28</sup>Okoro Paul Mmahi, 'The Impact of Internal Displacement on Women and Children in Nigeria.' (IJIRAS Vol 3 Issue 8 2016)

<sup>29</sup>MehariTaddeleMaru, *The Kampala Convention and its Contribution to International Law*, (Eleven International Publishing 2014).

**Zamfir**<sup>30</sup>defined a refugee as a person who 'owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'. He went further to differentiate between a refugees and an internally displaced person. The author also gave the provisions of the Refugee convention on the status of refugees. This paper is important to this research as it explains the definition of refugees and gives a brief distinction between refugees and internally displaced persons.

**Goth**<sup>31</sup>gave a background to the Kampala Convention and its provisions. She is of the view that with the adoption of the Kampala Convention, the AU has highlighted its willingness not only to expand protection for those displaced across borders, but also for those displaced within. She explained further that such an accomplishment, while commendable, comes at a time of increasing insecurity and violence for IDPs, especially internally displaced women, who are disproportionately represented within this population. This article is important to this research as it analysis the Kampala Convention although it focuses more on its relation to the protection of displaced women.

**Kalin and Others** <sup>32</sup>explained the concept of internal displacement. They looked in depth at the provision of the guiding principles on internal displacement, its legal implications and its weaknesses. According to them, The Guiding Principles do not create new law. Rather, they restate existing rights and freedoms provided for in binding international instruments as well as in customary international law. The authors also analyses the different agencies with the

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<sup>30</sup>LonelZamfir, 'Refugee Status Under International Law' (EPRS 2015). <https://ethinktank.eu/2015/10/27/refugee-status-under-international-law/>accessed 16 September,2019

<sup>31</sup> Lauren Goth, 'Engendering Protection: an Analysis of the 2009 Kampala Convention and its Provisions for Internally Displaced Women' *International Journal of Refugee Law*, Volume 23, Issue 2, July 2011, Pages 221–251

<sup>32</sup> Kalin and others, *Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges* (The American Society of International Law and The Brookings Institution 2010)

responsibility of taking care of issues relating to the internally displaced. This book is relevant to this research as it analysis the issues of internal displacement and also the laws and institutions governing it.

**Nkemjika**<sup>33</sup> noted that The issue of internal displacement gained international limelight in the early 1990's. During its early discuss, scholars sought to make a clear distinction between refugees and internally displaced persons. He also noted that in highlighting an essential feature. Cohen noted that unlike refugees, internally displaced persons often fall within a vacuum of responsibility within their countries. This paper is important to this research because it gives a brief background to the issue of internally displaced persons and refugees. However, the scope is narrow as it focuses mainly on the Nigerian experience.

**Rony**<sup>34</sup> explained the concept of 'refugee law' as the branch of international law which deals with the rights and protection of refugees. He explained the sources of refugee law and defined who a refugee is. This paper is relevant to this research because it explains refugee law and this research has a topic which seeks to explain the difference between refugee law and internally displaced persons law.

**Cantor**<sup>35</sup> opined that unlike refugees and other special interest groups under international law, the protection of internally displaced persons (IDPs) tends to be viewed as a matter of policy rather than law. Indeed, the 1998 United Nations Guiding Principles on Internal Displacement take the

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<sup>33</sup> Duru Nkemjika, 'The State and Management of Internally Displaced Persons in Nigeria.' [https://www.academia.edu/33337310/THE\\_STATE\\_AND\\_MANAGEMENT\\_OF\\_INTERNALLY\\_DISPLACED\\_PERSONS\\_IN](https://www.academia.edu/33337310/THE_STATE_AND_MANAGEMENT_OF_INTERNALLY_DISPLACED_PERSONS_IN) accessed 6 January 2020.

<sup>34</sup> Golam Kibria Rony , 'Refugee Law' [https://www.academia.edu/32669631/Refugee\\_law](https://www.academia.edu/32669631/Refugee_law). accessed 6 January 2020.

<sup>35</sup> David James Cantor, ' The IDP in International Law'? Developments, Debates, Prospects' *International Journal of Refugee Law*, Volume 30, Issue 2, June 2018, Pages 191–217.

form of mere 'soft' law. Yet, the 20 years that have passed since their drafting call for a reassessment of this field. Using the issue of IDP returns as an example, this article draws on a diverse set of developments to argue that a distinct field of IDP law is now emerging. It suggests that this has intriguing implications for apparently long-settled debates about IDP protection, its relationship to refugee protection, and its connection to other bodies of international law. The author also discussed IDP law as an emerging legal field, the global pathways for IDP law developments, the guiding Principles and so on. This article is important to this research because it examines the different dynamics in IDP law.

**Houcke**<sup>36</sup> started his paper by offering different definitions of who an internally displaced person is. He classified those definitions into 'operational definitions' and 'legal definitions'. According to the author, 'the difference between an 'operational definition' and a 'legal definition' is that "an operational definition is aimed at facilitating assistance and protection measures on the ground [whereas a] legal definition seeks to establish a legal regime of international protection'. He also went further to state the legal protection available for the internally displaced under international humanitarian law and human rights law. He concluded his paper by discussing the provisions of the guiding principles on internal displacement. This paper is very relevant to this research as it discusses the legal protection available to the internally displaced.

**Ahmad**<sup>37</sup> opined that The International humanitarian community is ceased with a task of internal displacement that has traumatic, tormenting and tedious terrain challenging to tread but has to be surmounted beyond transcendental trajectory of human existence. The monumental responsibility

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<sup>36</sup> J . Dylan Van Houcke, 'A short analysis of the legal position of the internally displaced person' [https://www.academia.edu/11632092/A\\_short\\_analysis\\_of\\_the\\_legal\\_position\\_of\\_the\\_internally\\_displaced\\_person](https://www.academia.edu/11632092/A_short_analysis_of_the_legal_position_of_the_internally_displaced_person) Accessed 7 January, 2020.

<sup>37</sup> Nafees Ahmad, ' Internally Displaced Persons and International Refugee Law: Protection Gaps, Challenges and Implementation in Practice' *The King's Student Law Review*, Vol. 8, No. 2 (2017) pp. 94-117

of protecting the internally displaced persons (IDPs) rests with the national governments, and the international community must contribute to ensuring the best possible protection to forcibly uprooted people in their country of habitual and ordinary residence. The author also believes that the most comprehensive protective regime for internally displaced persons is provided by the international human rights protection, which has unlimited substantive, personal, territorial, and temporal scope of application of core international human rights instruments and prominent regional human rights mechanisms. At the same time, this protection can be limited during a state of emergency by the application of derogation clauses included in international human rights agreements to the human rights minimum standard applying to states not bound by the agreement, as provided by international customary law or

*Jus cogens*. This paper is relevant to this research as it discusses the legal protection for the internally displaced.

**Ekpa**<sup>38</sup> held that in 1998, the United Nations Commission on Human Rights kick started the process which led to the emergence of the Guiding Principles on Internal Displacement as an international standard setting norm on IDPs. Part of the ideals set out in the Guiding Principles is the call on states to replicate the principles contained therein into national laws and policies on internal displacement.

Similarly, the African Union Convention for the Protection of Internally Displaced Persons which reflects the international guidance provided in the Guiding Principles enjoin states party to domesticate the provisions of this Africa's first human right treaty into domestic law as a way of

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<sup>38</sup> Shedrack Ekpa, *Legal Issues and Prospects in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria*.  
[https://www.academia.edu/28617882/Legal\\_Issues\\_and\\_Prospects\\_in\\_the\\_Protection\\_and\\_Assistance\\_of\\_Internally\\_Displaced\\_Persons\\_IDPs\\_in\\_Nigeria](https://www.academia.edu/28617882/Legal_Issues_and_Prospects_in_the_Protection_and_Assistance_of_Internally_Displaced_Persons_IDPs_in_Nigeria) Accessed 7 January, 2020

strengthening protection and assistance for IDP's within their respective borders. He goes further to discuss the plight of the internally displaced and the legal protection available to them. The scope of this paper was mainly about the Nigerian experience but it discussed the international protection available therefore, it is relevant to this research.

### **2.3 THEORETICAL FRAMEWORK**

This research work through the review of the various research materials gathered will provide answers to questions regarding the legal instruments providing protection to internally displaced persons internationally, examine if the protection in these instrument is sufficient and proffer areas for possible improvement

## CHAPTER THREE

### 3.0 RESEARCH METHODOLOGY.

This research work will trace and analyze the evolution of the legal provisions for internally displaced persons internationally and also treat the different legal instrument that provide this protection.

In carrying out this research work the researcher will use the doctrinal approach and the two of the intrinsic forms of research which are the historical approach and comparative approach.

With the historical approach I will trace the history and the historical development of the legal provisions for internally displaced persons especially the guiding principles on internal displacement.

With the comparative approach, I'll compare the legal provisions available to refugees internationally and those available to internally displaced persons in order to suggest possible areas of improvement in the legal protection available to internally displaced persons.

In the course of this work I'll obtain data from both primary sources of law and secondary sources. These sources will include the guiding principles on internal displacement, International Humanitarian Law, International Human Rights Law, the Kampala Convention, journals, articles, textbooks amongst others.

The population study of this research work is international. Different countries' figures on the number of internally displaced people will be examined. Systematic sampling technique will be adopted where by every two persons in a place will be selected for a face to face interview.

The method of data collection to be adopted include, searching online for journals, books, magazines, seminar papers, newspapers, relevant laws, articles and other publications, searching

libraries for relevant journal publications, books, magazines, seminar papers, newspapers, relevant laws, articles and other publications.

This research work will adopt the technique of reviewing the various literature gathered e.g. journals, textbooks, other publications in international Law concerning the legal provisions for internally displaced persons. Also the guiding principles on internal displacement will be examined to understand the provision of the law internationally on internal displacement;

This research work will also look at other jurisdictions for methods that can be adopted in Nigerian Intellectual property regime.

This research work will justify the methods through effective review of data collected, and then proceed to analyze and interpret these data and finally proffer recommendations

## CHAPTER FOUR

### THE LEGAL PROTECTION OF INTERNALLY DISPLACED PERSONS IN INTERNATIONAL LAW

#### 4.1 INTRODUCTION

Each year, hundreds of thousands of people in different corners of the world are forced from the safety of their homes and compelled to take flight. Across regions and continents, direct threats to personal security and other forms of violence oblige individuals, families and entire communities to gather what they can of their belongings – if any – and depart for uncertain destinations. Some of these people are able to take shelter with family or friends. Others congregate in camps where they hope to find safety, food and shelter. Still others hide in forests, jungles and other inhospitable terrain, too fearful to seek assistance of any kind. The journey is often difficult and dangerous. An untold number of people are victims of violence and disease along the way.<sup>39</sup>

Physical displacement is *prima facie* evidence of vulnerability because people who are deprived of their homes and communities and means of livelihood are unable to resort to traditional coping capacities. When such people are forced migrants within their own countries, especially as a result of war, they often are even more vulnerable. Whereas international law entitles refugees to physical security and human rights protection in addition to assistance to offset their other vulnerabilities, no such legal guarantees exist for those who participate in an “exodus within borders.” Thus, agencies seeking to help persons who have not crossed a border require permission from the very political authorities who may be responsible for the displacement.

