

Legal Issues and Prospects in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria

Shedrack Ekpa^{1*} Nuarrual Hilal Md. Dahlan PhD²

1. Doctoral Candidate, School of Law, UUM College of Law, Government and International Studies, Universiti Utara Malaysia, 06010 Sintok, Kedah Darul Aman, Malaysia.
2. Associate Professor, School of Law, UUM College of Law, Government and International Studies, Universiti Utara Malaysia, 06010 Sintok, Kedah Darul Aman, Malaysia.

* E-mail of the corresponding author: ekpasheddy3@gmail.com

Abstract

Internally displaced persons (IDPs) lived within the borders of their own country thus the responsibility for their protection and assistance rests on their national government. IDPs are not so privileged like refugees whose protection is guaranteed in international law. The protection and assistance of IDPs is encumbered by series of legal and institutional constraints in Nigeria. These concerns are interminable and preponderates all phases of internal displacement such as pre-displacement, displacement and post displacement. This paper aims at exploring into these bulging challenges with a view to bringing to the fore their intractable influence on the protection needs of IDPs. The paper also delves in examination of laudable efforts of Nigerian Government in a bid to ameliorate these challenges either by way of statutory interventions or policy initiatives. The paper as a conceptual analysis relies on primary sources such as international legal instruments, Nigerian domestic legislations, case law, and secondary sources such as textbooks, journal articles and other library based sources. This study is significant as it brings to the fore the imperative needs to address the prevailing difficulties faced by internally displaced persons as a result of unending surge in internal crises in Nigeria. At the end of this discourse, the paper finds inter-alia that good laws and policies without the appropriate political will to implement them for the betterment of IDPs as part of the entire citizenry would remain dead letters. The paper recommends the adoption and implementation of relevant instruments and policies on IDPs' protection in Nigeria and review of extant laws and policies as a way of bridging the gaps in the protection cycle of IDPs in Nigeria.

Keywords: Displacement, Persons, Protection, Responsibility, Challenges, Nigeria

1. Introduction

The interminable surge in internal conflicts is particularly worrying given the massive loss of lives, wreckage of both public and private infrastructures, and displacement of people which has become recurring phenomena in Nigeria.¹ It is estimated that more than 352,840 households which consists of 2,155,618 individuals has been displaced by incessant crises in the country.² This is graphically illustrated in **Table 1** below. These staggering estimates is real given the upsurge in the Boko Haram insurgency in Nigeria's North eastern states which has resulted in continuous forced displacement of people to other states.³

¹ Internal displacement Monitoring Centre (IDMC), "Nigeria-Increasing Violence Continues to Cause Internal Displacement" 8 June (2012):1-14, <http://www.internal-displacement.org/assets/library/Africa/Nigeria/pdf/nigeria-overview-june2012.pdf> (accessed on May 11, 2016); Oduwole Tajudeen A. and Fadayi Adebayo O., "Issues of Refugees and Displaced Persons in Nigeria", *Journal of Sociological Research* Vol. 4, No. 1 (2013):13, <http://www.macrothink.org/journal/index.php/jsr/article/viewFile/3156/2690> (accessed on May 2, 2016); Muhammed Tawfiq Ladan, "Conflicts and its Impact on National Development: With Particular Reference to Northern Nigeria", Paper presented at A-2 Day Northern Peace Summit *Linking Development and Conflict Transformation in Northern Nigeria*, Centre for Crisis Prevention and Peace Advocacy, 10-11 January (2013):1-19, <http://mtladan.blogspot.com/> (accessed on May 12, 2016).

² International Organization for Migration (IOM) Nigeria: Data Tracking Matrix Round IX-UNHCR-Emergencies, Report, April, (2016):1-10, <http://data.unhcr.org/SahelSituation/download.php?id=1942> (accessed on May 12, 2016).

³ Adeejat-Kubra Adenike Kolawole, "Towards the Evolution of Legal and Institutional Frameworks for the Protection of Internally Displaced Persons (IDPs) in Nigeria" *Journal of Sustainable Development* Vol. 6, No. 5 (2013):141-153, <http://www.ssrn.com/link/OIDA-Intl-Journal-sustainable-Dev.html> (accessed on April 20, 2016).

