



## AN X-RAY OF THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PROTECTION OF INTERNALLY DISPLACED PERSONS IN NIGERIA UNDER THE CONTEXT OF INTERNATIONAL HUMANITARIAN LAW

By

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### Abstract

*According to Ban Ki-Moon, a former UN Secretary-General, displacement is still likely the worst humanitarian issue the world is now experiencing. In Nigeria, the movement of internally displaced persons (IDP) has continued to increase due to inter and intra communal crises, intra-state and inter-regional armed conflicts including other natural disaster situations. Internally displaced people (IDPs), as well as the local governments and host communities suffer significant effects as a result of internal displacement. The intendment of this paper is to x-ray the legal and institutional frameworks regulating the protection, welfare and wellbeing of internally displaced persons in Nigeria, under the context of international humanitarian law. The doctrinal methodology was used to examine main and secondary legal sources, including statutes and case law, to ascertain the scope of the Nigerian government and its agencies' involvement in providing humanitarian aid to internally displaced people. The paper sought to ascertain whether international humanitarian law was being followed with regard to security, access to food, water, and medical care in IDP centers, and whether there was political will on the part of the Nigerian government and its agencies to deal with insurgency in particular and whether or not the Nigerian government is proactive enough in handling emergencies occasioned by natural disasters and or other unforeseeable acts of nature. The paper encouraged the ratification and implementation of conventions and other instruments pertaining to internally displaced persons at the national and local levels, to ensure the safety of the IDP population, particularly women and children.*

**Keywords:** *Legal and Institutional Framework, Internally Displaced Persons in Nigeria and International humanitarian Law.*

### 1.1 Introduction

This paper was precipitated by the incessant issue of internal displacement caused by either political, ethnic, or religious conflicts, or natural calamities, such as the flooding that occurred in various states across the country in 2012 and damaged cities and villages, left many without a home, and even claimed some lives. The movement of internally displaced persons (IDP) in Nigeria has continued to increase due to intra-state and intra-regional armed conflicts. It raises concerns about a number of risks to citizens and puts the realization of the Millennium Sustainable Goals in threat (MSGs). For instance, the 2011

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post-election unrest in Nigeria resulted in the internal eviction of about 65,000 people from the country's northern region.

The National Emergency Management Agency claims that (NEMA), 2.1 million people in Nigeria were displaced by floods between July and October 2012. Between January 2013 and February 2014, internal conflicts and natural catastrophes forced about 470,565 and 143,164 people to from their homes in Nigeria, and internal displacement affects 24 of the country's states. Similar to this, from January to March 2014, the country's northern region alone saw approximately 250,000 people evacuated due to insurgency<sup>3</sup>.

Internally displaced civilians go from one location to the next in search of safety and shelter within their own country. Humanitarian law and international human rights are violated when people are relocated by force. The extents of internal displacement in today's society, as well as the inescapable problem and character of the reaction, have become significantly more critical. IDPs have fundamental needs that must be provided in order for them to live and avoid having a negative impact on their host communities' social, cultural, and security conditions. A reasonable place to live, food, drinkable water, access to healthcare, education, security, clothing, and information are among these needs. The right to freedom of movement, threats of being made to return to one's own country under unfavorable circumstances, physical security, determining whether someone is an IDP, and some of these include the lack of strong domestic institutional structures for executing the international protection system.<sup>4</sup> The government is responsible for providing these necessities during their stay in camp and adopting/implementing policies for managing them, with the exception of situations where the state has violated human rights treaties in its treatment of IDPs.<sup>5</sup> Challenges are encountered and lessons are learned as a result of this. If properly harnessed, lessons learned in one state can undoubtedly serve as eye-openers in another.

Internal displacement has far-reaching consequences for internally displaced persons (IDPs), as well as the regional administrations and host communities. Even if the act of displacement may violate the human rights of those affected, losing access to homes, lands, livelihoods, personal papers, family members, and social networks can have a negative influence on an IDP's ability to claim and enjoy a variety of fundamental rights<sup>6</sup>. IDPs quickly become totally reliant on others to meet their most basic needs, including shelter, food, and water. The barriers to healthcare, education, employment, economic activity, and political politics are simultaneously increased in their new places. Additionally, the longer the migration process, the greater the likelihood that traditional family and community systems would fail, leaving IDPs vulnerable to sexual and economic abuse and dependent on outside assistance. The

<sup>3</sup> F Falobi, *Nigeria: Coping with challenges of internally displaced persons*. (AllAfrica Global Media, 2014)

<sup>4</sup> L Zachary, Making the Current International Legal System effective in Africa's fight to preserve the rights of refugees and internally Displaced People. *Berkeley Journal of International Law*, Volume 18(2), 2000, pp. 8–9; J Crisp, African Forced Migration: Dimensions, Challenges, and Policy Options. *Quarterly Refugee Survey*, 2012. Visit [www.oxfordjournals.org](http://www.oxfordjournals.org) to access. [Retrieved on August 20, 2014].

<sup>5</sup> J Fitzpatrick, *A Manual on International Methods and Procedures for the Protection of Human Rights for Refugees, Asylum Seekers, and People who have been forcibly relocated abroad*, in New York (Transitional ed.2002).

<http://www.reliefweb.int/disasters>. 14th of August 2014, accessed; R Plender, 'The Legal Justifications for taking action in regards to Internally Displaced Individuals': *International Journal of Refugee Law*, vol. 345: 356 (1994).

<sup>6</sup> United Nation High Commissioner for Refugees (UNCHR) *The UN Refugee Agency*, 98, The Guiding Principles on Internal Displacement.



likelihood of long-term solutions and this dependence reduces successful reintegration into society once political and security conditions have improved to allow for such alternatives. Due to the detrimental effects that internal displacement has on its victims, the United Nations has made it easier for countries to respond domestically to internal displacement by providing humanitarian aid through its specialized agencies and, more importantly, by listing the international legal principles that govern all state responses to displacement. A protocol included in the Pact on Security, Stability, and Development in the Great Lakes Region of Africa requires signatory nations to enact national legislation to adopt the Guiding Principles, which take effect at the regional level, this accords with international humanitarian law and human rights law, and it reiterates in greater detail the protections for internally displaced people that are indicated in these bodies of laws more broad prescriptions<sup>7</sup>. When it comes to the accountability of nations affected by internal displacement, the Guiding Principles emphasize two key concepts:<sup>8</sup>,

1. In addition to a state's inherent right to govern itself, sovereignty includes the primary obligation and responsibility to protect and support its citizens, including internally displaced people, without discrimination and in compliance with international humanitarian law<sup>9</sup>.
2. Displacement exposes individuals impacted to additional hazards, even though they are still entitled to the same level of protection as the rest of the population, people who are internally displaced within their own country. Nations must therefore provide IDPs with special protection and in order to ensure that they are treated similarly to non-displaced individuals and prevent the displaced from losing their human rights, aid that is tailored to their particular vulnerabilities must be provided<sup>10</sup>. They reflect present standards rather than introducing new ones, and they make clear how they apply in instances involving internal displacement.<sup>11</sup>.

## 2.1 National Legal Frameworks

### 2.1.1 The Constitution of the Federal Republic of Nigeria, 1999, as amended<sup>12</sup>

On May 29, 1999, the Nigerian Constitution came into force. It establishes the framework for both the federal government of Nigeria's and the states' administrations, and all national authorities and individuals are required to abide by its rules. In addition to the rights to a fair trial, freedom of expression, assembly, association, and travel, as well as the right to purchase and possess real property, the constitution outlines the rights of citizens, including the rights to life, human dignity, personal liberty, privacy, and family life. Additionally, it states that the state is in charge of safeguarding the safety and welfare of every individual.

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<sup>8</sup> ICGLR 'Protocol on the Protection and Assistance to Internally Displaced Persons' (2006) Article 6.3.; OASGAR 'Organization of American States General Assembly Resolution and the Council of Europe' (2007), Resolution 2277 and the UN commission on Human Right.