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<sup>39</sup>Christophe Beau And Others, *Internally Displaced People: A Global Survey* ( 2<sup>nd</sup>EdnEarthscan Publications Limited 2002) at 3

Over the past two decades, the ratio of refugees to internally displaced persons (IDPs)—that is, forced migrants who physically remain within their own countries—has seen a dramatic reversal. The number of refugees at the beginning of the twenty-first century is fewer than 10 million and the number of IDPs is considerably higher—depending on who is counting, as many as 25 million people have been displaced by wars in some 40 countries (12 to 13 million in Africa, 5 to 6 million in Asia, 3 million in Europe, and 2 to 3 million in the Americas) and a similar or even greater number were displaced by natural disasters and development projects.<sup>2</sup> When IDP data were first gathered in 1982, there was one IDP for every ten refugees;<sup>3</sup> at present the ratio is approximately 2.5:1.<sup>40</sup>

The need for international standards for the protection of internally displaced persons became apparent in the 1990s when the number of people uprooted within their own countries by armed conflict, ethnic strife and human rights abuses began to soar. The first global IDP estimate compiled in 1982 comprised only 1.2 million people in 11 countries. By 1995, there were an estimated 20 to 25 million IDPs in more than 40 countries, almost twice the number of refugees. As of the end of 2018, 41.3 million people were living in internal displacement because of conflict and violence. These numbers show that internal displacement is a crisis of enormous proportion and yet, the world is largely unaware.<sup>41</sup> Unlike the case of refugees, there is no international universal treaty which applies specifically to IDPs.<sup>42</sup> Attempts to address the problem of IDPs are afoot within the UN system, though they are at present frustratingly inadequate. A 1992 UN resolution opened up the way for an examination of internal displacement, though it fell far short

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<sup>40</sup>T.G Weiss And D.A Korn, *Internal Displacement; Conceptualization And Its Consequences* ( Routledge 2006) at 1

<sup>41</sup> Internal Displacement (IDMC 2019) <http://www.internal-displacement.org/internal-displacement> accessed 5 November, 2019.

<sup>42</sup> Guiding Principles on Displacement, (IDMC 2019) <http://www.internal-displacement.org/internal-displacement/guiding-principles-on-internal-displacement> accessed 5 November, 2019.

of setting out the foundations for a United Nations commissioner for internally displaced persons or other institutional machinery. Had it not been for the foresight and enthusiasm of a small group of people—led by Francis M. Deng, the representative of the secretary-general on IDPs—UN involvement in the area would have come to naught. However, against the odds, this group of people has begun to make a difference.<sup>43</sup>The Guiding Principles presented by the then Representative of the UN Secretary General on IDPs, M.Francis Deng, to the UN Commission on Human Rights in 1998, were therefore a milestone in the process of establishing a normative framework for the protection of IDPs.<sup>44</sup>The Guiding Principle are consistent with and reflect international human rights and humanitarian law, as well as refugee law by analogy. The principles interpret and apply these existing norms to the situation of displaced persons. Although not a binding legal instrument, the principles have gained considerable authority since their adoption in 1998. The UN General Assembly has recognized them as an important international framework for IDP protection and encouraged all relevant actors to use them when confronted with situations of internal displacement. Regional organizations and states have also deemed the principles a useful tool and some have incorporated them into laws and policies.<sup>45</sup>

#### **4.1.1 Who are 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. A first attempt at a definition was made by then UN Secretary-General Boutros-Ghali in his Analytical Report in 1992, which defined internally displaced persons as:

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<sup>43</sup> Supra 31 at xvii

<sup>44</sup>Supra 32

<sup>45</sup>Guiding Principles on Displacement, (IDMC 2019) <http://www.internal-displacement.org/internal-displacement/guiding-principles-on-internal-displacement> accessed 5 November, 2019.

‘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’.<sup>46</sup>

However, some elements of this definition have been partially modified or abandoned, because deeper knowledge of past and contemporary internal movements of populations have demonstrated that some elements of the Secretary-General’s 1992 definition are not always characteristic of such movements. For instance, the 1992 definition described internally displaced persons as fleeing ‘suddenly and unexpectedly in large numbers’. The two adverbs do not characterize all cases of internal displacement. Moreover, the 1992 definition included the element ‘in large numbers’ because it wanted to focus on situations of mass displacement and it was considered that other situations involved problems of a different nature which did not fall within the scope of the Analytical Report.

The more recent definition offered in the Guiding Principles on Internal Displacement is now widely used. The Guiding Principles define the internally displaced as:<sup>47</sup>

‘persons or groups of persons who have been forced to flee 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.’<sup>48</sup>

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<sup>46</sup>Catherine Phuong, *The International Protection Of Internally Displaced Persons* (Cambridge University Press 2004) at 35.

<sup>47</sup>Ibid.

<sup>48</sup>Guiding Principles on Internal Displacement(1998).

The key elements of this definition (which is descriptive, rather than providing for a legal status) are:

1. The involuntary character of the movement.
2. The fact that such movement takes place within national borders. IDPs include both citizens as well as other habitual residents of the country in which they are displaced, which may include, for example, stateless persons.<sup>49</sup>

Internally displaced people include, but are not limited to:

- Families caught between warring parties and having to flee their homes under relentless bombardments or the threat of armed attacks, whose own governments may be responsible for displacing them
- Residents of poor neighborhoods rendered unsafe and uninhabitable, at least temporarily, by the impacts of weather-related, geophysical or technological hazards
- Indigenous communities forced from their ancestral lands to make way for the construction of dams and other infrastructure projects
- Families pushed to leave their homes by constant harassment by local criminal gangs<sup>50</sup>
- Rural communities whose livelihoods are decimated by drought, leaving them unable to feed their families and forced to seek external help elsewhere

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<sup>49</sup> Internal Displacement Monitoring Centre. <http://www.internal-displacement.org/internal-displacement>.

<sup>50</sup> Ibid.

- Communities from coastal, mountainous or arid areas whose land and livelihoods are irrevocably lost because of gradual environmental degradation linked to the impacts of climate change<sup>51</sup>.

In the deliberations leading to this definition, there were those who would have preferred to limit the IDP definition to persons subject to persecution or conflict, that is, to persons who would be considered refugees if they crossed a border. Early on, however, many non-governmental organizations had pointed out that to limit the IDP definition in this way ran the risk of formulating a definition that did ‘not accurately depict the variety of the root causes of displacement,’ among which were development projects and natural disasters. In the end, the ‘overriding opinion’ was that persons uprooted by natural and human-made disasters or development projects were also displaced and in need of attention, not least because as experience had shown they too could be discriminated against and subject to human rights violations in the course of their displacement. Even so, the decision to include these groups in the definition of IDPs has not yet been fully taken on board. Global statistics on internal displacement generally count only IDPs uprooted by conflict and human rights violations.<sup>52</sup>

#### **4.1.2 Internally Displaced Persons and Refugees: conceptual differences and similarities.**

A refugee is a person who has fled their country of origin in order to escape persecution, other violations of human rights, or the effects of conflict. In international law, the fact of having crossed or not crossed an international frontier is critical, and treaties such as the 1951 Convention and

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<sup>51</sup> Ibid.

<sup>52</sup> Erin Mooney, ‘The Concept Of Internal Displacement And The Case For Internally Displaced Persons As A Category Of Concern’ *Refugee Survey Quarterly*, Vol. 24, Issue 3

The expression ‘internally displaced persons’ is of more recent usage. Until the late 1980s, there was no such standard term. Early references to internally displaced persons were made through the emergence of the expression ‘displaced persons’ this formula was first employed in the Sudanese context, and was subsequently developed for the purposes of material assistance in cases where it was impossible to assist refugees only and not other populations in need.<sup>56</sup> When the UN High Commissioner for Refugees asked the Executive Committee in 1977 to clarify the distinction between refugees and displaced persons, no clear answer was provided, although there seemed to be an understanding that refugees crossed international borders, whereas displaced persons did not. Adding to the confusion, UNHCR suggested the same year that displaced persons referred to people who crossed borders but did not qualify for refugee status, as well as internally displaced persons. Since the 1970s, the expression has been increasingly used without its meaning being clarified. One must note that it was used only in the context of emergency relief operations and not with a view to providing specific protection to these populations. During the preparations of the successive World Conferences which were organized at the beginning of the 1990s during a period of revival of the UN Organization, the question of terminology was always a source of debate and strong disagreements

Internally displaced persons and refugees have something in common, they are all displaced persons. The United Nations Educational, Scientific and Cultural Organization (UNESCO) explains that the **displacement** of people refers to the forced movement of people from their locality or environment and occupational activities.<sup>57</sup> It is a form of social change caused by a number of factors, the most common being armed conflict. Natural disasters, famine, development

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<sup>56</sup> *ibid*

<sup>57</sup> *ibid*

and economic changes may also be a cause of displacement.<sup>58</sup> This explanation covers both the internally displaced and refugees.<sup>59</sup>

Internally displaced persons and refugees share two characteristics, namely the element of forced displacement and the breach of the bond with the state. Nevertheless, if we look closely at the situation of internally displaced persons, this bond is not completely severed, because they still remain within the jurisdiction of their state which has a duty of protection towards them. This has important implications for the nature of the protection which can be afforded to them.

As refugee status is a legal status, it can have a defined commencement and a cessation date. Internally displaced persons can resettle more easily in another place because they are still within their own country, sometimes within their own community, so return may not always be the preferred option.<sup>60</sup>

The major difference between these two categories is the 'geographical movement' which happens as internally displaced persons are still within state lines and refugees have crossed an international frontier.

#### **4.2 Historical Evolution of the different legal instruments for the protection of internally displaced persons.**

The phenomenon of internal displacement was real enough. Around the globe millions of people were being forced from their homes by a spreading rash of state breakdowns, civil wars, and other violent disorders, with no assured access to international humanitarian relief and even less prospect

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<sup>58</sup> Displaced Person/ Displacement <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/displaced-person-displacement/> accessed 13 November, 2019.

