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**HOME AWAY FROM HOME: AN ANALYSIS OF UGANDA'S RESPECT OF ITS HUMAN RIGHTS OBLIGATIONS
TOWARDS INTERNALLY DISPLACED PERSONS**

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HOME AWAY FROM HOME: AN ANALYSIS OF UGANDA'S RESPECT OF ITS HUMAN RIGHTS OBLIGATIONS TOWARDS INTERNALLY DISPLACED PERSONS.

Faith Uwimana Mahoro*

ABSTRACT

The strife of Internally Displaced Persons continues to be swept under the carpet over the years. The international, regional and national legal and policy framework in relation to these persons, however comprehensive, portrays limited efficacy. Owing to a number of both foreseeable and unforeseeable challenges, Uganda's legal and policy framework in adherence to its international obligations has proved ineffective. As a result, Internally Displaced Persons continue to face a number of challenges which reveal the complexities relating to their sufficient protection.

1.0 INTRODUCTION

Internally Displaced Persons (herein after referred to as IDPs) are persons or groups of persons who have been forced, obliged to flee or leave their homes or places of habitual residence in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, natural or human-made disasters but have not crossed an internationally recognized border.¹

Internally Displaced Persons have often been mistaken to be refugees but they do not fall within the legal definition of a refugee. A refugee is any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside of the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country². A refugee crosses the border of his or her

* Student of law at Makerere University. My profound gratitude goes to the Editorial Board for their insights during the entire process. Special thanks to Rehema Twine, for her relentless guidance while I worked on this paper. All errors and omissions remain my own.

¹ United Nations Guiding Principles on Internal Displacement. Available at <https://www.internal-displacement.org/internal-displacement/guiding-principles-on-internal-displacement> [accessed 23 February, 2021]

² Article 1 of the 1951 UN Convention relating to the status of refugees, as modified by the 1967 Protocol available at <https://www.unhcr.org/1951-refugee-convention.html> [accessed 23 February, 2021]

country to seek refuge in another country while an IDP stays within the borders of his or her country.

There were 33.4 million displacements associated with conflict and disasters across 145 countries and territories in 2019.³ Internal displacement is most prevalent in the Democratic Republic of Congo, Afghanistan, Burkina Faso and Syria which accounted for more than half of the global figure. The causes of displacement include conflict, violence and disasters with weather-related hazards particularly storms accounting for the new displacements related to disasters with 24.9 million displacements across 140 countries.⁴ Displacement relating to disasters mainly affected East Asia Pacific and South Asia while Sub-Saharan Africa, Middle East and North Africa had the highest numbers for displacement owing to new conflict and violence as well as droughts, floods and storms.⁵

Before the 1990s, internal displacement as a subject had neither clear definitions nor a normative framework that could guide states and international humanitarian actors in addressing the plight of these persons. However, in the early 1990s, it was recognized as an important global issue and has since been given the attention it deserves.⁶

The government has a duty to ensure that IDPs enjoy the same rights and freedoms under international and domestic law as other persons in their country.⁷ IDPs are entitled to rights which include inter alia; a right to education, the right to the highest attainable standard of health, right to security, right to property and freedom of religion. Various laws and policies concerning IDPs have been enacted, and this paper highlights a

³ Internal Displacement Monitoring Centre; Global Report on Internal Displacement 2020 <https://www.internal-displacement.org/global-report/grid2020/> [accessed 22 February, 2021]

⁴ *Ibid*

⁵ *Ibid*.

⁶ International Displacement Monitoring Centre, 'An Institutional History of Internal Displacement', IDMC available at <https://www.internal-displacement.org/internal-displacement/history-of-internal-displacement> [accessed 23 February 2021]

⁷ United Nations Guiding Principles on Internal Displacement, available at <https://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html> [accessed 23 February, 2021]

number of these laws, tracking their relevance and efficacy with regard to the protection of IDPs.

