

Volume 26 Issue 1

***WHEN HALF BREAD IS SIMPLY NOT ENOUGH: INTERNALLY DISPLACED CHILDREN IN THE BOKO HARAM
INSURGENCY AND NIGERIA'S OBLIGATION UNDER THE 2009 KAMPALA CONVENTION.***

Olusola Babatunde Adegbite

RECOMMENDED CITATION: Olusola Babatunde Adegbite (2022), "When Half Bread is Simply Not Enough: Internally Displaced Children in the Boko Haram Insurgency and Nigeria's Obligation Under the 2009 Kampala Convention", Volume 26 Issue 1 Makerere Law Journal pp 50-94

WHEN HALF BREAD IS SIMPLY NOT ENOUGH: INTERNALLY DISPLACED CHILDREN IN THE BOKO HARAM INSURGENCY AND NIGERIA'S OBLIGATION UNDER THE 2009 KAMPALA CONVENTION.

Olusola Babatunde Adegbite*

ABSTRACT

The obligations for Nigeria under the Kampala Convention are present and true. The Boko Haram insurgency has presented a salient problem of internal displacement caused by insurgency and other negative impacts on children. While there have been significant domestic responses to these obligations by the Government of Nigeria, there are still large impediments to the full realisation of these obligations. It is our hope that these issues are adequately addressed to usher the country's internally displaced children into a new season of robust assistance and protection.

1.0 INTRODUCTION

When it comes to armed conflicts, children bear the greatest brunt. The horrors of war in relation to children is unimaginable, with the pang manifested in diverse ways such as avoidable deaths, severe injuries/disabilities, psychological trauma, as well as internal displacement. Ultimately, the cost of this problem on the society is immeasurable.

Such children would have been separated from their family members, become seriously traumatised or in extreme cases, lost to the conflict.¹ Such is the story of children displaced by the ongoing Boko Haram insurgency in Nigeria.

* LL. B (Hons) (*Ife, Nigeria*), BL (*Lagos, Nigeria*), LL.M, (*Ife, Nigeria*), LL.M (*Cardozo School of Law, Yeshiva University, United States*), Ph.D. Candidate & Doctoral Scholar, Hertfordshire Law School, University of Hertfordshire, Hatfield, United Kingdom; Lecturer, Department of Public Law, Faculty of Law, Obafemi Awolowo University, Ile-Ife, Nigeria. Mobile Telephone: +447902460190, e-mail: olusolaadegbite@gmail.com, adegbite@law.cardozo.yu.edu I return all the praise to God Almighty through My Lord Jesus Christ, for the inspiration and wisdom to prepare this article. He alone takes all the glory.

¹ Carolyn Hamilton, 'Children in Armed Conflict: A New Move for an Old Problem' (1995) 7 (1) *Journal of Child Law* 38.

Being an internally displaced child can be a gruelling and incomprehensible state of dehumanisation. Due to separation from parents, such children lose the special care and protection, as well as materials necessarily for their condition of life, which ordinarily come to them.

Upon displacement, they end up in congested Internally Displaced Persons (IDP) camps, left at the mercy of physically and psychologically matured adults, thereby doubling their jeopardy. The dire situation in which these children live portrays an environment of neglect and abandonment by critical stakeholders especially the government, yet the same government is expected to comply with obligations under regional treaty law.

In the context of internally displaced children in the Boko Haram insurgency, Nigeria, as a state actor, has an obligation under the African Union Convention on Protection and Assistance of Internally Displaced Persons (Hereinafter the 'Kampala Convention').² However, as it appears, much of what has been rendered in terms of this obligation clearly insufficient in the current circumstances. The meagre compliance regime is as much a crisis as the problem of internal displacement of these children.

This is the focus of this article. It explores the problem of internally displaced children in this insurgency, as well as its devastating impact and Nigeria's obligation under the Kampala Convention. Importantly, it makes the case that Nigeria still has a lot to do in realising its obligation under the Convention, chief amongst which is the imperative of a specific domestic legislation in this regard. To this end, it makes sundry recommendations, which may be helpful in guiding the government in the light.

2.0 CONCEPTUALISING THE PROBLEM OF INTERNALLY DISPLACED PERSONS – THE CASE OF NIGERIA'S CHILDREN

2.1 Definition of relevant terms

For a sound conceptualisation of the problem of internally displaced children, it is important to commence this section of the article by defining a number

² African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa adopted by the Special Summit of the African Union (AU) held in Kampala, Uganda 22 Oct. 2009, ('Kampala Convention').

of terms, whose usage in the course of this work would be highly instrumental in distilling the issues, analysing the current state of affairs, and prescribing useful solutions.

2.1.1 A Child

Given that the major focus of this article is internally displaced children, it is important to understand who indeed is a child, or what is meant when a child is discussed in international and regional human rights instruments. Article 1 of the Convention on the Rights of the Child (CRC)³ defines a child as “every human being below the age of eighteen years, unless under the law applicable to the child, majority age is attained earlier”.⁴

Article 1 & 2 of the Optional Protocol to the CRC on Involvement of Children in Armed Conflicts,⁵ reaffirms this definition. It states that members of the armed forces of state parties below the age of eighteen should not take direct part in hostilities. It adds that the fact that persons who are yet to attain this age, should not be compulsorily recruited into the armed forces.⁶ A similar definition is provided in Article 2 of the African Charter on the Rights and Welfare of the Child (ACRWC)⁷.

The provision states that “*For the purpose of this charter, a child shall mean every human being below the age of 18 years*”.⁸ Importantly, Article 1 of the Kampala Convention⁹ also recognises this age, stating that a child, “*means every human being below the age of 18 years*”.¹⁰ As it is evident from the above provisions, the age of eighteen and below is the universal norm when it comes

³ Convention on the Rights of the Child (CRC) 1989 UN Gen. Ass. Res. 44/25, 20 Nov. 1989 (*entered into force* 2 Sept. 1990).

⁴ Art.1, CRC 1989.

⁵ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, UN Gen Ass. Res 54/263, 25 May 2000 (*entered into force* 12 Feb.2002).

⁶ Art.1 & 2 Optional Protocol to the CRC 2000.

⁷ African Charter on the Rights and Welfare of the Child (ACRWC), adopted by the 26th Ordinary Session of Assembly of Heads of State and Government of the OAU, Addis Ababa, Ethiopia, 11 July 1990 (*entered into force* 29 Nov. 1999).

⁸ Art.2 ACRWC 1990.

⁹ Kampala Convention 2009.

¹⁰ Art. 1 (h), Kampala Convention, 2009.

to recognising anyone as a child, at least for the determination of special rights and privileges. That will be the applicable age in this article.

2.1.2 Internally Displaced Persons (IDPs)

It is also important to understand who IDPs are in the context of current humanitarian discourse. While the issue of IDPs had become a major international concern around the 90s,¹¹ there was no central definition put forward on the term.¹² The same Article 1 of the Kampala Convention defines IDPs as:

*“Persons or group 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 conflicts, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised state border.”*¹³

This definition has been adopted in other literature dealing with the problem of IDPs.¹⁴ The London Declaration of International Law Principles on IDPs also defines IDPs as,

*“Persons internally displaced by whatever causes, such as natural or man-made disasters or large-scale developmental projects, whenever the responsible State or de facto authority fails, for reasons that violate fundamental human rights, to protect or assist the victims.”*¹⁵

2.1.3 Internal Displacement

Furthermore, it is key to understand what internal displacement means. Still under Article 1 of the Kampala Convention, the term is defined as, “the involuntary or forced movement, evacuation or relocation of persons or group

¹¹ Robert K Goldman, ‘Internal Displacement, The Guiding Principles on Internal Displacement, the Principles Normative Status and the Need for their Effective Domestic Implementation in Colombia’ (2009) 2 *ACDI Bogota* 61.

¹² Erin Mooney, ‘The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern’, (2005) 24 (3) *Refugee Survey Quarterly* 10.

¹³ Art.1 (k), Kampala Convention, 2009.

¹⁴ United Nations (UN) Guiding Principles on Internal Displacement (1998); IDMC, ‘Internal Displacement in Africa: A Development Challenge’, *Internal Displacement Monitoring Centre – Norwegian Refugee Council*, 1 – 14 at 3.

¹⁵ Luke T. Lee, ‘The Refugee Convention and Internally Displaced Persons’, (2001) 13 (3) *International Journal of Refugee Law* 363.

of persons within internationally recognised borders”.¹⁶ Two important points relates to the crisis of internal displacement.

According to Erin Mooney, two elements critical to internal displacement are that it happens involuntarily and that it takes place within national borders, clearly distinguishing it from the related concept of refugees.¹⁷ For Lewis, IDPs can be divided into two classes namely,

*“Those who are forcibly removed from their residences and resettled in another area by their government or opposition forces in their country; and those who move to another location within their own country due to ethnic persecution or other human rights abuses, civil war or other reasons.”*¹⁸

The global statistics on IDPs continues to undulate. According to the Internal Displacement Monitoring Centre (IDMC), at the end of 2018 an estimated 41 million people were in conflict and violence induced internal displacement, with 17 million of this number being children as well as 5 million youths.¹⁹ Another study puts the figure of people displaced by violence at 60 million, with at least 32 million being displaced persons.²⁰ According to Ferris, Africa has much as 5 times more IDPs than refugees.²¹

She additionally notes that as at 2010, while the number of refugees in Africa was about 2 million, the number of IDPs was about 11 million,²² with the Democratic Republic of Congo, Sudan, and Somalia holding the highest number of the continent's IDPs.²³

¹⁶ Art.1 (l) Kampala Convention,2009.

¹⁷ Erin Mooney (n 12).

¹⁸ Corinne E. Lewis, 'Dealing with the Problem of Internally Displaced Persons' (1992) 6 (4) *Georgetown Immigration Law Journal* 694.

¹⁹ IDMC & UNICEF, 'Protecting and Supporting Internally Displaced Children in Urban Settings', *Internal Displacement Monitoring Centre (IDMC) and United Nations Children Emergency Fund (UNICEF)* 3.

²⁰ K.E. Miller and A. Rasmussen, 'Take Mental Health of Civilians Displaced by Armed Conflicts: An Ecological Model of Refugee Distress' (2017) 26 *Epidemiology and Psychiatric Sciences* 129.

²¹ Elizabeth Ferris, 'Internal Displacement in Africa: An Overview of Trends and Opportunities' (2012) *Presentation at the Ethiopian Community Development Council Annual Conference African Refugees and Immigrant Lives: Conflicts, Consequences and Contributions* 1.

