

**DOMESTICATING THE KAMPALA CONVENTION AS A PIVOTAL STEP IN PROTECTING PERSONS
DISPLACED BY CONFLICT AND VIOLENCE IN NORTHERN NIGERIA**

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RECOMMENDED CITATION:

Esther Hatsiwa Emmanuel (2021) “Domesticating the Kampala Convention as a Pivotal Step in Protecting Persons Displaced by Conflict and Violence in Northern Nigeria” Volume 21 Issue 3, Makerere Law Journal pp 268-297

**DOMESTICATING THE KAMPALA CONVENTION AS A PIVOTAL STEP IN
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NORTHERN NIGERIA**

Esther Hatsiwa Emmanuel*

Abstract

The paper interrogates the internal displacement in northern Nigeria, through an appraisal of the extant laws particularly the African Union Convention for the Protection and Assistance of Internally Displaced Persons (IDPs) in Africa (Kampala Convention) and other International, regional and domestic instruments. There is no specific National legal framework for the protection and assistance of internally displaced persons in Nigeria. The state is yet to domesticate the Kampala Convention, even though there is a bill pending before the National Assembly that seeks to do the same. The paper recognizes that efforts have been invested by national authorities in developing a National IDP Policy, which was finalized in 2012 but was never adopted. Nigeria should therefore operationalize the Kampala Convention because it provides a comprehensive framework that will bring improvement to the lives of IDP's in Northern Nigeria.

1.1 INTRODUCTION

It has been estimated that one third of the world's 40 million internally displaced persons are on the African continent. This has emphasized the need for adequate response for the protection and assistance of the displaced population.¹ In a bid to fill this protection gap, African leaders adopted the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, popularly known as the Kampala Convention. The Kampala Convention is a pioneer regional treaty that promotes strong and

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¹ Romola Adeola, 'The Impact of the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa' *African Human Rights Law Journal* [2019] (19) (2) 591-607

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effective national systems of protection and solutions for Internally Displaced Persons (IDPs) in Africa.

It recognizes them as “right holders” and establishes national responsibilities and obligations in displacement situations triggered by violence and conflicts, natural disaster, effects of climate change and developmental projects. The convention recognizes the roles and contributions of regional and international actors and provides for a mechanism to monitor implementation. It also provides for actions aimed at preventing forced displacement and facilitates all forms of durable solutions including return and local integration.²

The Convention was adopted in 2009 and it came into force in 2012, this signalled a strong commitment by AU Member states towards finding solutions to the problem of displacement. Presently, 40 of the 55 Member states of the African Union have signed the treaty while 31 have ratified it.³ The first conference of state parties was held in 2017 in Harare, Zimbabwe, which adopted the ‘Harare Plan of Action’. The Plan of Action outlines a multi-year roadmap of activities aimed at promoting greater compliance by member states to the Convention through improved ratification, domestication and implementation.

The African Union works with member states, regional economic communities and partners to advocate for ratification and implementation of the Convention. Law and policy makers in Nigeria need to give urgent attention to the plight of the IDPs by operationalizing the Kampala Convention to ensure all round protection and assistance for the affected population.

The next chapter gives a background of the root causes of large-scale displacements in the northern part of Nigeria in recent time. This is followed by a discussion on the legal and Institutional framework for the protection and

² See <https://au.int/en/newsevents/20200306/deposition-instrument-ratification-african-union-convention-protection-and-assistance-of-internally-displaced-persons-in-africa> [accessed 2 February 2021]

³ *ibid*

management of internally displaced persons in Nigeria as it stands today. The paper then makes a case for the domestication of the Kampala Convention citing a few best practices from other jurisdictions, and then concludes with recommendations.

1.2 BACKGROUND AND CONCEPTUAL CLARIFICATION OF INTERNAL DISPLACEMENT

One of the greatest tragedies of our time is the issue of internal displacement of persons, arising from different factors which include violent conflicts, man-made and natural disasters, developmental projects and so on.⁴ Internally Displaced Persons are ‘persons or group of persons who have been forced or obliged to flee or to leave their homes or place of habitual residence for reasons such as ‘armed-conflict, situations of generalised violence, violation of human rights or natural or human-made disasters’.⁵ One must not have crossed an internationally recognized state border to qualify as an internally displaced person.⁶

Large-scale internal displacement of civilians have skyrocketed in Nigeria particularly in the north, this is due to the activities of insurgents in the northeast region and armed banditry/farmer-herder clashes in northwest and north central part of the country. Although displacement of Nigerians is not a new phenomenon,⁷ it has reached worrying proportions. It is estimated that over 3.3 million people have been displaced since the militant group; Boko Haram started its violent campaign. To date, the Lake Chad Basin region is grappling with a complex humanitarian emergency as the insurgents had

⁴ F O Olarewaju & ors, ‘Insurgency and the Invisible Displaced Population in Nigeria: A Situational Analysis’ *Sage Journals* [2019] available online at <https://journals.sagepub.com/doi/full/10.1177/2158244019846207> [accessed 4 February 2021]

⁵ Art 1 (k) African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009)