2.1 INTERNATIONAL FRAMEWORK RELATING TO IDPs

The biggest milestone in the institutional history of internal displacement was the formation of the United Nations Guiding Principles on Internal displacement that address the specific needs of IDPs worldwide by identifying their rights in relation to protection from forced displacement, assistance during displacement as well as resettlement and reintegration after displacement.⁸ These principles also provide guidance to relevant authorities⁹ and organizations on how to carry out their mandate and how to relate with IDPs when addressing the issue of internal displacement. IDPs are protected by International Human Rights Law and in times of armed conflict, by International Humanitarian Law.¹⁰

The Guiding Principles have been referred to as a great international framework for issues concerning internal displacement by the United Nations General Assembly. The principles are divided into five sections; the first section addresses general principles, the second deals with principles relating to protection from displacement, the third is on principles relating to protection during displacement, the fourth states the principles relating to humanitarian assistance and the fifth section deals with principles relating to return, resettlement and reintegration.

These principles have been incorporated by member states in their national laws. There have been legal developments to strengthen and consolidate the law establishing these principles over the years and have thus been of influence in the ratification of a number of treaties¹¹ and have also been

⁸ *Ibid.*

⁹ *Ibid*, Principle 3

¹⁰ Internally Displaced Persons and International Humanitarian Law, available at <https://www.icrc.org/en/document/internally-displaced-persons-and-international-humanitarian-law> [accessed 23 February, 2021]

¹¹ Cordula Droege, 'Developments in the Legal Protection of IDPs', Forced Migration Review available at <https://www.fmreview.org/GuidingPrinciples10/droege> [accessed 23 February, 2021]

reiterated in various other human rights instruments such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Geneva Conventions among others.

Principles 28-30 of the Guiding Principles on Internal Displacement articulate the fact that IDPs have a right to durable solutions, and it is the responsibilities of national authorities and role of humanitarian and development actors to assist in attaining these solutions.¹²

However, much as the Guiding Principles affirm that States have the primary responsibility to prevent displacement, to protect and assist IDPs under their jurisdiction and provide durable solutions to their plight, they need to have domestic normative and policy frameworks in order for the above to be fulfilled. These frameworks ought to have the necessary implementing structures so as to respond effectively to the needs of the IDPs.

There have been questions as to whether the non-refoulement principle applies to IDPs as it does to refugees. This principle forms an integral part of International Human Rights and Humanitarian law. It is codified in Article 33 of the 1951 Refugee Convention and effects that;

'No contracting state shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion and that however, the protection doesn't apply to persons who represent a security threat to their host country as is stated in article 33(2)'.¹³

In *Soering v United Kingdom*,¹⁴ the USA commenced extradition proceedings with the UK under the terms of the Extradition Treaty between the USA and UK. Mr Soering applied to the European Court on Human Rights alleging the breach of Article 3 of the European Convention on

¹² IASC Framework on Durable Solutions for Internally Displaced Persons <https://interagencystandingcommittee.org/other/iasc-framework-durable-solutions-internally-displaced-persons> [accessed February 22, 2021]

¹³ United Nations Convention relating to Status of Refugees (Geneva Convention)

¹⁴ (1989) 11 EHRR 439

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Human Rights (ECHR). Soering alleged that the decision to surrender him to the US would, if implemented give rise to a breach of Article 3 ECHR which prohibits torture. The applicant was to be extradited and sentenced to death on extradition. The court accordingly found the UK to be in breach of Article 3. IDPs similarly benefit from this protection as much as any other civilian group if they are in a location outside control or jurisdiction of their government for example in a diplomatic mission.¹⁵

The International Committee of the Red Cross (ICRC) protects and assists persons affected by armed conflict and other situations of violence.¹⁶ It takes direct and immediate action in response to emergency situations as IDPs are often exposed to danger during their plight, during the displacement and even on their return home(resettlement) while at the same time promoting preventive measures to internal displacement. IDPs have, therefore, always been major beneficiaries of ICRC activities.

An example of this was during the Rwandan Genocide of 1994 where a number of ICRC delegates risked their lives together with the French team of *Médecins sans Frontières* to help save the lives of locals who were being massacred resulting in thousands fleeing the country and several other thousands being displaced especially in the North and South of the Country.¹⁷ This is one among various examples of the role that has been played and is still being played by the ICRC to IDPs in different parts of the world as its major role is to protect and assist persons affected by armed conflict and other situations of violence.

