

Internal Displacement in Nigeria and the Case for Human Rights Protection of Displaced Persons

Eni Aloba^{1*} Synda Obaji²

1. Senior Lecturer, former Head of Public & International Law, Faculty of Law, University of Calabar-Nigeria. Adjunct Lecturer, Faculty of Law, University of Port Harcourt. He holds a PhD in International Law
2. LL.B (Hons), B.L, LL.M (Kent), Lecturer, Faculty of Law, University of Calabar-Nigeria

Abstract

Millions all over the world are currently internally displaced as a result of various causes including forcible movements to inhospitable areas, civil wars in which villages have been destroyed, insurgency and ethnic persecution through government policies. Yet the plight of internally displaced persons is a problem that is not directly addressed by any international instrument or by domestic laws in the case of Nigeria, thereby contributing to the ad hoc nature of response strategy to such crises. The presence of internally displaced persons within national territory means that their own government bears primary responsibility for meeting their protection and assistance needs but in most cases, they are either unwilling or unable to guarantee the basic rights and minimum needs of their internally displaced persons. This paper evaluated internal displacement and IDPs from this perspective. It examined the challenges faced by IDPs in Nigeria, adequacy of mechanisms put in place to ensure the protection of IDPs in Nigeria and potential solutions to the problems faced by IDPs recognising existing deficiency in response strategy and protection hiatuses.

Keywords: Internal Displacement, Protection, Human Rights

1 Introduction

In any conflict situation, and particularly those with ethnic or religious underpinnings, the humanitarian needs are immense - and the means to satisfy those needs within the conflict area are severely limited. Internally displaced civilian populations move from one place to another, seeking safety and protection inside their own country. Forced population movements resulting in mass exoduses constitute by their very nature infringements of international human rights and humanitarian law.

Internal displacement describes situations in which individuals and groups are compelled or obliged to leave and remain away from their homes, but remain within the borders of their own countries. The latter element differentiates them from refugees, who are also compulsorily evacuated but across internationally recognized state borders. Internal displacement occurs characteristically in reaction to armed conflict, oppression, situations of widespread violence, natural and human-made tragedies, etc. The scale of internal displacement and the inevitable problem and nature of the response have become far more momentous in contemporary times.

The consequence of internal displacement on IDPs themselves, as well as on the local authorities and communities that host them, can be shocking. While the act of displacement itself often may violate the human rights of those affected, the subsequent loss of access to homes, lands, livelihoods, personal documentation, family members, and social networks can deleteriously affect the ability of IDPs to assert and relish an entire range of fundamental rights.¹ Most apparent, IDPs instantaneously become reliant on others for basic needs such as shelter, food and water. At the same time, their susceptibility may be amplified by barriers to accessing health care, education, employment, economic activities, and electoral politics in their areas of displacement. Moreover, the longer displacement continues, the greater is the risk that traditional family and social structures break down, leaving IDPs dependent on outside aid and vulnerable to economic and sexual exploitation. Such dependency, in turn, reduces the chances of durable solutions and sustainable reintegration into society once political and security conditions have changed to enable such solutions to take place.

In view of the negative effect of internal displacement on victims, the UN has facilitated domestic responses to internal displacement through the humanitarian assistance provided by its specialized agencies, and more importantly through the identification of the rules of international law that govern all states' responses to displacement.² These principles reflect and are consistent with international human rights law and international humanitarian law and restate in greater feature guarantees germane to the displaced that are implicit in the more abstract prescriptions of these bodies of law.³

¹ Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly* 24, no. 3 (2005): p. 9-26.

² Guiding Principles on Internal Displacement, which were presented to the UN Commission on Human Rights in 1998.

³ These efforts have been strengthened since 2006 with the gradual implementation of a reform of the humanitarian system composed of three components: (1) creation of a Central Emergency Relief Fund (CERF); (2) improved support for UN resident and humanitarian coordinators; and (3) introduction of the cluster approach by designating clusters with an agency

At the regional level, the 2006 Pact on Security, Stability and Development in the Great Lakes Region of Africa includes a protocol obliging signatory states to enact national legislation to incorporate the Guiding Principles in their legal frameworks.¹ Other regional organizations including the African Union, the Organization of American States and the Council of Europe have called upon their member states to use the Guiding Principles and incorporate them into their domestic laws and policies.²