⁶ *ibid*

⁷ In 2012, unprecedented flooding displaced almost 2.1million and impacted 7.7million persons. United Nations High Commission for Refugees, Universal Periodic Review, Nigeria, <https://www.unhcr.org/nigeria-emergency.html> [accessed 12 March 2021]

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displaced nearly 2.5 million people in north-eastern Nigeria, and over 800,000 refugees in neighboring Cameroun, Chad and Niger.⁸

Boko Haram is an Islamic group also called *Jama'at Ahl as – Sunnah lid Da'wah wa'l – Jihad*, which means a group of people of sunnah for preaching and jihad. Since 2002, Boko Haram has become increasingly radical and by 2009, had begun violent attacks on government institutions, religious gatherings, schools and any structure/institution perceived to have western origin. In 2011, the group got global attention when it detonated explosives at the United Nations building in the country's capital, destroying part of the building, killing and injuring others.⁹

Since the radicalization of Boko Haram and its campaign of violence, the actions of the group ranging from bombings, kidnapping and mass slaughter have led to monumental humanitarian catastrophe, creating an ever increasing number of Internally Displaced Persons (IDPs) within Nigeria and refugee crisis in neighboring Cameroon, Niger and Chad.¹⁰

On the other hand, competition between pastoralist and farmers has caused tensions in the Northwest/central region of Nigeria, resulting in significant levels of violence and displacement. The International Organization for Migration, Displacement Tracking Matrix (IOM DTM) reported that 780 people were displaced in Birnin Gwari LGA of Kaduna State between 1-7th February 2021, as a result of growing insecurity and armed attacks. Within that same

⁸ Figures from the United Nations High Commission on Refugees
<https://www.unhcr.org/nigeria-emergency.html> [accessed 30 November 2020]

Also see

<https://www.internal-displacement.org/countries/nigeria>
[accessed 30 November 2020]

⁹ Mark Tran, 'Nigeria attack: Islamist militants claim responsibility for UN building blast' *The Guardian Newspaper* (Lagos, 26 August 2011) Available at <
<http://www.theguardian.com/world/2011/aug/26/nigeria-attack-islamist-claim-responsibility>> [accessed 17 December 2020]

¹⁰ Abdullateef Salau, 'UN raises alarm over plight of Nigerian refugees in Niger' *Daily Trust Newspaper*(Abuja, 21 January 2016) Available at
<<http://www.dailytrust.com.ng/news/general/un-raises-alarm-over-plight-of-nigerian-refugees-in-niger/130066.html>> [accessed 21 January 2021]

period, 164 people were displaced in Guma LGA of Benue State for same reason.¹¹

As a result of frequent attacks in the states of the North West region, many residents have fled their homes for safety in nearby camps and host communities where there is provision for security or relative peace. Between 26th and 27th of November 2020 in Kankara LGA of Katsina state, there was massive displacement of people in Gatakawa, Zurunkutu and Dan Nakwaguzo villages, an estimated 3,472 persons were reported to have arrived Kankara town with many more still fleeing for fear of attack.¹²

Government authorities are stretched between containing the activities of the violent groups on one hand and protecting and assisting the IDPs on the other. While efforts are being made to apply existing laws and structures to salvage the humanitarian crisis, it is evident that the existing framework did not in exact terms, define the rights and status of IDPs so as to guarantee the exercise of their freedom and fundamental human rights.¹³

The concept of protection has been necessitated by the ravages of war on civilians; and protection has long been associated with vulnerable populations in armed conflict. In modern times, this is connected with customs and laws of war. The emergence of codified international humanitarian law at the end of the 19th century and its subsequent development through the Geneva

¹¹ Figures from IOM website available at <https://www.internal-displacement.org/countries/nigeria> [accessed 20 February 2021]

¹² see <https://reliefweb.int/report/nigeria/iom-nigeria-flash-report-28-idp-population-movement-north-westnorth-central-nigeria> [accessed 4 February 2021]

¹³ There have been reported cases of rape, forced labour and ill treatment in displaced person camps besides issues of lack of medical care, portable water and poor sanitary conditions. In January 2016, The House of Representatives resolved to investigate sex scandals in the IDP Camps, where it was alleged that Camp officials usually give food to young girls and women in exchange for sex. See Sani Zoro, 'House to investigate sex scandals in IDP camps' *Daily Trust Newspaper* (Abuja, 18 January 2016) <<http://www.dailytrust.com.ng/news/general/house-to-investigate-sex-scandals-in-idp-camps-zoro>> [accessed 30 March 2021]

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Conventions has provided for the protection of certain groups during wars or armed conflict.¹⁴

Government at the International, federal, state and local government levels have at different period employed necessary measures through the instrumentality of its agencies to prevent or control emergencies both natural and man-made, which can result in displacement. Furthermore, the government and nongovernmental organizations such as the United Nations High Commissioner for refugees (UNHCR), Norwegian Refugee Council (NRC), International Committee of the Red Cross (ICRC), religious organizations, and individual philanthropist have made various efforts to provide succor to the internally displaced persons in the northeast, through provision of temporary camps, food, beddings, security, medical facilities, etc.¹⁵