¹⁵ Non-Refoulement in the Context of Internal Displacement; The case of IDPs in South Sudan's Protection of Civilian Sites <https://reliefweb.int/report/south-sudan/non-refoulement-context-internal-displacement> [accessed 23 February, 2021]

¹⁶ International Committee of the Red Cross position on Internally Displaced Persons <https://www.icrc.org/en/doc/resources/documents/misc/idp-icrc-position-030706.htm> [accessed 23 February, 2021]

¹⁷ Case Study, armed conflicts in the Great Lakes Region (1994-2005) at <https://casebook.icrc.org/case-study-armed-conflicts-great-lakes-region-1994-2005> [accessed 22 February 2021]

2.2 REGIONAL FRAMEWORK RELATING TO IDPs

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, which is also known as the Kampala Convention, upon coming into force became the world's first regional instrument that legally binds governments to provide protection for the rights of IDPs.¹⁸ It addresses internal displacement due to armed conflict, natural disasters and large-scale development projects in Africa.

This is done through reaffirming that national authorities have the primary responsibility to comprehensively address different causes of internal displacement, recognizing the critical role that civil society organizations and host communities play and finally through facilitating the adoption of national legislation on IDPs protection and assistance. This results in achievable and durable solutions to displacement.

Article 5(4) of the Convention specifically establishes state responsibilities for the protection and assistance of IDPs whose displacement is as a result of natural or human made disasters including climate change. The development of this convention was based on the United Nations Guiding Principles on Internal displacement, the International Human Rights law and Humanitarian Law principles and relevant aspects of norms from African Regional Human Rights frameworks.¹⁹

The convention emphasises the fact that any displacement must conform to International law and reiterates the grounds upon which displacement should not occur in accordance with the Guiding Principles such as for reasons of ethnic cleansing or religious or racial segregation and also rejects the use of displacement as a means of collective punishment.

The Kampala Convention advances a normative framework on internal displacement in several areas such as the responsibilities of the African

¹⁸ The Kampala Convention comes into force <https://africa-eu-partnership.org/en/stay-informed/news/kampala-convention-> [accessed 22 February, 2021]

¹⁹ Romola Adeola, 'The Kampala Convention and the right not to be arbitrarily displaced', AHRLJ Volume 19 No 2, 2019 <https://www.ahrlj.up.ac.za/adeola-r-2019-2> [accessed 23 February 2021]

Union, multinational companies and private security actors as well as the right to a remedy for the wrongs associated with displacements which include loss of housing, land and property.²⁰ Article 12 of the Convention is to the effect that persons affected by displacement be provided with effective remedies which may include compensation and other forms of reparations for the damage suffered as a result of displacement.

The International Conference on the Great Lakes Region (ICGLR) Protocol on the Protection and Assistance to Internally Displaced Persons obliges member states of the ICGLR to enact national legislation developed in consultation with IDPs themselves in order to incorporate the Guiding Principles and provide a legal framework for implementation.²¹

In addition, it addresses certain issues concerning internal displacement in the Great Lakes Region such as protection measures for host communities and families of mixed ethnic identity. This is provided for in the scope of protection under article 4²² whereby protection and assistance should be provided to communities residing in areas hosting IDPs according to need. Special protection is to be provided to women, children, the vulnerable and displaced persons with disabilities as well as facilitation of family reunification and where necessary, special protection for families with mixed ethnic identity.

2.3 NATIONAL FRAMEWORK RELATING TO IDPs

In Uganda, internal displacement traces back to the dictatorial rule of Idi Amin and liberation war of 1979 that left approximately 500,000

²⁰ Mike Asplet and Megan Bradley 'What does the Kampala Convention on Internal Displacement in Africa mean for Housing, Land and Property Restitution?', Brookings, October 25, 2012 available at <https://www.brookings.edu/opinions/what-does-the-kampala-convention-on-internal-displacement-in-africa-mean-for-housing-land-and-property-restitution/> [accessed 23 February, 2021]

²¹ International Conference on the Great Lakes Region; Protocol on the Protection and Assistance to Internally Displaced Persons. available at <https://www.unhcr.org/protection/idps/5ad5a3aa4/international-conference-great-lakes-region-protocol-protection-assistance.html> [accessed 23 February, 2021]

²² International Conference on the Great Lakes Region; Protocol on the Protection And Assistance to Internally Displaced Persons.

people dead and several others internally displaced or forced into exile.²³ More recently was the violence caused by Lord's Resistance Army (LRA) that was headed by Joseph Kony alongside other Acholi people.

