

**PROTECTION OF RIGHTS OF VICTIMS OF INTERNAL  
DISPLACEMENT IN NIGERIA: A TASK IMPOSSIBLE WITHOUT AN  
ENABLING LEGAL FRAMEWORK**

***BY***

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**Abstract:**

Internally displaced persons all over the world are bonafide citizens of their countries of origin and notwithstanding the place and condition or situation they find themselves as a result of displacement, they are entitled to all the rights and privileges to which other citizens are entitled before the law. Internal displacement which may occur as a result of natural disaster, armed conflicts, violence, human rights violations, human factors or activities as well as economic and political policies of governments place the individual victims in a state of helplessness and pity making them highly vulnerable. This harsh reality on the conditions of victims of internal displacement has generated a lot of concern both at the national, regional, and at International Fora thereby igniting the quest for the promotion and protection of the rights of the IDPs found anywhere in the world. One of the primary challenges to the protection of the rights of victims of internal displacement is the seeming or clear absence of legal framework in most countries for the protection of victims of internal displacement. Nigeria is included in the list of countries without such legal framework. Furthermore, most states place reliance on the “General Principles for the Protection of Internally Displaced Person” as adopted by the United Nations. The problem with the “General Principles” is that it merely made general statements and guidelines that states and the international community can adopt for promoting and protecting IDPs without conferring duties or obligations on states. Another serious question on the issue of protecting IDPs in many countries especially in West African Sub-region is the inability of the states to domesticate the Kampala Convention which at present is the only instrument that can be said to have legally given a definite, bold, and progressive advancement and protection of rights of IDPs. Nigeria is yet to come up with any legal framework locally enacted for the protection of IDPs and everything as it is today in Nigeria on displacement is based on matter of political policy by Federal Government without any legal flavour. Much as the country has no such National legal framework for the welfare and protection of the IDPs, the National Assembly has also not been above board to domesticate the Kampala Convention. Thus, the problem of protecting the victims of displacement becomes a complicated one. Views have been expressed on whether or not they should be protected as “refugees” under the Refugees Act but they are not refugees at least for the fact that they are still within the territories of their country of origin – Nigeria. At least what the IDPs get in Nigeria is the combined efforts of National Emergency Management Agency (NEMA) and National Commission of Refugees pioneered by the policy of Federal Government towards protecting persons hit by menace of “so called” emergencies. This paper looks at internal displacement in Nigeria, nature, causes, effects, and consequences, financial implications towards addressing displacement, the International instruments if any protecting rights of IDPs, Regional Conventions or treaties or guidelines and National framework if any in Nigeria, the challenges of protection of IDPs in Nigeria and suggestions and recommendations.

**(a) Conceptual Explanations:**

In our considered views, it will be proper in order to comprehensively understand the topic of this paper to explain and define some concepts and words. This will make for a better appreciation of the topic and also create opportunity for an informed view or opinion on the matter. The concepts or words which will be assist in the understanding of the paper are: Internal Displacement,

Internally Displaced Persons (IDPs), Protection and Legal Framework. Explanations of these concepts are made one after the other below:

(i) **Internal Displacement:**

The Kampala Convention defined Internal Displacement to mean the involuntary or forced movement, evacuation or relocation of persons or group of persons within internationally recognized borders<sup>1</sup>. From the definition and meaning given to Internal Displacement by the Kampala Convention also called the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, the concept of the Internal Displacement occurs or is said to have occurred when there is:

- (a) Involuntary movement of Persons or group of persons
- (b) Forced movement of persons or group of persons

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Keyword: Internal Displacement, Internal Displaced, Protection and Legal Framework

<sup>1</sup> Article 1 (L) of Kampala Convention

- (c) Evacuation or relocation of persons or group of persons within the recognized international borders states

From the foregoing construction of the Kampala Convention on internal displacement, the person or persons or group of persons involved in the movement are either:

- (a) By their own decision faced with the situation or circumstances on ground left with no other option or alternative or choice than to leave their area of present residence for their safety and their life.
- (b) Or they may be forced to leave their area of primary residence by the perpetrators of the acts threatening their safety like violence, human rights violations or other man made activities or projects or by the ferocious nature of the impending disaster or its speed in terms of speed where it has started like flood, earthquake and others.
- (c) Relocated or evacuated by the state from the area of their residence to another area for their safety and comfort.

In addition to the above issues, the said movement whether involuntary or forced at every material times and circumstances must be within the internationally recognized borders of a state. What it means is that if such displacement took place in Nigeria, it must be within the territorial areas and borders of Nigeria and does not extend to the territory of other states otherwise such persons will cease to be regarded as IDPs but something else preferably refugees. Internal Displacement as a concept can be defined in our humble view as a “sudden” and “unplanned” movement of persons from their area of primary residence to another area for fear of imminent danger to the security, safety and comfort of the person or persons concerned as a result of natural disasters, human and manmade factors, armed conflicts and hostilities, human rights violations, violence as well as harsh economic and political policies of government which make existence and survival of the persons concerned very difficult and as a result they flee their residence to another area within the state even though temporarily and against their wish. In summary, therefore, in internal displacement, the decision or option by the state or actors to evacuate or relocate the IDPs is predicated upon the

desire and quest for their safety and removal or control of their impending or possible suffering that may be the case arising from the particular cause of the displacement.