<sup>59</sup> Supra 38 at 14

<sup>60</sup> Ibid.

of international protection from the worst sorts of abuses. As the grip of the Cold War loosened, and particularly after its end, fewer political points could be scored by accepting refugees, especially when so many came from the poorest of countries instead of Eastern Europe.<sup>61</sup> Asylum regimes tightened as “the end of the Cold War swept away any remaining ideological motive for accepting refugees.” Hence, both the nature of the wars and the politics of asylum changed. Refugee numbers diminished while IDPs shot up still further. As the superpowers abandoned Africa in the 1990s and were no longer jockeying in an ideological war, stability crumbled: refugee numbers continued to fall, but IDP numbers continued to increase. There are a number of explanations for the dramatic rise of internally displaced persons. The nature of warfare changed, as belligerents directly targeted civilians, and brutal ethnic cleansing left returning refugees without secure homes. Moreover, not only was the phenomenon of internal displacement better understood than a decade earlier, but better data also were available.<sup>62</sup> From the outset, one of the main barriers to addressing internal displacement was securing the recognition that this category of victim is automatically entitled to international protection under human rights law, which shields the human dignity inherent in all individuals. Unlike refugees, IDPs are citizens of the country within which they are displaced and are entitled to the same rights and freedoms as other citizens. State sovereignty is thus the defining factor distinguishing the differences between refugees and the internally displaced. “Protection is fundamentally a legal concept,” writes Erin Mooney, “defined by the rights and entitlements of individuals as provided by law.” The lack of a

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<sup>61</sup>T.G Weiss And D.A Korn, *Internal Displacement; Conceptualization And Its Consequences* ( Routledge 2006) at 11

<sup>62</sup> Ibid at 12.

binding convention was partially overcome by drafting the Guiding Principles, but they had to be disseminated and moved closer to becoming customary international law.<sup>63</sup>

The first substantial institution to make a public issue of how the numbers of internally displaced persons had burgeoned was the United States Committee for Refugees, a Washington-based private voluntary organization that issues an annual worldwide refugee survey. In its 1982 accounting, USCR estimated a total of 1.2 million persons in “refugee like situations” within their own countries. By 1985 USCR was recording such a surge in the number of internally displaced—to over 9 million—that it decided to establish a distinct reporting category for them. By 1987 the 15 million mark had been crossed, about the same as refugees; and by 1992 the number of internally displaced persons from wars was edging toward 25 million, surpassing the figure for refugees.

In 1991, the United Nations Commission on Human Rights asked the previous secretary general to prepare an analytical report on Internally Displaced Persons. That report, issued in the name of newly appointed Boutros Boutros-Ghali<sup>64</sup> in February 1992, concluded with a call for the establishment of a “focal point” (a person or an institution with responsibility for an issue) within the human rights system for internally displaced persons

The 53-member United Nations Commission on Human Rights approved a resolution on 5 March 1992 near the close of its annual session in Geneva’s stately Palais des Nations, which did not seem like a ground-breaking initiative. It called for the secretary general to: ‘Designate a representative to seek again views and information from all Governments on the human rights

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<sup>63</sup> Ibid at 103

<sup>64</sup> An Egyptian Diplomat and the sixth Secretary General of the United Nations from January 1992 to December 1996.

issues related to internally displaced persons, including an examination of existing international human rights, humanitarian and refugee law and standards and their applicability to the protection of and relief assistance to internally displaced persons'.<sup>65</sup> Shortly after in the same year, ButrosButros-Ghali appointed Francis Deng to provide "ideas and guidance" on what should be done to Internally Displaced Persons. Right from the start, the development of a set of international legal standards was one of the main goals of those who sought action by the United Nations to assist and protect the internally displaced. Even if not in the form of what lawyers would call "hard" law binding upon state signatories, such a framework would provide at least a "soft" form of guidance to agencies trying to help and protect such war victims and a constraint of sorts on their oppressors. NGOs, in particular, considered the elaboration of legal standards to be a fundamental requirement. <sup>66</sup>The idea also found early support from those in UN organizations increasingly called on to assist IDPs, especially the high commissioner for refugees Sadako Ogata and officials of the World Food Program (WFP) and UNICEF—the other two main UN institutions helping in humanitarian disasters. There was, as the 1992 Analytical Report of the Secretary-General on Internally Displaced Persons observed, "no clear statement of the human rights of internally displaced persons." International law was "a patchwork of customary and conventional standards." Those charged with helping the internally displaced needed a compass for the human rights of such populations, "guidelines which could be applied to all internally displaced persons regardless of the cause of their<sup>67</sup>displacement, the country concerned, or the legal, social, political or military situation prevailing therein." The report suggested that "one comprehensive, universally applicable body of principles" be fashioned from existing standards. States, however,

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<sup>65</sup>Supra 52.

<sup>66</sup> Ibid at 55

<sup>67</sup> ibid

were wary. Most of those that submitted comments for the analytical report and for Deng's 1993 report to the CHR did not even allude to the issue of legal standards. Others (for example, Sri Lanka and Mexico) predictably emphasized the primacy of the principle of noninterference and non-intervention in the internal affairs of states, a code for no new legal standards. Deng decided on the form of the legal document and opted for it to be in form of principles. The alternative, a convention to be submitted for signature and ratification by governments, obviously would have had greater force but also multiple drawbacks<sup>68</sup>. Walter Kälin warned that it could take years, even decades, to negotiate a convention or similar document, and the process of doing so would open up endless opportunities for governments to weaken already existing rights. Even if states were favorably inclined toward a convention—most definitely were not—IDPs could not wait years for the process to unfold. They and those who helped them needed something immediately. Not everyone was persuaded by these arguments. Among Deng's strongest backers, the Nordic governments seemed prepared suddenly to throw a spanner into his plans.<sup>69</sup> At the commission in 1995 and 1996, they pushed for formal approval of an alternative document, the Declaration on Minimum Humanitarian Standards. Drafted by Professor Theodore Meron of New York University School of Law and finalized at a meeting of international legal experts in Finland in December 1990, the declaration sought to establish minimum legal humanitarian standards to be followed in conflict situations of all kinds, including internal violence. Deng guided the process through from inception to completion and onto early international acknowledgment.<sup>70</sup> The final draft of the principles themselves represented chiefly the work of Robert Goldman and Walter Kälin. Although many others, including Nowak, made significant contributions along the way,

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<sup>68</sup> Supra at 58

<sup>69</sup> *ibid*

<sup>70</sup> Supra at 68

Goldman and Kälin were architect and builder. Goldman used his innovative design of a needs-driven search of the law, and Kälin employed his skill and persistence in bringing the pieces together, testing them for soundness, and making them fit. The guiding principles on Internal displacement came into being in 1998. As soon as the principles were finished, staff from such agencies as UNHCR pointed out that lawyers in the field would need to see the law on which they were based but in less dense form than the two huge legal studies. Walter Kälin quickly began work on what would become the *Annotations*<sup>71</sup>.

The Guiding Principles on Internal Displacement is the first legal instrument that was made to provide protection to the internally displaced. It has served as a foundation for all the other instruments that we now have for protecting the internally displaced. Some other instruments that have come into being that protect the internally displaced are ;

- The Pinheiro Principles: United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005)
- International conference on the Great lakes Region Protocol on Internally Displaced persons. (2006)
- African Union Convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention 2009).
- IASC Framework on Durable Solutions for Internally Displaced Persons (2010)

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<sup>71</sup> Guiding Principles on Internal Displacement: Annotations

- The Nansen Conference. Climate Change and Displacement in the 21st Century (The Nansen Principles) (2011)
- The Sendai Framework for Disaster Risk Reduction(2015-2030)

We will be discussing these different instruments subsequently in this chapter.

#### **4.1.1 United Nations Guiding Principles On Internal Displacement.(1998)**

The Guiding Principles are the outcome of a comprehensive two-part study, entitled ‘Compilation and Analysis of Legal Norms’, which examined international human rights law, international humanitarian law and international refugee law, by analogy, and concluded that while existing law provided substantial protection for the rights of internally displaced persons. there were significant areas in which it failed to provide an adequate basis for their protection and assistance. The Guiding Principles thus lay down relevant principles applicable to the internally displaced through the different phases of displacement, providing ‘protection against arbitrary displacement, access to protection and assistance during displacement and guarantees during return or alternative settlement and reintegration’. Although not legally binding per se, the normative value of the Guiding Principles should not be underestimated.<sup>72</sup>

The Guiding Principles are 30 standards that outline the protections available to internally displaced people (IDPs). They detail the rights and guarantees relevant to the protection of IDPs from forced displacement to their protection and assistance during displacement up to the achievement of durable solutions.<sup>73</sup>

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<sup>72</sup> Melanie Jacques, *Armed Conflict And Displacement: The Protection Of Refugees And Displaced Persons Under International Humanitarian Law* (Cambridge University Press 2012) at 15.

<sup>73</sup> Guiding Principles on internal Displacement (IDMC). <http://www.internal-displacement.org/internal-displacement/guiding-principles-on-internal-displacement> accessed 29 November 2019.

The Guiding Principles take a very broad approach to internal displacement based on a general understanding of the meaning of protection for the internally displaced. First, they address all the types of situations described in the Compilation and do not focus only on situations of armed conflict. Whereas the application of the provisions identified in the Compilation depended on the nature of the situation encountered, the Guiding Principles seek to provide guidance at all times.<sup>74</sup>The document covers a broad range of rights which correspond to the needs of the internally displaced. All phases of displacement are considered, so that the Guiding Principles offer protection against as well as during and after internal displacement. After outlining some general principles such as the protection of the right to asylum, the primary responsibility of states in providing protection to the internally displaced and the principle of non-discrimination, the second part deals with protection against displacement (Principles 5 to 9). For the first time in a UN document, a general right not to be arbitrarily displaced is explicitly formulated (Principle 6). The following part contains the main body of principles which offer protection during displacement (Principles 10 to 23). Here, a very wide range of human rights are addressed, such as education and personal identification. The issue of humanitarian assistance<sup>75</sup> is also dealt with (Principles 24 to 27), as well as problems related to return, resettlement and reintegration (Principles 28 to 30). The Guiding Principles represent an ambitious document which seeks to provide protection to all internally displaced persons. It deals not only with the consequences of displacement, which has been the general approach adopted so far, but also with the causes of displacement.<sup>76</sup>

Let us now take a brief walk through the Principles. They begin with an introduction that provides a description or working definition of internally displaced persons. This is quite important

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<sup>74</sup> Catherine Phuong, *The International Protection Of Internally Displaced Persons* (Cambridge University Press 2004), at 56.