The conflict escalated in the 1990s when the LRA began to receive support from the Sudanese government in retaliation for the Ugandan Government supporting the Sudan People's Liberation Movement.²⁴ The number of IDPs in the Northern region rose from 400,000 in 2004 to 2,000,000 in 2005 and the conflict soon spread to areas in the East such as Teso land. The Karamajong have also suffered internal displacement for a long time due to cattle rustling while natural disasters such as landslides have displaced people on the slopes of Mt. Elgon and Rwenzori among others.

The Office of the Prime Minister, Department for Disaster Management has the sole mandate of handling matters related to displaced persons and is responsible for the overall implementation of the IDP policy. This is done through the head office opening up other chapters where there are situations of displacement which then exist until the displacement has ended.²⁵

Whereas the Constitution of the Republic of Uganda does not specifically mention anything on IDPs, Chapter 4 of the Constitution of Uganda recognizes that all citizens of Uganda are entitled to human rights and this includes IDPs.

Policies have been put in place to serve as a guide in matters concerning IDPs. The National Policy for Internally Displaced Persons establishes principles that serve as a guide to government institutions, humanitarian and development agencies, donors and other stakeholders while also providing assistance and protection to IDPs in Uganda.²⁶ It

²³ Background section of the Uganda National Policy for Internally Displaced Persons.

²⁴ Profile of internal displacement: Uganda (Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council as of 10th August, 2005)

²⁵ Friedarike Santner, 'Uganda's policy for internally displaced persons: A comparison with the Colombian regulations on internal displacement.' *Int. Law: Rev. Colomb. Derecho Int. Bogotá (Colombia)* N° 22: 87-120, enero - junio de 2013 Available at <http://www.scielo.org.co/pdf/ilrdi/n22/n22a04.pdf> [accessed 23 February 2021]

²⁶ See

spells out the roles and responsibilities of these institutions towards displaced persons.

The policy also recognizes the rights of IDPs to enjoy full equality without being discriminated against. The same rights and freedoms under the Constitution of Uganda and all other laws of Uganda guaranteed to citizens are similarly guaranteed to IDPs. Therefore the Government in this policy commits itself to protect its citizens against arbitrary displacement, promote the search for durable solutions to causes of displacement, facilitate the voluntary return, resettlement, integration and re-integration of the IDPs and also ensure that every person internally displaced or otherwise receives information relating to this policy.²⁷

This policy also seeks to promote integrated and coordinated response mechanisms to address the effects of internal displacement through cooperation between relevant government institutions, District Local Governments, ministries such as health, partners from Civil Society, private sector and even individuals to address the gaps in Humanitarian response.

Chapter 3²⁸ enshrines the rights that accrue to IDPs and they include; the right to security, property rights, right to health, right to education, right to shelter, voluntary return and resettlement among other rights. However, there are several challenges faced by these persons while trying to freely enjoy their rights as explained next.

3.0 Analysis of a Select Number of Rights and the Challenges Faced In Their Realization.

I. Property rights and Protection against arbitrary displacement;

<https://reliefweb.int/report/uganda/national-policy-internally-displaced-persons-august-2004>[accessed 23 February 2021]

²⁷ Chapter 3 of The National Policy for Internally Displaced Persons (2004)

²⁸ National Policy for Internally Displaced Persons (2004)

The National Policy provides for protection against arbitrary displacement.²⁹ Government therefore ought to ensure that every Ugandan is protected against being arbitrarily or compulsorily displaced from his or her home or place of habitual residence, and resettlement should be a voluntary undertaking. Government only facilitates the process in its effort to end suffering of the people either faced with/ displaced by disasters and associated risks.

The Policy also provides for land tenure and property rights in line with Article 26³⁰ which is to the effect that citizens of Uganda should be protected from deprivation of property. The land tenure system in Uganda acknowledges that there are people who have settled on either public or private land and both deserve protection especially after such a period of time when it has literally become their home.

For land and property that was left behind, the IDP policy states that it should be ensured that IDPs are not arbitrarily or compulsorily deprived of property or any interest in or right over property except as provided for in Article 26(2) of the Constitution and that Local Governments shall to the extent possible endeavor to protect property and possessions left behind by IDPs against pillage, destruction, arbitrary and illegal appropriation or occupation or use. Article 26(2) reserves expropriation by the government only for certain public purposes and public interests.