<sup>9</sup> OAU/AU 'Commission on Internally Displaced Persons' (1998) Resolution 2277.

<sup>10</sup> W Kalin, *Guiding Principles on Internally Displacement Annotations* (2<sup>nd</sup> Ed Routledge publishers, 2008),13

<sup>11</sup> S Ekpa and N.H.M Dahlan 'Towards the Evolution of Right to Reparation for Loss of Housing and Property of Internally Displaced Persons (IDP's) in Nigeria' (Readwise Publishers, 6 (3) 2016) 380-387.

<sup>12</sup> Constitution of the Federal Republic of Nigeria, 1999 (As Amended) Cap. C23 LFN 2004



IDPs from Nigeria have had to endure inhumane living conditions, such as a lack of food, social amenities, and health facilities, as well as a high rate of child and maternal mortality, prostitution, and prostitution. Internally displaced persons (IDPs) are the responsibility of the Nigerian government inside its borders. Because they do not cross borders, internally displaced people may be regarded as being under the protection of their national governments. IDPs have the right to all inalienable human rights, including the right to life and the right to human dignity. The national government must uphold and protect their basic human rights. The extent to which these rights may be guaranteed, however, depends on the legal framework for IDP protection and the mechanisms in place to ensure that particular standards are upheld.<sup>13</sup>

The constitution has been utilized as the foundation for the operation of numerous government entities. It gives people the legal right to seek protection from any prospective or actual risk.<sup>14</sup> Internally displaced individuals can establish their legal entitlement to adequate and reasonable protection from any harm to their life thanks to a constitution, which is essentially an existent national law. The national government must protect the citizens of the country, according to the constitution. Therefore, the Constitution can serve as the legal foundation for the protection of internally displaced individuals on a national level. Unfortunately, there are no specific protections for internally displaced individuals in the Nigerian constitution. This may have something to do with the Nigerian Constitution's rigorous amending procedures.<sup>15</sup>

All other laws are considered to be supplements to the Nigerian constitution; it has long been recognized as the country's highest law. Therefore, any law that conflicts with the Nigerian constitution will be regarded as unconstitutional. The fundamental human rights of Nigerians are specifically outlined in Chapter IV of the 1999 constitution, as amended. The constitution's sections 33 to 46 stipulate these fundamental human rights. As a result, these rights are inalienable and require national government protection. The constitution also outlines the government's obligations and rights, as well as the methods by which it must carry out the obligations set forth in the constitution.<sup>16</sup> The state is required by the constitution to protect the rights of its citizens. According to the law, the state is tasked with preserving and protecting every Nigerian's right. Despite the fact that the Nigerian government is primarily responsible for protecting its citizens, internally displaced individuals fall under this category. IDPs' protection does not, however, have a specific constitutional role under the Nigerian constitution, notwithstanding the fact that the security of IDPs is a compulsory duty of the government.

### **2.1.2 The African Charter on Human and Peoples' Rights (ACHPR) 1981 Cap. A.9 LFN 2004**

Human and Peoples' Rights in Africa: A Charter, Cap. A9, Laws of the Federal Republic of Nigeria, 2004 Nigeria signed the African Charter on Human and Peoples' Rights on August 31, 1982, and ratified it on June 22, 1983. Nigeria is a member of the African Union. The African Charter on Human and Peoples' Rights has been domesticated as Cap. 10 LFN 1990 or A9 LFN 2004 Cap. Articles 2 through 24 of the African Charter all address the rights to education, housing or shelter, health, food,

<sup>13</sup> M Anene and M Collins, Nigerian case study: Legal and institutional framework for protecting internally displaced people (2017) The Jury: Nigerian University of Abuja Journal of Law Students Association 17–20

<sup>14</sup> E Chemerinsky, *Constitutional Law: Policies and Principles* (Wolters Kluwer publishers, 2019)

<sup>15</sup> R B Seidman, and A Seidman, *Readings on Law in Developing Countries in Africa*; (Routledge 2017) 15.

<sup>16</sup> D W Black, Referencing Educational Choice: (2017) *The Constitutional Limits* 9-10



employment, social security, a sufficient standard of living, a safe environment, cultural life, and development. The National Human Rights Commission is one of the legislative, policies, judicial, and institutional tools that Nigeria has used to gradually execute the Charter.<sup>17</sup> It serves as the main monitoring and enforcement agency for treaties within the African human rights framework. The African Commission on Human and Peoples' Rights (African Commission), the region's oldest implementation agency, is the first human rights body. They serve as the cornerstone and engine for the development of African human rights law and practice. Everyone has the right to economic, social, and cultural rights in addition to their civil and political rights, according to the ACHPR. The Organization of African Unity (OAU) initially endorsed it in 1981, and it went into force in 1986.

The ACHPR, which enshrines fundamental civil and political rights, is another tool protecting human rights. Its articles cover a variety of subjects, including discrimination, the right to life, equality before the law, freedom of expression, organization, and assembly, and religious freedom. Economic, social, and cultural rights, which are also safeguarded by the ACHPR, are essential for leading a productive life and ensuring the welfare of both individuals and communities. The rights to suitable employment, health care, and education are a few among them. The ACHPR recognizes collective or group rights in addition to individual rights, including, among others, the right to self-determination, the freedom to dispose of natural resources, the right to a safe environment, and the right to international peace and security. The ACHPR is also unique in that it recognizes essential African values such as the family's centrality and the harmony between obligations and rights that are placed on people. Respect for others' rights, acceptable constraints but no derogations, and duty to family and country are all included in these 'duties.' The ACHPR includes provisions requiring states parties to adopt procedures to preserve human rights, families, and the judiciary's independence. The first 29 articles of the 68-article ACHPR, which make up the substantive rights, are included. Of these, 23 (2–24) provide specific rights for individuals, groups, and communities, while three additional provisions outline personal responsibility (27-29). Two further articles discuss additional state requirements (25-26). Following is a brief list:

- Non-discrimination in Article 2
- Article 3: Equal protection under the law and equality before the law
- Article 4 right to life
- Article 5: prohibition of torture
- Article 6: Individual Liberty and Security
- Right to a fair trial under Article 7
- freedom of religion under Article 8
- Article 9 provides the right to receive, express, and publish information and opinions.
- Article 10: Right to Assemble
- Article 11: Right to Assemble
- Article 12: Right to Free Movement
- Right to participate in government under Article 13
- Article 14 rights to property
- Article 15 right to health

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<sup>17</sup> Ibid



- Article 16 right to education
- The duty of the state under Article 18 to safeguard and support the family
- Article 19 affirms the equality of all peoples and prohibits the tyranny of one group over another.
- Article 20: The ability to decide for oneself
- Article 21's right to free disposal of property and natural resources
- Article 22's right to economic, social, and cultural development
- Article 23 guarantees the right to domestic and international peace and security.
- Article 24 provides the right to a generally respectable environment.
- duty under Article 25 to advance human rights
- The judiciary's independence is ensured by Article 26.
- Article 27: Individual obligations and legal grounds for exceptions
- Duty of respect and nondiscrimination under Article 28
- duty under Article 29 to advance African ideals as well as the community, the country,

However, the ACHPR's formulation is broad in several of its clauses, allowing for a broader interpretation and application and delegating responsibility for outlining these rights and defining standards to the African Commission. It is instructive to compare how the rights to free expression and access to information are phrased: According to Article 9 of the ACHPR,

1) Each and every person has the right to information.

2) Everyone has the freedom to express and distribute their thoughts within the confines of the law.

The African Commission adopts soft law to further define the range of rights protected by the ACHPR as part of its mandate to "formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms on which African governments may base their legislation."<sup>18</sup>For instance, the African Commission approved the Declaration of Principles on Freedom of Expression in Africa in 2002, which discusses it in great detail.