<sup>75</sup> *ibid*

<sup>76</sup> *ibid*.

because when the Representative began his work in 1992, no definition existed of IDPs. The two crucial elements of the definition are first, coerced or involuntary movement—that is being forced or obliged to flee or to leave one’s home or place of habitual residence—and second, remaining within one’s national borders. The definition also includes the major causes of displacement; armed conflict, generalized violence, violations of human rights and natural or human made disasters. Its use of the qualifier, in particular, however, makes clear that internal displacement is not limited to these causes alone, so as not to exclude future situations that might need special attention.<sup>77</sup>

Basically, the definition tries to strike a balance between too narrow a frame work that risks excluding people and one so broad that it could prove operationally unmanageable. For example, it does not extend to persons who migrate because of economic reasons because in most cases the element of coercion is not so clear. There was, however, and there still remains, some controversy over whether or not persons displaced by natural disasters and development projects should be considered IDPs. Some argue that the internally displaced should only be those who would be refugees if they crossed a border—that is, those who are fleeing from persecution and violations of their human rights. But persons uprooted by natural disasters and development projects are also factually speaking internally displaced; moreover there are many cases of natural disasters and development-induced displacement in which human rights and protection issues occupy a strong role.<sup>78</sup>

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<sup>77</sup> Roberta Cohen, 'Introduction to the Guiding Principles on Internal Displacement'  
<https://www.brookings.edu/on-the-record/introduction-to-the-guiding-principles-on-internal-displacement-2/>  
accessed 29 November 2019.

<sup>78</sup> Ibid.

The definition, it should be emphasized, does not confer legal status on the internally displaced. Unlike refugees, who are outside their countries of origin and require substitute legal protection, internally displaced persons are in their own countries and are expected to enjoy the same rights and freedoms as all other persons in their countries. What the Principles seek to do is to acknowledge and address their unique needs caused by the displacement. After all, displacement breaks up the immediate family, cuts off social and community ties, terminates employment, ends formal educational opportunities, deprives many of basic food, shelter and health services and makes the displaced populations especially vulnerable to acts of violence and human rights abuse.<sup>79</sup> The principles provide guidance to all relevant actors: the UN Special Rapporteur in carrying out his or her mandate; states when faced with the phenomenon of internal displacement; all other authorities (including de facto authorities): groups and persons in their relations with IDPs; and inter-governmental and non-governmental organizations.<sup>80</sup>

Section I of the Principles contains general principles. These points out that persons cannot be discriminated against because they are displaced and affirm that the Principles apply to all internally displaced persons regardless of their national or ethnic origin, race, religion or political opinion. It would not therefore be acceptable to help some internally displaced persons but decline to help others on discriminatory grounds.<sup>81</sup> Such discrimination often occurs in countries where the government is at war with a minority and is only ready to help those of the same ethnic group as the government. At the same time, the Principles acknowledge that there are some internally displaced persons who may require special attention—children, especially unaccompanied minors;

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<sup>79</sup> *ibid*

<sup>80</sup> Fact Sheet on the Guiding principles on Internal Displacement, <https://crowd360.org/fact-sheet-on-the-guiding-principles-on-internal-displacement/> accessed 30 November 2019.

<sup>81</sup> *Supra* 70.

women, especially expectant mothers, mothers with young children and female heads of household; persons with disabilities; and elderly persons.<sup>82</sup>

Section II contains principles relating to protection from displacement and innovatively articulates a right not to be arbitrarily displaced. Indeed, this section provides a list of when displacement is not permissible, for example when it is based on policies of 'ethnic cleansing' or similar practices aimed at altering the ethnic, religious or racial composition of the affected population or when it is used as a collective punishment.

Section III relating to protection during displacement is the main body of the Principles. This section sets forth the full range of civil, political, economic, social and cultural rights that all people should enjoy and tailor these general rights to the specific needs of the internally displaced. I would underscore that the Principles provide that internally displaced persons should have access to food, water, shelter, clothing, medical services and sanitation essential to their survival. And they also should be protected against human rights abuse, including direct assault, sexual violence, attacks on their camps and settlements, being arbitrarily detained or held hostage in camps, or being forcibly returned to or resettled to places where their life, safety, liberty and/or health would be at risk. In addition, their property and possessions should be protected against destruction and arbitrary illegal appropriation, occupation or use. In short, the Principles set an international minimum standard for the treatment of internally displaced persons.

Section IV on the provision of humanitarian assistance reaffirms the primary role of the national authorities in providing humanitarian assistance but affirms that when these authorities

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<sup>82</sup> Ibid.

are unable or unwilling to provide assistance, international organizations have the right to offer their services and consent shall not be arbitrarily withheld.<sup>83</sup>

Section V of the Principles addresses return, resettlement and reintegration and emphasizes the right of internally displaced persons to return voluntarily and in safety to their homes or to resettle voluntarily in another part of the country. In other words, internally displaced persons have options—they can return to their home areas or resettle in another part of the country. This section further provides for the recovery of property and for compensation or reparation if recovery is not possible. It also provides a role for international organizations and others in return, resettlement and reintegration. Emphasis is also given to the full participation of the internally displaced in the planning and management of their returns or resettlement.<sup>84</sup>

#### **Legal Analysis of the Guiding Principles on Internal Displacement.**

The Guiding Principles take a very broad approach to internal displacement based on a general understanding of the meaning of protection for the internally displaced. First, they address all the types of situations described in the Compilation and do not focus only on situations of armed conflict. Whereas the application of the provisions identified in the Compilation depended on the nature of the situation encountered, the Guiding Principles seek to provide guidance at all times. The document covers a broad range of rights which correspond to the needs of the internally displaced. All phases of displacement are considered, so that the Guiding Principles offer protection against as well as during and after internal displacement.<sup>85</sup> After outlining some general principles such as the protection of the right to asylum, the primary responsibility of states in

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<sup>83</sup> Ibid.

<sup>84</sup> Ibid .

<sup>85</sup> Catherine Phuong, *The International Protection Of Internally Displaced Persons* (Cambridge University Press 2004) at 57.

providing protection to the internally displaced and the principle of non-discrimination, the second part deals with protection against displacement (Principles 5 to 9). For the first time in a UN document, a general right not to be arbitrarily displaced is explicitly formulated (Principle 6). The following part contains the main body of principles which offer protection during displacement (Principles 10 to 23). Here, a very wide range of human rights are addressed, such as education and personal identification. The issue of humanitarian assistance is also dealt with (Principles 24 to 27), as well as problems related to return, resettlement and reintegration (Principles 28 to 30).<sup>86</sup> The Guiding Principles represent an ambitious document which seeks to provide protection to all internally displaced persons. It deals not only with the consequences of displacement, which has been the general approach adopted so far, but also with the causes of displacement which have usually been seen as political and thus beyond the realm of international law. The Guiding Principles also constitute an innovation insofar as they incorporate elements of international humanitarian law, human rights law and refugee law, and demonstrate the high degree of complementarity between these three bodies of law.<sup>87</sup>

The first paragraph of each Guiding Principle restates the general norm which is applicable in the relevant area, whereas the second paragraph formulates the specific application of this norm to internally displaced persons. The Guiding Principles do not create new law. Rather, they restate existing rights and freedoms provided for in binding international instruments as well as in customary international law. First and foremost, the legal basis of the rights, including movement-related rights, reflected in the Guiding Principles, can be found in the Universal Declaration of Human Rights (UDHR). Other international treaties that guarantee the human rights that the

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<sup>86</sup> Ibid

<sup>87</sup> Ibid

Guiding Principles apply to internally displaced persons include the International Covenant on Civil and Political Rights (ICCPR)<sup>88</sup>

The method used here is to build upon the existing provisions identified by the Compilation in order to facilitate their application to internally displaced persons. The general norm is reformulated with a specific focus on the internally displaced. The implicit guarantees contained in existing law are thus made explicit. In principle, the law is not modified, only clarified and simplified.<sup>89</sup> The Guiding Principles appear to be firmly based on existing law. The methodology followed is clear: the Guiding Principles are based solely on the Compilation and their formulation is inspired by existing provisions of human rights and humanitarian law. Paragraph 3 of the introduction to the Guiding Principles even states that ‘these principles reflect and are consistent with international human rights law and humanitarian law’.

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<sup>88</sup> Kalin and others, *Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges* (The American Society of International Law and The Brookings Institution 2010) at 12

<sup>89</sup> *Supra* 78 at 58.

### **The Weaknesses of the Guiding Principles on Internal Displacement.**

Although the Guiding Principles address most aspects of the problem of internal displacement, some issues are mentioned too briefly or not at all. Minorities are often the first targets of persecution and, as a result, the first populations to be internally displaced. Cases of forcible relocation of minority groups are too numerous to be cited here. However, minorities are only mentioned once in the whole document, in Principle 9, where they are referred to together with peasants and pastoralists. Another provision contained in Principle 6(2)(a) prohibiting 'ethnic cleansing' indirectly addresses the issue, but more specific and stronger provisions could have been included. The prohibition of forcible relocation is insufficient to prevent the displacement of minorities. Only full respect for minority rights can guarantee protection against displacement.<sup>90</sup> Implementation of the Guiding Principles is faced with a number of obstacles. The primary one is that the Principles are not a legally binding instrument. As a result, many states have not incorporated into national regulatory frameworks many of the provisions for guaranteeing the human rights of internally displaced persons, such as the right to freedom of movement, that are enshrined in the Guiding Principles. However, in Africa, the member states of the International Conference of the Great Lakes Region (ICGLR) that have ratified the Protocol on the Protection and Assistance to Internally Displaced Persons, which entered into force in June 2008, are obliged to incorporate the Guiding Principles into their domestic legal systems. Moreover, the fact that some national laws are contrary to the letter and spirit of the Guiding Principles have, in many instances, also had a negative impact on the enjoyment of the right to freedom of movement along with other fundamental rights and freedoms. In addition, as discussed below, there are a number

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<sup>90</sup> Supra 79 at 65.

of practical obstacles IDPs face in realizing their movement-related rights as set forth in the Guiding Principles.<sup>91</sup> As argued above, the Guiding Principles constitute an ambitious attempt to provide a comprehensive normative framework of protection for the internally displaced. Such an endeavor may be too ambitious. Indeed, it covers such a broad range of issues that ‘coherence may be elusive in a document that canvasses a variety of different concerns [which] pose distinct challenges’. To some extent, one may argue that the original objective of the Guiding Principles was to provide a first comprehensive overview of the problems encountered by the internally displaced and that coherence may not be so crucial in a non-legally binding instrument. Be that as it may, the most significant weakness of the Guiding Principles could still be that it is a non-binding instrument. However useful the Guiding Principles may be, states as well as other actors, or even international organizations, are not legally bound to respect them and cannot be held liable for violating them. The obvious danger is that they could become a dead letter, as there is no mechanism to ensure their proper implementation. On the other hand, had they been a legally binding instrument, the Guiding Principles may not have been so comprehensive, and this may actually be seen as a strength. Nevertheless, one must also remember that, although the Guiding Principles are not a binding instrument, they contain rules that form part of treaty law and that are therefore legally binding.<sup>92</sup>

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<sup>91</sup> Walter Kaelin and Rhodri C. Williams, ‘Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges’ [https://www.academia.edu/33814281/Incorporating\\_the\\_Guiding\\_Principles\\_on\\_Internal\\_Displacement\\_into\\_Domestic\\_Law\\_Issues\\_and\\_Challenges](https://www.academia.edu/33814281/Incorporating_the_Guiding_Principles_on_Internal_Displacement_into_Domestic_Law_Issues_and_Challenges) accessed 17 December, 2019.