²² *Ibid.*

²³ IDMC (n 14) 3.

i. Refugees compared to IDPs

According to a former UN High Commissioner for Refugees (UNHCR), who is now the United Nations Secretary-General, Mr. Antonio Guterres, one thing that will define the 21st century will be the extensive movement of people being tossed to and fro by conflicts, catastrophe and opportunities, whether within their national borders or outside.²⁴ When it comes to conflicts, a common fallout is the movement of persons within and out the territory of a country, with those moving within the country referred to as IDPs and those outside called refugees.²⁵

In contemporary times, due to the high level of human mobility, the erstwhile distinction between refugees, IDPs, and migrants has greatly thinned out.²⁶ Refugees and IDPs share similarity in the sense that both terms refer to persons who have suffered displacement. There are however disparities on two key grounds. Firstly, while refugees are persons displaced from their home country who have crossed national borders, IDPs also being persons displaced, remain within their national borders.

Secondly, refugees enjoy a far more specific legal protection as against IDPs. Refugees enjoy a broad network of legal and institutional protection in the international arena such as the 1951 Convention Relating to the Status of Refugees (Hereinafter ‘the 1951 Convention’)²⁷ as well as its Protocol.²⁸ The 1951 Convention is important as it established the foundation for international protection for refugees.²⁹

There is also the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa, which addresses refugee issues from the African

²⁴ Antonio Guterres, ‘Millions Uprooted: Saving Refugees and the Displaced’, (2008) 87 (5) *Foreign Affairs* 90.

²⁵ Rebecca M.M. Wallace and Diego Quiroz, ‘Refugees and Internally Displaced Persons: A Challenge to Nation Building’ (2008) 6 (2) *Maine Law Review* 411.

²⁶ Guterres (n 24).

²⁷ Convention Relating to the Status of Refugees, 189 UNTS 150, 28 7 July 1951 (*entered into force* 22 April 1954).

²⁸ Protocol Relating to the Status of Refugees, 606 UNTS 267, 31 January 1967 (*entered into force* 4 Oct. 1967).

²⁹ Erika Feller, ‘The Evolution of the International Refugee Protection Regime’ (2001) 5 *Washington University Journal of Law & Policy* 131.

perspective,³⁰ as well as the UNHCR which provides a sort of institutional mechanism.³¹ While the work of the High Commissioner is entirely non-political in nature, but largely of a humanitarian and social character,³² the UNHCR has the mandate of ensuring the voluntary repatriation of refugees and their integration into the country where they have sought asylum or reintegration back into their country of origin.³³

What this body of protection shows is that whereas refugees appear catered for under international law, the case of IDPs presents a unique international legal challenge, as they do not have a similar framework protecting them.³⁴ As noted by Nanda, there was no effort to expand the 1951 Convention definition of 'refugee', to accommodate those who, though have fled their places of abode, do not fall within the Convention's definition.³⁵

Thus, although the lines between refugees and IDPs have become significantly blurred,³⁶ unlike refugees who had a legal standing under international law, IDPs were left to the jurisdiction of their home government, who may have been a part of the reason for displacement and may be unwilling to provide protection.³⁷ What makes internal displacement of important interest to the international community is the concern that IDPs lack assistance and protection from their home government.³⁸

This notwithstanding, IDPs as citizens or residents within a sovereign nation, are entitled to all protections under International Human Rights Law (IHRL),

³⁰ OAU Convention Governing Specific Aspects of Refugees Problems in Africa, 1001 UNTS 45, 10 Sept. 1969 (*entered into force* 20 June 1974).

³¹ Flavia Zorzi Giustiniani, 'New Hopes and Challenges for the Protection of IDPS in Africa: The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa' (2011) 39 (2) *Denver Journal of International Law & Policy* 348.

³² Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR) G.A. Res. 428 (V) Annex U.N. Doc. A/RES/U28 (V) (14 Dec. 1950).

³³ Wallace and Quiroz (n 25) 412.

³⁴ Adama Dieng, 'Protecting Internally Displaced Persons: The Value of the Kampala Convention as a Regional Example' (2017) 99 (1) *International Review of the Red Cross* 266.

³⁵ Ved P. Nanda, 'International Law and the Refugee Challenge: Mass Expulsion and Internally Displaced People' (1992) 28 (4) *Willamette Law Review* 803.

³⁶ This was demonstrated in the humanitarian crisis that engulfed armed conflict zones such as Afghanistan, East Timor, and Kosovo. See Lee (n 15) 363.

³⁷ Goldman (n 11) 61.

³⁸ Lewis (n 18) 694.

as well those of International Humanitarian Law (IHL) applicable in situations of armed conflicts.³⁹ According to Bugnion, the fact that most cases of internal displacement are primarily caused by warfare makes it important to ascertain what protection IHL affords.⁴⁰

Where such IDPs are displaced under an International Armed Conflict (IAC), they are entitled to protection under Geneva Convention IV and Additional Protocol I.⁴¹ However, displacements by reason of a Non-International Armed Conflict (NIAC), bring them under the protection of Article III common to all four Geneva Conventions i.e., Common Article III, Additional Protocol II, as well as customary international laws applicable in such situation.⁴²

The applicability of IHRL to IDPs is based on the fact that human rights norms apply generally to all persons and at all times.⁴³ They are also protected under the United Nations (UN) Guiding Principles on Internal Displacement (1998). The general perception however still remains that IDPs, despite being in their country, lack adequate legal protection, which is often a function of the circumstances of their displacement, the absence of state protection, and the fact that given that they are on the move, protecting their rights requires a specific legislation.⁴⁴

Despite the recognition of the sovereign right of countries to protect their citizens under international law, certain impediments such as political instability and the control of territories by armed groups may make this impracticable.⁴⁵ Such is the case with the Boko Haram insurgency in Nigeria, where the activities of the Boko Haram insurgent group have rendered several parts of the northeast a hotbed of hostilities.

³⁹ Dieng (n 34) 266; Francois Bugnion, 'Refugees, Internally Displaced Persons and International Humanitarian Law' (2005) 28 (5) *Fordham International Law Journal* 1410.

⁴⁰ Bugnion (n 39) 1399.

⁴¹ *Ibid* 1410.

⁴² *Ibid*.

⁴³ Dieng (n 34) 266.

⁴⁴ *Ibid*.

⁴⁵ *Ibid* 267.

The plight of IDPs has continued to remain a major concern for the UNHCR as well as the humanitarian community, given the monstrous number of displaced persons in recent conflict zones such as Colombia, Iraq, Sri Lanka and Sudan.⁴⁶ In particular, the case of about two million persons displaced in Darfur, Sudan as well as the about 250, 000 in Chad Republic has been regarded as presenting some of the most difficult challenges.⁴⁷

In addition, compared to refugees, IDPs are disadvantaged in the sense that they cannot be rendered assistance by international organisations, unless the government of their home makes a request.⁴⁸

3.0 INTERNALLY DISPLACED CHILDREN IN THE BOKO HARAM INSURGENCY

3.1 Internal Displacement by the Insurgency

Nigeria today houses one of the largest IDP populations in the world, following widespread violence and terror caused by more than ten years of the Boko Haram insurgency. In leading research of the seven causes of forced displacement in the Lake Chad region conducted by the UNHCR and the World Bank, the Boko Haram insurgency has been identified as the most significant of all.

It was found to be responsible for about 70% of the displaced population in the four countries affected by the insurgency namely Cameroon, Chad Republic, Niger, Republic and Nigeria.⁴⁹ Of the 3.5 million persons displaced in these four countries, 2.5 million were displaced by the Boko Haram insurgency, with 92% of this number internally displaced within the national borders of each of these countries.⁵⁰

⁴⁶ Guterres (n 24) 94.

⁴⁷ *Ibid.*

⁴⁸ Eme T. Owoaje, et al, 'A Review of the Health Problems of the Internally Displaced Persons in Africa' (2016) 23 *Nigerian Postgraduate Medical Journal* 161.

⁴⁹ UNHCR and World Bank, 'Forced Displacement by the Boko Haram Conflict in the Lake Chad Region', (2016), *UNHCR – The UN Refugee Agency & The World Bank* 33.

⁵⁰ *Ibid*; In another report, the UNHCR says the insurgency has displaced about 2.4 million people in the Lake Chad basin. See UNHCR, 'Nigeria Emergency', *UNHCR – UN Refugee Agency*, < <https://www.unhcr.org/nigeria-emergency.html> >accessed 27 August 2020.

That however does not mean that the problem of IDPs is unique to Nigeria alone. For instance, over 5 million people are reported to be displaced annually due to insurgencies, political instability and activities of terrorist groups operating in the Middle East region, as well as sub-Saharan Africa.⁵¹ By 2015, the estimate of IDPs globally was at 40.8 million, with about 12 million displaced by conflict in sub-Sahara Africa.⁵²

The Boko Haram insurgency group, which has been at war with Nigeria since 2009, has wreaked massive havoc majorly in the three north-eastern states of Adamawa, Borno and Yobe. As the Military recover territories from the group, it also rescues persons who have been trapped, mainly women and girls, who are then taken to IDP camps.⁵³ In March 2016 alone, about 11, 595 hostages were rescued from the group by the military.⁵⁴

Specifically, 1.9million IDPs out of the 2.5 million mentioned above are displaced within Nigeria, which makes it the country with the highest IDP population in the world.⁵⁵ Maiduguri, the capital of Borno state and the epicentre of the insurgency holds about 825, 000 of these IDPs, representing about 36% of the total number of persons displaced by Boko Haram in the region.⁵⁶

In northeast Nigeria, where these 1.9 million persons were displaced, about 60% are children, with 1 in 4 being under the age of five.⁵⁷ According to the IDMC, in the first part of 2019 about 142,000 new cases of internal displacement was recorded in the country, with 140,000 of this number from

⁵¹ Owoaje, et al (n 48) 161.

⁵² *Ibid.*

⁵³ Francisca Vigaud-Walsh, 'Nigeria's Displaced Women and Girls: Humanitarian Community at Odds, Boko Haram's Survivors Forsaken' *Refugees International* (April 21, 2016) 6.

⁵⁴ *Ibid.*

⁵⁵ UNHCR and World Bank (n 49) 33.

⁵⁶ *Ibid* 35.

⁵⁷ UNICEF, '19 Million Children Internally Displaced by Conflict and Violence in 2019 is Highest Number ever, says UNICEF', *UNICEF* (5 May 2020) < <https://www.unicef.org/nigeria/press-releases/19-million-children-internally-displaced-conflict-and-violence-2019-highest-number> > accessed 27 August 2020.

conflicts.⁵⁸ In these episodes of displacement, women and children are often the most affected.⁵⁹

3.2 Impact of Internal Displacement on Children

As persons of tender years and high vulnerability, children are certain to be the most affected whenever internal displacement occurs. According to Olusegun and Ogunfolu, internal displacement is a major dislocation in the lives of children, given that it exposes them to grave danger in a period of life when they should be accorded protection.⁶⁰

Internally displaced children have mostly their education and future aspirations affected. A significant number of the more than 27 million children without access to education are internally displaced.⁶¹ Due to the Boko Haram Insurgency, violence and attacks in northeast Nigeria and adjoining countries have ensured that about one million children are out of school.⁶²

A few factors have been identified as barriers that impede internally displaced children from enjoying their right to education. These include the disadvantaged location of IDP camps, the risk of abduction or abuse while walking to school, loss of documents required for school enrolment, difficulty in buying learning materials, the use of children to fend for their families, and the notion that education is only important when the war has ended.⁶³

In addition, the health of such children is likely to be impacted. Susceptibility to communicable and non-communicable diseases is high, with leading

⁵⁸ Bethel O. Adedeji, Tosin Adebayo and Emem M. Udo, 'Malnutrition Amongst Internally Displaced Children: A Consequence of Armed Conflicts in Nigeria', (2019) 7 (2) *Journal of Global Peace and Conflict* 32.