Under its promotional mandate, the African Commission implements a wide range of programs. Among other educational activities, it visits state parties on a regular basis, conducts studies, organizes conferences, and disseminates information. To address a specific area of concern, the African Commission develops special procedures, such as working groups and special rapporteurs. Additionally, it has dispatched ground-based fact-finding and investigation missions.

A state party, an AU institution, or an African organization acknowledged by the AU may ask the African Commission to interpret the ACHPR. In the process of carrying out its interpretation function, the African Commission has adopted resolutions and declarations. Although its interpretations do not have the force of law, they do offer guidelines and principles for addressing "Legal concerns relating to the fundamental liberties and the rights of individuals and groups on which African countries may base their legislation." This "soft law's" good explanation has helped several of the ACHPR's more general provisions.

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<sup>18</sup> African Charter Article 45(1)(b): African Commission's soft law available at <<http://caselaw.ihra.org/instrument/>> accessed 30<sup>th</sup> November 2023



### **2.1.3 National Policy on Internal Displacement in Nigeria**

The National Commission for Refugees led the charge to put in place an internal displacement policy in 2003. A presidential committee was created with the goal of enhancing internal displacement prevention and offering best practices for managing internally displaced people, including the preservation of their human rights and the necessity to lessen their suffering once they have been displaced.<sup>19</sup> The draft Policy covers the responsibilities of local, national, and international players as well as federal, state, local, and other civil society partners. It also informs people of their responsibilities and rights before, during, and after displacement.<sup>20</sup> Because the legislature hasn't approved the policy, which was altered twice in 2009 and 2012, it is still considered to be in "draft" form. The domestication of the Kampala Convention, which is plagued by mission overlaps and a lack of clear leadership regarding which agency is in charge of the process, appears to be the main problem. The issue is currently being reviewed by the parliamentary committee on IDPs and the new NCFRMI leadership inside a technical working group the organization set up.

### **2.1.4 National Migration Policy (NMP) to the Nigerian Government**

The NCFRMI led technical working group on migration and development received technical support from the International Organization for Migration (IOM), which was funded by the 10th EDF of the European Union. On June 25, 2013, it was verified at a stakeholder conference, and on May 13, 2015, it was authorized by the Federal Executive Council. The policy offers a legal framework for overseeing and controlling both domestic and international migration, the gathering and sharing of migration data, diaspora mobilization, border management, decent treatment of migrants, and internally displaced persons (IDPs), in order to achieve a more effective management of migration in Nigeria, we must consider asylum seekers and the role of civil society in this area.<sup>21</sup>

### **2.1.5 The National Emergency Management Agency (NEMA) Act**

It was created by Act 12 and reformed by Act 50 of 1999 to manage catastrophes in Nigeria. Coordinating responses to all emergencies is NEMA's goal, deal with disaster-related concerns, and offer relief by putting in place physical structures and actions.<sup>22</sup> It has been dealing with disaster-related concerns by erecting concrete structures. The Act gave the Nigerian National Emergency Management Agency (NEMA) the ability to manage catastrophes, and according to the enabling law, the Agency shall, among other things,

- a. Organize national plans and strategies for prompt and efficient disaster response, and create policies for all operations in Nigeria connected to disaster management;
- b. Check the level of readiness for everyone.

By establishing concrete structures and methods, the National Emergency Management Agency (NEMA) has been tackling disaster-related challenges. Public education is one example of a step that may be taken to enhance public knowledge and decrease the impact of catastrophes in the country. The

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<sup>19</sup> National Policy on Internally Displaced Persons (IDPs) in Nigeria, July 2012 available at <://infopointmigration.org.ng/wpcontent/uploads/NATIONAL-IDP-POLICY.pdf> accessed 30<sup>th</sup> November 2023

<sup>20</sup> Ibid



agency is led by a chairman who is backed up by a number of top-level directors. Among the strategies and frameworks that direct NEMA's actions are the National Disaster Management Framework (NDMF), the Search and Rescue and Epidemic Evacuation Plan, and the Emergency Response Standard Operating Procedures.<sup>23</sup>The National Disaster Management Framework is the current framework for dealing internal displacement brought on by disaster or war (NDMF). NEMA keeps a situation room open around-the-clock that monitors and disseminates essential information in the case of a disaster. When a crisis strikes, the State Emergency Management Agencies (SEMA) or the Zonal Coordinator provide the headquarters with the crucial data. Depending on the situation, necessary help is then offered, including humanitarian aid and reconstruction. As of now, in the wake of catastrophes in Nigeria, NEMA and SEMA have been in charge of monitoring and providing humanitarian help for those who have been internally displaced as well as search and rescue activities. They have also helped some displaced people who had crossed the borders of nearby nations in the northeast.

## 2.2 Regional Legal Framework and Foreign Legal Framework

### 2.2.1 The African Union Convention for the Protection and Assistance of IDPs in Africa, 2009; Otherwise known as the Kampala Convention

The African Union adopted the Convention on the Protection and Assistance of Internally Displaced Persons in Africa during its Special Summit in Kampala on October 22 and 23, 2009. (Kampala Convention).<sup>24</sup>As a result, the African Union became the first continental body to adopt a legally binding policy framework for the protection of IDPs in Africa and the development of solutions to internal displacement. Nigeria ratified the Kampala Convention in 2012.<sup>25</sup> In May 2012, Nigeria became the twelfth nation to submit its ratification document to the African Union Commission.<sup>26</sup>Swaziland ratified the Convention in November 2012, making it the 15th country to do so. The Kampala Convention was established on the principles endorsed by West African nations during the first West African States Conference on Internal Displacement in Abuja in April 2006. When it went into effect in 2012, it became the first legally enforceable regional agreement in history to defend the rights of people who had been relocated.<sup>27</sup>Once the convention was adopted, states were compelled to enact laws and policies, or alter their existing laws, in conformity with its terms.<sup>28</sup>40 African nations have ratified and signed the pact, along with another 25. Nigeria accepted the treaty in April 2012, although it hasn't yet been domesticated. The National Executive Council introduces the Convention as an executive bill to the National Assembly, where the lower and upper houses independently debate and decide on it. It is then sent to Nigeria's 36 state legislatures after being approved. It is then submitted back to the National Assembly for ratification if state legislatures give it a two-thirds vote of approval. The Nigerian National Assembly formed an IDPs committee in October 2015. The proposal has undergone two readings; the most recent being when the Chairmen of the House Committees on IDPs and Treaties and Conventions

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<sup>24</sup> (n-19) *Adeyokun*, p. 2

<sup>25</sup> IDMC, Global Overviews, United Nations note 55.

<sup>26</sup> (n-19) *Adeyokun*, p. 2.

<sup>27</sup> Kampala Convention: from ratification to domestication and operationalization, AU Workshop Report, December 2015

<sup>28</sup> *Ibid*



introduced it as a private bill in July 2016. Since then, despite protests from MPs and civil society organizations to the concerned officials, including the justice minister, nothing has changed.<sup>29</sup>

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa tackles internal displacement in Africa caused by armed conflict, natural catastrophes, and large-scale development initiatives (or simply the African Union Convention). Following an international meeting of heads of state and government held in Kampala, Uganda, the Convention was approved in October of that same year. As of 2016, it had been ratified by 25 of the African Union's 54 member states and signed by 40 of them. On December 6, 2012, the Convention came into force, 30 days after the 15th state ratified it.<sup>30</sup> Once it was ratified, it became the first regional treaty on internal displacement in history.<sup>31</sup> It is generally acknowledged that the language, restrictions, and definitions of the Convention significantly expand upon the 1998 Guiding Principles on Internal Displacement.<sup>32</sup> Many particular difficulties associated to their position and condition face and continue to face these communities. In 2011, Uganda's mortality rate among internally displaced people was reported to be about six times that of the rest of the world.<sup>33</sup> Although the majority of African Union states have ratified the Convention, concerns have been expressed about the larger and more crucial enforcement processes, especially in Nigeria, which has over one million internally displaced people.