<sup>92</sup> *Supra* 79 at 66.

#### **4.1.1 Protection of Internally Displaced Persons under Human Rights Law.**

Human rights law, which is applicable both in times of peace and in situations of armed conflict, also provides important protection to IDPs. It aims both to prevent displacement and to ensure basic rights should it occur. The prohibition on torture, cruel, inhuman or degrading treatment or punishment, and the right to peaceful enjoyment of property and to home and family life are of particular importance for the prevention of displacement.<sup>93</sup>

International human rights law developed at a very fast rate in the second half of the twentieth century. A wide range of conventional and customary norms has emerged. The main human rights instruments which are referred to here are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of Discrimination Against Women and the Convention on the Rights of the Child. Many organs, both international and regional, have been set up to implement human rights standards.<sup>94</sup>

Internal displacement often occurs in situations of internal disturbance or civil unrest. In such situations which cannot be qualified as armed conflict (internal strife), humanitarian law cannot apply and some human rights can be restricted, sometimes even derogated from: Article 4(1) of the ICCPR<sup>95</sup> provides that, in times of public emergency, some of its provisions can be

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<sup>93</sup> Legal Protection of Internally Displaced Persons, <https://www.icrc.org/en/doc/resources/documents/misc/5dhd82.htm> accessed 30 November 2019

<sup>94</sup> Supra 65 at 42.

<sup>95</sup> International Covenant on Civil and Political Rights.(1976)

derogated from. According to Article 4(3), states must nevertheless report to the UN any declaration of a state of emergency. However, the core human rights, such as the right to life, the prohibition of cruel, inhuman and degrading treatment or punishment, the prohibition of slavery and the prohibition of the retroactive application of penal law, are not derogable under any circumstances. This is of crucial importance to internally displaced persons.

### **Protection under International Humanitarian Law**

In time of armed conflict, the legal regime applicable is international humanitarian law, also known as the international law of armed conflicts. The International Committee of the Red Cross (ICRC) defines 'international humanitarian law applicable in armed conflict' as: international rules, established by treaties or custom, which are specifically intended to solve humanitarian problems directly arising from international or non international armed conflicts and which, for humanitarian reasons, limit the right of Parties to a conflict to use the methods or means of warfare of their choice or protect persons and property that are, or may be, affected by conflict. Humanitarian law seeks to protect the victims of armed conflict by regulating the conduct of parties to the conflict. Besides customary laws of war the main sources of humanitarian law are the four Geneva Conventions and their Protocols of 1977. The first of which relates to the Protection of Victims of International Armed Conflicts (Protocol I) and the second to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the protection of IDPs the applicable humanitarian laws are all provisions relating to the protection of civilians in the Fourth Geneva Convention<sup>96</sup>

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<sup>96</sup> J . Dylan Van Houcke, 'A short analysis of the legal position of the internally displaced person' [https://www.academia.edu/11632092/A short analysis of the legal position of the internally displaced person](https://www.academia.edu/11632092/A_short_analysis_of_the_legal_position_of_the_internally_displaced_person) Accessed 7 January, 2020.

The principal sources of conventional international humanitarian law are the 1907 Hague Conventions, in particular Convention IV respecting the Laws and Customs of War on Land and the Regulations annexed to it, the four Geneva Conventions of 1949 and their two Additional Protocols of 1977. In addition, an authoritative study published in 2005 under the auspices of the ICRC identified over 160 customary rules of international humanitarian law applicable in international and non international armed conflicts.<sup>97</sup>

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 is less elaborate. However, 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. Moreover, most conflicts around the world are now internal conflicts and the regulation of such conflicts has thus gained added importance.

The only provisions of humanitarian law which are applicable during non-international armed conflicts are Article 3 common to the Geneva Conventions (common Article 3) and Protocol II. One must note that the threshold for the application of Protocol II is relatively high: Article I of Protocol II stipulates that the Protocol only applies to armed conflicts between the armed forces of a state party and 'dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operation'. Common Article 3 is especially important since it contains some fundamental principles which are of customary nature, and has been said to enshrine 'elementary considerations of humanity'. It provides that civilians shall be treated humanely and without

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<sup>97</sup> Melanie Jacques, *Armed Conflict And Displacement: The Protection Of Refugees And Displaced Persons Under International Humanitarian Law* (Cambridge University Press 2012) at 5.

discrimination. To this end, it gives a short list of prohibited acts. Its wording remains quite general, whereas the provisions of Protocol II are more specific.<sup>98</sup>

Finally, humanitarian law also contains some specific provisions prohibiting transfers of population. Article 17 of Protocol II which expressly prohibits such transfers is of special importance to the internally displaced. It reads: <sup>99</sup>

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.<sup>100</sup>

#### **4.1 Regional Instruments**

##### **4.1.1 International conference on the Great lakes Region Protocol on Internally Displaced persons. (2006)**

The Protocol on the Protection and Assistance to Internally Displaced Persons, adopted by the International Conference on the Great Lakes Region (ICGLR) in 2006 as one of ten protocols to its Pact on Security, Stability and Development, was the first legally binding instrument incorporating the Guiding Principles on Internal Displacement into international law. The pact and protocols entered into force in 2008 as a commitment of the ICGLR's 11 member states. Other

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<sup>98</sup> Supra 65 at 46.

<sup>99</sup> ibid

<sup>100</sup> ibid.

protocols also extend the quality of human rights protection available to internally displaced persons in the region. The Protocol on the Property Rights of Returning Persons specifically relates to internally displaced person protections, while the Protocol on the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity and the Protocol on the Prevention and Suppression of Violence Against Women and Children have the potential to help address some of the root causes of flight, foster human security and create conditions for return.<sup>101</sup>

The objectives of this Protocol are to:

1. Establish a legal framework in the Great Lakes Region for ensuring the adoption and implementation by Member States of the Guiding Principles on Internal Displacement;
2. Ensure legal protection by Member States of the physical safety and material needs of internally displaced persons in accordance with the Guiding Principles;
3. Provide a legal basis for the domestication of the Guiding Principles into national legislation by Member States;
4. Commit Member States to prevent and eliminate the root causes of displacement.<sup>102</sup>

The Great Lakes Pact with its ten Protocols and four programmes of Action is one of the few international agreements that address internal displacement in a comprehensive and holistic manner. It covers not only conflict induced displacement but also displacement caused by natural disasters and induced by development projects. Thus, it is forward-looking and goes beyond the current peace-building challenges in the Great Lakes region. The Protocol is also innovative

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<sup>101</sup> An institutional History of Internal Displacement, <http://www.internal-displacement.org/internal-displacement/history-of-internal-displacement> accessed 4 December 2019.

<sup>102</sup> Protocol on the Protection and Assistance to Internally Displaced Persons , Article 2.

insofar as it puts a particular emphasis on implementation by providing model legislation on the implementation of the Protocol as well as a regional action programme for the protection, assistance and search for durable solutions for displaced populations and communities that host them.<sup>103</sup>

The IDP protocol obliges member states of the ICGLR to enact national legislation, developed in consultation with IDPs themselves, to incorporate the Guiding Principles and provide a legal framework for their implementation (Art. 6.3, 6.5). It addresses some specific concerns from the experience of internal displacement in the Great Lakes Region, such as protection measures for pastoralists, host communities and families of mixed ethnic identity, and provides for a regional mechanism to monitor IDP protection. In one respect, however, the wording of the protocol could undermine existing obligations of states in the region under the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights. Art. 4.1(g) offers a narrower guarantee of freedom of movement and choice of residence for IDPs – “within designated areas of location” – than the Guiding Principles and these earlier instruments.<sup>104</sup>

Articles 1-5 deal with the definitions, objectives, responsibility for protecting the internally displaced, the scope of that protection and development induced displacement. Article 6 adopts the Guiding Principles on internal Displacement and article 7 contains the final provisions. The guiding principles are also annexed to the Protocol.

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<sup>103</sup> Walter Kalin, 'The Great Lakes Protocol On Internally Displaced Persons: Responses And Challenges.' <https://www.brookings.edu/on-the-record/the-great-lakes-protocol-on-internally-displaced-persons-responses-and-challenges> accessed 5 December 2019

<sup>104</sup> Supra 91.

#### **4.1.1 African Union Convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention 2009).**

On 23 October 2009, the African Union (AU) officially adopted the Convention for the Prevention and Assistance of Internally Displaced Persons in Africa (Kampala Convention). The product of over two years of deliberation and consultation with AU member states and partners, the Kampala Convention represents the first significant effort to transform the United Nation's (UN) Guiding Principles on Internally Displaced Persons (Guiding Principles) into a legally binding instrument of protection. Only forty years prior, the adoption of the Organization of African Unity's (OAU) 1969 Refugee Convention heralded an important step in the protection of rights for the displaced in Africa, and far outpaced the obligations set forth by the UN in expanding the refugee definition beyond the constraints of the 1951 Convention Relating to the Status of Refugees. Now, with the adoption of the Kampala Convention, the AU has highlighted its willingness not only to expand protection for those displaced across borders, but also for those displaced within.<sup>105</sup> Article 9 of the Convention relates to obligations of States Parties in protecting and rendering assistance during internal displacement. Under this article, States Parties shall protect the rights of IDPs regardless of the cause of displacement by refraining from, and preventing, the following acts, amongst others: discrimination against such persons in the enjoyment of any rights or freedoms on the grounds that they are internally displaced persons; genocide, crimes against humanity, war crimes and other violations of international humanitarian law against internally displaced persons; arbitrary killing, summary execution, arbitrary detention, abduction, enforced disappearance or torture and other forms of cruel, inhuman

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<sup>105</sup> Lauren Goth, 'Engendering Protection: an Analysis of the 2009 Kampala Convention and its Provisions for Internally Displaced Women' <https://academic.oup.com/ijrl/article/23/2/221/1581862> accessed 5 December 2019.

or degrading treatment or punishment; sexual and gender based violence in all its forms; rape, enforced prostitution, sexual exploitation and harmful practices; slavery; recruitment of children and their use in hostilities; forced labor and human trafficking; smuggling; and starvation<sup>106</sup>.