There is a challenge of non-registered land especially customary land for example in northern Uganda which was for long under insurgency caused by the Lord's Resistance Army and yet the prevalent tenure is customary. In *Hon. Michael Ocula and others v Amuru District Land Board and others*³¹, the main contestation was among members of the communities, investors and the government who wanted to reconstruct and develop the place.

The argument made was that these people were not the actual owners of the land since they had no structures on the land yet it was not possible

²⁹ National policy for Internally Displaced Persons, Page 22

³⁰ Constitution of the Republic of Uganda (1995)

³¹ HCT-02-CV-MA- No. 126 of 2008

to construct such structures since they were in IDP camps. Generally, it is rare that customary claimants will succeed in cases adjudicated in courts of law which further frustrates their rights to own property as is stated in Article 26 of the Constitution of Uganda and also limits the possibility of displaced persons getting their property back once they return from these IDP camps.

The overwhelming majority of IDPs are women and children who being vulnerable groups are at high risk of their basic rights being abused. This is due to the fact that they require special attention and protection during displacement and after their return due to their higher vulnerability to sexual and gender based violence and also risk losing property rights either through exploitation or policies that favour males.³²

The government struggles to ensure accessibility to consultation and participation of women and children at all levels and clearly establish who holds title to properties and land before financial compensation is given in order to avoid mismatches in beneficiary lists and ownership records.

There are usually many instances of secondary occupation where occupants take up residence in a home or on land after the legitimate owners or users have fled³³. There ought to be impartial and independent tribunals to hear cases of secondary occupation in order to protect the rights of the original occupants as well as protect the secondary occupants from homelessness, violent evictions and any other human rights violations.

Many IDPs however have difficulties in securing their lands for example after the insurgencies in Northern Uganda, about 93% of the land in Northern Uganda was held under customary tenure arrangements with no registered titles or deeds and most of these returnees who had been away for even over 10 years were unable to recall or agree on the exact boundaries of their land³⁴. Some people such as elders and traditional

³² Todd Wassel: Protecting housing rights for IDPs in Sri Lanka, Forced Migration Review, available at <https://www.fmreview.org/protracted/wassel> [accessed 23 February 2021]

³³ *ibid*

³⁴ Peter Veit: A brief Focus on Land in Africa: Placing land rights at the heart of development, available at <http://www.focusonland.com/silo/files/conflict-displacement-and-land-rights-in-uganda.pdf> [accessed 23 February 2021]

leaders who knew exact boundaries had died in the IDP camps while others just did not return.

This therefore results into some people encroaching on their neighbours' land for example those who return earlier than others which further puts the other IDPs who have not yet returned at a disadvantage. Much as the National IDP policy provides for protection of all property and possessions left behind by IDPs, it makes the recovery of land lost by the same IDPs a government responsibility and not a returnee right.

It merely provides that Local Governments shall endeavor to assist IDPs to return, resettle and reintegrate by acquiring or recovering their land in accordance with the provisions of the Land Act of 1998 and that where recovery is not possible then Local Governments shall endeavor to acquire and allocate land to the displaced families. This policy therefore falls short of several international instruments such as the Universal Declaration of Human Rights and the Principles of Housing and Property Restitution for Refugees and Displaced Persons.

IDPs also face a problem of forced evictions that in most times eventually result in people being pushed into extreme poverty that can pose a risk to their right to life and further result into cruel, inhuman and degrading treatment especially when carried out with violence. The evictions of those without rights to land usually involve the use of force, brutality, demolition of structures, destruction of plantations and other developments thus creating economic impact, gross violation of human rights and their developments are most often not valued or compensated.

In *Muhindo James and 3 other v Attorney General*,³⁵ the applicants claimed that the delay, refusal or failure of government of Uganda to put in place clear and adequate procedural mechanisms to ensure respect and protection for human rights norms and standards before, during and after the land eviction and resettlement activities is in contravention of the core state obligations to respect, protect and fulfill the rights

³⁵ Miscellaneous Cause No. 127 of 2016.

under the International Covenant on Economic, Social and Cultural Rights.