In accordance with the text of the document, this Convention "shall enter into force thirty (30) days after the deposit of instruments of ratification or accession by fifteen (15) member states," and "the chairperson of the African Union Commission shall notify Member States of the Convention's entry into force."<sup>34</sup> Due to the previous paragraph, the Convention became effective on December 16, 2012. Several African nations have adopted the Convention.<sup>35</sup> The Convention's five key objectives are as follows: Encourage and support regional and national efforts to stop or reduce internal displacement, outlaw and eliminate its causes, and offer lasting solutions; b. Establish legal protections and assistance for those who are internally displaced in Africa; c. To stop displacement and its repercussions, provide a legal framework that encourages collaboration, assistance, and long-term solutions amongst States Parties; d. Define the obligations and responsibilities of States Parties with regard to preventing internal displacement and providing safety and support to those who are internally displaced; describe the responsibilities, obligations, and roles that non-state actors, armed groups, and other relevant actors, like civil society organizations, have in respect to avoiding internal displacement and providing protection and support to internally displaced individuals.

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<sup>29</sup> Interview with A. Sanusi, CSO activist, December 2016.

<sup>30</sup> "The ICRC applauds the Kampala Convention for Displaced Persons' entry into force (Press release). *International Red Cross Committee* 2012-12-05. Found 2012-12-06.; *OAU/AU Treaties, Conventions, Protocols & Charters' African Union*. Retrieved 2012-12-06.

<sup>31</sup> M T Maru, *The Kampala Convention and its Effect on Closing the Protection Gap in International Law* (2011)1. (1),. *Chicago's Journal of Internal Displacement*, 91–130

<sup>32</sup> R Adeola, *The Kampala Convention and the prohibition against arbitrary relocation*. *Review of Forced Migration*, (2018)(59), 15–17.

<sup>33</sup> T U Akpoghome, *Nigeria's internally displaced people and the Kampala Convention*. (2016) 18(1), 58–77 in *RiARecht in Afrika| Law in Africa Droit en Afrique*.

<sup>34</sup> Article 17 (1) Kampala Convention.



The first objective encourages and supports regional and national actions aimed at eradicating internal displacement's primary causes. State parties are expected to provide long-term fixes as well. Given the intricacy of the causes, it may seem like a colossal task to avoid, mitigate, and internal displacement in Nigeria by eradicating their root causes, but a long-term solution can be gradually achieved. When IDPS may enjoy their human rights without encountering discrimination as a result of their displacement and when such people no longer need special protection or aid owing to their displacement, a long-term solution has been reached.<sup>36</sup>

### **2.2.2 American Convention on Human Rights: "Pact of San José, Costa Rica". Signed at San José, Costa Rica, on 22 November 1969**

The American states signatory to the present Convention, Reaffirming their intention to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man, Recognizing that the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states, Considering that these principles have been set forth in the Charter of the Organization of American States, in the American Declaration of the Rights and Duties of Man, and in the Universal Declaration of Human Rights, and that they have been reaffirmed and refined in other international instruments, worldwide as well as regional in scope Reiterating that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his economic, social, and cultural rights, as well as his civil and political rights, and Considering that the Third Special Inter-American Conference (Buenos Aires, 1967) approved the incorporation into the Charter of the Organization 1 itself of broader standards with respect to economic, social, and educational rights and resolved that an inter-American convention on human rights should determine the structure, competence, and procedure of the organs responsible for these matters.

## **2.3 International Legal Framework**

### **2.3.1 Universal Declaration of Human Rights 1948**

On December 10, 1948, in the Palais de Chaillot in Paris, France, the United Nations General Assembly adopted the historic Universal Declaration of Human Rights (UDHR) as Resolution 217. There were 48 votes in favor, none against, eight abstentions, and two no votes among the UN's 58 members at the time. The Declaration's 30 articles have been expanded upon in following international treaties, economic transfers, regional human rights accords, national constitutions, and other laws even though they are not legally binding in and of themselves. A sufficient number of countries ratified the 1966-completed International Bill of Human Rights in 1976, was founded with the help of the Declaration. It has been translated into more than 500 languages and is the first document to lay forth fundamental human rights that are accepted worldwide. In the preamble to the Declaration, governments promise to take proactive steps for both themselves and their citizens to ensure broad and effective observance of

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<sup>36</sup> J Holmes and W Kalin, *Framework for Long-Term Solutions for Internally Displaced Persons*, Inter-Agency Standing Committee (IASC), ( Bern, The brookies Institution, 2010)

the Declaration's human rights. Eleanor Roosevelt believed that the ratification of the Declaration as a declaration rather than a treaty would have an equivalent impact on world culture to that of the adoption of the American Declaration of Independence.<sup>37</sup> Since 1948, the Declaration has been included in or used as the model for the majority of national constitutions, while not having any legal force. There are more and more national laws, international agreements, and regional, sub-national, and national organizations devoted to the defense and advancement of human rights, have been built upon it. In the preamble of the Declaration, the phrase "the rule of law" was initially used to international law. The third paragraph of the Declaration states that "whereas it is important, Human rights must be protected by the rule of law if man is not to be forced to rebel against tyranny and persecution as a last resort."<sup>38</sup>

### 2.3.2 International Humanitarian Law for Refugees and Internal Displaced Persons

The Fourth Geneva Convention provides protection for IDPs in nations undergoing armed conflict, and they are regarded as civilians under international humanitarian law (IHL),<sup>39</sup> Additional Protocols I<sup>40</sup> and II.<sup>41</sup> In the event of an international armed conflict, the Fourth Geneva Convention and Additional Protocol I shall apply; in the event of a domestic armed conflict, Protocol II and Common Article 3 will apply. This distinction is crucial because it shows when these laws go into force. There are conflicts that fall outside of the parameters for applying the treaties, particularly in Nigeria. These conflicts are included as other instances of violence despite the fact that they have caused thousands of people to be displaced in Nigeria, as was previously described in this article. In addition to human rights laws and other state laws, for the sake of such internal conflicts, Article 3 of the four Geneva Conventions comes into play. Because it is international customary law, Common Article 3 is applicable.

The effects of military operations are also shielded from civilians.<sup>42</sup> The guideline specifically forbids the forceful transfer of civilians unless there are urgent military needs or a threat to their safety. Civilians need to have access to proper shelter, hygienic conditions, safety, and food.<sup>43</sup> The protection provided to IDPs is specifically described in Article 48 of Additional Protocol I. The prohibitions of collective punishment, terrorism, and looting in Additional Protocol II's Articles 4 (1) and (2) strengthen the Common Article 3's requirements. Rape, forced prostitution, and other indecent assaults that violate one's dignity are prohibited. Legal safeguards are offered, and people whose liberties are taken are likewise safeguarded.<sup>44</sup> Protecting and appreciating people who care for the injured and ill is necessary.<sup>45</sup> Women and children are also given extra security.<sup>46</sup> Both the Conventions and the Protocols have been ratified and domesticated in Nigeria. IDPs should be protected by these laws' provisions, which are particularly relevant and should be relied upon. The Protocol requires that where civilians are refused access to supplies that could save their lives, relief activities that are solely humanitarian and

<sup>37</sup> E J Timmons, "Mspy and USA declaration". 4everY. SpySoft.

<sup>38</sup> *The Declaration of Human Rights, universally*. Available at <[www.un.org](http://www.un.org)> accessed 30<sup>th</sup> November 2023

<sup>39</sup> International Committee of the Red Cross (ICRC), Geneva, Geneva Convention Relating to the Protection of Civilian Persons in Time of War of August 12, 1949, available at <[www.icrc.org](http://www.icrc.org)> accessed 20<sup>th</sup> November 2023

<sup>40</sup> Protocol I, Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of the Victims of International Armed Conflicts.