Notwithstanding the effort put in place to cushion the sufferings of the IDPs mentioned above, their living condition is still very pathetic, as a large percentage of the internally displaced persons are suffering from lack of basic social amenities, food shortages, lack of portable water, unhygienic living conditions, lack of adequate educational facilities, hostility from the host community in some cases, the condition of their health facilities is nothing to write home about, sexual and gender based violence against women and girls etc.¹⁶

This sorry state in which the internally displaced persons who are uprooted from their ancestral homes find themselves due to the ongoing hostilities in their communities is a source of worry for stakeholders, government and

¹⁴ P W Pope, 'Evolution of Protection of Civilians in Armed Conflict' (United Nations Security Council Department of peace keeping operations and the humanitarian population) available online at <http://www.un.org/en/sections/what-we-do/protect-human-rights.com> [accessed 2 May 2021]

¹⁵ A O Hamzat, 'Challenges of the Internally displaced person and roles of the society' College Park: M.D Centre for International Development and Conflict Management (2013) 2

¹⁶ *ibid*

nongovernmental organizations (NGOs), this warrants a search for urgent solution that will ameliorate their plight.

2.1 LEGAL FRAMEWORK FOR THE MANAGEMENT OF INTERNALLY DISPLACED PERSONS IN NIGERIA

The Geneva Convention of 1949 and their additional protocols of 1977 form some of the most comprehensive set of conventions providing for the means and methods of armed conflicts, the fourth (4th) Geneva Convention for the protection of civilians in armed conflict for the first time made provision for the protection of the civilian population. These protections were codified and agreed by states.¹⁷

It is worthy of mention however that not all civilians were protected by the fourth Geneva Convention, it is applicable only to those who find themselves in territories occupied by the enemy or those who were engaged in international armed conflict.

The absence of a comprehensive legal framework for the protection and management of IDPs creates a huge problem for the institutions working to assist the displaced population. The National policy on internal displacement was meant to address some of these problems, being a holistic blueprint on treatment of victims and how all displacement matters ought to be addressed. The policy was drafted based on the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa and the Guiding Principles on Internal Displacement.

The policy provided for proper documentation of victims through registration and issuance of identity cards to displaced persons, separation of duties between relevant government agencies, nongovernmental organizations and civil society organizations, among other things. However, this Policy is yet to be adopted and as such lacks the force of law.¹⁸ The extant legislations that cover

¹⁷ Part 1, Art 3 and 4 Fourth Geneva Convention August 12, 1949

¹⁸ Olanrewaju ibid

the rights or provides for some level of protection for the internally displaced persons in Nigeria include:

- a) The United Nations Guiding Principles on Internal Displacement¹⁹
- b) The Geneva Conventions, 1949 and their Additional Protocols 1-2 of 1977²⁰
- c) The International Covenant on Civil and Political Rights (ICCPR)²¹
- d) The International Covenant on Economic, Social and Cultural Rights (ICESCR)²²
- e) The African Charter on Human and Peoples' Rights²³
- f) The African Union Convention for the Protection and Assistance of IDPs in Africa (Kampala Convention)²⁴

a) The Guiding Principles on Internal Displacement

The Guiding Principles on Internal Displacement are the first International standards specifically tailored to the needs of internally displaced persons, based on International Humanitarian Law (IHL), International Human Rights Law (IHRL) and Refugee Law. The Guiding Principles set forth the rights of internally displaced persons and explain the obligations of national authorities and non-state actors towards the displaced persons. It covers all phases of

¹⁹ The Guiding Principles on Internal Displacement. 1998
http://www.brookings.edu/project/idp/gp_page.aspx [accessed 12 March 2021]

²⁰ Cap. G3, Vol. 7, Geneva Conventions, Laws of the Federation, 2004

²¹ Adopted and opened for signature, ratification and accession by the General Assembly Resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Art 49. Available online at
<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> [accessed 10 September 2020]

²² Adopted and opened for signature, ratification and accession by the General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27. Available online at
<https://www.ohchr.org/EN/professionalinterest/pages/cescr.aspx> [accessed 10 September 2020]

²³ The African Charter on Human and Peoples rights, Cap A.9. Laws of the Federation, 2004

²⁴ The African Union Convention for Protection and Assistance of Internally Displaced Persons in Africa, 2009

internal displacement: the pre-displacement phase; during displacement; and during resettlement and reintegration.

The Guiding Principles address situations of displacements caused by armed conflict, violence, disasters and development projects. They define who an internally displaced person is and highlight how internal displacement often results from or leads to violations of existing International Humanitarian Law (IHL) and Human Rights Law (HRL).²⁵

They reflect states responsibilities to respect and ensure respect for rights of internally displaced persons, these include preventing displacement and minimizing its effects, protecting and assisting them during the phases of displacement and creating conditions for their safe return or settlement elsewhere in the country as well as their reintegration into society. The purpose of the

Guiding Principles is not to create new legal norms but rather, to give guidance on how to apply universal rights and guarantees to the specific situation of displaced persons, and to assist states to fulfil their obligations.²⁶

The rights covered by the guiding principle for the protection of the IDP's include; right to life and dignity of person, right to freedom of movement, right to adequate standard of living, right to protection of family life, right to freedom of opinion, expression and association, right to vote and participate in politics, right to own property, right to education etc.