One of the Convention's most notable contributions is the detailed elaboration of the right to be protected against arbitrary displacement. Article 4(4)<sup>107</sup> outlines this right in detail, identifying acts deemed a violation of that right. The scope of coverage is extremely broad, including displacement due to discrimination, armed conflict, generalized violence and human rights violations, "harmful practices," unnecessary evacuations, or collective punishment. The prohibition of arbitrary displacement is not, in and of itself, new to international law. The Fourth Geneva Convention prohibits "individual or mass forcible transfers" as a grave breach. The Statute of the International Criminal Tribunal for Yugoslavia prohibited "unlawful transfers," and the Rome Statute lists forcible transfers of population as an act that may qualify as a crime against humanity. However, in outlining the right to protection from arbitrary displacement, the Kampala Convention goes beyond these existing delineations and their reflection in the Guiding Principles. For example, the provisions laid out in Article. 4(d) and (e)<sup>108</sup> are significant innovations that capture displacement "caused by generalized violence or violations of human rights" and displacement "as a result of harmful practices." These provisions, clearly influenced by human rights law, have no counterpart in other IDP frameworks to date. Indeed, they fill a

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<sup>106</sup> AfolasadeAdewunmi, ' Internally Displaced Persons And The Protection Of Their Cultural Heritage In Nigeria.' [https://www.academia.edu/40610262/Internally Displaced Persons And The Protection Of Their Cultural Heritage In Nigeria](https://www.academia.edu/40610262/Internally_Displaced_Persons_And_The_Protection_Of_Their_Cultural_Heritage_In_Nigeria) accessed 5 December 2019.

<sup>107</sup> African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (the "Kampala Convention")

<sup>108</sup> Ibid.

potential gap in international law generally.<sup>109</sup> In addition, the Convention deepens the pool of potential claimants; as they are affected by displacement, members of host and return communities could also seek remedies under Article 12(1). The Convention also indicates in Article 12(3) that a “State Party shall be liable to make reparation to internally displaced persons for damage when such a State Party refrains from protecting and assisting internally displaced persons in the event of natural disasters.” However, whether and to what extent these remedies are accessible in practice remains to be seen.

### **Other Instruments that Provide Protection for the Internally Displaced.**

#### **❖ IASC Framework on Durable Solutions for Internally Displaced Persons (2010)**

This framework is by the interagency standing committee. The framework which was endorsed by the IASC Working Group in December 2009, addresses durable solutions following conflict and natural disasters. The framework was published in 2010 on the basis of feedback on a draft version piloted from 2007. The Framework identifies three possible settlement options through which durable solutions to internal displacement may be achieved: the IDPs’ sustainable return to their home or place of habitual residence, integration in the location they were displaced to, or settlement elsewhere in the country, and stresses that these must be voluntary and informed and must take place in safety and in dignity. It sets out eight criteria for determining the extent to which a durable solution is achieved, as well as principles that should guide the process and how it should be organized.<sup>110</sup> It describes the key human rights based principles that should guide the search for durable solutions and establishes the criteria that determine to what extent a durable solution has

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<sup>109</sup> Asplet M and Bradley M, Strengthened Protection for Internally Displaced Persons in Africa; The Kampala Convention comes into force. <https://www.brookings.edu/articles/strengthened-protection-for-internally-displaced-persons-in-africa-the-kampala-convention-comes-into-force/> accessed 9 December 2019.

<sup>110</sup> An institutional History of Internal Displacement, <http://www.internal-displacement.org/internal-displacement/history-of-internal-displacement> accessed 4 December 2019.

- A peace-building or reconstruction challenge: Achieving durable solutions after conflict, generalized violence and, in some cases, large-scale natural or human-made disasters may not be possible without local or even national political, economic and social stabilization.<sup>113</sup>

#### ❖ The Sendai Framework for Disaster Risk Reduction(2015-2030)

The Sendai Framework for Disaster Risk Reduction 2015-2030 is a global agreement to reduce and prevent disaster risks across the globe. It aims to strengthen social and economic resilience to ease the negative effects of climate change, man-made disasters, and natural hazards. The EU played a key role in the negotiations of the agreement and supports EU Member States and non-EU countries in achieving the seven Sendai targets. In June 2016, the European Commission published an action plan to translate the Sendai priorities into EU policies and funding instruments.<sup>114</sup>

The Sendai Framework for Disaster Risk Reduction 2015-2030 outlines seven clear targets and four priorities for action to prevent new and reduce existing disaster risks: (i) Understanding disaster risk; (ii) Strengthening disaster risk governance to manage disaster risk; (iii) Investing in disaster reduction for resilience and; (iv) Enhancing disaster preparedness for effective response, and to "Build Back Better" in recovery, rehabilitation and reconstruction. It aims to achieve the substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and

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<sup>113</sup> ibid

<sup>114</sup> The Sendai Framework for Disaster Risk Reduction , [https://ec.europa.eu/echo/partnerships/relations/european-and-international-cooperation/sendai-framework-disaster-risk-reduction\\_en](https://ec.europa.eu/echo/partnerships/relations/european-and-international-cooperation/sendai-framework-disaster-risk-reduction_en) accessed 3 December 2019

countries over the next 15 years. The Framework was adopted at the Third UN World Conference on Disaster Risk Reduction in Sendai, Japan, on March 18, 2015.<sup>115</sup>

❖ **The Nansen Conference. Climate Change and Displacement in the 21st Century (The Nansen Principles) (2011)**

Internal Displacement can also be a result of Natural or environmental factors. The ten Nansen Principles, while not formally adopted, reflect the outcome of the Nansen Conference on Climate Change and Displacement in the 21st Century hosted by the government of Norway in Oslo in June 2011. The Principles contain a broad set of recommendations “to guide responses to some of the urgent and complex challenges raised by displacement in the context of climate change and other environmental hazards”. The Nansen Principles are not a soft law instrument; rather, they outline in broad strokes a policy framework for addressing disaster-induced displacement by identifying key actors and relevant areas of activity. As such, they constitute an important step in the process of putting such displacement onto the international agenda. The agreement recognizes that efforts to address displacement need to be undertaken not only at the national but also regional and international levels, thus putting climate-related cross-border displacement as well as internal displacement on the international agenda.

Paragraph 14(f) does not, however, say how exactly climate change-induced displacement should be addressed. This is why UNHCR took the initiative to bring together a group of

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<sup>115</sup> Sendai Framework for Disaster Risk Reduction 2015 – 2030  
<https://www.unisdr.org/we/inform/publications/43291> accessed 3 December 2019.

experts in February 2011 to discuss options for addressing climate-related displacement, internal as well as across borders.

❖ **The Pinheiro Principles: United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005).**

The Pinheiro Principles are the culmination of more than a decade of international and local activities in support of the emerging right to housing and property restitution as a core remedy to displacement.<sup>116</sup>

The Pinheiro Principles provide restitution practitioners, as well as States and UN and others agencies, with a consolidated text relating to the legal, policy, procedural, institutional and technical implementation mechanisms for housing and property restitution. As such, the Principles provide specific policy guidance regarding how to ensure the right to housing and property restitution in practice and for the implementation of restitution laws, programmes and policies, based on existing international human rights, humanitarian, refugee and national standards. To this end the Principles reflect some of the most useful provisions from various national restitution policies, programmes and practices, including those developed for Afghanistan, Bosnia-Herzegovina, Burundi, Cambodia, Cyprus, Guatemala, Iraq, Kosovo, Rwanda, South Africa and Sudan.

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<sup>116</sup>The Pinheiro Principles: United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons <https://reliefweb.int/report/world/pinheiro-principles-united-nations-principles-housing-and-property-restitution-refugees> Accessed 3 December 2019.

### **Institutional framework of protection for the internally displaced.**

Although there is no international agency with a formal and exclusive mandate to aid and protect IDPs, there are specific international bodies or agencies with mandates and particular expertise with regard to protecting the movement related rights of IDPs. Displacement as a result of conflict and human rights violations generally arouses the concern of the international community. It is mostly the overwhelming need of these people for protection that moves the international community to address their plight through these bodies and agencies.<sup>117</sup>

### **Representative of the Secretary General on the Human Rights of Internally Displaced Persons.**

The Representative of the Secretary General on Human Rights of Internally Displaced Persons serves as the United Nation's principal advocate for the internally displaced. The Representative's mandate calls upon him to engage in dialogue and advocacy with governments and other actors concerning the rights of IDPs; strengthen the international response to internal displacement; and mainstream work to protect the human rights of IDPs, including movement-related rights throughout the UN system. In exercising this mandate, the Representative monitors displacement problems worldwide; promotes the dissemination and application of the Guiding Principles on Internal Displacement; works with governments, regional bodies, international organizations, and civil society to strengthen the normative framework and create more effective policies and institutional arrangements for IDPs; and convenes international seminars on internal displacement.

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<sup>117</sup> Walter Kalin and others, *Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges* (The American Society of International Law and The Brookings Institution 2010) at

<sup>118</sup> *ibid*

## **UNHCR**

The United Nations High Commissioner for Refugees (UNHCR) responds to humanitarian emergencies that affect displaced populations. UNHCR's primary mandate is to offer protection to refugees and it does this by assisting them integrate in countries where they have been granted asylum, repatriate to their countries of origin, or resettle in third countries. In some instances, UNHCR has gone beyond its mandate of protecting refugees and extended it to protecting and assisting internally displaced persons. States can work with UNHCR to ensure the movement-related rights of IDPs are guaranteed and to facilitate IDP returns, resettlement, and other forms of movement. For example, in Liberia in 2003, UN troops helped UNHCR relocate thousands of IDPs from public buildings in Monrovia to proper camps or settlements. In situations of displacement, states may also call upon UNHCR for assistance in transporting materials and providing assistance in establishing and maintaining camps for the displaced. UNHCR also organizes workshops to educate government officials on fundamental principles of refugee law, especially on the right to non-refoulement, and on the normative framework for the protection of internally displaced persons. UNHCR can also strengthen the protection regime through documentation campaigns, human rights training and other education-oriented activities, and integration initiatives.<sup>119</sup>

## **UNICEF**

The primary role of the United Nations Children's Fund (UNICEF) is the protection of children, including internally displaced children. This includes addressing the needs of children who are internally displaced and working to assist in their reunification with other family members.