In Nigeria, the protection and assistance of victims of internal displacement who are technically called internally displaced persons¹ has been incoherent, fragmented and on *ad-hoc* basis owing to absence of appropriate legal and institutional mechanisms geared towards betterment of this vulnerable group of persons.² These gaps in their protection has worsened the intractable position they have found themselves as citizens.

This paper seeks to examine legal issues and prospects insofar as it relates to the protection and assistance of IDPs in Nigeria with a view to addressing the gaps and weaknesses and thus strengthening scheme of protection for the nearly 3 million Nigerians floundering in displacement within the borders of the country.

Table 1
Location of Displacement in Nigeria

State	Households	Individuals	Avg HH Size	Percentage
Adamawa	32,860	150,718	4.59	6.99%
Bauchi	10,236	63,731	6.23	2.96%
Benue	13,343	106,074	7.95	4.92%
Borno	223,604	1,427,999	6.39	66.25%
FCT	2,547	16,635	6.53	0.77%
Gombe	5,015	26,634	5.31	1.24%
Kaduna	4,166	31,178	7.48	1.45%
Kano	2,026	10,834	5.35	0.50%
Nassarawa	6,713	38,720	5.77	1.80%
Plateau	10,058	54,316	5.40	2.52%
Taraba	8,312	46,824	5.63	2.17%
Yobe	25,108	134,415	5.36	6.24%
Zamfara	8,852	47,540	5.37	2.21%
Grand Total	352,840	2,155,618	6.11	100%

Source: IOM Nigeria's Displacement Tracking Matrix Round IX Report April 2016

The above table clearly depicts the severity and prevalence of internal displacement owing to convergence of factors in Nigeria. This table shows clearly that nearly half of the States of the federation³ has been affected by one form of internal conflicts or the other with its major multiplier effects revolving round massive displacement of Nigerians. These staggering number ought to influence Nigerian Government in addressing the concerns which militate against effective protection and assistance of IDP.

2. *Issues and Prospects*

The protection and assistance of IDPs is confronted by series of legal and policy issues that collectively deny

¹ See definition of 'internally displaced Persons' in Paragraph 2 of the Introduction to the Guiding Principles on Internal Displacement 1998 UN Doc. E/CN.4/1998/53/Add.2 (1998), hereinafter called the "Guiding Principles", <http://www.brookings.edu/~media/Projects/idp/GPEnglish.pdf> (accessed March 25, 2016); article 1 (k) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons adopted in 2009 but entered into force on 6 December 2012 hereinafter called the "Kampala Convention", <https://www.icrc.org/casebook/doc/treaty/au-idp-convention---assembly---final---10.23-pm-23-oct.pdf>. As at 17 March 2013, the following nineteen countries out of the thirty nine that are signatory, have adopted and ratified the Convention namely, Angola, Benin, Burkina Faso, Central African Republic, Chad, Gabon, Gambia, Guinea-Bissau, Lesotho, Mali, Malawi, Nigeria, Niger, Rwanda, Sierra Leone, Swaziland, Togo, Uganda and Zambia. This data is available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=51c19fd24> (accessed on April 1, 2016).

² Adeejat-Kubra Adenike Kolawole, 143.

³ Nigeria is a federation and comprises of thirty six States and the Federal Capital Territory Abuja. See section 3 and Part 1 of the First Schedule to the Constitution of the Federal Republic of Nigeria 1999 as amended hereinafter called "Nigerian Constitution".

IDPs the much needed protection and assistance given the interminable nature of internal conflicts in Nigeria.¹ The following are salient.