The Principles basically serve as a guide in designing an effective national response and developing the steps needed to address problems of internal displacement in a way that will fit national conditions.²⁷

²⁵ Ibid n19

²⁶ UN Secretary General Kofi Annan for 'In Larger Freedom – Towards Development, Security and Human Right for All' Report of the Secretary-General of the United Nations by Heads of State and Government in September 2005UN doc A/59/2005 (2005) para 210

²⁷ UN Commission on Human Rights Resolution 2004/55, Geneva Assembly Resolution 2004/58 and commission on Human Rights Resolution 2005/46

**b) International Humanitarian Law (Geneva Convention and Additional
Protocols)**

Having ratified the Geneva Conventions of 1949 on June 20 1961 and the Additional Protocols 1-2 of 1977 on October 10, 1988, Nigeria further domesticated the Geneva Conventions as an Act.²⁸ International Humanitarian Laws (IHL) expressly prohibits the displacement of civilians; these rules are intended to spare civilians from the effects of hostilities and to play an important role in preventing displacement. It is often the violations of these rules that cause civilians to flee their homes.²⁹

In situations of armed conflict to which the Geneva conventions of 1949 and their additional Protocols of 1977 apply, refugees and stateless persons are recognized as requiring special protection and treatment.³⁰ This issue is specifically dealt with in Article 44 of the Geneva Convention of 1949 and Article 73 of additional protocol I of 1977. In situations of international armed conflict refugees and stateless persons are protected persons in all circumstances and without any adverse distinction within the meaning of parts I and III of the Geneva Convention.

In conflicts not of an international character, Article 3 of the Geneva conventions of 1949 states that persons taking no active part in the hostilities must be treated humanely in all circumstances, and without any adverse distinction by the parties to the conflict. Additional Protocol II of 1977 offers specific measures of protection for the civilian population, even though IDPs were not expressly mentioned, it can be inferred that since displaced persons do not take active part in hostilities, they are considered as civilians and

²⁸ Ibid n(20)

²⁹ See Articles 48, 49, 51 and 52 of the Additional Protocol I of 1977; and articles 13, 14, 17 & 18 of Protocol II to the Geneva Conventions of 1949.

³⁰ Ladan M.T, 'Introduction to International Human Rights and Humanitarian Laws' Ahmadu Bello University Press, Zaria, Nigeria [2001] 258-259;

entitled to all the levels of protection accorded to civilians in situations of armed conflict.³¹

c) The International Covenant on Civil and Political Rights (ICCPR)

This Convention promotes conditions within states to allow the enjoyment of civil and political rights. The Convention recognizes the dignity of each person and also protects the right to life, freedom from torture or cruel, inhuman or degrading punishment.³²

The above protection covers all humans including internally displaced persons, as all parties to the Convention are under obligation to protect and preserve basic human rights, and are enjoined to take all administrative, judicial and legislative steps to ensure that the rights as enshrined in the treaty are protected.³³

d) The International Covenant on Economic, Social and Cultural Rights (ICESCR)

This Convention covers the rights relating to social protection and adequate standard of living, education, enjoyment of cultural freedom, and high standards of physical and mental health. These economic, social and cultural rights are to be enjoyed equally by all without any discrimination, with remedy in the event of breach.³⁴ Unfortunately, most IDPs are denied these socio-economic rights, by camping them in crowded shelters across the states pending the end of hostilities, which has lingered for years, thereby restricting their accessibility to these basic rights.³⁵

³¹ Ladan M.T, 'Materials and Cases Public International Law' A.B.U. Press, Zaria, Nigeria [2008] 33, 906

³² Art 6 and 7 ICCPR

³³ Summary of the International Covenant on Civil and Political Rights available online at <https://ccla.org/summary-international-covenant-on-civil-and-political-rights-iccpr/> [accessed 10 September 2020]

³⁴ Art 2 and 3 ICESCR

³⁵ Ben T C Warwick, 'Socio-economic Rights During Economic Crises: A Change Approach to Non-retrogression' Int'l & Comp LQ (2016) 65 250

e) African Charter on Human and Peoples' Rights, Cap. A9, Laws of the Federation of Nigeria, 2004.

In addition to the protection of the rights of internally displaced persons discussed above, IDP's like any other individual or group, are guaranteed their civil, political, social, economic, environmental and developmental rights under Articles 2-24 of the African charter.³⁶ These rights include; rights to education, housing/shelter, health, food, employment, social security, safe environment, cultural life and development. This instrument has been ratified and domesticated in Nigeria.³⁷

In the case of *Ogugu V.State*,³⁸ it was held that the implication of ratification and domestication is that the country has adopted the African Charter as part of her municipal law and the provisions of the charter are enforceable in the same manner as those of chapter four (IV) of the constitution.

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

The African Union Convention for the Protection and Assistance of internally displaced persons in Africa is the first ever binding legal instrument dealing with internal displacement in Africa.³⁹ It is universally recognized as a giant step in filling the existing lacuna with respect to the protection and assistance of internally displaced persons. It covers all causes and stages of internal displacement.⁴⁰ This will be discussed in details subsequently in the paper.