<sup>41</sup> Protocol Additional to the Geneva Conventions of 12 AUGUST 1949, AND Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977. <http://www.icrc.org>.

<sup>42</sup> Article 13-16 Additional Protocol II.

<sup>43</sup> Article 17 Additional Protocol II.

<sup>44</sup> Article 6 Additional Protocol II.

<sup>45</sup> Article 7-12 Additional Protocol II.

<sup>46</sup> Article 4 (3) Additional Protocol II



impartial must be carried out with the permission of the State in question and without distinction.<sup>47</sup> All treaty-based and customary international legal principles that aim to protect war victims and limit the use of force in conflict are collectively referred to as international humanitarian law. The customary laws that kings followed used to be contained in a body of written writings. In response to many recommendations, the International Committee of the Red Cross proposed that the States write a convention to safeguard injured troops and anyone attempting to aid them. The Convention for the Improvement of the Condition of the Wounded was adopted as a result of this campaign. The Convention was a key moment in the development of modern international humanitarian law. New conventions safeguarding shipwrecked individuals, prisoners of war, and civilians were introduced when this was updated.<sup>48</sup> These are the four Geneva Conventions: two treaties: the Geneva Convention for the Relief of Wounded, Sick, and Shipwrecked Members of Armed Forces in the Field and the Geneva Convention for the Relief of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, the Geneva Conventions, which govern how prisoners of war are treated and how to keep civilians safe during hostilities.

The Geneva Conventions now include the following two protocols: both the August 12, 1949, Additional Protocol to the Geneva Conventions, and Relating to the Protection of Victims of International Armed Conflicts ("Additional Protocol I") and Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts ("Additional Protocol II"). The most important of the several agreements that have been created to control hostilities is the Convention (IV) Respecting the Laws and Customs of War on Land, which was adopted in The Hague on October 18, 1907. The Geneva Protocol was signed on June 17, 1925, and it forbade the use of chemical and biological weapons. Both the Ottawa Convention of September 18, 1997 and the United Nations Convention on Conventional Weapons of October 10, 1980 forbid the employment of weapons without regard to target or intended target. In reaction to the impunity experienced by those who committed war crimes in the successor states of the former Yugoslavia and the genocide in Rwanda, the Security Council established two ad hoc international tribunals to punish the crimes committed in those countries. As a result, it was agreed to establish a perpetual international court with the responsibility of trying war criminals in any conflict. As of the time of this writing, 99 States have ratified the International Criminal Court's ("ICC") Statute, which was adopted on July 17, 1998 in Rome. When the Court starts operating, which will happen shortly, there is little doubt that it will have a dissuasive impact that will promote respect for international humanitarian law.

The conflict between sovereigns who are equal before the law on the battlefield gave rise to the law of war, and it is still characterized by that reality.<sup>49</sup> In the past, only interstate wars were subject to the usual rules of the law of armed conflict and humanitarian agreements. One of the most crucial provisions of the 1949 Geneva Conventions is Common Article 3, (19), a small agreement protecting the victims of non-international armed conflicts. The Geneva Conventions were enhanced by Protocol II. Previously,

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<sup>47</sup>Article 4 (3) Additional Protocol II

<sup>48</sup> Y Sandoz, 'Int'l Comm. Of the Red Cross, Commentary on the Additional Protocols of June 8', 1977 To The Geneva Conventions Of Aug. 12, 1949.(1987)

<sup>49</sup> M Chinthaka, [Edited by H Jayawardena], *Application of International Humanitarian Law to United Nations Forces*. USA: (Zeilan Press, 2007), p. 108.



the 1980 Convention on Conventional Weapons and its Protocols also included non-international armed confrontations. Similar to this, the Rome Statute grants the ICC the ability to prosecute war crimes that have occurred in both internal and international armed conflicts. Finally, it is widely accepted that the majority of customary laws governing the conduct of hostilities apply to all armed conflicts, whether they are international or not. Contrary to the tools of human rights and refugee law, which, in theory, are only binding on States, the rules of international humanitarian law that apply to non-international armed conflicts are binding on both the insurgent side and the party that maintains governmental legitimacy.

The Geneva Conventions and its Additional Protocols contain only a few references to refugees and stateless individuals, and there is no particular mention of internally displaced people. Should we draw the inference that the vast majority of war victim's refugees and internally displaced persons are not covered by humanitarian law as a result?<sup>50</sup>

To protect individuals against the negative repercussions of conflict, particularly the possibility of being uprooted, certain aspects of humanitarian law, including the Additional Protocols I and II, are forbidden, retaliation against civilians is also prohibited, as are violent acts or threats whose primary objective is to frighten civilians. All attacks and retaliation do not apply to civilian objects.<sup>51</sup> Additionally, it is prohibited to destroy crops and other necessities for the life of the civilian population as well as to utilize starving of civilians as a weapon of war.<sup>52</sup> Whether they were on enemy territory before the battle started or they live in an occupied region, civilians who have been taken by the enemy are likewise protected under the Fourth Geneva Convention. Before or during hostilities, any protected person may leave the enemy's territory without restriction, unless doing so would be against the interests of the State.<sup>53</sup> No matter the reason, the Fourth Geneva Convention clearly forbids the forced removal of civilians from their own area.

Those who have been given permission to go back must be returned in safe, hygienic, sanitary, and nutritional conditions.<sup>54</sup> Deportations of protected individuals from occupied territory to the territory of the occupying power or any other country, whether occupied or not, as well as individual or mass forceful transfers are expressly forbidden. If an evacuation is necessary for the population's safety or for urgent military needs, protected individuals may not be relocated outside the boundaries of the seized area, unless doing so would be practically impossible. Transferred to a location where they might experience discrimination because of their political or religious beliefs.<sup>55</sup> Even before it was explicitly stated in the 1951 Refugee Convention, it is well acknowledged that the treaty provisions applicable in non-international armed conflicts are significantly less developed than those that apply in international conflicts, because States are not willing to make the same obligations during domestic conflicts as they are during war. Anyone who is not actively engaged in hostilities must be treated with humanity in all situations, without discrimination based on race, color, religion or belief, sex, birth, wealth, or any other similar considerations, according to Article 3 of the four Geneva Conventions. Additionally, Article 3

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<sup>50</sup> Protection of civilians from the risk of display cement and international humanitarian law

<sup>51</sup> Article 52(2) of Additional Protocol I,

<sup>52</sup> Article 52 (1) of Additional Protocol I, Article 14 Additional Protocol II

<sup>53</sup> Article 35 of Fourth Geneva Convention

<sup>54</sup> Article 36 of Fourth Geneva Convention, supra note 8,1

<sup>55</sup> Article 49(2) of Fourth Geneva Convention, supra note 8),



prohibits violence against life and person, including all types of murder, mutilation, cruel treatment, and torture, as well as assaults on one's dignity, such as humiliating and degrading treatment, and imposing punishments and carrying out executions without first receiving a judgment from a court that has been properly formed and has offered all the judicial protections that civilized people think necessary.