As regards the responsibility of states affected by internal displacement, the Guiding Principles rest on two key tenets:

1. Sovereignty entails not only the right of each state to conduct its own affairs but also the primary duty and responsibility to provide protection and assistance without discrimination to its population, including the internally displaced, in accordance with international human rights and humanitarian law.³
2. While those displaced within their own country remain entitled to the full protection of rights available to the population in general, displacement gives rise to particular vulnerabilities on the part of those affected. Therefore, and in order to ensure that the displaced are not deprived of their human rights, states are obligated to provide special measures of protection and assistance to IDPs that correspond to these vulnerabilities in order to ensure that IDPs are treated equally with respect to non-displaced citizens.⁴

The Guiding Principles describe in detail the guarantees available to internally displaced persons that must be provided both in order to prevent arbitrary displacement and to mitigate and end it when it occurs. They cover all phases of displacement, including measures of protection against being displaced, protection during displacement, and rights relevant in the post-displacement phase when return or other durable solutions become possible. In addition, the Guiding Principles set out standards pertaining to the delivery of humanitarian assistance. The Guiding Principles are grounded in existing human rights and humanitarian law standards. Thus, they reflect existing rules and clarify how they apply to internal displacement settings, instead of creating new obligations.⁵ This approach has facilitated rapid international acceptance of the Guiding Principles, as reflected in their increasingly common application in the domestic order of displacement-affected countries.

Nigeria has been battling helplessly with insurgency perpetrated by the Boko Haram terrorist group. Boko Haram is predominant in the North Eastern part of Nigeria in states like Borno, Yobe and Adamawa. They have in the last half a decade or so, become the most dangerous insurgent group that Nigerians have witnessed. Their central philosophy is “Western education is forbidden”. They are known to devastatingly attack churches, mosques, schools, police stations and government, private and public owned facilities with a kind of guerrilla warfare tactics. The hazardous undertakings of Boko Haram insurgency have generated a colossal upsurge of displacement in the North Eastern part of Nigeria. Internally displaced person’s plight is more worrying and hazardous in Nigeria. Over the years, the growing number of Internally Displaced Persons (IDPs) in Nigeria is becoming alarming.⁶ Besides, Nigeria is also prone to natural disaster especially flood occasioned by the release of water from Lado dam in Cameroon and community clashes which have spawned and continue to cause displacement all across its territory.⁷

During internal conflicts, displaced victims are confronted with wide range of physical and psychological trauma to their persons coupled with loss of their homes and other life time investments.

responsible for leading the cluster at the international as well as the country levels and for acting as provider of last resort if no other organizations are available in given situation to undertake necessary cluster activities. The clusters and designated agencies are nutrition (UNICEF), water and sanitation (UNICEF), health (WHO), shelter in conflict for IDPs (UNHCR), camp coordination in conflict for IDPs (UNHCR), protection in conflict for IDPs (UNHCR), logistics (WFP), telecoms (OCHA/ UNICEF/WFP), early recovery (UNDP), and education (UNICEF).

¹ International Conference of the Great Lakes Region, “Protocol on the Protection and Assistance to Internally Displaced Persons” (30 November 2006), Article 6.3

² In 1999 the Commission of the Organization of African Unity (OAU), now reconstituted as the African Union (AU), formally acknowledged and expressed appreciation for the Guiding Principles. The AU is presently (in 2008) in the process of drafting a binding convention on internal displacement in Africa. See also Organization of American States, General Assembly Resolution 2277 (2007) and Council of Europe Recommendation 6 (2006) of the Committee of Ministers to member states on internally displaced persons.

³ Guiding Principle 3.1

⁴ Guiding Principles 1.1 and 4

⁵ The provisions of international human rights and humanitarian law providing the normative basis of each of the principles are described in Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, 2nd ed., Studies in Transnational Legal Policy 38 (American Society of International Law and Brookings Institution, 2008) (www.asil.org/pdfs/stlp.pdf).

⁶ The Number of Internally Displaced persons (IDPs) in Nigeria is Growing, quickly, www.venturesafrica.com/the-number-of-internally-displaced-persons-idps-in-nigeria-is-growing-quickly/ last assessed 1st March 2016.

⁷ Displacement Highlights, https://nigeria.iom.int/sites/default/files/dtm/IOM%20DTM%20Nigeria%20II%20Round%20Report_Feb_2015.pdf last assessed 1st March 2016.