2.1 Absence of Appropriate Legal Frameworks on IDPs

In 1998, the United Nations Commission on Human Rights² kick started the process which led to the emergence of the Guiding Principles on Internal Displacement as an international standard setting norm on IDPs. Part of the ideals set out in the Guiding Principles is the call on states to replicate the principles contained therein into national laws and policies on internal displacement.³

Similarly, the African Union Convention for the Protection of Internally Displaced Persons which reflects the international guidance provided in the Guiding Principles enjoin states party to domesticate the provisions of this Africa's first human right treaty into domestic law as a way of strengthening protection and assistance for IDPs within their respective borders.⁴

The Nigerian Government in 2003 set up a committee saddled with the onerous mandate to draft a national policy on IDPs as a means of addressing the gaps in the protection of IDPs in line with existing norms. The committee came up with a 51 page draft policy which was presented to government in 2011. Surprisingly, despite the severity characterized by the interminable surge in internal crises in the country which has disreputably provoked massive human loss, wreckage of infrastructures and displacement of people, the said draft has continued to sink in oblivion given the fact that it is yet to become operational.⁵ This is notwithstanding the fact that the draft national IDP policy restates all the rights and freedoms recognized under the Guiding Principles, Kampala Convention, and the Nigerian Constitution, the inordinate delay in its adoption and eventual implementation by government also adds to the issue of non-enforcement and compliance of its set out standards even before domestic courts in Nigeria.⁶

In addition, Nigeria has ratified the Kampala Convention⁷ but up to this present time, there are no domestic legislation that mirrors the legal and institutional frameworks on IDPs protection ingeniously contemplated for states party in accordance with the provisions of the Convention.

By a Presidential fiat, the statutory mandates of National Commission for Refugees established in 1989 was extended to cover migrants and IDPs protection and assistance, profound as this initiative seems to be, it falls short of legal approval as it has remained mere executive directives given the non-passage of the amendment to the Act since 2012.⁸ The change in the name of this Commission to reflect the newly ceded mandates has remained mere window dressing in the absence of appropriate legislative amendment, and thus it is preposterously akin to 'new wine in an old bottle'.⁹

The absence of appropriate laws and policies governing IDPs protection and assistance in Nigeria has placed unnecessary burden on the National Emergency Management Agency which is the only body with capacity to

¹ Ashiru M.O.A., "Caught Within Their Borders: The Global Crisis Faced by the International Community of Internally Displaced Persons." *Nigerian Current Law Review* (2010):208-235; Adeajat-Kubra Adenike Kolawole,

² In 1992, Francis Deng, A former Sudanese Diplomat was appointed by the Commission on Human Rights as the United Nations Secretary General's Representative on Internally Displaced Persons with a mandate to develop a normative framework on IDPs. The draft was adopted in 1998 and remains up to date the only international non-binding norms on internal displacement.

³ Ibid. Principle 3 of the Guiding Principles. Columbia Law No. 387 (1997), and Ugandan National Policy on Internally Displaced Persons (2004) are good examples of domestic implementation of the standards set out in the Guiding Principles.

⁴ Article 3(2) (a)-(e) of Kampala Convention

⁵ Bagoni Alhaji Bukar, "Nigeria Needs to Take Responsibility for Its IDPs", *Forced Migration, Review* Vol. 40 (2011):44-45, <http://www.fmreview.org/young-and-out-of-place/bukar.html> (accessed on May 13, 2016)).

⁶ These standards especially that of Kampala Convention can only become binding and enforceable only when they are ratified and domesticated as commended to states party under article 3(2) (a) of this Convention.

⁷ Nigeria ratified the Convention on April 17 2012 and deposited her instrument of ratification on May 22, 2012. See List of Countries that has adopted, ratified and acceded to the Convention at <http://ccpau.org/wp-content/uploads/2012/11/IDP-Kampala-Convention-Ratification-Chart1.pdf> (accessed on May 10, 2016).

⁸ Bagoni Alhaji Bukar.