The civilian population "must not be ordered to be displaced for reasons related to the war unless the security of the civilians involved or vital military circumstances so require," according to Article 17 of Additional Protocol II. In the event that such relocations take place, every effort must be taken to guarantee that the civilian population is welcomed in a setting that offers sufficient shelter, sanitary conditions, health, safety, and sustenance.<sup>56</sup> According to the Rome Statute, the intentional targeting of attacks against civilians in general or against specific civilians who are not actively participating in hostilities, as well as the improper deportation or transfer of civilians within occupied territory, are all considered "war crimes" in the case of an international armed conflict. In a non-international armed conflict, the Statute outlaws "intentionally directing assaults against the civilian population as a whole or against specific civilians who are not directly involved in hostilities, "unless it is prohibited by urgent military requirements or the security of the affected civilians, as well as when "ordering the relocation of the civilian population for reasons related to the conflict."<sup>57</sup>

### **2.3.3 The Geneva Conventions, 1949 and their Additional Protocols 1- 4 of 2005**

The Geneva Conventions and its Additional Protocols, two international accords, contain the key laws governing the savagery of war. They guard individuals who do not participate in the conflict (citizens, medical professionals, volunteers), as well as those who are incapable of fighting (prisoners of war, sick, wounded, and shipwrecked soldiers) (wounded, sick and shipwrecked troops, prisoners of war). On August 12, the Geneva Conventions, one of humanity's greatest achievements of the 20th century, will mark their 70th anniversary. It's a time to pause and consider all the lives that the conventions have helped save, to recognize the work that still needs to be done, and to emphasize how crucial it is to protect citizens from the worst consequences of conflict and displacement.

The Geneva Conventions and their Additional Protocols serve as the foundation of international humanitarian law, the body of international law that regulates the conduct of armed conflict and works to lessen its impacts, which protect civilians, health professionals, and other groups in particular, and aside from individuals who are no longer engaged in combat, assistance workers also include prisoners of war and troops who are injured, ill, or shipwrecked.

#### **The Fourth Geneva Convention Protects Civilians, including those in Occupied Territory**

The Geneva Conventions did not apply to civilians before 1949; they only applied to combatants. The tragic consequences of not having a convention for the protection of civilians in times of conflict were made clear by the events of World War II. The 1949 Convention considers the consequences of World War II. It has 159 articles. Despite skipping over the hostilities themselves, which were subsequently covered in the Additional Protocols of 1977, it features a brief section on protecting the general population from the repercussions of war. The Convention focuses primarily on the status and treatment

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<sup>56</sup>Protection of civilians from the risk of displacement and international humanitarian law

<sup>57</sup>Article 17 of Additional Protocol II



of those who are thought to be protected, distinguishing between the circumstances of foreigners on the territory of one of the warring parties and those of civilians in an occupied territory. It defines the responsibilities of the occupying power for the civilian population and offers particular guidelines on humanitarian assistance for those residing in occupied territory. It also consists of a particular system for the treatment of imprisoned people. Model cards, guidelines for humanitarian relief, and agreements on hospitals and safe zones are included in its three annexes.

For the first time, Article 3 of the four Geneva Conventions recognized domestic warfare where the government receives assistance from other nations or a multinational force, as well as traditional civil wars, internal armed conflicts that expand to neighboring States, and other comparable situations. Common Article 3 lays out essential principles from which there can be no deviation. The sick, wounded, and shipwrecked must be gathered and given care. It grants the ICRC the authority to offer its services to the parties involved in a conflict. It demands that the parties to the conflict enter into "special agreements" to execute all or part of the Geneva Conventions and it acknowledges that the legal standing of the parties to the dispute is unaffected by how these standards are applied. Due to the prevalence of non-international armed conflicts in contemporary warfare, Common Article 3 must be implemented.

### **The Additional Protocols to the Geneva Conventions**

The rise in non-international armed conflicts and wars of national liberation in the 20 years after the signing of the Geneva Conventions prompted the writing of two Protocols. In 1977, in addition to the four 1949 Geneva Conventions, which increase protection for persons who have suffered injuries in both domestic (Protocol II) and international (Protocol I) armed conflicts and impose limitations on how wars are carried out. After a third Additional Protocol was accepted in 2005, the Red Crystal was added as an additional symbol having the same international significance as the Red Cross and Red Crescent emblems.

### **2.3.4 The United Nations Guiding Principles on Internal Displacement**

A set of 30 principles known as the Guiding Principles outlines the safeguards provided to internally displaced individuals (IDPs), from forced relocation through protection and aid during relocation to the realization of long-term solutions. The guiding principles are congruent with and take into account refugee law through analogy, humanitarian law and international human rights legislation are also relevant. These current norms are interpreted by the principles and applied to the circumstance of displaced people. The principles were adopted in 1998, but they are not a legally binding document, therefore their significance has increased since then. They have been recognized by the UN General Assembly as an essential international framework for IDP protection, and it has urged all relevant parties to use them when addressing situations involving internal displacement. The concepts have also been regarded valuable by regional organizations and states, and some have even incorporated them into laws and policies.

The 30 Guiding Principles' framework is derived from the phases of displacement. Protection during displacement is covered, as well as protection from displacement (principles 5 to 9). (principles 10 to 23), the guidelines for humanitarian assistance (principles 24 to 27), protection during repatriation, local integration in the regions where the displaced have been transferred, and relocation to a different area



of the country (principles 28 to 30).<sup>58</sup>States, other authorities (including de facto authorities), groups and individuals, as well as intergovernmental and non-governmental organizations, can all profit from the principles' guidance when it comes to handling the issue of internal displacement. The Guiding Principles provide that IDPs are entitled to all legal rights and freedoms in the same manner as other citizens of their nation.<sup>59</sup>The principles state that IDPs cannot be subjected to discrimination based solely on their displacement, or for any other reason, including race, sex, language, religion, or social origin.

The principles close several key loopholes in IDP protection by explicitly stating what is only implicitly covered by international law. They also prevent displacement on the basis of race, religion, or ethnicity. They emphasize once more that it is the responsibility of national authorities to ensure that the fundamental rights of IDPs to food, water, housing, dignity, and safety are protected and to facilitate their access to humanitarian relief.

### **3.1 Institutional Framework**

#### **3.1.1 Ministry of Humanitarian Affairs**

President Muhammadu Buhari formed the multifunctional Ministry of Humanitarian Affairs, Disaster Management, and Social Development on August 21st, 2019, with the purpose of utilizing the Ministry as a tool for carrying out policies in order to accomplish a variety of excellent objectives that would favorably affect the wellbeing of millions of Nigerians. It is generally known that the North East of the country is going through a humanitarian crisis, which has had a severe impact on millions of Nigerians. The National Commission for Refugees, Migrants, and Internally Displaced Persons, the National Emergency Management Agency, and the National Agency for the Prohibition of Trafficking in Persons are a few of the organizations and projects that the Ministry oversees and directs, and organizes key departments such as the Department of Rehabilitation for People with Disabilities, the Department of Social Welfare, the Sustainable Development Goals, the National Social Investment Program, and others.

#### **3.1.2 National Emergency Management Agency (NEMA)**

After developing from the work of an Inter-Ministerial body established by the Federal Government in 1990 to address natural disaster reduction strategies in accordance with the United Nations International Decade for Natural Disaster Reduction, the current National Emergency Management Agency (NEMA) was founded in 1997. (IDNDR), which has since been echoed by the Hyogo Framework of Action (2005-2015).<sup>60</sup>NEMA was established under Act 12 as amended by Act 50 of 1999 to manage disasters in Nigeria. The mission of NEMA is to build community resilience to disasters in Nigeria by fostering a culture of preparedness, prevention, and response. NEMA's mission is to coordinate resources for effective disaster preparedness, response, and prevention in Nigeria.<sup>61</sup>NEMA referred to as "the Agency" under the NEMA Act, is a perpetual succession body corporate that has the right to bring and

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<sup>58</sup>(n-19)

<sup>59</sup>*Ibid*

<sup>60</sup> T Atala, A Review of The National Emergency Management Agency's (NEMA) Legal Framework Regarding The Management of Internally Displaced Persons (IDPs) in Nigeria (2007, Ahmadu Bello University Seminar Presentation)

<sup>61</sup> *NATIONAL EMERGENCY MANAGEMENT AGENCY (NEMA)* available at < [www.nema.gov.ng](http://www.nema.gov.ng)> accessed 30<sup>th</sup> November 2023





defend legal actions. The Director General of NEMA is one of the members of the Agency's Governing Council, which is headed by Nigeria's vice president in office.<sup>62</sup> The NEMA establishing Act also established State Committees under section 8 of the Act. In order to effectively execute its functions, NEMA has formulated policies and laid down strategies.<sup>63</sup> This also entails stockpiling for emergencies. To enable a prompt and efficient response to calamities, the organization builds warehouses in each of its six zone offices and Abuja and stockpiles them with goods for relief and rehabilitation. This strategy, as far as the NEMA policy is concerned is the closest to protecting internally displaced persons with the inclusion of the term "rehabilitation items." This is particularly so because one of the greatest challenges confronting displaced persons is that of rehabilitation and re-integration into the society having been exposed to various traumatic events prior to and during their settlement in the IDPs' camps and outside of their usual residences, homes and other village settlements. Disaster victims have been recognized as "internally displaced persons," although, the NEMA Act makes no mention of them. NEMA's key objectives are to effectively manage human and material resources for disaster prevention, training, relief, and resilience in Nigeria;<sup>64</sup> this is seen as a significant legal omission.