Abduction, sexual slavery, forced recruitment and other major violation of human rights have affected thousands of women, children and their families.¹ Expectedly, the Boko Haram atrocities have occasioned more than enough of these violations on IDPs. Relocating these victims to safe place (IDPs Camps) alone is far from returning them to status quo. In Nigeria, owing to multiple factors compensating victims for loss of homes and other tangible properties in particular is yet to arouse the needed attention that it deserves as government primary attention has continually been overwhelmed by the need to provide immediate succour.²

Also, the rush to escape from the north has already affected the profitability of business establishments in that region. For example, banks, industries, etc. have closed down their business outlets due to insecurity. This has completely obliterated economic activities in the area. The consequences of this can be imagined. The massive exodus of people from the northern region has not only constituted a depletion of economic affairs in the north but created destitution which has thrown those who are departing from the north into financial and psychological pressures.

As seen above, the Boko Haram insurgency in Nigeria has had a lot of socio-political and economic consequences. But it has also exposed the failure of the Nigerian state. The deadly Islamic terrorist sect in Northern Nigeria which has embarked on suicide bombing, kidnapping, and all kinds of atrocities all in the bid to impose extreme Islamic ideas on Nigeria has cost more than 4,000 lives, displaced close to two million, destroyed hundreds of schools and government buildings and devastated an already ravaged economy in the North East, one of Nigeria's poorest regions.

But why are IDPs particularly susceptible? Although all persons affected by conflict and/or human rights violations suffer, displacement from one's place of residence may make the internally displaced particularly vulnerable. The following are some of the general dynamics that are likely to increase the need for protection:

- a. Internally displaced persons may be in transit from one place to another, may be in hiding, may be forced toward unhealthy or uncongenial environments, or face other circumstances that make them particularly vulnerable.
- b. The social organisation of displaced communities may have been destroyed or damaged by the act of physical displacement; family groups may be separated or disrupted; women may be forced to assume non-traditional roles or face particular vulnerabilities.
- c. Internally displaced populations, and especially groups like children, the elderly, or pregnant women, may experience profound psychosocial distress related to displacement.
- d. Removal from sources of income and livelihood may add to physical and psychosocial vulnerability for displaced people.
- e. Schooling for children and adolescents may be disrupted.
- f. Internal displacement to areas where local inhabitants are of different groups or unreceptive may increase hazard to internally displaced communities. Also, internally displaced persons may face language barriers during displacement.
- g. The condition of internal displacement may raise the suspicions of or lead to abuse by armed combatants or other parties to conflict.
- h. Internally displaced persons may lack identity documents essential to receiving benefits or legal recognition; in some cases, fearing persecution, displaced persons have sometimes got rid of such documents.³

2 Definitional Issues of Internally Displaced Persons (IDPs)

Any attempt at defining the term 'internally displaced persons' throws up a number of complex, inter-related issues. One of the principal difficulties encountered in establishing a more systematic approach to the plight of internally displaced people is the debatable nature of the concept itself. If there is to be a special legal regime for IDPs, then its beneficiaries would have to be clearly defined and identified. Any definition would have to avoid the twin pitfalls of being overly all-encompassing or constricted. The former case tends to employ the concept in relation to all those people who have moved within their own country for reasons that are not entirely voluntary.⁴ This includes, for example, changes of residence induced by environmental and industrial disasters, as well as the forcible relocation and population distribution programme which governments often employ to counter security threats and to implement large-scale development projects. In this case, practically anyone would

¹ Nigeria: Protection Sector Factsheet, www.globalprotectioncluster.org/... Last assessed 22nd Feb. 2016.

² Ekpa, Shedrack, Dahlan, Nuarrual H. M., Towards the Evolution of Right to Reparation for Loss of Housing and Property of Internally Displaced Persons (IDPs) in Nigeria; <http://www.mcser.org/journal/index.php/mjss/article/view/6268> last assessed 22nd Feb. 2016.

³ E. Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern", in: Refugee Survey Quarterly, Volume 24, Issue 3, 2005.