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<sup>119</sup> *ibid*

UNICEF may work closely with other agencies like the International Committee of the Red Cross, Food for the Hungry, and Save the Children (UK) as well as other NGOs to trace missing children and family members. In addition, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and its InterAgency Internal Displacement Division works to ensure that UN agencies in the field, under the leadership of United Nations Resident and Humanitarian Coordinator (UNRC/HCs), develop and implement strategic initiatives to meet the needs of internally displaced persons, including their movement related rights.

### **African Union**

The mandate of the African Union allows it to address the security situation in member states by monitoring and responding to human rights violations and by pursuing other activities, including peacekeeping operations. It may enhance the protection of civilians, including internally displaced persons, by deploying police and military units to provide security in IDP camps and in areas of return. Through this presence, the African Union can deter armed groups from committing hostile acts against displaced persons and facilitate their movement. The African Union can also deploy resources and assist with mine and ordinance disposal in order to facilitate the safe return of IDPs. Finally, the African Union has elaborated a binding Convention on Assistance and Protection for Internally Displaced Persons in Africa.

### **REFUGEE LAW AS A POINT OF COMPARISM.**

The fact that refugee law does not apply to internally displaced persons does not mean that this body of law is completely irrelevant to them. As problems encountered by internally displaced persons are very similar to those of refugees, refugee law can serve as a point of comparison and 'might also inspire standard-setting for internally displaced persons'. Just to take one example, the

provision contained in the 1951 Convention on *non-refoulement* (Article 33) can serve as a reference for internally displaced persons: like refugees, they should not be returned to places where their life or freedom would be threatened. Other principles such as safe and voluntary return could also be applied to internally displaced persons. Finally, the UNHCR guidelines on refugee women and children offer useful guidance for the standards of treatment of internally displaced women and children.<sup>120</sup> The idea of a legal synthesis between refugees and internally displaced persons has been advanced by Luke Lee. He proposes to achieve this by deleting the border-crossing element from the refugee definition. The basis of his argument lies in the idea that the requirement of border-crossing has lost its relevance in the post-Cold War era and that it must be dropped in order to give states, international organizations and NGOs the legal capacity to address the problem of internal displacement. Lee first tries to demonstrate that the element of border-crossing is closely linked to the political situation which prevailed during the Cold War: he believes that it had not been such a crucial criterion in previous refugee definitions and that it became so because of the importance of the Iron Curtain, which was the physical manifestation of the ideological divide between the two blocs.<sup>121</sup> Refugee and IDP camps and settlements qualify as both civilian objects, in so far as they constitute dwellings used by civilians, and civilian populations, in so far as the displaced persons that comprise them are recognized as civilians. As such, they are entitled to civilian immunity and are protected by the basic rules of international humanitarian law governing the conduct of hostilities, and the principle of distinction in particular. However, this civilian status is not absolute or irreversible, and refugee and IDP camps may lose

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<sup>120</sup> Catherine Phuong, *The International Protection Of Internally Displaced Persons* (Cambridge University Press 2004) at 47

<sup>121</sup> *Ibid* at 24.

their immunity, at least partially, if it becomes clear that such camps are in fact used for military purposes.<sup>122</sup>

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<sup>122</sup> Melanie Jacques, *Armed Conflict And Displacement: The Protection Of Refugees And Displaced Persons Under International Humanitarian Law* (Cambridge University Press 2012) at 220.

## CHAPTER FIVE

### 5.1 SUMMARY OF FINDINGS

This thesis analyzes the evolution of the legal protection available to IDP's the last few years, there have been many discussions and studies attempting to set down a clearer picture of the situation and rights of internally displaced persons. This is no easy task because of the very complexity of the subject whose many variations militate against a single model. In this research it was discovered that internal displacement was placed on the international agenda and recognized as an important issue of global concern in the early 1990s. At this point, internal displacement was a subject with neither clear definitions nor a normative framework that could guide states and international humanitarian actors. The issue has since come a long way. While there is more work to be done to get internal displacement fully recognized as a development concern, progress has been made.

The key milestone in the institutional history of internal displacement was the creation of the Guiding Principles of Internal Displacement. The Guiding Principles on Internal Displacement is the first legal instrument that was made to provide protection to the internally displaced. It has served as a foundation for all the other instruments that we now have for protecting the internally displaced. Since then, a number of further important developments have allowed the issue some visibility in regional and international policy discussions. The Guiding Principles take a very broad approach to internal displacement based on a general understanding of the meaning of protection for the internally displaced. First, they address all the types of situations described in the Compilation and do not focus only on situations of armed conflict. Whereas the application of the provisions identified in the Compilation depended on the nature of the situation encountered, the Guiding Principles seek to provide guidance at all times Agreement on The Kampala

Convention and a range of protocols and seminal reports have advanced the understanding of the scale and nature of internal displacement across the globe. On 23 October 2009, the African Union (AU) officially adopted the Convention for the Prevention and Assistance of Internally Displaced Persons in Africa (Kampala Convention). The product of over two years of deliberation and consultation with AU member states and partners, the Kampala Convention represents the first significant effort to transform the United Nation's (UN) Guiding Principles on Internally Displaced Persons (Guiding Principles) into a legally binding instrument of protection.

Some other instruments discussed in this research that have come into being that protect the internally displaced are ;

- The Pinheiro Principles: United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005)
- International conference on the Great lakes Region Protocol on Internally Displaced persons. (2006)
- African Union Convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention 2009).
- IASC Framework on Durable Solutions for Internally Displaced Persons (2010)
- The Nansen Conference. Climate Change and Displacement in the 21st Century (The Nansen Principles) (2011)
- The Sendai Framework for Disaster Risk Reduction(2015-2030)

## 5.2 Observation.

This research has observed that there is no universal, legally binding instrument equivalent to the 1951 Refugee Convention that specifically addresses their plight. Nonetheless, internally displaced people are protected by international human rights law and domestic law and, in situations of armed conflict, by international humanitarian law (IHL).<sup>123</sup> Because internally displaced persons reside within the borders of their own countries and in most cases under the jurisdiction of their own governments, primary responsibility for them rests with their national authorities. As Roberta Cohen and Francis Deng point out in their study, *Masses in Flight*, ‘Since there is no adequate replacement in sight for the system of state sovereignty, primary responsibility for promoting the security, welfare, and liberty of populations must remain with the state’.<sup>9</sup> Yet, when asked why the United Nations had not been able to do more for internally displaced persons, former High Commissioner for Refugees Sadako Ogata replied: ‘The problem is sovereignty’<sup>124</sup> Indeed, many countries use sovereignty as a justification for resisting or obstructing international aid efforts. In Myanmar, the government has barred access to the country’s internally displaced ethnic minorities, with which it is at war. For many years during the insurgency by the Kurdish PKK group, Turkey barred access to hundreds of thousands of displaced Kurds. In Algeria, no one knows for sure how many internally displaced people there are, or what their needs might be; the government has denied access to them. Sometimes governments categorize internally displaced persons as ‘migrants’ or ‘terrorists’ to avoid responsibility for them, or they fail to develop policies and laws to help the displaced. Getting states to assume their responsibilities can

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<sup>123</sup> Internally Displaced Persons and International Humanitarian Law, <https://www.icrc.org/en/document/internally-displaced-persons-and-international-humanitarian-law> accessed 16 January 2020.

<sup>124</sup> The State of the World’s Refugees. <https://www.unhcr.org/4444afce0.pdf> accessed 16 January 2020.

be a challenge for the international community.<sup>125</sup> This is particularly so in civil wars, where governments fear that aid to the displaced could strengthen insurgent groups. International efforts to negotiate with insurgents are often obstructed by national governments fearful that such engagement could legitimize the rebels. During the Angolan civil war, the government objected to UN agencies negotiating with the rebel UNITA group. As a result the United Nations had no access to large numbers of displaced persons in insurgent areas. Only in 2002, with a ceasefire, did the widespread starvation and disease plaguing these people come to light. Today, many governments allow some form of access to their displaced populations. The Government of Sri Lanka has set up welfare centres to provide material assistance to displaced populations in both government- and rebel-held areas. It has also accepted UNHCR's establishment of relief centres on government territory that are open to all groups. Following the 2004 tsunami, the government signed an agreement with the Tamil-separatist leadership to share reconstruction funds for the displaced. The Turkish government is cooperating with the United Nations and the World Bank in the return and reintegration of its displaced population. In the South Caucasus, the Georgian government encourages international access to its displaced and provides a small allowance for them. Similarly, the Government of Azerbaijan has welcomed international assistance for its large population of internally displaced and considers the phase-down of international aid to have been premature. Many other governments have also welcomed international aid for the internally displaced, among them Colombia, DRC and Uganda. In response to international pressure, the Khartoum government agreed to Operation Lifeline Sudan to allow international aid to reach displaced people under insurgent control in the south. The former Representative of the Secretary-General on Internally Displaced Persons, Francis Deng, believes that while governments have the primary

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<sup>125</sup> *ibid*

responsibility to care for their displaced populations, when they are unable to do so they must request and accept outside help. If they refuse, or deliberately obstruct access to the displaced, the international community has a right, even a responsibility, to become involved. International engagement could range from diplomatic dialogue and negotiation of access for relief supplies to political pressure. In exceptional cases, it could lead to sanctions or military action. While no government has explicitly challenged this concept, states such as China, Egypt, India and Sudan have expressed fears that international humanitarian action could be a pretext for interference by powerful states in the affairs of weaker ones. Nonetheless, the concept of 'a collective responsibility to protect' the displaced when their national authorities are unable or unwilling to do so has gained ground. Indeed, it was most recently upheld in the World Summit document adopted by heads of government in September 2005<sup>126</sup>

### **5.3 Recommendations.**

The following recommendations are suggested to improve on the rights of the internally displaced internationally;

1. It is unfortunate that the guiding principles on internal displacement is not a binding instrument capable of ratification by states however, the international community can promote the concept of 'a collective responsibility to protect' the displaced when their national authorities are unable or unwilling to do so.
2. The Guiding Principles can be modified to make it a binding instrument to the extent that when states fail in their obligation to enforce the rights afforded to the internally displaced under the principles, they can be sanctioned economically. This solves the issue of

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<sup>126</sup> *ibid*

sovereignty raised by states. Physical intervention will not be permitted by the instruments but economical sanctions and shunning maybe used as techniques. This will be effective because most states that have the problem of excessive internally displaced persons are underdeveloped and 3<sup>rd</sup> world States and their economies will suffer greatly if international sanctions are issues against them.