³⁶ Ibid (n) 23

³⁷ The African Charter on Human and people's Rights, the ICESCR and the ICCPR also has provisions on this; they were ratified by Nigeria in 1993.

³⁸ (1994) 9 NWLR (pt. 366) 1, see also Directive SSS v. Olisa Agbakoba (1998) NWLR pt. 595 at 425, Nwangwu v. Duru (2002) 2 NWLR pt 751 at 265.

³⁹ Adopted by the Special Submit of the African Union, held in Kampala, Uganda; The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (also known as Kampala Convention) is a Resolution on the Mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa; October 23, 2009. <http://www.africa-union.org> [accessed 4th March] 2021

⁴⁰ Allehone M.A, 'The African Union Convention on Internal Displaced Persons: Its Codification Background, Scope and Enforcement Challenges' *University of Bern*

2.2 INSTITUTIONAL FRAMEWORK/ENFORCEMENT MECHANISM

In 2019, the Federal government created the Federal ministry of Humanitarian Affairs, Disaster Management and Social Development, apparently this was to improve the coordination and response to humanitarian needs and disaster management in the country, the development of humanitarian policies, strategic disaster mitigation and preparedness captures some of the provisions of the Kampala Convention, but cannot be said to adequately cover all the protection and assistance due to the IDPs as provided under the Convention. Some other Institutional frameworks for the management and assistance of internally displaced persons in Nigeria include:

a) National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI)⁴¹

This Commission as initially established by the Federal Government has the primary mandate of managing refugees and other related matters, its responsibilities were later extended to assisting migrants and internally displaced persons. The International Displacement Management Committee report says that the National Commission for Refugees is responsible for post-emergency situations and long-term initiatives on a "de facto" basis. The Commission collaborates with the National Emergency Management Agency in the protection and assistance of internally displaced persons in camp management and other designated areas.

However, reports indicate that the Commission is not as effective as it should be due to budgetary constraints, corruption and lack of necessary facilities for a more effective response.⁴²

b) National Emergency Management Agency (NEMA)

⁴¹ *Refugee Survey Quarterly* (2010) Vol. 29, No 3, 28
Cap N21, Vol.10, Laws of the Federation of Nigeria, 2004

⁴² Internal Displacement Monitoring Centre (IDMC) yearly report, December 3, 2010, 97 available online at <http://www.internal-displacement.org> [accessed 4 March 2020]

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Section 1 of the National Emergency Management Agency Act⁴³ provides for the establishment of the Agency, the Act goes further to list out the broad functions of the Agency under Section 6 (1) which include: To formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disaster at national level. The agency also co-ordinate and promote research activities relating to disaster management at the national level. It is their responsibility to monitor the state of preparedness of all organizations or agencies which may contribute to disaster management in Nigeria, among other functions.⁴⁴

The current response to the protection and assistance of internally displaced persons in the country is generally addressed through disaster management mechanisms; as such NEMA can be described as the primary coordinating Agency, having the legal authority for coordination and integration of disaster management in Nigeria. As part of its functions under Section 6(1) (j), the Agency distributes emergency relief materials to victims of 'natural or other disasters' and assists in the rehabilitation of the victims where necessary. In discharging their mandate, the Agency works in collaboration with other federal, state and local agencies to perform its responsibilities stated above.⁴⁵

Furthermore, Section 6 (2) of the Act provides that for purposes of paragraph; (e), (f), (j), (k) and (m) of subsection (1) - "natural or other disasters" includes any disaster arising from any crisis, epidemic, drought, flood, earthquake, storm, roads, aircrafts, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country. In practice therefore, the management and assistance of Internally Displaced Persons is considered as

⁴³ Cap. N.34, Vol.10, National Emergency Management Agency, (NEMA) Laws of the Federation of Nigeria, 2004

⁴⁴ *ibid*

⁴⁵ Olabisi D, 'Kampala Convention One year on: progress and Prospects' (Internal Displacement Monitoring Centre (IDMC) Publishing Company, Addis Ababa, Ethiopia, 2013) 17

part of disaster management, with displaced persons as products of natural and man-made disasters.

In theory however, the Act does not specifically make reference to internally displaced persons, rather it only made reference to 'victims of disaster'. The difference is that victims of disaster are people affected by disasters that are not necessarily uprooted from their homes permanently or for a relatively long period of time and whose needs may be attended to on a short-term basis. Internally displaced persons on the other hand are people who are affected by disasters that have caused them to flee from their home, villages, local government areas or even their states and would therefore require an extensive process of recovery.

The management of internal displacement consists of three phases; Protection from displacement, protection and assistance during displacement, and durable solutions. The National Emergency Management Agency Act is however silent on the last phase which is; durable solutions. Durable solutions are linked to higher struggles for peace, security, territorial control, equal treatment, access to reparations and justice.