NEMA has contributed to disaster management by providing aid to victims of disasters, but these efforts are short-lived because, in the majority of situations, finally, the sufferers are left without assistance. The new Act must therefore include a practical plan for disaster reduction, prevention, and participation in post-disaster rehabilitation and change. In order to address the humanitarian concerns in their areas, the majority of states and local governments also primarily rely on NEMA. Governments at the state and local levels hardly ever pass legislation to meet the humanitarian needs of their constituents. While some states do have appropriate institutions for disaster management, the majority of them are underdeveloped, ill-equipped, and lack the necessary funding, making them dependent on NEMA.<sup>65</sup>

However, the Nigerian government established a committee in 2003 with the aim of writing national policy on internal displacement in order to fill the current legislative gap addressing the protection of IDPs. The National Commission for Refugees (NCFR) came up with the concept to construct a national policy on protecting IDPs, and a draft was created in 2003. The group is also responsible for developing preventative measures against internal displacement, practical solutions for managing IDPs, easing their suffering when displaced, and improved means of defending their fundamental rights. The group also creates a draft in 2011 and submits it to the Nigerian government. Sadly, because it hasn't yet been domesticated, the draft has turned into a mirage. On the other side, the National Commission for Refugees (NCFR) is a Nigerian organization having a mandate from the government to protect refugees

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<sup>62</sup> Section 1 and 2 of National Emergency Management Agency (Establishment etc.) Act no 12 of 23 March 1999

<sup>63</sup> *Ibid* (n7)

<sup>64</sup> I O Oluwole and Others, *Rehabilitating Internally Displaced People in Northeastern Nigeria* (2017; 2) (3). the Social Sciences 5–6 *Journal of Social Science and Humanities*; S Ekpa and NHM Dahlan, Legal Concerns and Opportunities for Nigeria's Internally Displaced Persons (IDPs) Protection and Assistance *Journal of Law, Policy, and Globalization*, 2016.; M T Ladan, *Strategies for Putting Nigeria's African Union Convention for the Protection and Assistance of IDPs in Africa into Effect as well as the Nation's Policy regarding Internally Displaced People*, 2015 African Security Review.

<sup>65</sup> O Mbanugo, 'A Legal Evaluation of Nigeria's Internal Displacement and Refugee Situations'. (2012)(3). *International Law and Jurisprudence Journal of Nnamdi Azikiwe University*, 97–106.



in that country. Section 3(1)14 of the NCFR Act established it. The Secretary of the Federal Government of Nigeria is in charge of the Commission.<sup>66</sup>

### 3.1.3 Police

The main law enforcement organization in Nigeria is the Nigeria Police Force, which employs roughly 371,800 people. The NPF is a fairly vast organization made up of 12 zones, each with 36 State commands, and 7 administrative organs. The Nigerian Police (NP), which has exclusive jurisdiction over the whole country, was established as the national police of Nigeria under the 1999 constitution.<sup>67</sup> The constitution also permits the creation of unique NPF branches "forming part of the military forces of the Federation or for their protection of harbours, canals, railways, and airfields." According to various accounts, the Port Security Police, one of these branches, had strength of between 1,500 and 12,000 in 1990. It's a two-edged sword when it comes to the connection between displacement and insecurity. Refugees and IDPs are compelled to flee their homes because of a lack of security, and they are unable to return or relocate until that security has been restored. Unresolved displacement can also result in a variety of security issues. IDPs or refugees can occasionally "spoil" peacemaking efforts. In other situations, the simple fact that there are a lot of displaced people often poor and living in remote camps or slums can lead to instability. Finding long-term solutions to displacement can be a barrier to permanent peace, yet peace and security are essential for its resolution.

### 3.1.4 International Red Cross and Red Crescent Movement

The International Red Cross and Red Crescent Movement was founded with the aims of saving human life and health, promoting respect for all people, and avoiding and alleviating suffering. It has around 97 million volunteers, members, and workers worldwide. The movement is made up of a number of unique groups that are each legally separate from the others, but which are bound together by shared fundamental values, goals, emblems, laws, and governing bodies. The ICRC's substantial work on internal displacement around the world is based on its mandate to protect the lives and dignity of persons affected by armed conflict and other forms of violence. They focus on helping internally displaced people satisfy their specific needs, as well as alleviating the negative consequences of their relocation on host communities and providing assistance to others who face displacement. The ICRC has tackled internal displacement in a variety of methods, much like other non-governmental organizations, including:

- helping at-risk groups create regional early warning systems and get ready to evacuate (by securing their things, setting up safe escape routes, and making sure they keep track of family members and personal documents);
- helping relatives who have split up due to relocation get back together and stay in touch;
- delivering aid to newly arrived or returning displaced people, such as food, water, necessities for the home, shelter, seeds, and farming implements;

<sup>66</sup>A K Kolawole, In 2014, progress was made in Nigeria's legal and institutional framework for the protection of internally displaced people (IDPs).

<sup>67</sup> Odeyemi and A L O Temitayo, In 2017, African Security Review published an article titled "Exploring the Subsidiarity Principle in Policing and the Operations of the Nigeria Police Force." 27 (1): 42-60 doi:10.1080/10246029.2017.1383924. ISSN 1024-6029.



- to assist internally displaced people in regaining their freedom and rebuilding their life, microeconomic, agribusiness, and livestock programs are provided that support their means of subsistence;
- maintaining the host communities' medical facilities, water supply systems, and other essential public services;
- organizing mine awareness programs to protect internally displaced individuals who are returning;
- arranging information sessions (or using alternative channels of communication, so that internally displaced individuals can learn about their rights and neighboring services (e.g., social media);
- discussing their duty to stop displacement, protect internally displaced persons, and ensure they get the aid they need with government representatives and non-state armed groups;
- educating military personnel and non-state armed organizations about the negative humanitarian effects of violence and supporting them in adhering to other legal standards, such as international humanitarian law;
- giving nations technical direction on laws and policies aimed at aiding and defending those who are internally displaced;
- collaborating with the authorities to establish procedures for issuing identity documents or other official papers to internally displaced individuals;
- Utilizing their missions and areas of expertise, collaborate with other players to find solutions to particular cases or issues that affect displaced communities.