⁹ The NCFRMI Act as it is presently constituted made no reference to IDPs protection for reasons that based on the original legislation, the Commission is essentially a refugee agency.

respond swiftly to emergency situations given its mandate.¹ Even though this agency has a unit dedicated for IDP related issues, the obvious challenge too is that, since it virtually intervene in almost all known emergency situations in Nigeria, it is most likely that its dependence on the meagre funds that accrue to it from the national revenue would hamper its service delivery.²

Owing to absence of clearly delineated area of responsibilities for each of the relevant institutions such as National Emergency Management Agency and National Commission for Refugees, Migrants and Internally Displaced Persons sharing concerns on IDPs issues, the requisite synergy is also lacking regarding humanitarian intervention in Nigeria resulting in wasteful duplication of responsibilities as well as in the provisions of material needs for victims.³

2.2 *Dearth of Reliable Statistics on IDPs*

The actual number of person displaced by recurring internal conflicts need to be determined before any meaning planning and eventual intervention can be effectively undertaken. In Nigeria reliable data in this regard is lacking, and this constitutes one key constraints that undermine effective protection and assistance of IDPs in Nigeria. The capacity to gather relevant data is potentially inefficient due to poor communication and transportation networks.⁴ Most of the IDPs are uprooted away from their homes into areas that are virtually not easily accessible.⁵

The National Commission for Refugees, Migrants and Internally Displaced Persons and National Emergency Management Agency by virtue of their enabling statutes⁶ collate data on IDPs in Nigeria without any agreeable standards in terms of methodology. Data derived from these sources are therefore questionable, inaccurate and misleading.⁷

For example, after many years, the National Refugee Commission publicly released an estimated figure of 1.5 million persons as internally displaced due to internal crises in Nigeria,⁸ this figure to say the least is doubtful given that they are not usually disaggregated by sex and age.⁹

¹ By virtue of section 8(1) of the National Emergency Management Act CapN34 Laws of the Federation of Nigeria 2004 (hereinafter called “NEMA Act”), there is State Emergency Management Committee (SEMC) in each of the 36 States in Nigeria to complement the activities of the agency at the States and Local Governments levels. See also Emmanuel Imaseun, “Insurgency and Humanitarian Crises in Northern Nigeria: The Case of Boko Haram” *African Journal of Political Science and International Relations*, Vol. 9(7), July (2015):284-296, <http://www.academicjournals.org/journal/AJPSIR/article-full-text-pdf/9324F3C53778> (accessed on May 10, 2016).

² For example the sources of funding to this agency is limited by virtue of section 13 of the NEMA Act having regard to the long list of its functions under section 6 thereof. See also Adeejat-Kubra Adenike Kolawole, 142.

³ Emmanuel Imaseun, 291.

⁴ Michael A. Olukolajo, Mary A. Ajayi and Matthew T. Ogungbenro “Conflict Induced Displacement and its implication on Real Estates Development in Nigeria”, *Journal of Economics and Sustainable Development* Vol.5, No.4, (2014):40, <http://www.iiste.org/Journals/index.php/JEDS/article/download/11258/11583> (accessed on May 10, 2016); Emmanuel Imaseun, 291.

⁵ Some of the IDPs lived with their host communities and thus they are not reckoned with in the counting usually carried out by NEMA and other humanitarian agencies which are limited to data collection in camps. See IDMC: Nigeria-Multiple Displacement Crises Overshadowed by Boko Haram, 9th December (2014):8-9, <http://www.internal-displacement.org/sub-saharan-africa/nigeria/2014/nigeria-multiple-displacement-> (accessed on March 26, 2016).

⁶ See Section 6(1) (d) of NEMA Act. The NCFRMI Act on the other hand as presently constituted does not expressly provide for this function of data collection for reasons that the presidential mandate is yet to be passed into law by the National Assembly.

⁷ NEMA in collaboration with IOM as at April 2015 estimates that 1,491,706 are displaced in Nigeria. While IDMC/NEMA/NRCS gave another estimate of 2,152,200 as at 31/12/ 2015 subject to review. The methodology for this collection are not clearly defined. See Nigeria Situation: UNHCR Regional Update No. 116, 12 June 2015, <http://reliefweb.int/report/nigeria/nigeria-situation-unhcr-regional-update-n-11-6-12-june-2015> (accessed on March 26, 2016), Internal Displacement Monitoring Centre (IDMC), Nigeria IDP Figures Analysis 2015, <http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis>, (accessed on March 26, 2016).