While the traumatic experience of displacement cannot be undone, internally displaced persons need to be able to resume a normal life by achieving durable solutions. As articulated under the Guiding Principles, internally displaced persons have a right to durable solutions and it is the responsibility of the national authorities to assist them. Hence for the National Emergency Management Agency to adequately address the problems of internal displacement, they must be able to manage all phases of internal displacement cycle.

c) North East Development Commission (NEDC)

This Commission was established in 2017 as the focal organization charged with the responsibility to assess, coordinate, harmonise and report on all intervention programmes and initiatives by the Federal Government or any of

its Ministries Department and Agencies; and other development partners and for the implementation of all programmes and initiatives for the North Eastern States.⁴⁶ The Commission receives and manages funds from allocation of the Federal account and international donors for the settlement, rehabilitation and reconstruction of roads, houses and business premises of victims of insurgency as well as tackle the menace of poverty, illiteracy level, ecological problems and any other related environmental or developmental challenges in the Northeast states.⁴⁷

d) National Human Rights Commission (NHRC)⁴⁸

The NHRC is mandated to deal with matters relating to the protection of human rights as guaranteed by the constitution of the Federal Republic of Nigeria.

They are also required to protect the rights of vulnerable groups such as ethnic minorities, women or children. The commission is mandated to monitor cases of respect for human rights in the country and also investigate allegations of human rights violations, and to advise the government on the development of laws and policies. The Commission therefore has a crucial role to play in promoting and protecting the rights of internally displaced persons. They are mandated to make informed government policies to respond to existing situations and challenges of internal displacement as well as arbitrary displacement due to projects and other causes.

As with any abuse of human rights, Human Rights Organizations (HROs) can seek to end the violation of rights that happens in IDP camp and prevent its repetition. Monitoring, investigation, and reporting are traditional human rights techniques through regular participation and a good understanding of the situation of the displaced persons most especially those living in the camp.

⁴⁶ See <https://nedc.gov.ng> [accessed 2 February 2021]

⁴⁷ Kanayo Umeh, 'North-East Development Commission sets up N6bn Education Fund' *Guardian newspaper* (Lagos, 9 August 2020) <https://m.guardian.ng/news/north-east-development-commission-sets-up-n6bn-education-fund/> [accessed 10 January 2021]

⁴⁸ Cap. N46, Vol.11, Laws of the Federation, 2004

Human Right Organizations are expected to make significant contribution to the enforcement of human right in line with its mandate. The United Nations Principles relating to the status of National Human Rights Institutions (NHRIs) known as the Paris Principles sets out basic guidelines for establishing NHRIs, including requirements to ensure their autonomy from the government in order to be more effective.⁴⁹

e) Civil Society Groups (CSO)

The important role played by CSO's has led many to posit that non-government agencies end up providing emergency response support to government agencies. CSOs also advocate for legal or policy frameworks to address gaps related to durable solutions. They also assist displaced persons with skills and the creation of livelihood opportunities to enable them to start rebuilding their lives. They also contribute to peace building activities aimed at ensuring good relations between the displaced persons and the local communities where they intend to settle permanently, be it in their places of origin, in their places of displacement, or elsewhere in the country.⁵⁰

f) Red Cross Society (RCS)

The complex nature of management of mass internal displacement, due to their numbers and lack of adequate resource often result in non-governmental agencies playing a prominent role.

Humanitarian organizations such as the Nigerian Red Cross⁵¹ are often critical in providing emergency support at the local level to victims of disaster. Part of their mandate is to restore family links in cases of dispersed family members as a result of the attacks by insurgents, they also have a platform which brings and keeps families together in the government camps during the crises period. They are also active in camp management in collaboration with other

⁴⁹ ibid

⁵⁰ Article 13 (1) African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009

⁵¹ Cap. N130, Vol.12, Laws of the Federation, 2004

stakeholders. The international Committee of Red Cross as an international body has the mandate of ensuring humanitarian protection and assistance of victims of war and other situations. They also monitor respect for international humanitarian law and to protect civilians in armed conflict.⁵²

It is important to mention some United Nations entities that play various roles in the delivery of relief materials or assistance to any group of people in conflict situation, these include; United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA),⁵³ Office of the United Nations High Commissioner for Refugees,⁵⁴ The United Nations Development Programme (UNDP),⁵⁵ World Health Organization (WHO) Emergency and Humanitarian Action (EHA),⁵⁶ The World Food Program (WFP),⁵⁷ etc.

3.0 A CASE FOR DOMESTICATION OF THE KAMPALA CONVENTION

The African Union Convention for the Protection and Assistance of Internally Displaced Persons also called the Kampala Convention owes its development in a large part to the Guiding Principles on Internal Displacement. It incorporated relevant aspects of norms from African regional human right laws, while also capturing the principles of International human rights law and international humanitarian law⁵⁸

The Convention provides for the right not to be arbitrarily displaced, this is at the centre of protection rights of the internally displaced persons. It also considers protection from internal displacement as a legal duty, to which States may be held accountable. The Kampala Convention requires States to

⁵² ibid

⁵³ <<http://www.unocha.org>> It is part of the United Nation Secretariat responsible for supporting humanitarian response and operations, globally. [accessed 7 February 2021]

⁵⁴ <<http://www.unhcr.org>> [accessed 7 February 2021]

⁵⁵ <<http://www.undp.org>> [accessed 7 February 2021]

⁵⁶ <<http://www.who.org>> [accessed 8 February 2021]

⁵⁷ <http://www.wfp.org> [accessed 8 February 2021]

⁵⁸ Romola Adeola, 'The Kampala Convention and the Right not to be Arbitrarily Displaced' Forced Migration Review <https://www.fmreview.org/GuidingPrinciples20/adeola> [accessed 4 February 2021]

introduce measures that will address the negative impacts of displacement on the displaced persons.⁵⁹

The Kampala Convention provides a common legal framework for developing comprehensive responses to internal displacement. It represents an important milestone for guaranteeing physical security and integrity as well as enjoyment of basic rights such as access to food, adequate housing, health care and education for the internally displaced and their right to freely choose where to rebuild their lives, whether back home or in any other part of their country.