⁴ F. Deng, 'Internally displaced persons: report of the Representative of the Secretary-General', 1995, UN Document UN/E/CN.4/1995/50, para. 11.

qualify as an IDP. Thus the definition of internal displacement generally excludes from its scope those situations in which people are obliged to move as a result of environmental disasters, development projects and infrastructural schemes. For although such people often suffer from material and psychological hardship, they may also continue to benefit from the protection of the state, and may even receive some form of compensation from it.¹

It is our view that the term should be limited to people who have left their usual place of residence in the context of involuntary movements, and in circumstances similar to those which create refugees. But care must be taken to ensure that any definition adopted is not extremely constricted so as not to leave too many people outside the protection net. In that case, the very purpose of having a separate legal regime would be lost. A special regime would also need to address the question as to when an individual ceases to be a displaced person. At present, there is no internationally agreed definition of who is an internally displaced person. Achieving one is essential both for the development of accurate statistics and information and for comprehensive and coherent action.²

The UN's working definition of IDPs is phrased thus:

*"... persons who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disasters, and who are within the territory of their own country."*³

The quantitative and time qualifiers in this definition make it unduly narrow. Restricting the internally displaced to those forced to leave 'suddenly or unexpectedly in large numbers' would exclude serious cases of internal displacement- such as in Colombia, where the displaced often flee in small numbers, making them less conspicuous; or in Iraq, where the government organized the uprooting of Kurds over a period of years in the late 1970's, 1980s and early 1990s.⁴ Even in Nigeria, IDPs escape in drips and drabs to places considered safe and not necessary in droves. The term 'forced to flee' is also narrow. Countless numbers in Burma, Iraq and Ethiopia have been forcibly moved by their governments on political and ethnic grounds: they did not flee. Nor did Bosnian Muslims forcibly expelled from their homes in Banja Luka and other areas of Bosnia on ethnic and religious grounds. Such persons should explicitly be included as internally displaced.⁵

United Nation Guiding Principles affords a working definition which has tried to cure this deficiency. It defines them as "people or groups of people who have been forced or obliged to flee their homes or place of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters and who have not crossed an internationally recognized state border".⁶ Taking these observations into consideration, the internally displaced should be understood as persons or groups of persons who have been forced to flee, or leave, their homes or places of habitual residence as a result of armed conflict, internal strife and systematic violations of human rights, as well as natural or man-made disasters involving one or more of these elements, and who have not crossed an internationally recognized State border. What should make internally displaced persons of concern should be the coercion that compels their movement, their subjection to human rights abuse as a result of this evacuation, and the lack of protection available to them.

When an internally displaced person ceases to be displaced also needs clarification. Orthodox wisdom would have it that the voluntary return of the displaced to their homes or their re-integration elsewhere marks the end of internal displacement. But if protection is largely lacking in these areas and their land and homes are occupied by others, can internal displacement be said to be over? In Nigeria, for instance, groups of internally displaced persons voluntarily transported back to their home areas found that they could not remain there because all infrastructure had been destroyed and they had no means of sustaining themselves. The mere act of return therefore did not end their internal displacement. Determining when an internal displacement is ended should go beyond merely registering whether return or relocation has taken place. It should include whether the

¹ Exceptions to this rule, however, are not very difficult to find. During the mid-1980s, for example, the Ethiopian government moved many thousands of people from the northern highlands to the south-west of the country, employing varying degrees of coercion and inducement. Ostensibly introduced to remove people from an area afflicted by chronic problems of drought, famine and land degradation, this organised resettlement programme also served the purpose of depopulating an area inhabited by supporters of an armed opposition movement, the Tigray People's Liberation Front.

² R. Cohen, 'Protecting the internally displaced', World Refugee Survey 1996, US Committee for Refugees, Washington DC, 1996.

³ Analytical Report of the Secretary-General on Internally Displaced Persons, E/CN.4/1992/23, 14 February 1992 para 17

⁴ See Bartram S. Brown, "The Protection of Human Rights in Disintegrating States: A New Challenge", 68 *Chi.-Kent L. Rev.* 203, 204 (1993).

⁵ *Ibid*

⁶ Oduwale, Tajudeen A., Fadeyi, Adebayo O., Issues of Refugees and Displaced Persons in Nigeria: Macrothink Institute – Journal of Sociological Research, Vol. 4 No. 1 2013, www.macrothink.org/journals/index.php/jsr/article/view/3156 last assessed 24th Feb. 2016.

returns or relocations are reasonably viable and whether basic security and survival are assured. Internally displaced people in Nigeria have been exposed to more direct physical threats. In a number of cases, camps and settlements for displaced persons have been the target of attacks by the insurgents.