⁸ Internal Displacement Monitoring Centre (IDMC) Global Overview: Internal Displacement in Sub-Saharan Africa, Figures and Causes (2014):18, <http://www.internal-displacement.org> (accessed on December 20, 2014).

⁹ Ibid.

The cumulative effects of the above development leads to the continued distortion of the true pictures and understanding of the severity and dynamics of internal displacement in Nigeria even before national authorities and international communities for the purposes of any feasible and result oriented intervention.¹

2.3 Absence of Designated Camps for IDPs

Furthermore, there are also challenges that are tied to the absence of IDP camps and other facilities. It is common to see that whenever there is an emergency resulting in the displacement of people, victims are hurriedly relocated to available public infrastructures like schools and other public places on temporal basis. But situations of internal displacement is not like a scorpion bite and so it does not freeze away with ease.²

There are dearth of IDPs' camps of permanent nature in Nigeria.³ Make shift camps are porous and not specially constructed to ensure adequate security to forestall secondary attack on the victims. A large proportion of IDPs in Nigeria resides with their family and friends who at times are members of their host communities. For example, in the IOM Round IX Reports, it was reported that out of the 97 IDPs sites in Nigeria's North Eastern States of Adamawa, Borno, Taraba and Yobe assessed by the IOM team which comprises of NEMA, IOM and Nigerian Red Cross Society, 22 are located in open air settlements called camps, 73 are in collective settlements (pre-existing structures) such as public schools and government buildings, while the remaining 2 sites are transitional centre which only provides transient accommodation to IDPs.⁴

Given the nature of facilities stated above, medical facilities are also lacking in the so called IDPs' camps as outbreak of diseases are on the increase because of competition for space and other related factors.⁵ These embarrassing situations threw to the wild wind any assurance that durable solutions in the form of return, resettlement and rehabilitation can be achieved for IDPs whose numbers and identities are unascertainable. More so in Nigeria there are no specially tailored housing development projects for vulnerable population like IDPs.

2.4 Ineffective Mechanisms for Accountability and Reparations to IDPs

This is one of bulging concerns in the legal frameworks for the protection of IDPs. The unending impunity characterized by lack of adequate domestic mechanisms to guarantee accountability of perpetrators of internal conflicts is indisputably problematic⁶. Successive administration in Nigeria are quite unsuccessful in applying the appropriate penal laws to ensure that perpetrators of violence of whatever descriptions incur responsibility for the wrongs committed against innocent citizens including IDPs.⁷ Several commissions and investigative panels has been set up by government at the end of every crises to probe into remote and immediate causes,⁸ unfortunately their reports of the so called board of inquiry and their eventual implication have not seen the light of the day, they are kept in archive of history.⁹ Most of the times, the setting up of commissions to probe violence are greeted with terse legal disputes due to underlining diverse ethnic, religious and political interests in the affected areas thereby stalling their effective take off.¹⁰

¹ IDMC/NRC, (2014):7.

² Michael Olugbode "Two New IDPs Camps Established in Maiduguri" 22 January 2015, <http://www.thisdaylive.com> (accessed on January 23, 2015).

³ Oduwale Tajudeen A. and Fadeyi Adebayo O., (2014):6.

⁴ IOM Nigeria: Data Tracking Matrix Round IX-UNHCR-Emergencies, Report, April, (2016):6.

⁵ Adeejat-Kubra Adenike Kolawole, 146; Taiwo Lateef Sheikh, Abdulaziz Mohamamed, Samuel Agunbiade, Joseph Ike et al, Psycho Trauma, Psychosocial Adjustment, and Symptomatic-Post Traumatic Stress Disorders among Internally Displaced Persons in Kaduna, North-Western Nigeria", *Frontiers in Psychiatry*, Vol. 5, No. 127, 12 September (2014): 1-6; Ibid. 7.

⁶ Shedrack Ekpa and Nuarrual Hilal Md. Dahlan, "Towards the Evolution of Right of Reparation for Loss of Housing and Property of Internally Displaced Persons (IDPs) in Nigeria", *Mediterranean Journal of Social Sciences* Vol. 6 No.3, May (2015):380-386, <http://www.mcser.org/journal/index.php/mjssl.../6009> (accessed on May 10, 2016).