The Muhindo case³⁶ clearly points out the inadequate procedure governing evictions and goes ahead to list ways in which to fill the gaps in the legal and policy framework. An opportunity should be given for genuine consultation with those affected, adequate and reasonable notice for all the affected persons prior to the scheduled date of eviction, information on proposed eviction or alternative purpose for which land or a house is required should be made available in reasonable time to the affected persons. The court rightly found that in this case the applicant's contention was valid to the extent that the absence of eviction guidelines was a threat to possible violation of rights enshrined in the Constitution.

II. Right to Health

The constitution of the Republic of Uganda does not expressly provide for the right to health but recognizes the importance of this right in its National Objective Principles of State Policy in the form of health services, medical services, clean and safe water as well as food security and nutrition.

In *Centre for Health, Human Rights and Development and 3 others v Attorney General*,³⁷ the appellants contested the Constitutional Court's dismissal of their petition in which they alleged that the government violated the constitution by failing to provide basic maternal health services and that health workers' negligence led to death of expectant mothers during child birth which violated the rights to life and health, women's rights and the right to be free from torture, cruel and inhuman treatment or punishment. The Supreme Court held that

“the political question doctrine has limited application in Uganda's current Constitutional order and only extends to shield both the executive arm of government as well as parliament from judicial

³⁶ ibid

³⁷ (Constitutional petition 2011/16)[2020] UGCC 12

scrutiny where either institution is properly exercising its mandate duly vested in it by the Constitution...”

The court had a duty to adjudicate the petitioners’ claims regarding the constitutionality of the acts of the executive and its agents. In so doing the court emphasized that government policy, acts and omissions in the health and other sectors are subject to judicial review to ascertain their constitutionality and hence took a further step in recognizing the enforceability of the right to health and other socio-economic rights.

In *Center for Health, Human Rights and Development and 2 others v The Executive Director*³⁸, *Mulago National Referral Hospital and another*, Justice Lydia Mugambe clearly emphasizes the state’s obligations under national, regional and international law to guarantee rights to health and information as well as rights to be free from torture, cruel and inhuman and degrading treatment or punishment.

Court also emphasized that the right to health is recognized as the opportunity to enjoy the highest attainable level of health and not only the absence of disease and that the state has to fulfill an obligation of devoting special attention and resources to women whose circumstances make them vulnerable and those who suffer from various forms of inequality. A woman’s inability to access sufficient antenatal care demonstrates failure on the part of the State to fulfill its obligations under the right to health.

Therefore, the government has an obligation to ensure that even IDPs are in good health in accordance with the above definition. However, it has been found that perceived quality of life is significantly lower for IDPs. In Uganda, most of the children in IDP camps are malnourished due to inadequate food, there is no easy access to health services by these persons while others face trauma due to events that led to displacement.

The Ministry of Health and Local Governments also have an obligation to ensure that all the wounded and sick IDPs receive to the fullest extent

³⁸ High Court Civil Suit 212 of 2013

the required medical care and attention without discrimination and even psychosocial and post-traumatic stress treatment where necessary.

III. Right to Food Security and clothing

The government through the office of the Prime Minister should establish and maintain adequate grain stores for IDPs and other emergencies. This is because IDPs have been denied access to their land and other facilities and resources required for food production. Such measures should therefore remain in place until the displaced persons are sufficiently integrated and are food secure.

The office of the Prime Minister together with development partners shall ensure that IDPs have sufficient clothing and blankets. For girls, they should also be regularly supplied with sanitary protection.³⁹

IV. Right to education

Children in Internal displacement camps or situations have been advised to enroll in the nearby government schools. This is in line with article 30 of the 1995 Constitution which provides that all persons (including children) have a right to education. Article 34(2) states that a child is entitled to basic education which shall be the responsibility of the State and the parents of the child.

In cases of internal displacement, it may be difficult for parents to follow up on such responsibility but the Government of Uganda currently provides free education that is Universal Primary Education (UPE) for primary level and Universal Secondary Education (USE) for secondary level. These primary and secondary schools are located in most communities of the country. In certain instances, distance becomes a problem but there have been efforts to establish emergency learning centres to mainly cater for pre-school children.