This Convention is one of the first to comprehensively address internal displacement, including prevention, response and durable solutions. It protects the rights of people displaced by natural disasters, armed conflicts, violence, and human rights violations.⁶⁰

The definition of internally displaced persons in the Kampala Convention is consistent with the Guiding Principles and provides for equal treatment of all internally displaced persons, whether displaced by armed conflict, generalized violence, human rights violations, disasters or development projects. The definition is not restricted to citizens but includes non-nationals who are displaced within their country of habitual residence.⁶¹

The Kampala Convention sets out the responsibilities of states regarding internal displacement, the rights of Internally Displaced Persons and the rights and duties of other relevant stakeholders such as armed groups, Civil Society Organizations, International Organizations and the African Union. In line with international humanitarian law, the Kampala Convention recognizes that in situations of armed conflict, non-state armed groups have obligations to respect the rights of internally displaced persons. The Convention also provides that states shall bear the primary duty and responsibility for providing protection and assistance, without discrimination of any kind.

⁵⁹ *ibid*

⁶⁰ *ibid* (n)39

⁶¹ Article 1(k) Kampala Convention

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Accordingly, the convention imposes obligations on states to assess the needs and vulnerabilities of displaced persons and host communities and to provide adequate humanitarian assistance in all phases of displacement.⁶² When any state concerned lacks the necessary human and financial resources to fulfil their duty in responding to the needs of the IDPs, effective access to the IDPs by humanitarian organizations is a key option in meeting the needs of those internally displaced persons.⁶³

The Convention highlights the specific needs of separated and unaccompanied children, female heads of household, expectant mothers, the elderly and the disabled. This is done by creating and maintaining an updated register of all IDPs, and ensuring that IDPs are issued personal identity cards.⁶⁴ The above provision will reduce the number of unaccounted persons, support the effort to restore contact with family members and reduce wastages on humanitarian actors.

For the purposes of finding durable solutions, the Kampala Convention commits States to seek lasting solutions to the problem of displacement and explicitly recognizes the right to voluntarily chose to return home, integrate locally in area of displacement or relocate to another part of the country. In other words, to monitor states' compliance, the Kampala Convention provides for the establishment of a conference of State parties to monitor and review the implementation of the objectives of the Convention.

States must also indicate the measure they have taken to give effect to the Kampala Convention whenever they present their reports under Article 62 of the African Charter on Human and Peoples' Rights. For states that have already ratified the Convention, it is important to establish the extent to which

⁶² Article 9(2) (a) Kampala Convention

⁶³ Translating the Kampala Convention into Practice, ICRC Publication, available online at https://reliefweb.int/sites/reliefweb.int/files/resources/4287_002_Kampala-convention-v2_web_0.pdf [accessed 10 September 2020]

⁶⁴ Art 13 (1) (2) Kampala Convention

states existing frameworks are in line with the Convention in order to avoid inconsistencies.⁶⁵

The Convention provides for the right of IDPs to seek and receive assistance.⁶⁶ The aim of this provision and other relevant provisions of the Convention is to ensure the protection and assistance of IDPs as well as safeguard them from the negative consequences of displacement.

Despite the elaborate provisions of the Convention, experience has shown that displaced persons often lack basic necessities, are vulnerable to risks like sexual violence and family separation, are unable to access education and have difficulty finding work opportunities. The enormity of the displacement caused by the insurgents, and the recent mass displacement of persons in the Northeast, Northwest and North central part of Nigeria, coupled with the lack of regulatory framework on the management of internally displaced persons has affected the government's ability to be proactive in planning and management of the situation.⁶⁷

Some good examples across Africa include Niger, which has adopted local legislation implementing the Kampala Convention.⁶⁸ A few other countries have taken considerable steps towards domesticating the Kampala Convention. In Somalia, for instance, authorities are working closely with international partners to develop national laws and policies. It is expected that this will materialize and come into force with good policies and programs to better the lives of the IDPs.⁶⁹

⁶⁵ ibid n 59

⁶⁶ Art 5(9) African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa

⁶⁷ Aloba E and Obaji S, 'Internal Displacement in Nigeria and the case for Human Rights Protection of Displaced Persons' *Journal of Law Policy and Globalization* [2016] (51) 26-33

⁶⁸ ICRC Report, 'The Kampala Convention: Key Recommendations Ten Years On' January 2020 available online at <https://www.icrc.org/en/document/kampala-convention-key-recommendations-ten-years-on> [accessed 2 February 2021]