⁷ Chris Kwaja, "Nigeria's Pernicious Drivers of Ethno-Religious Conflicts" Africa Security Brief No.14 (2011):5.

⁸ The legal authority for establishment of commissions of inquiry varies from state to state, but with respect to Jos crises, the Commission of Inquiry Law⁸ is applicable to Plateau State and the power to set it up is only exercisable by the Governor in line with the provision of section 4(7) of the 1999 Nigerian Constitution

⁹ International Crisis Group (ICG) "Curbing Violence in Nigeria (I): The Jos Crisis", Crisis Group Africa Report N°196, 17 December (2012):20-21.

¹⁰ This was subject of litigation before the Supreme Court of Nigeria in *Plateau State & 1or. v. Federal Government of Nigeria & 1or.* No. (2008), SC.331.

The setting up of so many *ad-hoc* commissions to probe violence in violence has not able to achieve the needed deterrence as the approach is seen as deferring of government responsibility in favour community and religious leaders' wishes and a time buying tactics to douse tensions and avoid criminal prosecutions. At the end faults are not apportioned because of lack of political will.¹ This writer would not differ but to agree with an opinion expressed by an author that "the use of commission is where genuine and legal controversies go to die".²

Government officials who are charged with the responsibility of prosecuting perpetrators sees violence more of a political problem requiring political solution rather than criminal prosecutions. Rioters are often celebrated as heroes instead of rogues based on divides to which they belong.³

There is often a limit to how much the society can preach peace without accountability for unprovoked and wanton destruction of lives and properties as well displacement. The foregoing explains the corresponding endless urge to revenge at the slightest opportunity thereby making victims to live in an atmosphere of perpetual displacement. In the absence of fruitful criminal prosecutions and convictions of culprits for the mass atrocities they have committed either individually or collectively as evident in the various internal crises plaguing the nation, people will continue to engage themselves in this ignominious warfare with brazen impunity and rascality.⁴

Coupled with the foregoing is the dearth of credible evidences to support the effective prosecution of perpetrators of internal conflicts given the fact that victims and witnesses prefer to stay away from the courts to avoid reprisal attacks on their persons and property in the hands of arrested culprits. These situation has led to a number of cases thrown out of court for lack of evidence with which to establish the guilt of culprits.⁵

In addition to the foregoing challenge, there is also lack of effective reparations for victims of internal displacement in Nigeria. Unlike in other jurisdiction like Sri Lanka where there exist a purpose driven and designated remedial regime in favour of victims of crime and their witnesses,⁶ in Nigeria, there is yet no active mechanisms in place to guarantee effective reparation for personal injuries and loss of properties during displacement.

Even though, the right to seek remedy for compulsory acquisition of landed property is well conceptualised,⁷ the same cannot be the case with IDPs in Nigeria as government except in development induced displacement and evictions are not responsible for such violations for the purposes of granting affected person any form of reparation.⁸ Aside this too, the right to redress provided for in the Nigerian Constitution is not absolute.⁹ IDPs by virtue of their predicaments are poor and thus incapable of activating the judicial process contemplated in the Constitution, more so that the legal assistance conceived therein are not specifically meant to be enjoyed by IDPs

¹ Adam Higazi, "The Jos Crisis: A Recurrent Nigerian Tragedy", Discussion Paper no. 2, Friedrich Ebert Stiftung, January (2011), 7-8; Ibid. ICG, (2012):23.

² Sayne Aaron, "Re-thinking Nigeria's Indigene-Settler Conflicts." *Special Report* No.311, U.S. Institute of Peace, Washington DC, (2012):7.

³ Human Rights Watch (HRW) "We Leave Everything for God: Accountability for Inter-Communal Violence in Plateau and Kaduna States, Nigeria." USA, (2013):143-144, <http://www.hrw.org> (accessed on January 15, 2015).

⁴ Ibid.