Unlike refugees, who have fled across a border and are therefore no longer under the protection of their country of origin, IDPs are still citizens of their country. Their Government is legally responsible for their protection and welfare. IDPs do not always end up in camps – the majority are taken in by host families, some find temporary shelter on the move and others may settle in urban areas. IDPs often move several times during their displacement. These varied and dynamic patterns admittedly create challenges for tracking IDPs. As a result, figures are based on estimates. The Geneva-based Internal Displacement Monitoring Centre¹ estimates that in 2008 there were at least 26 million IDPs worldwide due to conflict. Many more millions were displaced as a result of natural disasters, including in the context of climate change, or large-scale development projects such as dams. What is known is that the number of IDPs around the world is rising. Having fled their home without time to pack food, belongings or identity papers, and often in circumstances of serious trauma and violence, displaced people can be particularly vulnerable and in need of humanitarian assistance and protection. National authorities are at the core of any response to internal displacement, yet they may be unable or unwilling to meet IDPs' needs. In such circumstances, the international community supports and complements national authorities' efforts, at their request.²

3 The Current Status and Challenge of IDPs in Nigeria

According to Internal Displacement Monitoring Centre (IDMC), as at 2013, 3.3 million people were displaced in Nigeria essentially as a result of insurgency. It also recorded 1,538,982 IDPs in Nigeria as of April 2015. As at December 2015, the total number of IDPs identified in Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe amounted to 2,152,000 people.³ The vast majority of IDPs identified in the above mentioned states have been displaced because of the insurgency (91.98%), a smaller number was forced to leave their place of origin because of community clashes (7.96%) or natural disaster (0.06%).⁴ In Borno, 24.2% of the population was displaced in 2015 following the increase in violence in this state since the beginning of the year.

A large number of IDPs in north east Nigeria live with relatives and friends. 87% of IDPs live with host communities and 13% live in camps or camp-like settings. The situation in other states are quite different, while there are no identified camps in Yobe, Bauchi and Gombe, 12% of the IDP population in Adamawa and 18% of IDPs in Borno live in camps or camp-like setting.⁵ A total of 43 displacement sites have been identified in Adamawa, Borno and Taraba States. The number of individuals residing in these sites consists of 154,008 individuals within 19,348 households.⁶ The bulk of these victims are women and children who are also the most vulnerable. Research shows that 62% of the IDP population in sites are female while 38% are male. Half of the total numbers of individuals residing in sites are children under 17 years old. The vulnerability identified that within the IDP population, 3.33% are single headed-households, 2.26% are breastfeeding mothers while 1.22% are pregnant women. In addition, 1.61% of the IDPs have been identified as unaccompanied and separated children.⁷

The challenges faced by IDPs in Nigeria is not entirely different from the general problems associated with IDPs as observed above but it is necessary to identify specifically those difficulties IDPs encounter in Nigeria. First, there is insufficient understanding of the rights of IDPs as set out in the UN Guiding Principles on Internal Displacement and the Kampala Convention. These rights include the right to life, freedom of movement, association, dignity of human person, personal liberty, right to private and family life etc. IDPs usually suffer the worst violation of their fundamental human right. Their lives are threatened as a result of the violence by the Boko Haram insurgency. They are forced to flee from their homes and seek shelter in schools, churches, mosques and informal settlements and in the process the situation gravely affects their security and health. We have indeed recorded several instances where IDPs are killed in their make-shift camps by boko haram.

¹ www.internal-displacement.org. Accessed 1st March, 2016.

² In 1996, the United Nations General Assembly tasked the Emergency Relief Coordinator (ERC) with “a central role in the inter-agency coordination of protection of and assistance to IDPs” (General Assembly Resolution 51/950, 1996). This mandate was reinforced by the ERC's responsibility as Chair of the Inter-Agency Standing Committee (IASC) to support an effective internal displacement response in the field. This aspect of the ERC's role is particularly important, as no single agency is charged with a formal responsibility for IDPs.

³ IDPs in Nigeria, dailytimes.ng/protecting-internally-displaced-persons/ last assessed 23rd Feb. 2016; Supra note 4.

⁴ IDMC – Nigeria IDP Figures Analysis, <http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis> last assessed 4th March 2016.

⁵ Ibid.