⁵⁹ *Ibid.*

⁶⁰ Olaitan O. Olusegun and Adedokun Ogunfolu, 'Protecting Internally Displaced Children in Armed Conflicts: Nigeria in Focus' (2019) 9 (2) *Notre Dame Journal of International and Comparative Law* 37.

⁶¹ Erin Mooney and Collen French, 'Barriers and Bridges: Access to Education for Internally Displaced Children', *BROOKINGS* < https://www.brookings.edu/wp-content/uploads/2016/06/20050111_mooney.pdf > accessed 27 August 2020.

⁶² UN, 'Nigeria's Boko Haram Insurgency Forces One Million Children From School', *UN News* (22 December 2015) < <https://news.un.org/en/story/2015/12/518742-nigerias-boko-haram-insurgency-forces-one-million-children-school-unesf> > accessed 27 August 2020.

⁶³ Olusegun and Ogunfolu (n 60) 39.

examples being fever, cough, and diarrhoea.⁶⁴ Communicable diseases are prevalent given the terrible living conditions in the IDP camps, attributable to environmental factors such as poor waste disposal, sanitation, overcrowding, insufficient access to water and medical services.⁶⁵

Notably, the prevalence of these diseases is more amongst children, signifying their high vulnerability.⁶⁶ There is also the issue of these children suffering from malnutrition. According to Gillian Dunn, “such children can also suffer from malnutrition, whether of the mild or acute form, which in some cases can even lead to death”.⁶⁷ Malnutrition is a contributory factor in about 45% of child deaths globally.⁶⁸

Maslen states that in times of armed conflicts, malnutrition and preventable diseases kill more children than bullets and bombs.⁶⁹ For instance, in the Democratic Republic of Congo, malnutrition was found to be a primary cause of death in 8.5% of child deaths that happened in non-conflict situations, and the cause of 10.9% deaths in conflict situations.⁷⁰

In the context of the Boko Haram insurgency, Nsude and Nwanchor have observed that regions where the insurgency is rife have not known normalcy. This is seen in cases of human rights abuses, population displacement, loss of means of livelihood, food insecurity, and nutritional issues regarding children in the IDP camps.⁷¹

Sexual and Gender-based Violence (SGBV) is another consequence of such displacement. As rightly observed, internally displaced children are prone to SGBV, whether from within the IDP camps or from outside, due majorly to

⁶⁴ Owoaje, et al (n 48)169.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Gillian Dunn, ‘The Impact of the Boko Haram Insurgency in Northeast Nigeria on Childhood Wasting: A Double-Difference Study’ (2018) 12 (2) *Conflict and Health* 1.

⁶⁸ *Ibid.*

⁶⁹ Stuart Maslen, ‘Relevance of the Convention on the Rights of the Child to Children in Armed Conflicts’ (1996) 6 (2) *Transnational Law and Contemporary Problems* 332.

⁷⁰ Dunn (n 67) 1.

⁷¹ Ifeyinwa Nsude and Stephen Elem Nwanchor, ‘Reporting Nutrition and the Rights of the Nigerian Child: Focus on Internally Displaced Children in Boko Haram Insurgency in Nigeria’ (2017) 19 (8) *IOSR Journal of Business and Management* 103.

challenges of security.⁷² In this respect, rape has been recognised as a deliberate and widespread weapon of war. It has been used to demoralise the people in situations of conflict, a tactic that has been alleged in places such as the Democratic Republic of Congo, Rwanda, and Sudan.⁷³

The result is that women, who are often the target of this evil act, are left with long-term psychological and physical injuries.⁷⁴ Given that one-third of those affected by conflict are adolescents³, the risk they are exposed to is further complicated by the fact that they are likely not to have access to health systems, information, counselling, or guidance.⁷⁵ With the outbreak of the COVID-19 pandemic, the health risk of internally displaced children has heightened.

This is properly captured by the UNICEF Representative in Nigeria, Peter Hawkins who notes that:

“Hundreds of thousands of children in in north-east Nigeria are living in the shadow of conflict – and now in the increasingly challenging shadow of a global pandemic and its potential socio-economic aftermath.”⁷⁶

He further adds that:

“When a new crisis like the COVID-19 pandemic emerges, displaced children are especially vulnerable and gaps in in our ability to keep them safe are even starker. We must urgently work together - all of us, government and humanitarian partners – to keep them safe, healthy, learning and protected.”⁷⁷

It has been noted that the complex humanitarian crisis from internal displacement deepens health disparities, which renders millions of displaced persons susceptible to the COVID-19 virus.⁷⁸

⁷² Olusegun and Ogunfolu (n 60) 40.

⁷³ Judy Austin, et al, 'Reproductive Health: A Right for Refugees and Internally Displaced Persons' (2008) 16 (31) *Reproductive Health Matters* 15.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ UNICEF, '19 million Children Internally Displaced by Conflict and Violence in 2019 is Highest Number ever, says UNICEF', *UNICEF Nigeria* (5 May 2020).

⁷⁷ *Ibid.*

⁷⁸ Obasesam Okoi and Tatenda Bwawa, 'How Health Inequality Affects Responses to the COVID-19 Pandemic in Sub-Saharan Africa' (2020) 135 *World Development* 3.

4.0 AFRICA'S GOVERNANCE REGIME ON INTERNALLY DISPLACED PERSONS: NIGERIA'S OBLIGATION AS IT RELATES TO CHILDREN

On the precarious situation of refugees and internally displaced women in Africa, Oloka-Onyango notes that the international community has so far failed to develop a proper framework for the protection of IDPs, much less women caught in this situation.⁷⁹ Interestingly, the same is the case of internally displaced children on the African continent.

What this means is that the only basis of determining any country's obligation towards these infants is by examining the framework governing IDPs generally. To craft a solution to the escalating problem of IDPs, the UN Commission on Human Rights in 1992 engaged a former Minister of State for Internal Affairs in Sudan, who was that year appointed as the UN Secretary-General's Special Representative on IDPs,⁸⁰ Mr. Francis Deng. He was to look into the existing international legal regime to establish how it can be applied to the protection of IDPs.⁸¹

In the course of his work, Mr. Deng visited eight countries facilitating both scholarly and expert evaluation of the existing legal norms and institutional mechanisms governing IDPs.⁸² His work subsequently culminated in the development of the 1998 Guiding Principles on Internal Displacement. This sought to clarify the gaps in the existing international humanitarian law, human rights, as well as refugee law, to the end that it can protect IDPs before, during and after displacement.⁸³

Contextualising the problem of internal displacement, Mr. Deng observed that, "the tendency in the international community is to respond to the crisis with humanitarian relief assistance, with little or no attention given to

⁷⁹ J. Oloka-Onyango, 'The Plight of the Larger Half: Rights, Gender Violence and the Legal Status of Refugee and Internally Displaced Women in Africa' (1996) 24 (2) *Denver Journal of International Law & Policy* 351.

⁸⁰ *Ibid.*

⁸¹ Giustiniani (n 31) 349.

⁸² Elizabeth E. Ruddick, 'The Continuing Constraints of Sovereignty: International Law, International Protection and the Internally Displaced' (1997) 77 (2) *Boston University Law Review* 434.

⁸³ Giustiniani (n 31) 349.

protection”.⁸⁴ He then noted that internal displacement is not only a humanitarian issue, but also a human rights concern.⁸⁵ Flowing from this, internal displacement has long been recognised as a humanitarian as well as a human rights issue, in addition to being a security concern.⁸⁶

With this in mind, African governments have come to the realisation that the twin obligation of recognising the human rights of IDPs and agreeing to its protection, is fundamental in addressing this problem and its overall implications.⁸⁷ While earlier efforts had been made on the African continent towards dealing with the issue of displacement,⁸⁸ the first attempt at providing direct protection to IDPs took place with the adoption of the 2009 Kampala Convention.

An examination of the obligation of state parties under this Convention, with direct focus on that of Nigeria, will form the core of this section of the article. However, before commencing this examination, it is useful to examine the process leading to the convention.

4.1 Road leading to the Adoption of the Convention

The Kampala Convention is the first regional instrument, enacted to address the problem of IDPs in Africa, particularly one that binds States to respecting and fulfilling the civil/political as well as socio-economic rights of IDPs.⁸⁹ On the road to making the convention, states in Africa had been collaborating with the AU, its partners in the UN, and other intergovernmental organisations and CSOs towards developing a unique African protective mechanism for refugees and IDPs on the continent.⁹⁰

⁸⁴ Francis Mading Deng, 'The Global Challenge of Internal Displacement' (2001) 5 *Washington University Journal of Law & Policy* 143.

⁸⁵ *Ibid.*

⁸⁶ IDMC (n 14) 4.

⁸⁷ *Ibid.* 5.

⁸⁸ For instance, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. 10 Sept.1969 1001 U.N.T.S 45.

⁸⁹ IDMC (n 14) 5.

⁹⁰ ECOSOCC, 'Developments Leading Up to the Kampala Convention', in *Making the Kampala Convention Work for IDPs*, (AU Economic, Social, and Cultural Council - ECOSOCC; Internal Displacement Monitoring Centre - IDMC; and Norwegian Refugee Council - NRC) (July 2010) 1- 32 at 9.

Within the same breath, the OAU and its successor body the AU continued to deploy strategies towards addressing the problem of IDPs.⁹¹ A key example was a seminar on African refugees and IDPs organised by the African Commission on Human and Peoples Rights (ACHPR) which held in Harare Zimbabwe in 1994. There, it was concluded that the problem of African refugees and IDPs was a violation of human rights and constitutes a major threat to peace and orderly development on the continent.⁹²

The position of this seminar demonstrated the fact that African governments had come to recognise the IDP issue as a problem for the continent and were determined to confront it, whether by themselves or with international collaboration.⁹³ This determination was followed by the appointment of ACHPR Commissioner, Bahame Nyanduga as Special Rapporteur on Refugees, Asylum Seekers and IDPs in Africa to act on information regarding refugees, asylum seekers and IDPs and assist member states of the AU in developing appropriate legal and policy framework in this regard.⁹⁴

On the strength of its earlier efforts, the AU Executive Committee in July 2004 set out to enact a legal framework for the protection of IDPs, and two years later a draft convention was endorsed at a ministerial conference at the Burkina Faso capital, Ouagadougou.⁹⁵ This was also alongside with decisions of the ACHPR in Addis Ababa, Ethiopia and Banjul, Gambia in June 2006, which requested the ACHPR to fast-track work on a final draft of the convention.⁹⁶

These moves clearly recognised the critical issues within the 1998 UN Guiding Principles on Internal Displacement.⁹⁷ One of these was its non-binding

⁹¹ Dieng (n 34) 270.