⁵ For example during the 2010 Jos crises in Plateau State, Nigeria, Justice A.L. Allogoa held in *Federal Republic of Nigeria v. Patrick Ishawa and Anor*, FHC/Jos/55C/2010 that :“there was no iota of evidence against the accused persons ”. It is the respectful view of this writer the failure lies in the inability of the prosecuting authority to establish their case against the accused persons due to lack of evidence from either the victims themselves or eye witnesses who are not willing to testify.

⁶ Sri Lanka's Assistance to and Protection of Victims of Crime and Witnesses Act 2015 which provides elaborate compensation scheme for victims of crime and their witnesses in addition to establishment of a monitoring body entitled 'national authority'.

⁷ See Section 44 (1) (a) and (b) of the Nigerian Constitution 1999 as amended and Section 39 (a) and (b) of the Land Use Act Cap L1 Laws of the Federation of Nigeria 2004 in respect of improvements on the land.

⁸ Shedrack Ekpa and Nuarrual Hilal Md. Dahlan, "Towards the Evolution of Right of Reparation for Loss of Housing and Property of Internally Displaced Persons in Nigeria", *Mediterranean Journal of Social Sciences* Vol. 6, No. 3 (2015):380-386, <http://www.mcser.org/journal/index.php/mjss/.../6009> (accessed on August 10, 2015).

⁹ Section 6 (6) (c) of 1999 Nigerian Constitution circumscribed access to judicial remedy if the claim in question emanates from violation Chapter II of the Constitution.

alone even in the face of their peculiar vulnerability.¹

Bearing this dilemma in mind, victims of internal displacement finds it extremely difficult returning to original place of abode even after the end of crises for fear of nowhere to put their heads. Reclaiming their property upon eventual return is also problematic especially where government have designated such places as crises zones. Victims run the risk of having their properties declared abandoned by government instead of being compensated.²

3.5 Implementation and Enforcement of Existing Norms on IDPs in Nigeria

One of the salient means of guaranteeing protection and assistance of IDPs lies in the implementation of laws and policies insofar as it relates to IDPs' rights and entitlements and their consequential enforcement upon actual breach or threatened infraction of the same. Most of these laws and policies that entrench protection for IDPs in Nigeria are either in the nature of soft laws³ and treaties⁴ which also lacks effective monitoring system⁵ to ensure implementation and compliance by states party, in addition to their domestic application which is evidently limited also by the provisions of the national laws.⁶

Nigeria's dualist legal system in particular where international law and domestic law are considered as two distinct legal systems require reception legislation before treaty becomes applicable in national courts⁷ also contribute to the growing concerns regarding non-implementation and enforcement of IDPs norms. There are no national institution with the mandate to ensure implementation and enforcement of IDPs norms in Nigeria as it were in other jurisdiction like Uganda where the National Human Rights Commission is saddled with this onerous responsibility.⁸

4. Recommendations and Conclusion

The growing rise in internal displacement in Nigeria as a result of recurring internal crises calls for prompt intervention by government, if victims are not to be left to their own fate. The following recommendations are indispensable in achieving effective protection and assistance to IDPs in the face of these raging concerns as revealed in this paper.

- i) Nigerian Government should without any further delay bring to a successful end the legal and institutional processes leading to the adoption of the draft national IDP policy so as to strengthen protection for IDPs beyond the general entitlements as citizens. National framework on IDPs remain the credible pathway towards effective protection for IDPs;
- ii) The proposed amendment to the National Commission for Refugees, Migrants and Internally Displaced Persons Act⁹ should be effected holistically to ensure the legal competence of this institution to cater for the protection and assistance of IDPs in Nigeria. The present arrangement based on presidential directive is ad-hoc and informal. This mode of intervention cannot guarantee the needed protection that IDPs deserves;

¹ Ibid., Section 46(4) read in conjunction with section 10(1) of the Legal Aid Council Act Cap L9 Laws of the Federation of Nigeria 2004.

² Abandoned Properties Act Cap AI Laws of the Federation of Nigeria 2004; Amnesty International, "Nigeria: Trapped in the Cycle of Violence" (2012):42-43, http://www.global2p.org/media/files/amnesty_international_nigeria.pdf (accessed on March 27, 2016).