⁶ The data for this report are the results of a detailed site assessment conducted in 33 sites in Borno and Adamawa in January and February 2015 covering 148,484 individuals in 18,255 households by Internal Displacement Monitoring Centre (IDMC)

⁷ Ibid

Similarly, IDPs along with the majority of the affected population, have witnessed atrocities in addition to losing family members and succumbing to the insurgents campaign of terror. Many IDPs therefore fear that they will be pursued by the insurgents, will be perceived by the authorities as supporters of the insurgents or will be supposed by the insurgents or other elements as informants for the authorities. Remaining silent and hidden for IDPs becomes the unpalatable option.

Besides, Women and children remain the most vulnerable to sexual and gender based violence. There have been reported instances of rape, sexual harassment, forced marriage, infant marriage, sexual diseases and uncontrolled birth occasioning high infant and maternal mortality in make-shift IDP camps in Nigeria. The needs of children are highly disregarded in armed conflict situations and this is the case in Nigeria.¹ Children are being exposed to enhanced risk of abuse, forceful conscription by insurgents as child soldiers, suicide bombers, sex slaves and abrupt discontinuation with their education. Their lives change towards a different direction of malnutrition, inadequate amenities needed for their survival. According to NEMA, there are over 750 unaccompanied and separate children.² Most of the school age children in Adamawa, Borno and Yobe have had their opportunities for schooling severely constrained. The destruction of schools and indiscriminate killing of students and teachers by Boko Haram insurgents has left many schools deserted and deprived children of their right to education.³ The adopted and yet to be released Chibok girls which has generated international condemnation remains indelible in our memories. Most of the displaced persons are camped in schools thereby interrupting learning and other school activities. The education of displaced victims is virtually non-existent in some camps. There is lack of access to quality learning opportunities. 338 schools have been damaged or destroyed by attacks. At least 196 teachers and 314 school children killed.⁴

The most common types of accommodation used by IDPs in Nigeria are schools and government buildings. Others include tents and bunk houses. Shelter for IDPs in Nigeria is insufficient and most times do not stand the test of time and weather. Many existing shelters have been damaged or destroyed. Report shows that IDPs live in churches, mosques, town halls, abandoned and uncompleted buildings and where available, other forms of make shift camps which are grossly inadequate and unsuitable for accommodating the surge in displaced populations. These shelters are not as a result of government effort but as a result of the individual's effort to survive.⁵ The shelters are often overcrowded and unsuitable in terms of water and sanitation facilities, cooking and privacy, especially for women. There is often no proper waste management and electricity. This explains the regularity of hygiene based epidemics in camps.

Things are made worse by the fact that access to health care in Nigeria generally and the North East in particular is severely constrained for both the IDPs and host communities as a result of the destruction of health care facilities and health care workers. Outbreak of disease has increased in areas affected by dislocation. There is also the case of lack of access to vaccinations. The number of cholera cases among IDPs is seriously on the increase. More ailments are undiagnosed as there is no health checks carried out in these camps.⁶

Some IDPs have access to food distribution every day while others receive irregular food distribution. On the other hand, some IDPs never receive food distribution. Malnutrition in the conflict areas continue to rise as there is limited access to food in this situation.⁷ This is mainly because no actual statistics of IDPs exist in Nigeria as not all displaced persons are accounted for. For those persons who have the resources, at the occurrence of violence, although they become displaced by virtue of the attaining circumstance, however they migrate to other places where there is peace and stability with their available resources. Others flee to the homes of their extended families or friends in other parts of the country. All this factors makes it nearly impossible to obtain an accurate number of displaced persons in Nigeria.

4 Need for Legal and Institutional Framework

There is no doubt that to prevent internal displacement, protect the displaced during dislodgment, and find long-lasting solutions for them once the cause of dislocation no longer exists requires respect for human rights and, in armed conflict situations, the protective rules of international humanitarian law. As a result, in some situations the protection of IDPs' rights demands the same measures as are necessary to protect the rights of all citizens, regardless of whether or not they are displaced. However, a central means of implementing the right to liberty and security of person is the passage of legislation setting out protections against capricious and precarious

¹ IDP Protection Strategy 2015, www.humanitarianresponse.info/en/operations/nigeria/document/idp-protection-strategy-2015-0 last assessed 22nd Feb. 2016.