⁹² *Ibid* at 271.

⁹³ *Ibid*.

⁹⁴ ACHPR Res. 72 (XXXVI) 04 adopted at Dakar during the 36th Ordinary Session of the Commission 2004.

⁹⁵ ECOSOCC (n 90) 9.

⁹⁶ Dieng (n 34) 272.

⁹⁷ *Ibid*.

nature despite being the only global document on internal displacement,⁹⁸ and the other, the fact that it did not prescribe any direct solution as well as accountability for the IDP crisis in continent.⁹⁹ It also reflected the stern political will of governments on the continent to surmount the IDP issue.¹⁰⁰

These efforts were however not without its peculiar challenges, as some states felt it was unnecessary to adopt a regional instrument to deal with an issue, that was purely an internal affair of a country and one that was likely to violate their sovereign rights of non-interference.¹⁰¹ However, the mounting nature of the problem worked in favour of the convention. Several states housing a large population of IDPs likely to become vulnerable to recruitment by armed groups came to the realisation that solving the problem would require international cooperation.¹⁰²

This is particularly so as it has been noted that refugees and IDPs have for long been the target of recruitment, by both state and non-state actors.¹⁰³ Following a series of consultative meetings with African civil society groups and international partners, a draft convention was subsequently adopted at another ministerial meeting in November 2008.¹⁰⁴ A final draft of the convention was later adopted at a special summit that held in Kampala, Uganda between 22 and 23 October 2009.¹⁰⁵

As Adeola noted at the special summit, Nigeria was a part of the first set of seventeen countries to sign the convention.¹⁰⁶ The Convention has been referred to as leading the way, with respect to the commitment demonstrated

⁹⁸ Faith Osasumwem Olanrewaju, Femi Omotoso and Joshua Olaniyi Alabi, 'Datasets on the Challenges Forced Displacement and Coping Strategies Among Displaced Women in Selected Internally Displaced Persons (IDPs) Camps in Nigeria' (2018) 20 *Data Brief* 152.

⁹⁹ Dieng (n 34) 272.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ Maja Janmyr, 'Recruiting Internally Displaced Persons into Civil Militias: The Case of Northern Uganda' (2014) 32 (3) *Nordic Journal of Human Rights* 200.

¹⁰⁴ ECOSOCC (n 90) 9.

¹⁰⁵ *Ibid.*

¹⁰⁶ Romola Adeola, 'Kampala Convention and Protection of IDPs in Nigeria', *The Punch Newspaper* (28 April 2016) < <https://punchng.com/kampala-convention-protection-idps-nigeria/#:~:text=On%20April%2017%2C%202012%2C%20Nigeria,to%20ratify%20the%20Kampala%20Convention.&text=Unlike%20the%20draft%2> > accessed 27 August 2020.

by African government in dealing with a common problem and the fact that it sets the pace for the international protection regime for IDPs.¹⁰⁷ It has also been described as the first major effort at translating the UN Guiding Principles on IDPs into a legally binding instrument.¹⁰⁸

In the preamble to the Kampala Convention, the African Union (AU) reinstates its consciousness of “*the gravity of the situation of internally displaced persons as a source of continuing instability and tension for African states*”. It also re-establishes the “*suffering and specific vulnerability of internally displaced persons*”. It recalls several related and predecessor instruments in this regard.

For instance the 1948 Universal Declaration of Human Rights,¹⁰⁹ the four Geneva Conventions of 1949¹¹⁰ and the two Additional Protocols of 1977,¹¹¹ the 1951 United Nations Convention Relating to the Status of Refugees as well as the 1967 Protocol Relating to the Status of Refugees,¹¹² the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa,¹¹³ 1981 African Charter on Human and Peoples’ Rights,¹¹⁴ the 1990 African Charter

¹⁰⁷ Adama Dieng (n 34) 272.

¹⁰⁸ Lauren Groth, ‘Engendering Protection: An Analysis of the 2009 Kampala Convention and its Provisions for Internally Displaced Women’ (2011) 23 (2) *International Journal of Refugee Law* 222.

¹⁰⁹ Universal Declaration of Human Rights (UDHR) (10 Dec. 1948) UNGA Res. 217A (III).

¹¹⁰ The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31 (Hereinafter Geneva I); The Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85 (Hereinafter Geneva II); The Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 (Hereinafter Geneva III); and The Geneva Convention Relative to the Protection of Civilian Person in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 (Hereinafter Geneva IV).

¹¹¹ The Protocol Additional to the Geneva Conventions Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, 1125, U.N.T.S. 3 (Protocol I); The Protocol Additional to the Geneva Conventions Relating to the Protection of Victims of Non-International Armed Conflicts 8 June 1977, 1125, U.N.T.S. 609, (Additional Protocol II).

¹¹² Convention Relating to the Status of Refugees, 189 UNTS 150, 28 7 July 1951 (*entered into force* 22 April 1954); Protocol Relating to the Status of Refugees, 606 UNTS 267, 31 January 1967 (*entered into force* 4 Oct. 1967).

¹¹³ OAU Convention Governing Specific Aspects of Refugees Problems in Africa, 1001 UNTS 45, 10 September 1969 (*entered into force* 20 June 1974).

¹¹⁴ African Charter on Human and Peoples’ Rights (ACHPR) 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) (*entered into force* 21 October 1986).

on Rights and Welfare of the Child¹¹⁵ and other UN/AU instruments as well as UNSC resolutions.

Nigeria is a party to the Kampala Convention, having ratified it on 17 April 2012¹¹⁶ and becoming the 12th country to deposit its instrument of ratification with the African Union Commission.¹¹⁷ Some of the Convention's key objectives include to enhance both regional and domestic measures towards tackling the causes of internal displacement and to provide a legal regime on the continent that would protect and assist IDPs. The Convention is also to ensure collaboration amongst state parties to solve the challenge of internal displacement, and to define the obligation of both state and non-state actors, with regards to prevention of internal displacement and protection/assistance of IDPs when displacement has happened.¹¹⁸

The convention imposes certain obligation on governments, which obligations are meant to be accorded necessary domestic implementation, flowing from the same political will by which the convention was ratified in the first place. The implication is that these same obligations are expected to have been given the full force of State response in the Boko Haram insurgency. An overview of these obligations is important in identifying the current gaps in Nigeria's domestic implementation response and what needs to be done.

Unlike the 1998 UN Guiding principles, the Convention does not deal with the problem of IDPs from the perspective of simply IDP rights. It looks through the lens of the State, holding it to the primary obligation to address the problem of IDPs, along with the complementary effort of international organisations and humanitarian agencies.¹¹⁹ Therefore, fundamentally it is the obligation of the State to prevent displacement, rather than the right of the IDP not to be displaced.¹²⁰

¹¹⁵ ACRWC 1990.

¹¹⁶ Adeola (n 106).

¹¹⁷ Theresa U Akpoghme, 'Internally Displaced Person in Nigeria and the Kampala Convention' (2015) 18 *Recht in Africa – Law in Africa – Droit en Afrique* 67.

¹¹⁸ Art. 2, Kampala Convention 2009.

¹¹⁹ Dieng (n 29) 275.

¹²⁰ *Ibid.*

Obligation under the Convention is principally divided into three main categories i.e., that of state parties, that of international organisations/agencies and that of the African Union. Amongst these three, state parties hold the largest spectrum of obligations. This is of course not surprising, given that while international organisations and the AU are simply non-state actors connected to the problem by reason of the regional framework, state parties are indeed those who house both the IDPs and the challenges subsequent to their displacement.

To this end, the obligation of state parties is spread over large sections of the Convention. It commences with Article 3, which divides the general obligation of state parties into two sub-divisions. These are the obligations that the state party directly acquires by being a signatory to the Convention and the obligation to take domestic measures towards the realisation of these first-line obligations. Though these obligations apply to all state parties to the Convention, the analysis here is directed at Nigeria, to see how these obligations directly apply to the government.

The first set of obligations are those which are required to be implemented even before any Nigerian is displaced.¹²¹ In furtherance of this, part of the obligations in Article 3 require Nigeria to, “refrain from, prohibit, and prevent arbitrary displacement of populations”,¹²² It also encourages, “respect and ensure respect for the principles of humanity and human dignity of internally displaced persons”.¹²³ Equally, Nigeria is expected to:

“Respect and ensure respect and protection of the human rights of internally displaced persons, including humane treatment, non-discrimination, equality and equal protection of the law”,¹²⁴ and at the same time, “respect and ensure respect for international humanitarian law regarding the protection of internally displaced persons.”¹²⁵

¹²¹ ICRC, ‘Internal Displacement in Northeast Nigeria: Operationalising the Kampala Convention in Borno, Adamawa and Yobe States’, (2016), *International Committee of the Red Cross (ICRC)*, 1 – 54 at 22.

¹²² Art. 3 (1) (a) Kampala Convention, 2009.

¹²³ Art. 3 (1) (c) *Ibid.*

¹²⁴ Art. 3 (1) (d) *Ibid.*

¹²⁵ Art. 3 (1) (e) *Ibid.*

Furthermore, the convention imposes an obligation on Nigeria to, “ensure individual responsibility for acts of arbitrary displacement, in accordance with applicable domestic and international criminal law”.¹²⁶ It must also:

“Ensure the accountability of non-state actors concerned, including multinational companies and private military or security companies, for acts of arbitrary displacement or complicity in such act.”¹²⁷

This provision has been termed as innovative, since the predecessor 1998 UN Guiding principles did not provide for such accountability mechanism, more so when it was not even a binding instrument.¹²⁸ Also, Nigeria is enjoined by the convention to:

“Ensure assistance to internally displaced persons, by meeting their basic needs as well as allowing and facilitating rapid and unimpeded access by humanitarian organisations and personnel,”¹²⁹ and “promote self-reliance and sustainable livelihoods amongst internally displaced persons, provided that such measures shall not be used as a basis for neglecting the protection of and assistance to internally displaced persons, without prejudice to other means of assistance”.¹³⁰

On the other side of Article 3, the Nigerian government is required to:

1. Establish a domestic framework for their obligation under the convention, by either enacting fresh legislations or amending existing ones.¹³¹
2. Create institutions whose core responsibility would be to protect and assist IDPs and where no such institution is yet to be created, ensure cooperation with international agencies and civil society organisations.¹³²
3. Come up with strategies and policies on internal displacement at the national and local level that incorporate the peculiarities of the host communities.¹³³

¹²⁶ Art. 3 (1) (g) *Ibid.*

¹²⁷ Art. 3 (1) (h) *Ibid.*

¹²⁸ Dieng (n 34) 276.