³ For example, Guiding Principle on Internal Displacement whose provision merely enshrine guidance as opposed to binding prescription.

⁴ For example, Kampala Convention to mention but a few.

⁵ Under article 14 of Kampala Convention, the Conference of States Party which ought to perform this salient function is politically weak and cannot activate the right of intervention to halt grave violations in member states under article 8(1) of the Convention in line with article 4(h) of the African Union Constitutive Act 2000.

⁶ See the effect of section 12 of 1999 Nigerian Constitution as it relates to reception of international treaties and the case of *Registered Trustees of National Association of Community Health Practitioners of Nigeria & Ors. v. Medical and Health Workers Union of Nigeria* (2008)2 NWLR (Pt. 1072) 575 at 623. This case involves the enforcement of International Labour Organization Convention which was not domesticated in line with Section 12(1) of 1999 Nigerian Constitution. The Court held that it cannot be enforced in Nigeria.

⁷ Ibid.

⁸ Article 2.3.1 of the Ugandan National Policy on Internally Displaced Persons 2004. In Nepal also this responsibility of monitoring and implementation is ceded in government Committees at the central district and local levels in accordance with section 11 of the Nepalese Relief Program for Internally Displaced People Due to Conflict for FY 2004/05.

⁹ Cap N33 Laws of the Federation of Nigeria

- iii) Beyond ratification, the need to incorporate into national legislation the protection envisaged in a number of international norms relevant to IDPs cannot be underestimated. There is an urgent need for wholesale domestication of Kampala Convention into domestic regimes not only make the provisions applicable in Nigeria but to ease off the implementation and enforcement difficulties;
- iv) As a holistic means of ensuring effective reparation for victims of internal crises in Nigeria, the extant provisions of applicable laws such as the Legal Aid Council in particular needs to be further reviewed to incorporate IDPs as a category of persons considered as indigent persons within the meaning of section 46(4) of Nigerian Constitution;
- v) As an ingenious measure towards accountability of perpetrators of internal conflicts in the country, capacity building of security agencies needs to be brought to the front burner. Robust compensations for victims and other affected persons during crises needs to be institutionalized in order to encourage those affected by internal crises to come up with evidence that will nail the culprits to their guilt;
- vi) The protection of victims of crime and their prospective witnesses should be accorded its prime place of relevance through enactment of appropriate legal regimes that would protect them against all forms of harm as it were in Sri Lanka. In this wise, the prosecution of perpetrators of internal conflicts will not be defeated solely because of dearth of credible evidence as both victims and witnesses would be encouraged to partake in the legal processes that aims at increasing accountability;
- vii) It is further recommended that properly designated camps with necessary facilities should be provided to ensure that IDPs are not further exposed to other vices that could aggravate their difficulty in terms of safety, security and general welfare; and
- viii) The current collaboration with International Migration for Migration which leads to the deployment of Data Tracking Matrix (DTM) in data management of IDPs in Nigeria should be encouraged and sustained. The benefits of reliable statistics cannot be underestimated when conceiving any meaningful protection for IDPs. Planning that is bereft of consistent facts and figures would only be likened to guess work. The DTM Round IX April 2016 which gave comprehensive statistics on IDPs in Nigeria clearly supports this thought.

To this end, this paper concludes that once the above recommendations are faithfully followed by Nigerian Government, policy makers and other relevant stakeholders, the protection and assistance of IDPs would be further strengthened beyond the present incoherent, informal and *ad-hoc* intervention that is evidently below the ideal benchmark as exemplified in the extant normative frameworks on IDP. Further investigations into the issues identified in this study should explore into particular model of laws and policies that would address this dilemma once and for all.

Finally, in view of the fact the whole gamut of suggested reforms revolve round government intervention and initiatives there is need for it to show more sensitivity to the plights of IDPs as citizens as it were given the fact that the primary purpose of government is targeted at protection of lives and property of its citizens. Nigerian Government should exhibit the necessary political will that resonates the truism that sovereignty entails responsibility.

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