² Humanitarian Need Overview, <https://www.humanitarianresponse.info/>... Last assessed 22nd Feb. 2016.

³ PSWG Factsheet June 2015, www.globalprotectioncluster.org/... Last assessed 22nd Feb. 2016.

⁴ Supra note 12

⁵ Supra note 1

⁶ Ogundamisi, Kayode, Exploitation of Internally Displaced Persons in Nigeria, www.opinionnigeria.com/exploitation-of-internally-displaced-persons-in-nigeria-by-kayode-ogundamisi/... Last assessed 1st March 2016.

⁷ Nigeria: Displacement, www.start-network.org/.../150408-ACAP... last assessed 22nd Feb. 2016.

situations affecting a vulnerable group such as IDPs. Presently, Nigeria has no legislation that deals explicitly with IDPs and there is no specific institution equipped to handle matters relating to IDPs.

Overwhelmed by the enormous displacement caused by Boko Haram and the lack of any legal and institutional framework for tackling such situations and in order to provide a provisional solution to the menace, the government of Nigeria was left with choice than to attempt a momentary remedy. The government set up a committee to draft a National Policy on IDPs to assist in the registration and issuance of identity cards, prevention or reduction in instances of internal displacement and allocation of responsibilities to agencies and organs of government, non-governmental and civil society organisations. The National Policy on Internally Displaced Persons was prepared and presented to the government in 2011, but it is yet to be adopted till today.¹ This policy is based on the United Nations Guiding principles on Internal Displacement of 1998² and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.³

The policy aims to guide the different branches of government, donors and humanitarian agencies in preventing displacement and providing protection and assistance to those displaced. It also allocates responsibilities to the appropriate government bodies for different aspects of the short, medium and long term response to internal displacement. The main governmental focal point is the National Commission for Refugees (NCFR) and it is saddled with the responsibility for coordinating the activities of all agencies including international humanitarian agencies. Also, it empowers the National Emergency Management Agency, the Human Rights Commission and the Institute of Peace and Conflict Resolution to partner with the NCFR to support the activities of the states and local governments in implementing the policy within their respective spheres when the policy is officially launched.⁴

The policy begins by reaffirming the fundamental human rights of all its citizens under the 1999 constitution and recognises the vulnerabilities of women and children and accords them special guarantees. It then includes measures to protect against being displaced and sets out standards pertaining to the delivery of humanitarian assistance by national and international humanitarian agencies. The policy also envisages the application of various laws and institutions to the protection of IDPs under what it terms a humanitarian framework of cooperation of all relevant ministries, states, local governments, departments and agencies as well as international organisations and charitable institutions.⁵ The major defect of the policy is that it has no legal status and is therefore incapable of enforcement by any of the affected actors that is the government or the delegated actors.

There is therefore the necessity of a normative structure that will create institution and policies upon which government will predicate response strategy and programme direction. This provisional arrangement though laudable should be a short term response strategy. The law should therefore be used as a potent tool for the protection of and provision for IDPs. Several countries have adopted legislation providing for the creation of a national status for and protection of IDPs. Such statuses and protection have, for example, been created by law in Azerbaijan, Bosnia and Herzegovina, Colombia, Croatia, Georgia and the Russian Federation. The law usually provides for measures to prevent displacements, the registration of those entitled to the status and provides beneficiaries with social, economic and legal assistance to safeguard rights endangered by displacement and support the implementation of durable solutions.⁶

5 Concluding Remarks and Recommendations

One major aftershock of the activities of boko haram is the displacement of people from their homes to places they consider safer and the apparent helplessness of government in providing succour and meeting their social, economic, political and cultural needs. Of concern is the absence of a legal and institutional framework in Nigeria for the handling of internal displacement and their victims. This has created a serious problem in the

¹ Bukar, Bagoni Alhaji, Nigeria needs to take responsibility for its IDPs, www.fmreview.org/en/...and.../bukar.pdf last assessed 22nd Feb. 2016.