¹²⁹ Art. 3 (1) (j) Kampala Convention, 2009.

¹³⁰ Art. 3 (1) (k) *Ibid.*

¹³¹ Art. 3 (2) (a) *Ibid.*

¹³² Art. 3 (2) (b) *Ibid.*

¹³³ Art. 3 (2) (c) *Ibid.*

4. Make available, to the extent possible, funds needed for protecting and assisting IDPs.¹³⁴
5. Work towards incorporating the principles of the convention into domestic peace agreements, with the aim of engendering sustainable solutions to the problem of internal displacement.¹³⁵

The Convention in Article 4 especially sub-section four,¹³⁶ provides for the right of individuals against displacement, individuals who in this case would be citizens of Nigeria. Extending the framework of obligation, Article 4(6) imposes a duty on Nigeria to align its domestic criminal legislations, with international criminal law. It states that, “state parties shall declare as offences punishable by law acts of arbitrary displacement that amounts to genocide, war crime and crimes against humanity”.¹³⁷

This provision is commendable, as not only does it shows cooperation between regional and international instruments, but it also does so within the context of the often ignored problem of IDPs. Another layer of obligations imposed on state parties is in Article 5. Under this provision, Nigeria’s additional obligations, include the following:

1. It has the primary responsibility of providing protection and assistance to IDPs within their territory, on a non-discriminatory basis.¹³⁸
2. It is required to cooperate with other states in carrying out protection and assistance to IDPs.¹³⁹
3. It shall respect the mandate of the AU, the UN as well as international organisations in carrying out this obligation in line with international law.¹⁴⁰
4. It shall assess the needs of IDPs and host communities, working hand in hand with international organisations.¹⁴¹

¹³⁴ Art. 3 (2) (d) *Ibid.*

¹³⁵ Art. 3 (2)(e) *Ibid.*

¹³⁶ Art. (4)(4) *Ibid.*

¹³⁷ Art. 4 (6) *Ibid.*

¹³⁸ Art. 5 (1) *Ibid.*

¹³⁹ Art. 5 (2) *Ibid.*

¹⁴⁰ Art. 5 (3) *Ibid.*

¹⁴¹ Art. 5 (5) *Ibid.*

5. It shall provide adequate protection and assistance to IDPs. However, where it is unable to do so due to paucity of resources, it shall seek the assistance of relevant actors such as international organisations and civil society groups.¹⁴²
6. It shall effectively organise relief actions, as well as ensure due and unimpeded delivery of relief materials and personnel, and shall have the right to determine how such delivery is carried out.¹⁴³
7. It shall uphold and ensure respect for humanitarian principles and independence of humanitarian actors.¹⁴⁴
8. It shall respect, protect, and not harm humanitarian personnel or resources deployed for the benefit of IDPs.¹⁴⁵

In particular, the Convention has been commended for the obligation imposed on states to respect humanitarian principles.¹⁴⁶ The argument is that this would ensure that states do not politicise humanitarian assistance rendered in response to the IDP problem.¹⁴⁷

Article 6 imposes an obligation on international organisations and humanitarian agencies, to discharge their duty in line with international law and the domestic law of the host country where they operate. They are also to respect the rights of IDPs in line with international law, and be bound by the principles of humanity, neutrality, impartiality and the independence of humanitarian actors as well as international standards.¹⁴⁸ Article 7(3) states that the protection and assistance of IDPs would be governed by international law, specifically international humanitarian law.¹⁴⁹ Article 7(4) adds that armed groups shall be criminally responsible for their acts which violate the rights of IDPs under both international law and domestic law.¹⁵⁰

¹⁴² Art. 5 (6) *Ibid.*

¹⁴³ Art. 5 (7) *Ibid.*

¹⁴⁴ Art. 5 (8) *Ibid.*

¹⁴⁵ Art. 5 (10) *Ibid.*

¹⁴⁶ Dieng (n 34) 277.

¹⁴⁷ *Ibid.*

¹⁴⁸ Art. 6 (1) (2) & (3) Kampala Convention 2009.

¹⁴⁹ Art. 7 (3) *Ibid.*

¹⁵⁰ Art. 7 (4) *Ibid.*

Under Article 8, the Convention imposes some obligations on the AU, which include:

1. It can intervene in a member state following a decision of the Assembly in line with Article 4 (h) of the constitutive act relating crimes such as war crimes, genocide, and crimes against humanity.¹⁵¹
2. Respect the right of a state party to request intervention in line with Article 4 (j) of the constitutive act.¹⁵²
3. Give support to states in their effort at protecting and assisting IDPs.¹⁵³

A critical aspect of the Convention is the obligation imposed on state parties during a situation of actual internal displacement. In this respect, notwithstanding the probable cause of displacement, Nigeria has further obligations to protect the rights of IDPs. This is by *itself* refraining from, while at the same time, preventing the happening of the following acts:

1. Discrimination against such people on the basis that they are IDPs.¹⁵⁴
2. The commission of crimes such as genocide, war crimes, crimes against humanity, and other violation of IHL against the IDPs.¹⁵⁵
3. Arbitrary killing, detentions, executions, abduction, torture and other forms of degrading and inhuman treatments.¹⁵⁶
4. Sexual and gender based violence in all forms.¹⁵⁷
5. Starvation¹⁵⁸

Within the same breadth, Nigeria is expected to accord IDPs with the following:

1. Take measures to ensure that they received without discrimination and kept in conditions of safety, dignity and security.¹⁵⁹

¹⁵¹ Art. 8 (1) *Ibid.*

¹⁵² Art. 8 (2) *Ibid.*

¹⁵³ Art. 8 (3) *Ibid.*

¹⁵⁴ Art. 9 (1) (a) *Ibid.*

¹⁵⁵ Art. 9 (1) (b) *Ibid.*

¹⁵⁶ Art. 9 (1) (c) *Ibid.*

¹⁵⁷ Art. 9 (1) (d) *Ibid.*

¹⁵⁸ Art. 9 (1) (e) *Ibid.*

¹⁵⁹ Art. 9 (2) (a) *Ibid.*

2. Provide them without delay and to the full extent practicable, humanitarian assistance such as food, water, shelter, medical care, sanitation, education, and other social services right for them, as well as extend the same to the host communities where needful.¹⁶⁰
3. Provide special protections and assistance to IDPs with special needs such as separated and unaccompanied children, female heads, expectant mothers, women with young children, the elderly, persons with disabilities, and those with communicable diseases.¹⁶¹
4. Specially protect and provide for the reproductive and sexual health requirements of women IDPs and psycho-social support to victims of sexual and other connected abuses.¹⁶²
5. Respect the right of the IDPs to seek safety in another part of the country and not mandate their forceful return to a place where their life, liberty or health will be in jeopardy.¹⁶³
6. Guarantee their right to freedom of movement and residence, except where such restriction is justified and proportionate, for the security of the IDPs or that of the general public.¹⁶⁴
7. Respect and maintain the civilian and humanitarian arrangement of where the IDPs are housed, while also protecting the facility against invasion by armed groups.¹⁶⁵
8. Put in place measures towards tracing and reuniting separated families.¹⁶⁶
9. Ensure that the place where the IDPs are sheltered is protected from environmental degradation, whether such is within the government's jurisdiction or under its control.¹⁶⁷
10. Allow IDPs to participate in decision making on matters of their protection and assistance.¹⁶⁸

¹⁶⁰ Art. 9 (2) (b) *Ibid.*

¹⁶¹ Art. 9 (2) (c) *Ibid.*

¹⁶² Art. 9 (2) (d) *Ibid.*

¹⁶³ Art. 9 (2) (e) *Ibid.*

¹⁶⁴ Art. 9 (2) (f) *Ibid.*

¹⁶⁵ Art. 9 (2) (g) *Ibid.*

¹⁶⁶ Art. 9 (2) (h) *Ibid.*

¹⁶⁷ Art. 9 (2) (j) *Ibid.*

¹⁶⁸ Art. 9 (2) (k) *Ibid.*

11. To ensure that IDPs who are citizens of the host government are allowed to exercise their civic and political rights, such as voting and being elected into office in periodic elections.¹⁶⁹

12. Ensure the monitoring and evaluation of the impact of humanitarian assistance to IDPs in accordance with existing practice, inclusive of the spheres standard.¹⁷⁰

Importantly, the Nigerian government is expected to discharge the above obligations in cooperation with international organisations, humanitarian agencies, civil society groups, and other groups.¹⁷¹

Nigeria is obligated under Article 11 to create a lasting solution to the problem of internal displacement through a mechanism of voluntary return, local integration or relocation, in a sustainable manner.¹⁷² IDPs are expected to make an informed choice and participate in the decision-making on any of these choices,¹⁷³ with the government cooperating with international partners to ensure the realisation of any of these outcomes.¹⁷⁴ It shall also ensure a mechanism for resolving disputes relating to the property of IDPs.¹⁷⁵

The government also has an obligation to create and maintain an up-to-date register of all IDPs in its jurisdiction and under its control and ensure that all IDPs are issued new copies of relevant national documents or replacement of lost ones. It will ensure that the same right of documentation is accorded to men, women, as well as unaccompanied children alike.¹⁷⁶ In November 2012, Swaziland became the 15th country to ratify the convention while the document came into force on 16th December 2012.¹⁷⁷

The Convention provides enforceable guidance on the protection and assistance of IDPs, and takes the core issues beyond just the humanitarian

¹⁶⁹ Art. 9 (2) (l) *Ibid.*

¹⁷⁰ Art. 9 (2) (m) *Ibid.*

¹⁷¹ Art. 9 (3) *Ibid.*

¹⁷² Art. 11 (1) *Ibid.*

¹⁷³ Art. 11 (2) *Ibid.*

¹⁷⁴ Art. 11 (3) *Ibid.*

¹⁷⁵ Art. 11 (4) *Ibid.*

¹⁷⁶ Art. 13 (1) (3) & (4) *Ibid.*

¹⁷⁷ Akpoghome (n 117) 67.

debate.¹⁷⁸ The important issue at this point however is - how has this well intentioned provisions in the Convention, translated into gain for internally displaced children in Nigeria?

4.0 NIGERIA'S DOMESTIC RESPONSE TO THE PROBLEM OF INTERNALLY DISPLACED CHILDREN

It is important to state that Nigeria has taken series of steps in response to the problem of internally displaced children. Major in this regard, is the establishment of several federal agencies to deal with emergencies and disasters. Chief amongst these are the National Emergency Management Agency (NEMA),¹⁷⁹ and the National Commission for Refugees, Migrants and Internally Displaced Persons in Nigeria (Hereinafter 'National Commission for Refugees').¹⁸⁰

Additionally, on the 21st August 2019, the Federal government recently established a Federal Ministry of Humanitarian Affairs, Disaster Management and Social Development. This Ministry is headed by Sadiya Umar Farouq, who herself was a former Director-General of the National Commission for Refugees. Generally, humanitarian response to IDPs in the three states where the Boko Haram insurgency has displaced people, involves a coordinated effort by a number of organisations.