3. The international community should Support national authorities to establish and develop reliable national protection systems should also be a top priority of humanitarian actors in their efforts to reinforce the search for durable solutions. This may include support to human rights capacity-building efforts, support for judicial systems, setting up national human rights institutions, and providing technical cooperation to establish mechanisms for property restitution, compensation or other forms of reparation.<sup>127</sup>
4. Ultimately, durable solutions to situations of internal displacement are linked to addressing the root causes of the conflict and displacement. Internal displacement is often a symptom of deeply rooted national problems. It is by addressing the root causes of conflict through political means and the promotion of justice, security and equality for all citizens that displacement is fully addressed.
5. In order to address the causes of displacement it is important that all sectors of society, including the Government, international agencies, donors, non-governmental organizations, civil society and internally displaced persons be active participants in the process. To this end, the humanitarian and development community should engage in transition strategies focusing on peace building objectives, which aim at a balance between

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<sup>127</sup> Handbook for the Protection of Internally Displaced Persons  
[https://www.un.org/ruleoflaw/files/IDP%20Handbook Complete FINAL%20Jan%202008.pdf](https://www.un.org/ruleoflaw/files/IDP%20Handbook%20Complete%20FINAL%20Jan%202008.pdf) accessed 18 January,2020.

immediate and long-term needs, supporting increased national leadership and ownership of the recovery and reconstruction process. The UN Transitional Strategy Guidance Note provides guidance to Country Teams in this context.

#### **5.4 Contribution to Knowledge.**

This research has contributed to the existing literature on legal protection available to the internally displaced internationally. As noted earlier, the number of IDP's in the world is increasing at an alarming rate and it is important to know the legal protection this vulnerable group has internationally.

This research has contributed to the literature available on the guiding principles on internal displacement, international humanitarian law, international human rights law and refugee law as it affects/relates to the rights of the internally displaced.

#### **5.5 Limitations of the study**

This research examined the rights afforded to the internally displaced internationally only. Therefore, domestic instruments implored by individual states were not discussed. The researcher focused mainly on the legal instruments available to the internally displaced so very little mention is made of the causes of internal displacement and issues similar to that.

#### **5.6 Suggestions for Further Studies**

The researcher suggests the following areas for further studies.

1. The Guiding Principles on Internal Displacement which has provided the principles states should implement in addressing the issues of internal displacement.

2. The United Nations Handbook for the protection of the internally displaced which gives a detailed explanation on the meaning of internal displacement and the legal protection available to the internally displaced under different instruments.

## 5.7 CONCLUSION

Governments have the primary responsibility in providing protection and assistance to IDPs without discrimination. Developing a national instrument on internal displacement, whether a law or a policy, is essentially an exercise of sovereignty, and as such is a particularly important reflection of national responsibility as well as a vehicle for its fulfillment.

States have international, and in some cases regional, obligations to protect and assist IDPs. IDPs are protected by international human rights law and, in times of armed conflict, by international humanitarian law. Several regional bodies, including the Organization of American States (OAS) and the Council of Europe (COE), urge their member states to develop national policies on internal displacement. In Africa, the 2006 Great Lakes Protocol and the 2009 Kampala Convention make it mandatory for member states that ratified those instruments to develop national legal frameworks.

Moreover, a national instrument that is based on or fully incorporates the Guiding Principles and is tailored to a country's displacement situation can improve efforts to protect and assist IDPs. If properly implemented, a coherent national instrument that clearly allocates responsibilities within the government can serve as a foundation for effective cooperation and coordination between all the relevant parties.<sup>128</sup>

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<sup>128</sup> Law and Policy on Internal Displacement , <https://www.globalprotectioncluster.org/themes/law-and-policy-on-internal-displacement/> accessed 22 January 2020.

To prevent internal displacement, protect the displaced during displacement, and find durable solutions for them once the cause of displacement no longer exists requires no more and no less than respect for human rights and, in armed conflict situations, the protective rules of international humanitarian law. As a result, in some situations the protection of IDPs' rights demands the same measures as are necessary to protect the rights of all citizens, regardless of whether or not they are displaced. For instance, a central means of implementing the right to liberty and security of person is the passage of legislation setting out protections against arbitrary arrest or detention that are applicable to all citizens, whether or not they are displaced.<sup>129</sup>

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<sup>129</sup> Protecting Internally Displaced Persons: A Manual for Law and Policymakers, <https://www.brookings.edu/research/protecting-internally-displaced-persons-a-manual-for-law-and-policymakers/> accessed 22 January,2020.

## BIBLIOGRAPHY.

### BOOKS.

- A.Helton and Others *Human Rights And Refugees, Internally Displaced Persons And Migrant Workers* (MartinusNijhoff Publishers 2006).
- Beau. C and Others *Internally Displaced People: A Global Survey*( 2<sup>nd</sup>EdnEarthscan Publications Limited 2002).
- Hathaway J. C *The Rights Of Refugees Under International Law* ( Cambridge Press 2005)
- Kalin W. *Guiding Principles On Internal Displacement Annotations* (The American Society On International Law 2008)
- Kalin. W and others *Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges* (The American Society of International Law and The Brookings Institution 2010)
- M. Allehone Abebe, *The Emerging Law Of Forced Displacement In Africa* (Routledge 2017).
- M. Jacques. *Armed Conflict And Displacement: The Protection Of Refugees And Displaced Persons Under International Humanitarian Law* (Cambridge University Press 2012).
- Maru M.T *The Kampala Convention and its Contribution to International Law*, (Eleven International Publishing 2014)
- Phuong C. *The International Protection Of Internally Displaced Persons* (Cambridge University Press 2004).
- R.Cohen and F. Deng *Masses In Flight: The Global Crisis Of Internal Displacement*. (Brookings Institution Press 2012)
- Weiss T.G , Korn D.A *Internal Displacement; Conceptualization And Its Consequences*(Routledge 2006).

### JOURNALS

- Ahmad N 'Internally Displaced Persons and International Refugee Law: Protection Gaps, Challenges and Implementation in Practice' *The King's Student Law Review*, Vol. 8, No. 2 (2017) pp. 94-117.
- Cantor D J 'The IDP in International Law'? Developments, Debates, Prospects' *International Journal Refugee Law*, Volume 30, Issue 2, June 2018,
- Goth L. 'Engendering Protection: an Analysis of the 2009 Kampala Convention and its Provisions for Internally Displaced Women' *International Journal of Refugee Law*, Volume 23, Issue 2, July 2011
- Mmahi O.P. , 'The Impact of Internal Displacement on Women and Children in Nigeria.' (IJIRAS Vol 3 Issue 8 2016).

- Mooney E. 'The Concept Of Internal Displacement And The Case For Internally Displaced Persons As A Category Of Concern' *Refugee Survey Quarterly*, Vol. 24, Issue 3.
- Silaska M. 'Protection of Internally Displaced Persons: An International Obligation?' *Polish Yearbook of International Law* (2014) .

## ONLINE ARTICLES

- Adewunmi A. 'Internally Displaced Persons And The Protection Of Their Cultural Heritage In Nigeria.'  
[https://www.academia.edu/40610262/Internally\\_Displaced\\_Persons\\_And\\_The\\_Protection\\_Of\\_Their\\_Cultural\\_Heritage\\_In\\_Nigeria](https://www.academia.edu/40610262/Internally_Displaced_Persons_And_The_Protection_Of_Their_Cultural_Heritage_In_Nigeria) accessed 3 September,2019
- Bálarabe K 'Protection of Internally Displaced Persons'  
[https://www.academia.edu/11441914/PROTECTION\\_OF\\_INTERNALLY\\_DISP\\_LACED\\_PERSONS](https://www.academia.edu/11441914/PROTECTION_OF_INTERNALLY_DISP_LACED_PERSONS) accessed 15 September,2019
- EfgAjayi, 'The Protection Of Internally Displaced Persons Under International Law: A Myth Or Reality?'  
[https://www.academia.edu/7618623/The\\_Protection\\_Of\\_Internally\\_Displaced\\_Persons\\_Idps\\_Under\\_International\\_Law\\_A\\_Myth\\_Or\\_Reality](https://www.academia.edu/7618623/The_Protection_Of_Internally_Displaced_Persons_Idps_Under_International_Law_A_Myth_Or_Reality) accessed 1 September,2019.
- Ekpa S. Legal Issues and Prospects in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria.  
[https://www.academia.edu/28617882/Legal\\_Issues\\_and\\_Prospects\\_in\\_the\\_Protection\\_and\\_Assistance\\_of\\_Internally\\_Displaced\\_Persons\\_IDPs\\_in\\_Nigeria](https://www.academia.edu/28617882/Legal_Issues_and_Prospects_in_the_Protection_and_Assistance_of_Internally_Displaced_Persons_IDPs_in_Nigeria)  
 Accessed 7 January,2020
- El-Bushra J. and Fish.K 'Refugees and Internally Displaced Persons'  
[https://www.inclusivesecurity.org/wp-content/uploads/2012/04/40\\_refugees.pdf](https://www.inclusivesecurity.org/wp-content/uploads/2012/04/40_refugees.pdf) accessed 10 September,2019
- Goodwin-Gill G. 'Refugees And Internally Displaced Persons'  
<https://pesd.princeton.edu/?Q=Node/262> accessed 10 September,2019
- Houcke J.D.V 'A short analysis of the legal position of the internally displaced person'  
[https://www.academia.edu/11632092/A\\_short\\_analysis\\_of\\_the\\_legal\\_position\\_of\\_the\\_internally\\_displaced\\_person](https://www.academia.edu/11632092/A_short_analysis_of_the_legal_position_of_the_internally_displaced_person) Accessed 7 January, 2020.
- Kalin W. 'The Great Lakes Protocol On Internally Displaced Persons: Responses And Challenges.'  
<https://www.brookings.edu/on-the-record/the-great-lakes-protocol-on-internally-displaced-persons-responses-and-challenges/> accessed 1 September,2019.

Nkemjika D. 'The State and Management of Internally Displaced Persons in Nigeria. [https://www.academia.edu/33337310/THE\\_STATE\\_AND\\_MANAGEMENT\\_OF\\_INTERNALLY\\_DISPLACED\\_PERSONS\\_IN](https://www.academia.edu/33337310/THE_STATE_AND_MANAGEMENT_OF_INTERNALLY_DISPLACED_PERSONS_IN) accessed 6 January 2020.

Rony G.K 'Refugee Law' [https://www.academia.edu/32669631/Refugee\\_law](https://www.academia.edu/32669631/Refugee_law). accessed 6 Janua.

Wyndham J,' A Developing Trend : Law And Policies On Internal Displacement. [https://www.academia.edu/4946841/A\\_Developing\\_Trend\\_Laws\\_And\\_Policies\\_On\\_Internal\\_Displacement](https://www.academia.edu/4946841/A_Developing_Trend_Laws_And_Policies_On_Internal_Displacement) accessed 1 September,2019.