² These principles are based on the Compilation and Analysis of Legal Norms pertaining to internally displaced persons submitted by Dr. Deng to the Commission on Human Rights in 1996. See, UN Doc. E/CN.4/1996/52/Add. 2. The Commission requested the Representative to develop a normative framework to enhance the protection of internally displaced persons. The *Guiding Principles*, submitted in 1998 are a response to that request. Subsequent to the submission of the Principles, the Commission on Human Rights, in its Resolution 1998/ 50 took note of 'the stated intention of the representative of the Secretary- General to make use of the *Guiding Principles* in his dialogue with Governments and inter-governmental and non- governmental organizations', and requested him to report to the Commission, 'on the views expressed to him'. See, Walter Kalin, *The Guiding Principles on Internal Displacement- Introduction*, 10 *International Journal of Refugee Law* 558(1998).

³ The Kampala Convention of 2009 which entered into force on the 20th of December 2012.

⁴ *Supra* note 36

⁵ *Ibid.*

⁶ *Ibid.*

response and management of victim of internal displacement with government adopting transient and unsustainable measures. The result is that IDPs are made to suffer deprivations and depend on public spirited individuals for survival. There is no structure for needs evaluation and impact assessment of government response strategy and support. We have therefore identified the absence of a legal and institutional framework for the protection of IDPs in Nigeria as the main reason for the lack of a systematic and coordinated support for IDPs. To achieve this, we examined the current situation and the challenges of IDPs in Nigeria, mechanisms put in place to ensure the protection of IDPs in Nigeria and possible solutions to the problems faced by IDPs recognising that it is the primary responsibility of the government to protect IDPs.¹ Matters are made worse by the fact that there is no globally binding treaty for the protection of IDPs. In order words, there is no universal instrument specifically addressing the plight of IDPs but in 1998 the UN General Assembly and the UN Commission on Human Rights took note of the Guiding Principles on Internal Displacement. While these Guiding Principles do not constitute a binding instrument, they have received large support from the international community. More recently, in 2009, the African Union adopted the Kampala Convention on IDPs.² This regional instrument is an important step forward in the protection of and assistance to IDPs in one of the continents most affected by displacement.

Internally Displaced Persons do not need a substitute or surrogate protection. Rather as human beings, in a state of vulnerability, they are entitled to the enjoyment of all relevant guarantees of human rights and humanitarian rights, including those of particular and relevant importance to them, such as right to life, movement, association etc. Furthermore, despite Nigeria's due ratification of the Kampala Convention, it is yet to domesticate this important legislation which will go a long way to address the dreadful situation of IDPs in Nigeria. Considering the gravity of destructions of private properties from the recurring crisis in the North East, an assurance of protection can only be restored by the existence of a legal for the protection of IDPs in Nigeria. Recently, the Speaker of the Nigerian House of Representative Hon. Yakubu Dogara stated that efforts by the legislature were on top gear by the relevant committees in the House to ensure a legal system for protection of the rights of IDPs and also to ensure that Nigeria domesticate the Kampala Convention.³ This effort, we note, is too little too late but it is better late than never.

The greatest good that will be done to displaced persons in Nigeria is by eliminating the menace threatening the livelihood of the people. Boko Haram insurgency should be put to an end without delay. Until then, it can only be hoped that the sufferings of IDPs will be laid to rest. The government should address the root cause of the displacement by taking appropriate channels towards the resolution of the conflict, the promotion of peace and reconciliation and respect for human rights. The fundamental human rights of all citizens should be maintained at all times. Agreed that the environment may be engulfed in violence, it is no ground to violate the rights of people. Adequate steps must be taken to alleviate the plights of IDPs. Where they are forced to flee from their homes, government should take immediate steps in the provision of shelter, food, health care, education etc to the people. Proper mechanisms must be set up to ensure that the steps taken are not frustrated by the institutions put in place. In other words, government should ensure that where relief materials are sent to IDPs, those materials should not be diverted for other use.⁴ The protection of IDPs while in camp is also paramount. Adequate security mechanism should be put in place to relax the apprehensive minds of the displaced persons. Just recently, there was an attack on IDPs while in camp. This goes to show that even in camps, supposed to be safer, IDPs are still susceptible to danger.

¹ Protecting Internally Displaced persons: A Manual for Law and Policymakers, <http://www.unhcr.org/50f955599.pdf> last assessed 24th Feb. 2016.

² African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, (Kampala Convention). Adopted by the Special Summit of the Union held in Kampala on 22 October 2009

³ Internally Displaced Persons in Nigeria, www.news24.com.ng/National/News/laws-to-protect-rights-of-idps-will-soon-be-enacted-dogara-20160223 last assessed 23rd Feb. 2016.

⁴ *Supra note 14*