These include the National Emergency Management Agency (NEMA), the State Emergency Management Agency (SEMA), the National Human Rights Commission (NHRC),¹⁸¹ the Victims Trust Fund (VTF), the Presidential Committee for Northeast Initiative (PCNI), the Federal and the State Ministries

¹⁷⁸ Adeola (n 106).

¹⁷⁹ National Emergency Management Agency (Establishment) Act 1999 CAP N.34 *Laws of the Federation of Nigeria* (LFN) 2004.

¹⁸⁰ The National Commission established this Commission for Refugees (Establishment etc.) Act, (*commencement* 29 Dec.1989).

¹⁸¹ National Human Rights Commission Act 1995 CAP N. 46 *Laws of the Federation of Nigeria* (LFN) 2004; National Human Rights Commission (Amendment) Act, 2010.

of Water resources, Health, Agriculture, Women and Social Affairs and Education; and the Nigerian Red Cross Society.¹⁸²

Additionally, there is a National Policy on Internally Displaced Persons. Efforts towards this policy statement were kick-started by the Presidential Committee on the IDP policy in 2006, which put together its first draft.¹⁸³ The policy became necessary, given the increasing numbers of conflict-related IDPs in the country.¹⁸⁴ It was revised in 2009 and 2012 to reflect the new developments under the Kampala Convention.¹⁸⁵ Some of the policy's guiding principles include respect for sovereignty, gender equality, empowerment, participation, and accountability.¹⁸⁶

It is also guided by core humanitarian principles such as humanity and the humanitarian imperative, neutrality, impartiality and non-discrimination, independence, and protection from harm and abuse.¹⁸⁷ It provides for rights and obligations of IDPs such as right to protection from displacement and right to protection and assistance during and after displacement.¹⁸⁸ Importantly, the Policy provides for the rights of internally displaced children, under which the government has a number of commitments. Some of these are:

1. Ensuring that every child has a right to a name; ensuring the child's proper upbringing
2. Prohibiting all forms of child labour and exploitation.
3. Ensuring the child's access to good medical care and immunisation; ensuring the child's protection against torture, sexual exploitation, drug abuse and forced marriage.

¹⁸² Nigerian Red Cross Society Act 1961, CAP N. 130, *Laws of Federation of Nigeria* (LFN) 2004; ICRC, 'Internal Displacement in Northeast Nigeria: Operationalising the Kampala Convention in Borno, Adamawa and Yobe States' (2016) *International Committee of the Red Cross (ICRC)* 26.

¹⁸³ FRN, *National Policy on Internally Displaced Persons (IDPs) in Nigeria*, (Federal Republic of Nigeria, 2012) 6.

¹⁸⁴ *Ibid* 9.

¹⁸⁵ *Ibid*.

¹⁸⁶ *Ibid* 21, 22.

¹⁸⁷ *Ibid* 23, 24.

¹⁸⁸ *Ibid* 25, 26, 27, 28, 29.

4. Protection of orphans and children with health challenges and disabilities
5. Relocating children to neighbouring schools to ensure that their education is secured
6. Work with relevant stakeholders to ensure a conducive learning environment for internally displaced children
7. Where formal education is difficult, ensure that attention is paid to informal education such as skill acquisition and while promoting access to education, ensure that due attention is paid to the girl-child.
8. The establishment of child-friendly spaces in camps towards providing integrated care for them and the overall safety and security of the children from abduction by armed groups and trafficking.¹⁸⁹

Another category of response to the IDP problem is the establishment of IDP camps set up in over 200 local government areas of the country.¹⁹⁰ These camps are established and operated by the government in collaboration with the UN and other international organisations.¹⁹¹ Recently the Federal government also created additional measures to alleviate the plight of the IDPs such as the establishment of a North-East Development Commission (NEDC), as well as a Presidential Committee on North-East Initiative (PCNI).¹⁹²

The general position however is that none of these efforts has yielded much in addressing the problem of IDPs, much less internally displaced children. For instance, the National IDP Policy has remained a draft, not having been adopted.¹⁹³ With such half measures, the likelihood is high that activities in this area are likely to be seen as platforms to curry political favours from IDPs. There is therefore a need for a more robust response, towards addressing the key issues confronting internally displaced children in Nigeria.

¹⁸⁹ *Ibid* 30, 31, 32.

¹⁹⁰ Onaedo C. Ejiofor, Samuel Oni, and John V. Sejoro, 'An Assessment of the Impact of Internal Displacement on Human Security in Northern Nigeria (2009 – 2016)' (2017) 10 (1) *Relationes Internationales – Acta Universitatis Danubius* 23.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

¹⁹³ Adeola (n 106).

5.0 ADDRESSING THE CHALLENGES OF INTERNALLY DISPLACED CHILDREN IN NIGERIA

Children are human beings. They are however beings of a unique class, given their tender years, innocence, and state of great vulnerability. It is against this backdrop, that an overarching principle dealing with children is the ‘best interest’ principle. This demands that whatever action is taken in relation to the child, must be taken in the best interest of the child. This principle is covered by Article 3 (1) of the United National Convention on the Rights of Child (CRC)¹⁹⁴ as well as Article 4 (1) of the African Charter on Rights and Welfare of the Child (ACRWC).¹⁹⁵

The question to ask, therefore, is whether Nigeria’s steps towards protecting IDPs, particularly since ratifying the Kampala Convention is in the best interest of the Nigerian child. The answer to this question is complicated. As human beings, all the protections afforded to adult members of the society automatically apply to children. This means that all the obligations under the Kampala Convention as pertaining to Nigeria, even though crafted in the context of adult persons, are as well obligations owed to the children displaced by the Boko Haram insurgency.

More importantly, these obligations are expected to be carried out for these children, in the broader context of the fundamental premise of relevant child rights instruments. This means that in any action that must be carried out concerning the child, its best interest must be the primary consideration.¹⁹⁶ Whether this has been the case so far still remains to be seen. What is therefore clear, is that to make the needed progress as regards to protection of internally displaced children, there are a number of domestic issues that require immediate attention of the government.

These include the absence of a specific legal framework, insignificant role of local governments, tackling the scourge of corruption, depoliticising IDP

¹⁹⁴ G.A. Res. 44/25 20 Nov.1989 (*entered into force* 2 Sept. 1990).

¹⁹⁵ The ACRWC was adopted at the 26th ordinary session of the of the Assembly of Heads of State and Government (OAU Assembly) on 11 July 1990 in Addis Ababa, Ethiopia (*entered into force* 29 November 1990).

¹⁹⁶ Art. 3 (1) Convention on the Rights of the Child (CRC) 1989; Article 4 (1) ACRWC 1990.

protection and assistance, and eliminating age-long social practices towards children.

5.1 Absence of a Specific Domestic Legal Framework

At the moment, there is no specific legislation protecting IDPs and by extension, internally displaced children in Nigeria.¹⁹⁷ The result is that these classes of Nigerians can only seek protection under the existing relevant constitutional and legal framework.¹⁹⁸ Much of these relate to the rights of IDPs, which are covered by Chapter IV of the 1999 Constitution,¹⁹⁹ as well as the African Charter on Human and Peoples' Rights (ACHPR) through the ACHPR Ratification Act.²⁰⁰

Chapter IV provides for a number of fundamental rights that also extend to internally displaced children as well as the Child's Rights Act (CRA) 2003.²⁰¹ While these ancillary provisions do provide a measure of protection to internally displaced children, nothing can be as impactful and accountability-based as having a specific legislation enacted to directly deal with this issue. Article 3 (2) (a) of the Kampala Convention clearly imposes an obligation on Nigeria to take measures towards enacting such domestic legislation.²⁰²

It has been noted that Section 14(2)(b) of the 1999 Constitution is in consonance with article 3(2) of the Kampala Convention.²⁰³ While Section 14(2)(b) provides that, "the security and welfare of the people shall be the primary purpose of government", article 3(2) requires states to enact or amend relevant legislations on protection and assistance of IDPs, in line with their obligation under international law.

¹⁹⁷ ICRC (n 186) 22.

¹⁹⁸ *Ibid.*

¹⁹⁹ Constitution of the Federal Republic of Nigeria 1999 CAP C20 *Laws of the Federation of Nigeria* (LFN) 2004.

²⁰⁰ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act CAP A9 *Laws of the Federation of Nigeria* (LFN) 2004.

²⁰¹ Child Rights Act No. (26) (2003); Olusegun and Ogunfolu (n 60) 46.

²⁰² Kampala Convention 2009.

²⁰³ FRN (n 168) 11.

Niger Republic is the first state party to adopt a legislation domesticating its obligations under the Convention.²⁰⁴ In addition, in Central African Republic (CAR), Liberia, Mali and South Sudan, legislations to incorporate the convention have been drafted and are in circulation.²⁰⁵ In 2017, Chad Republic even went a step further, incorporating the war crime of forced displacement into its revised penal code, effectively providing a domestic accountability mechanism.²⁰⁶

The closest Nigeria has come on this matter, is to amend the National Commission on Refugees, Migrants and Internally Displaced Persons Act to take care of some provisions in the convention.²⁰⁷ It is worth reinstating that enacting a specific legislation on IDP protection is non-negotiable. Section 12 of the 1999 Constitution²⁰⁸ already provides a constitutional route to making such legislation a reality.

It is therefore recommended that a specific legislation be enacted without delay. It is also recommended that in enacting this legislation, important consideration must be given to the thousands of internally displaced children in Nigeria's northeast region and other parts of the country.

5.2 Tackling the Scourge of Corruption in IDP Protection and Assistance

Corruption has remained a major hinderance to most public sector driven programmes in Nigeria and the protection of internally displaced children is not an exception. As with other matters of national life, activities around emergency reliefs and humanitarian work is often laden with corrupt acts. These end up short-changing the targeted audience. A key example in this regard is the *grass-cutting scandal* that involved the former Secretary to the Government of the Federation (SGF) Mr. David Babachir Lawal.

²⁰⁴ ICRC, 'The Kampala Convention: Key Recommendations 10 Years On' (2019) *International Committee of the Red Cross (ICRC)* 19.

²⁰⁵ *Ibid*

²⁰⁶ *Ibid.*

²⁰⁷ *Ibid.*

²⁰⁸ 1999 Constitution.