⁶⁹ J Drumtra, Brookings-LSE Project on internal displacement, *Internal Displacement in Somalia*, Washington, December 2014 16-19 available online at www.refworld.org/docid/54bd197b4.html [accessed 2 March 2021]

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Ethiopia has one of the world's largest internally displaced populations, with displacement risk remaining high in 2021. According to the IOM's Displacement Tracking Matrix (DTM) report from August 2020, 1.82 million people are internally displaced across 1,298 sites in Ethiopia. The primary drivers of this displacement were largely conflict, and some due to climate shocks such as drought and floods.⁷⁰ Ethiopia has also ratified the Convention and the UNHCR is supporting national authorities in the drafting of an IDP policy, which will provide a domestic legal framework for the protection and assistance of IDPs.⁷¹

A study has shown that the existing legal and institutional framework in Ethiopia is playing a significant role in achieving some levels of protection for the displaced population, but the problem is lack of proper enforcement, ineffective institutions that also lack institutional independence and lack of coherence among relevant institutions.⁷²

Long before the Kampala Convention came into being, Uganda was one of the first countries in Africa to adopt a National Policy for Internally Displaced Persons in 2004.⁷³ Their Policy was broad in scope and designed to implement the Guiding Principle on Internal Displacement. It provided for the establishment of a national coordination body, detailed arrangements for intergovernmental coordination at the national and local levels. It has specific

⁷⁰ Ethiopia Crisis Response Plan 2021 available online at <https://refiefweb.int/report/ethiopia/ethiopia-crisis-response-plan-2021> [accessed 10 May 2021]

⁷¹ UNHCR welcomes Ethiopia's ratification of Kampala Convention available online at <https://www.unhcr.org/news/press/2020/2/5e468f7d4/unhcr-welcomes-ethiopias-ratification-kampala-convention.html> [accessed 2 February 2021]

⁷² Abdi Mohammed, 'The Protection of IDP's in Ethiopia: The Analysis of Legal and Institutional Frameworks' Ethiopian Civil Service University 2020 available online at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3713981 [accessed 3 February 2021]

⁷³ Republic of Uganda, Office of the Prime Minister, Department of Disaster Preparedness and Refugees, The National Policy for Internally Displaced Persons, Uganda, August 2004 www.brookings.edu/wp-content/uploads/2016/07/Uganda_IDPPolicy_2004.pdf [accessed 4 February 2021]

provisions for protection and assistance, including arrangements for public education.⁷⁴

In the Democratic Republic of Congo, the Child Protection Code 2009 specifically provides for the right of displaced children, it covers the right to protection and humanitarian assistance. They also have a working group, comprising of humanitarian agencies and relevant national stakeholders, working on a national action on internal displacement.⁷⁵

Operational domestic laws in some of these African countries are a good illustration of a legal basis for the protection and assistance of displaced persons even in the absence of a specific law implementing the Kampala Convention.

4.1 RECOMMENDATIONS

The paper recommends that stakeholders must take the necessary steps to ensure the adoption of the National Policy Framework on the Protection and Assistance on Internally Displaced Persons in Nigeria. This national framework is necessary to promote the implementation and enforcement of the responsibilities therein. The enforcement of the national policy by the Federal Government will serve as an indication of political will to adequately address the sufferings and helplessness of the displaced population and an acceptance of its responsibility under the United Nations Guiding Principle on Internal Displacement which states that the protection and assistance of internally displaced persons, lies primarily with national authorities.

The government must take steps to educate all actors concerned, including civil society organizations, host communities and the IDPs themselves of the Kampala Convention, this will among other things ensure an inclusive national process, and contribute to ownership and sustainability of the process, which

⁷⁴ ibid

⁷⁵ Democratic Republic of Congo, loi No.09/001 du 10 janvier 2009 portant sur la Protection de l'Enfant, Art 2(2) available online at www.leganet.cd/legislation/JO/2009/L.09.001.10.01.09.HTM#TICI [accessed 4 March 2021]

in the long run will make all relevant actors committed to full implementation of the Convention and the IDPs will be aware of their rights and responsibilities.

Lastly, it is the responsibility of the Government to establish and strengthen disaster management institutions, partnerships, networking so as to strengthen the resilience of vulnerable groups to cope with potential disasters. This implies that there must be institutions or organizations and procedure at the various levels of government to cater for the pre-impact, impact, and post impact levels of disasters; and all such organizations involved in the management of disaster in the country need to be well co-ordinated.

4.2 CONCLUSION

Nigeria ratified the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa in May, 2012, and made a draft National Policy on the Protection and Assistance of Internally Displaced Persons in Nigeria to incorporate its provisions. The draft was revised severally but it however remains a draft, as the government is yet to adopt the policy, or enact a domestic law to implement the Convention. The absence of such framework as a means of clearly defining roles and responsibilities has negatively affected humanitarian and developmental efforts that will mitigate the effects of displacement on the IDPs.

By and large, one could say that the Kampala Convention provides a comprehensive framework that has already begun to bring improvements to the daily lives of many IDPs in Africa, but to realize its full potential; it needs to be systematically and comprehensively translated into practice by each state.⁷⁶

⁷⁶ 'Translating the Kampala Convention into Practice: A Stocktaking Exercise'
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