However, the kind of education offered in these public schools leaves a lot to be desired. Most of the classroom structures if any are poor while

³⁹ The National Policy for Internally Displaced Persons, page 28

others resort to studying under trees, the teachers do not always turn up which affects the students' pace in covering different subject syllabi and there is inadequate food supply hence the students don't feed well which also affects their studying.

In order for this public education system to function properly, there needs to be more funding to these schools in order to ensure that they can operate well and the government also needs to ensure that there are more and better structures such that learning is not hindered due to factors such as unfavorable weather for example heavy rains.⁴⁰

In Northern Uganda during the war period, most of the schools were targets for the Lord's Resistance Army and hence had to be closed due to the attacks.⁴¹ IDPs are often trapped in camps for many years and short-term humanitarian response systems are not well equipped to provide continuous funding needed to keep teachers teaching and children learning⁴² hence there is still a long way to go to ensure stable and quality education to these persons.

V. Right to family unification

Families that are separated by displacement should be reunited as quickly as possible.⁴³ Authorities are enjoined to take all appropriate steps to ensure that families are reunited especially when children are involved. This is done in their best interests as is set out in Article 3(1)⁴⁴ that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration. This principle is also reflected in the

⁴⁰ Challenges in Universal Primary Education, Red Pepper, July 2014 (<https://www.redpepper.co.ug/2014/07/challenges-in-universal-primary-education/>) [accessed 23 February 2021]

⁴¹ Profile of Internal Displacement: Uganda.

⁴² Ruth Naylor, 'The right to education for refugees and internally displaced persons', Institute of Development Studies, 9 December 2016 available at <https://www.ids.ac.uk/opinions/the-right-to-education-for-refugees-and-internally-displaced-persons/> [accessed 23 February 2021]

⁴³ The National Policy for Internally Displaced Persons, page 26

⁴⁴ United Nations Convention on the Rights of the Child

Children's Act of Uganda and a child should only be separated from the parents if it is in their best interest.

VI. Right to legal status, identification and registration

The department of Disaster Preparedness and Management undertakes biometric registration of IDPs and issues them with identification documents which are used for accessing most of the services in the displacement centres, facilitate issuance of new documents or replacement of documents that have been lost in the course of displacement without imposing unreasonable conditions such as payment or other required documents.

This however does not suffice as these displaced persons are denied their right to participate in elections through voting and being elected and this is a mandatory right under the International Covenant on Civil and Political Rights.⁴⁵

There is difficulty in identifying IDPs and their settlements in urban areas and this also makes it difficult for the Government of Uganda and humanitarian actors to address the needs of urban IDPs.⁴⁶ Whereas rural IDPs have at times had cards to affiliate them to an IDP camp as residents, it is in itself an unsatisfactory form of documentation as it is usually given to the head of the household.

Urban IDPs have no corresponding form of documentation at all to signify their displacement despite of being stated in the National Policy⁴⁷ that the District Probation and Welfare Officer is at the district level responsible for drafting and filing reports relating to the conditions of the displaced persons and maintaining a database on IDPs. Therefore,

⁴⁵ Article 25(b)

⁴⁶ Okello, Moses Chrispus and Ng, Joel (2006): RLP Working Paper 19: Invisibly Displaced Persons in Adjumani.

⁴⁷ Principle 2.4

urban IDPs often disappear into the larger population of rural urban migrants although their reasons⁴⁸ for moving are different.

3.0 CONCLUSION

International law continues to play a great role in providing guidance on how to deal with internal displacement. The United Nations Guiding principles on Internal Displacement provide guidance on displacement-specific aspects⁴⁹ which many states have now incorporated into their domestic law. Most of the rules contained in the principles are drawn from international human rights law and international humanitarian law which already play an important part in preventing displacement from happening in the first instance.

The state has done commendable work in as far as the enactment of law and policy goes in order to protect the rights of IDPs. However, implementation of these laws cripples under the brunt of practical challenges. Consequently, IDPs continue to pay the price of such under implementation at the expense of their general well being.

⁴⁸ These include inter alia; access to employment opportunities, reunification with families and frustration with lack of livelihood options in camps.

⁴⁹ Internally Displaced Persons and International Humanitarian Law, available at <https://www.icrc.org/en/document/internally-displaced-persons-and-international-humanitarian-law> [accessed 23 February, 2021]

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