He was accused of having diverted funds to the tune of 220 million naira meant for IDPs' essential services such as food shelter, health and clothing, to his company Rholavision Engineering Limited.²⁰⁹ On his part Mr. Lawal's position was that the 220million naira in question, were funds awarded to the above company to cut grass and clear weeds at the IDP camp.²¹⁰ The President later removed Mr. Lawal from office on 30 October 2017.²¹¹

In another report by the United Nations Development Programme (UNDP) and National Human Rights Commission (NHRC), it was alleged that between 2015 and 2017, officials of the Presidential Initiative on the North East (PINE) were involved in diverting aid money from IDP camps.²¹² Even though the government has an obligation under Article 3 (2) (d) of the convention to make funds available to the extent possible for the protection of IDPs, cases of this nature clearly undermine such obligation.

This is because resources ordinarily required to meet the need of IDPs are heavily depleted. Importantly, the worst hit by these corrupt acts are children, who though in need of special care, are left to fend for themselves. Therefore, the Nigerian government must not just see its obligation as imply that of providing funds, but it must also strengthen relevant anti-corruption agencies to ensure that that can frontally combat corrupt acts in the management of internally displaced children.

Some of these agencies include the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC).

5.3 De-politicization of IDP Protection and Assistance

Politicisation of humanitarian assistance is another cankerworm that has stifled progress in the management of internally displaced children. For instance, the establishment of the NEDC was more of a political response to

²⁰⁹ Valentina Okaru-Bisant, 'Overcoming Institutional and Legal Barriers that Prevent Abused Females from Accessing Justice in Fragile Nigerian Regions' (2019) 27 (1) *American University Journal of Gender Social Policy and the Law* 41.

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

²¹² *Ibid.*

a purely humanitarian crisis than a research and policy driven action. Since its creation, every other region in the country has been stirring for its own development commission, turning it into a bazaar of some sort.

There have also been instances, where international organisations and humanitarian agencies working in the northeast have been accused of working in collaboration with Boko Haram insurgents. This has seriously impacted their impartiality and independence. For example, the Humanitarian Country Team (HCT) established in 2015 to coordinate humanitarian work in the north east, has been accused of been reluctant in prioritising humanitarian protection in their discussions with the Nigerian government.²¹³

In response the HCT was of the view that some humanitarian protection issues such as humanitarian access, militarisation of camps, forced return, sexual violence, reintegration of abductees, etc were politically sensitive matters.²¹⁴ The position of the humanitarian actors, therefore, was that the HCT had failed its duty as the custodian of principled humanitarian action in the country.²¹⁵

These issues severely impact internally displaced children, given that in such situations of politicisation, the children bear the brunt. This is because the protection and assistance that should come to them is halted. For the sake of internally displaced children, it is important that this kind of behaviour be done away with. It is particularly true given that Nigeria has an obligation under Article 5 (5) & (6) of the Convention to collaborate with international organisations in rendering protection and assistance to IDPs.

Going forward, the government must encourage an environment of synergy and cooperate with internationally recognised organisations and agencies, rather than the unprofitable venture of hostility.

²¹³ Francisca Vigaud-Walsh, 'Nigeria's Displaced Women and Girls: Humanitarian Community at Odds, Boko Haram's Survivors Forsaken' *Refugees International* (21 April 2016) 12.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

5.4 Heightened State of Insecurity and the Militarisation of IDP Camps

The general state of insecurity in the northeast region where the insurgency has been most brutal has made the delivery of proper assistance and protection to IDPs, particularly children, difficult. In this respect, the problem is two-sided. While consistent and ferocious attack by Boko Haram insurgents continues to hinder humanitarian access and the safety of IDP camps, counterinsurgency measures by the military have caused a state of heavy militarisation of the same camps.

For instance in April 2020, the Boko haram insurgents made the Maiduguri-Damaturu axis, which connects the two important states of Borno and Yobe, impassable. This made humanitarian access dangerous.²¹⁶ Recent surges of insecurity have not helped matters. For example recently on July 29 2020, Boko Haram operatives attacked a convoy of the Governor of Borno state in Nigeria's northeast, Professor Babagana Zulum, near Baga Town, a former fishing port on the Lake Chad.²¹⁷

The Governor's convoy was again attacked on September 25, 2020 this time reportedly leaving 15 persons dead. Amongst these were eight policemen, three soldiers and four members of the Civilian Joint TASK Force (CJTF).²¹⁸ For a third time, terrorists attacked the Governor's convoy on September 27 2020, except that this time, there were no fatalities.²¹⁹ These attacks clearly highlight the current state of insecurity in the region.

The last two attacks are also instructive in the sense that the Governor was actually going to facilitate the resettlement of IDPs when his convoy came under these attacks. It shows how much the insurgents are resolute on

²¹⁶ UNHCR, 'North-East Nigeria Protection Monitoring Report March – April 2020', *UNHCR – The UN Refugee Agency* 2.

²¹⁷ John Campbell, 'Borno Governor Survives Boko Haram Attack in Nigeria', *Council on Foreign Relations (CFR)* (5 August 2020), available online < <https://www.cfr.org/blog/orno-governor-survives-boko-haram-attack-nigeria> > accessed 8 October 2020.

²¹⁸ Kayode Idowu, 'Boko Haram Kills 15 in Attack on Borno Gov's Convoy', *Punch Newspaper*, (26 Sept. 2020), available online at <https://punchng.com/boko-haram-kills-15-in-attack-on-borno-govs-convoy> accessed 8 October 2020.

²¹⁹ Kayode Idowu, 'Again, Boko Haram Attacks Zulum's Convoy', *Punch Newspaper*, (27 Sept.2020) available online at < <https://punchng.com/breaking-again-boko-haram-attacks-zulums-convoy> > accessed 8 October 2020.

ensuring that the problem of IDPs is not resolved. The result is that IDPs are wedged in between the warring parties, which is not the state of affairs intended under both domestic law as well as the Kampala Convention.

For example, section 14 (2) (b) of the 1999 Constitution states that, “the security and welfare of the people shall be the primary purpose of government”.²²⁰ The important phrase here is ‘primary purpose’, while in addition the idea of ‘people’ in this context includes internally displaced children. This state of insecurity and militarisation not only violates the Constitution, it is also a violation of Nigeria’s obligation under Article 5(7) of the Kampala Convention.

There is therefore a need for the government to rejig its counterinsurgency measures towards ensuring proper protection of internally displaced children.

5.5 Prioritising the Education of Internally Displaced Children and Eliminating Social Practices Engendering Discrimination

The education of internally displaced children has remained a weak-link in Nigeria’s response to its obligation under the Kampala Convention. Not only do internally displaced children have their educational pursuit cut off by Boko haram insurgents, but also the opportunities to return to school have remained limited. This is due to the dysfunctional state of the IDP camps, which makes learning difficult.

The CRA 2003, for instance provides in Section 171 that, “a child shall be taken to be in need if the child is disabled, internally displaced, a refugee or is otherwise in especially difficult circumstances”.²²¹ Under article 5(5) of the Kampala Convention, state parties working in collaboration with international organisations have an obligation to determine the needs of IDPs as well as the host communities. The idea of need here is one that can be interpreted in

²²⁰ 1999 Constitution.

²²¹ Section 171 (10) (a) (iii), CRA 2003; Chinuru Chituru Achinewhu, ‘The Future of the African Child: Protecting the Right to Education of Internally Displaced Children in Nigeria’ (2020) 18 *BCES Conference Books* 223.

terms of the educational needs of internally displaced children, yet this remains a major challenge.

The education gap is further complicated by the fact that the CRA has continued to be treated with disdain by several state governments in the north of the country. For instance, so far only eight northern states have passed the CRA 2003 into law.²²² Added to this is the social-cultural environment obtainable in the northeast region, where education and learning is greatly undervalued.

It is important to stress that Nigeria's ability to realise its obligation under the Kampala Convention may remain a long shot, so long as the social setting obtainable in the northern part of the country, which serially diminishes the value and humanity in every child, is left to fester. Mostly directed towards the girl-child, these are age-long practices rooted in the way of life of the people of this region. They include child/early marriage, sexual and gender-based violence, prohibition of schooling, female genital mutilation, etc.

Even when these practices have become notorious in various communities in the region, the large number of internally displaced children has caused it to abate. The implication is that these children remain victims before and even during displacement. To record any meaningful gain in the protection and assistance of internally displaced children, government at all levels must demonstrate the necessary political will, moral capital and resilience to address these practices headlong.

6.0 CONCLUSION

This article has examined the problem of internally displaced children in the Boko Haram insurgency and the extent to which Nigeria has complied with its obligation under the Kampala Convention. It has highlighted major issues still confronting these children, while at the same time identified other critical issues that need to be addressed with urgency. Given the inability of children to clearly articulate their condition in life or ventilate their frustrations and

²²² Achinewhu (n 225).

demand adequate response from government, they are often left to the whims of the adults who manage the affairs of government.

To this end, it is fast becoming the norm that efforts at engaging issues confronting children end up being a mere whisper lost in the cacophony of other issues in government. However, for an issue as delicate as that of internally displaced children, it is vital that such is not handled with this same glove. This article has attempted to do this, by putting the matter again on the front burner.

The scourge of internally displaced children in the northeast of Nigeria must be seen as a matter of national importance by the government. Not only is the present half bred compliance by government a reckless violation of its obligations under an otherwise acclaimed convention, but it also amounts to double jeopardy for these children. This is since they have become victims of both an insurgency they know nothing about, and the State that ought to protect them.

LIST OF REFERENCES

Adama Dieng, 'Protecting Internally Displaced Persons: The Value of the Kampala Convention as a Regional Example' (2017) 99 (1) *International Review of the Red Cross* 266.

African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act CAP A9 Laws of the Federation of Nigeria (LFN) 2004.

African Charter on the Rights and Welfare of the Child (ACRWC), adopted by the 26th Ordinary Session of Assembly of Heads of State and Government of the OAU, Addis Ababa, Ethiopia, 11 July 1990 (*entered into force* 29 Nov. 1999)

African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa adopted by the Special Summit of the African Union (AU) held in Kampala, Uganda 22 Oct. 2009, ('Kampala Convention')

Antonio Guterres, 'Millions Uprooted: Saving Refugees and the Displaced', (2008) 87 (5) *Foreign Affairs* 90.

Bethel O. Adedeji, Tosin Adebayo and Emem M. Udo, 'Malnutrition Amongst Internally Displaced Children: A Consequence of Armed Conflicts in Nigeria', (2019) 7 (2) *Journal of Global Peace and Conflict* 32

Carolyn Hamilton, 'Children in Armed Conflict: A New Move for an Old Problem' (1995) 7 (1) *Journal of Child Law*

Chinuru Chituru Achinewhu, 'The Future of the African Child: Protecting the Right to Education of Internally Displaced Children in Nigeria' (2020) 18 BCES Conference Books 223.

Constitution of the Federal Republic of Nigeria 1999 CAP C20 Laws of the Federation of Nigeria (LFN) 2004.

Convention on the Rights of the Child (CRC) 1989 UN General Assembly Resolution 44/25, 20 Nov. 1989 (*entered into force* 2 Sept. 1990).