### 3.1.5 The National Human Rights Commission<sup>68</sup>

The National Human Rights Commission (Amendment) Act of 1995, The National Human Rights Commission of Nigeria was created, as amended by the National Human Rights Commission Act of 2010. (the "NHRC"). The Commission's goal is to advance and defend human rights while also making sure Nigeria upholds its obligations in this area. The Commission serves as an extrajudicial tool for safeguarding the human rights of Nigerian citizens. It monitors Nigeria's human rights, provides support to those who have had their rights violated, and supports in the formulation of human rights policy by the Nigerian government.<sup>69</sup>This complies with a UN General Assembly resolution that urges all UN members to create national organizations to advance and defend human rights. The Commission offers support to those who have had their rights violated, but it does not have the power to make decisions that are legally binding in response to complaints. However, by offering a trustworthy venue for the review and decision-making of human rights matters brought to it,<sup>70</sup>It is crucial for safeguarding human rights and monitoring administrative behavior. The National Human Rights Commission has been outspoken in its criticism of violations of human rights committed by displaced people. The Commission has been looking into and keeping tabs on a variety of human rights issues ever since it

<sup>68</sup>“National Human Rights Commission – Available at <<http://www.nigeriarights.gov.ng/>> accessed 30th November 2023

<sup>69</sup> M Agbamuche-Mbu, 'Nigeria and its Human Rights Commission', (2015). *Articles*". *THISDAY LIVE*. Archived from the original on 2015-04-02. Retrieved 2015-03-28.

<sup>70</sup> Y Dinaand, J Akintayo, and F Ekundayo, 'Guide to Nigerian Legal Information', *New York University School of Law* 2015.



was established.<sup>71</sup>In 2012, Amnesty International expressed concern over the Nigeria Police Force's harassment of the National Human Rights Commission.<sup>72</sup>

### **3.1.6 The National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI)**

Decree 52 of 1989, now known as CapN21, Laws of the Federation of Nigeria, 2004 (NCFRMI Act), the Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI Act), is Nigeria's coordinating organization for all migration-related matters. Aside from its operational role in providing protection and assistance to refugees and internally displaced persons, For Nigerians who might be in questionable circumstances overseas and have shown a desire to return home, it also coordinates efforts linked to assisted voluntary return and reintegration (AVRR).<sup>73</sup>The federal government expanded the Commission's authority by adopting executive orders in 2002 and 2009 that addressed issues like migration and development coordination and internally displaced people (IDPs). Since a bill to amend the NCFR Act of 2000 and give IDPs, stateless people, and migrants access to its protections was never passed, the extension has been challenging because it lacks the essential legal authorization. However, the Commission has subsequently changed its name and is putting the finishing touches on the necessary legislative modifications.<sup>74</sup>Even though some activities have been coordinated, there has been a lot of disagreement in recent years over the areas where NCFRMI and NEMA's responsibilities overlap. However, since there has been a shift in leadership, coordination efforts have improved.

### **3.1.7 State Emergency Management Agencies**

Part III of the 1999 NEMA Act places particular focus on the creation of state emergency management committees for each member state of the federation. These committees, which include the State Ministry of Women and Social Welfare, the Nigerian Red Cross Society, the State Ministry of Health, the State Environmental Protection Agency, the Police Force, and the Security and Civil Defense Corps, would be led by the state governor. The governor of the state appoints and pays the state chairman, who has the power to establish rules governing the state's operations. If there are any local emergencies or natural catastrophes, the state is responsible for alerting NEMA, for responding to these emergencies, and for managing disasters inside the state. All 36 of the states in the US have not yet established SEMAs Borno, Adamawa, and Yobe (BAY) have dependable government organizations that interact with IDPs in particular. SEMAs have been actively involved in managing the humanitarian situation and return and resettlement in the BAY states, where the majority of people have been displaced.

### **3.1.8 Nigerian Red Cross Society (NRCS)**

The foundation of the NRCS as a non-profit relief organization and auxiliary to the government was permitted under the Nigerian Red Cross Act and the General Conventions Acts of 1960. Following official accreditation by the President of the International Federation of Red Cross and Red Crescent in Prague in September 1961, Nigeria became the 86th nation to join the International Red Cross and Red

<sup>71</sup> (n-68)

<sup>72</sup> 'Nigeria: End police intimidation of National Human Rights Commission'. *Amnesty International*. 2012-04-13. Retrieved 2015-03-28.

<sup>73</sup> Basher Garba Mohammed, 'A speech presented by the Honourable Federal Commissioner National Commission For Refugees Migrants and Internally Displaced person (NCFRMI)', on the 2019 National Immigration Dialogue with the theme 'Localizing the Global Impact for Safe Orderly and Regular Migration (GCM): Towards Setting up National Action Plan for Implementation of the GCM' Held on December 17 2019 at State House Banquet Hall, Abuja

<sup>74</sup> Ibid 1



Crescent Committee in February 1961, when the Nigerian Red Cross Society became a stand-alone national organization. In a vulnerability analysis conducted in 2010, the Nigerian Red Cross Society found approximately 5,000 vulnerable families who were most affected by floods in many locations of the country.<sup>75</sup> According to the study, Nigeria saw its worst floods in 40 years between July and October 2012, uprooting roughly seven million individuals across 33 of the nation's 36 states. Flooding claimed the lives of 363 individuals, according to the National Emergency Management Agency (NEMA).<sup>76</sup> In collaboration with NEMA/SEMA, other international organizations, especially Doctors without Borders, and IDP camps and settlements, the NRCS has been actively involved in camp management and support, including the provision of basic healthcare.

### **3.1.9 Ministry of Reconstruction, Rehabilitation and Resettlement (MRRR), Borno State**

In addition to SEMA, the government of Borno State formed the Ministry of Reconstruction, Rehabilitation, and Resettlement in 2015 with the objectives of coordinating the facilitation of displaced people's return to their communities in the wake of the Boko Haram insurgency, restoring the livelihoods of IDPs and reconstructing wrecked houses and public structures. The Ministry actively participated in the EU/UN/World Bank assessment of recovery and peace-building (RPBA)<sup>77</sup> in accordance with the assessment's suggestions for post-conflict reconstruction, an administrative and managerial framework for recovery and peace-building is now being established. It has been taking part in the infrastructure repair in the state's LGAs that have been deemed safe for re-entry. In order to address the state's crises and internal displacement, Borno is now the only state to have done so. Other states have established committees with representation from current agencies and line ministries, even though management is typically the responsibility of the SEMAs in cooperation with other stakeholders including the NRCS, local and international NGOs, and citizens. The fourth section of the report goes into greater detail into the state arrangements. The information above indicates that Nigeria has appropriate institutional mechanisms and policy frameworks in place to manage IDPs.

However, the policies are essentially on paper because the specific policy frameworks for IDPs have not been domesticated and are hence not legally obligatory. As a result, attempts to manage IDPs continue to be erratic, ineffective, and centered on providing aid rather than addressing important issues like support and the rights of displaced people. It is unable to identify or address severe concerns related to the protection of IDPs as a result of overlaps, resource waste, and poor coordination and synergy between the many organizations and agencies, particularly NEMA and NCFRMI. Conflicting mandates and a lack of effective coordinating institutions have slowed down the entire domestication process. Despite the fact that the process of domesticating the Kampala Convention is still ongoing, a private member's bill has been introduced in parliament, and the executive is working on submitting a bill as well. In addition to discussing issues of coordination, policy, and requirements, the technical working

<sup>75</sup> M T Ladan, *National Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria*, April 2013.

<sup>76</sup> Nigerian Red Cross Society 2013 Annual Report

<sup>77</sup> World Bank Statement on Support to Nigeria, Press Release October 14 2017 available at <<https://www.worldbank.org/en/news/press-release/2017/10/14/world-bank-statement-on-support-to-nigeria>> accessed 3<sup>rd</sup> December, 2023 : Recovery and Peace Building Assessment Report (Vol III, Northeast Nigerian) 1<sup>st</sup> May, 2016. Available at <[https://www.recoveryandpeacebuilding.org/content/rpba/en/home/library/nigeria\\_rpba.html](https://www.recoveryandpeacebuilding.org/content/rpba/en/home/library/nigeria_rpba.html)> accessed 3<sup>rd</sup> December, 2023



group (TWG) meeting is the first stage toward verifying and sending the draft policy to the FEC for adoption<sup>76</sup>. The NCRFMI is currently developing protocols for holding the TWG meeting.<sup>78</sup>

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<sup>78</sup> Ibid