Convention Relating to the Status of Refugees, 189 UNTS 150, 28 7 July 1951 (*entered into force* 22 April 1954).

Convention Relating to the Status of Refugees, 189 UNTS 150, 28 7 July 1951 (entered into force 22 April 1954)

Corinne E. Lewis, 'Dealing with the Problem of Internally Displaced Persons' (1992) 6 (4) Georgetown Immigration Law Journal 694

Dieng (n 34) 266; Francois Bugnion, 'Refugees, Internally Displaced Persons and International Humanitarian Law' (2005) 28 (5) Fordham International Law Journal 1410

ECOSOCC, 'Developments Leading Up to the Kampala Convention', in Making the Kampala Convention Work for IDPs, (AU Economic, Social, and Cultural Council -ECOSOCC; Internal Displacement Monitoring Centre - IDMC; and Norwegian Refugee Council - NRC) (July 2010) 1- 32

Elizabeth E. Ruddick, 'The Continuing Constraints of Sovereignty: International Law, International Protection and the Internally Displaced' (1997) 77 (2) Boston University Law Review 434.

Elizabeth Ferris, 'Internal Displacement in Africa: An Overview of Trends and Opportunities' (2012) *Presentation at the Ethiopian Community Development Council Annual Conference African Refugees and Immigrant Lives: Conflicts, Consequences and Contributions*

Eme T. Owoaje, et al, 'A Review of the Health Problems of the Internally Displaced Persons in Africa' (2016) 23 Nigerian Postgraduate Medical Journal 161

Erika Feller, 'The Evolution of the International Refugee Protection Regime' (2001) 5 Washington University Journal of Law & Policy 131

Erin Mooney and Collen French, 'Barriers and Bridges: Access to Education for Internally Displaced Children', BROOKINGS accessed at: https://www.brookings.edu/wpcontent/uploads/2016/06/20050111_mooney.pdf

Erin Mooney, 'The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern', (2005) 24 (3) *Refugee Survey Quarterly* United Nations (UN) Guiding Principles on Internal Displacement (1998)

Faith Osasumwem Olanrewaju, Femi Omotoso and Joshua Olaniyi Alabi, 'Datasets on the Challenges Forced Displacement and Coping Strategies Among Displaced Women in Selected Internally Displaced Persons (IDPs) Camps in Nigeria' (2018) 20 Data Brief 152

Flavia Zorzi Giustiniani, 'New Hopes and Challenges for the Protection of IDPS in Africa: The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa' (2011) 39 (2) *Denver Journal of International Law & Policy* 348

Francis Mading Deng, 'The Global Challenge of Internal Displacement' (2001) 5 *Washington University Journal of Law & Policy* 143

Francisca Vigaud-Walsh, 'Nigeria's Displaced Women and Girls: Humanitarian Community at Odds, Boko Haram's Survivors Forsaken' *Refugees International* (April 21, 2016) 6

Francisca Vigaud-Walsh, 'Nigeria's Displaced Women and Girls: Humanitarian Community at Odds, Boko Haram's Survivors Forsaken' *Refugees International* (21 April 2016) 12

FRN, *National Policy on Internally Displaced Persons (IDPs) in Nigeria*, (Federal Republic of Nigeria, 2012) 6

Gillian Dunn, 'The Impact of the Boko Haram Insurgency in Northeast Nigeria on Childhood Wasting: A Double-Difference Study' (2018) 12 (2) *Conflict and Health* 1

ICRC, 'Internal Displacement in Northeast Nigeria: Operationalising the Kampala Convention in Borno, Adamawa and Yobe States', (2016), *International Committee of the Red Cross (ICRC)*, 1 – 54

ICRC, 'The Kampala Convention: Key Recommendations 10 Years On' (2019) International Committee of the Red Cross (ICRC) 19

IDMC & UNICEF, 'Protecting and Supporting Internally Displaced Children in Urban Settings', Internal Displacement Monitoring Centre (IDMC) and United Nations Children Emergency Fund (UNICEF)

IDMC, 'Internal Displacement in Africa: A Development Challenge', *Internal Displacement Monitoring Centre – Norwegian Refugee Council*, 1 – 14

Ifeyinwa Nsude and Stephen Elem Nwanchor, 'Reporting Nutrition and the Rights of the Nigerian Child: Focus on Internally Displaced Children in Boko Haram Insurgency in Nigeria' (2017) 19 (8) IOSR Journal of Business and Management 103.

J. Oloka-Onyango, 'The Plight of the Larger Half: Rights, Gender Violence and the Legal Status of Refugee and Internally Displaced Women in Africa' (1996) 24 (2) Denver Journal of International Law & Policy 351

John Campbell, 'Borno Governor Survives Boko Haram Attack in Nigeria', Council on Foreign Relations (CFR) (5 August 2020), available online <<https://www.cfr.org/blog/orno-governor-survives-boko-haram-attack-nigeria>> accessed 8 October 2020

Judy Austin, et al, 'Reproductive Health: A Right for Refugees and Internally Displaced Persons' (2008) 16 (31) Reproductive Health Matters 15

K.E. Miller and A. Rasmussen, 'The Mental Health of Civilians Displaced by Armed Conflicts: An Ecological Model of Refugee Distress' (2017) 26 *Epidemiology and Psychiatric Sciences*

Kayode Idowu, 'Again, Boko Haram Attacks Zulum's Convoy', Punch Newspaper, (27 Sept.2020) available online at<<https://punchng.com/breaking-again-boko-haram-attacks-zulums-convoy>> accessed 8 October 2020

Kayode Idowu, 'Boko Haram Kills 15 in Attack on Borno Gov's Convoy', *Punch Newspaper*, (26 Sept. 2020), available online at <https://punchng.com/boko-haram-kills-15-in-attack-on-borno-govs-convoy> accessed 8 October 2020

Lauren Groth, 'Engendering Protection: An Analysis of the 2009 Kampala Convention and its Provisions for Internally Displaced Women' (2011) 23 (2) *International Journal of Refugee Law* 222

Luke T. Lee, 'The Refugee Convention and Internally Displaced Persons', (2001) 13 (3) *International Journal of Refugee Law* 363

Maja Janmyr, 'Recruiting Internally Displaced Persons into Civil Militias: The Case of Northern Uganda' (2014) 32 (3) *Nordic Journal of Human Rights* 200

National Emergency Management Agency (Establishment) Act 1999 CAP N.34 Laws of the Federation of Nigeria (LFN) 2004

National Human Rights Commission Act 1995 CAP N. 46 Laws of the Federation of Nigeria (LFN) 2004; National Human Rights Commission (Amendment) Act, 2010

Nigerian Red Cross Society Act 1961, CAP N. 130, Laws of Federation of Nigeria (LFN) 2004; ICRC, 'Internal Displacement in Northeast Nigeria: Operationalising the Kampala Convention in Borno, Adamawa and Yobe States' (2016) *International Committee of the Red Cross (ICRC)* 26.

OAU Convention Governing Specific Aspects of Refugees Problems in Africa, 1001 UNTS 45, 10 Sept. 1969 (entered into force 20 June 1974)

Obasesam Okoi and Tatenda Bwawa, 'How Health Inequality Affects Responses to the COVID-19 Pandemic in Sub-Saharan Africa' (2020) 135 *World Development* 3

Olaitan O. Olusegun and Adedokun Ogunfolu, 'Protecting Internally Displaced Children in Armed Conflicts: Nigeria in Focus' (2019) 9 (2) *Notre Dame Journal of International and Comparative Law* 37

Onaedo C. Ejiofor, Samuel Oni, and John V. Sejoro, 'An Assessment of the Impact of Internal Displacement on Human Security in Northern Nigeria (2009 – 2016)' (2017) 10 (1) *Relationes Internationales – Acta Universitatis Danubius* 23

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, UN Gen Ass. Res 54/263, 25 May 2000 (*entered into force* 12 Feb.2002)

Protocol Relating to the Status of Refugees, 606 UNTS 267, 31 January 1967 (*entered into force* 4 Oct. 1967)

Protocol Relating to the Status of Refugees, 606 UNTS 267, 31 January 1967 (*entered into force* 4 Oct. 1967)

Rebecca M.M. Wallace and Diego Quiroz, 'Refugees and Internally Displaced Persons: A Challenge to Nation Building' (2008) 6 (2) *Maine Law Review* 411

Robert K Goldman, 'Internal Displacement, The Guiding Principles on Internal Displacement, the Principles Normative Status and the Need for their Effective Domestic Implementation in Colombia' (2009) 2 *ACDI Bogota*

Romola Adeola, 'Kampala Convention and Protection of IDPs in Nigeria', *The Punch Newspaper* (28 April 2016) <https://punchng.com/kampala-convention-protection-idps-nigeria/#:~:text=On%20April%2017%2C%202012%2C%20Nigeria,to%20ratify%20the%20Kampala%20Convention.&text=Unlike%20the%20draft%20>

Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR) G.A. Res. 428 (V) Annex U.N. Doc. A/RES/U28 (V) (14 Dec. 1950)

Stuart Maslen, 'Relevance of the Convention on the Rights of the Child to Children in Armed Conflicts' (1996) 6 (2) *Transnational Law and Contemporary Problems* 332

The Protocol Additional to the Geneva Conventions Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, 1125, U.N.T.S. 3 (Protocol I)

The Protocol Additional to the Geneva Conventions Relating to the Protection of Victims of Non-International Armed Conflicts 8 June 1977, 1125, U.N.T.S. 609, (Additional Protocol II)

Theresa U Akpoghome, 'Internally Displaced Person in Nigeria and the Kampala Convention' (2015) 18 *Recht in Africa – Law in Africa – Droit en Afrique* 67.

UN, 'Nigeria's Boko Haram Insurgency Forces One Million Children From School', UN News (22 December 2015), accessed at: <https://news.un.org/en/story/2015/12/518742-nigerias-boko-haram-insurgency-forces-one-million-children-school-unicef>

UNHCR and World Bank, 'Forced Displacement by the Boko Haram Conflict in the Lake Chad Region', (2016), UNHCR – The UN Refugee Agency & The World Bank 33

UNHCR, 'North-East Nigeria Protection Monitoring Report March – April 2020', UNHCR – The UN Refugee Agency 2

UNICEF, '19 million Children Internally Displaced by Conflict and Violence in 2019 is Highest Number ever, says UNICEF', UNICEF Nigeria (5 May 2020)

Valentina Okaru-Bisant, 'Overcoming Institutional and Legal Barriers that Prevent Abused Females from Accessing Justice in Fragile Nigerian Regions' (2019) 27 (1) *American University Journal of Gender Social Policy and the Law* 41

Ved P. Nanda, 'International Law and the Refugee Challenge: Mass Expulsion and Internally Displaced People' (1992) 28 (4) *Willamette Law Review* 803