- (ii) **Internally Displaced Persons:** Under the provisions of the United Nations Guiding Principles for the protection of IDPs, the internally displaced persons are “person or group of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflicts, situations of generalized violence, violations of human rights or natural or manmade disasters who have not crossed an internationally recognized borders”<sup>2</sup>.

Properly speaking, the definition of IDPs above by the UN Guidelines shows clearly the following points;

- (a) The fact that internally displaced persons are persons forced to flee their place of habitual residence or their homes either:
- (i) As a result of or
- (ii) In order to avoid the effects or consequences of the following:
- (1) Armed conflicts
- (2) Situations of generalized violence
- (3) Violation of human rights
- (4) Natural or human disasters and the persons affected by the above menaces are still within and have not crossed an internationally recognized state borders or territory.

In our humble view, there is no doubt at all that the definition of internally displaced persons as enunciated

above in the Guiding Principles is quite comprehensive and wide in scope. However, in our considered opinion,

*2 Parag. 2, United Nations Guidelines on the Protection of Internally Displaced Persons, IDMC online.com, IDP definition.ng.research (accessed 23<sup>rd</sup> May, 2019)*

the economic or political policies of a government or governments in a particular state or area can also force a group of persons out of their home or their area of habitual residence and make them to flee to other areas within the borders of the state concerned. In cases where a policy or policies of government is harsh and clearly targeted against a certain group of persons or class of persons, such a group as a result of such policy which may be economical or political will have no option than to take their leave to avoid the harsh realities of the implementation of such policies.

From the foregoing, our reasoned view is that there is a combination of many components in the definition of the concept of internally displaced persons including the issue of forced movement which combines the element of coercion and threats, intimidation and the resolve by the concerned person or persons on the necessity to leave to avert danger. Thus, displacement can be looked from two sides of the coin, on the one side, you see people moving and running away because there is immediate danger and on the other side, the movement can be an organized and more prepared

form of departure in anticipation of likely or possible danger. In any of the situations above, the people involved in the forced movement are regarded as IDPs.

A review of the Kampala convention shows that the term internally displaced persons means “persons or group of persons who have been forced or obliged to flee or leave their home or places of habitual residence in particular as a result of or in order to avoid the effect 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”<sup>3</sup>. It is reason without mincing words that the definition given to IDPs under paragraph 2 of the United Nations Guidelines on Protection of IDPs is – impari material to the meaning given to the concept under Article 1 (K) of the Kampala Document quoted verbatim above. The implication and purport of the two definitions in the two documents is that IDPs are persons or group of persons who are:

- (a) either forced or obliged to leave or flee their homes or places of habitual residence as
- (i) a result of armed conflicts, human rights violations, generalized violence, natural and manmade menaces highlighted.

It means that they are leaving or fleeing their homes i.e. the IDPs either because the menaces mentioned are already taking place or they are leaving to avoid the effects of the menaces when they eventually take off which from the surrounding circumstances in the area, such is inevitable. Precisely therefore, IDPs are individuals or groups who are entangled by any of the above vices and have to move or flee their home to secure their life. As we have humbly submitted, the United Nations Guidelines as well as the Kampala Documents present a wide scope of coverage of persons that come within the concepts of IDPs, but we feel sincerely in our fair view that persons that are forced to flee or leave their homes or places of habitual residence as a result of or in order to avoid the effects of harsh economic and political policies of government to another area of comfort within the internationally recognized state borders should be recognized, identified and made to take the status of an internally displaced persons in such a state of their origin. In most African Countries, there are economic and political policies initiated and Implemented by governments in such state which has imposed serious hardship on certain individual or groups in such areas and leaves them with no option than to leave their homes for another area within the territory of their state. The Nigerian state is not exempted among the countries in Africa that had in the past come up with such policies both during the period of the reign of military dictators and as well as in the present democratic setting.

- (ii) **Protection:** Protection as a word means the act of being protected<sup>4</sup>. It also refers to the act of protecting or the state of being protected<sup>5</sup>. From the above definitions, the word “protection implies the act done purposely or primarily to ensure safety and security of the thing” or the “individual” protected. In legal sense, protection simply is a process or procedure which provides safeguard for a thing or a person and to other things other than human beings including animals.

*3 Article 1 (K) of African Union Convention for Protection and Assistance to Internally Displaced Persons (also called Kampala Convention).*

The internally displaced persons are bonafide citizens of their different countries of origin. They are part of the broader concept of the civilian population that are forced to flee or leave their homes for their safety and to avoid the effects of armed conflicts, human rights violations and natural or manmade disasters. Having been uprooted from their homes and place of residence, they are faced with situations above and beyond them in their new area of abode due to displacement and as a result of the conditions-they are subjected to, they become more vulnerable. It is owing to the harsh realities of the conditions of displacement that the need for the protection of the victims becomes highly necessary and inevitable. Sadly, due to human rights abuses, armed conflicts, generalized violence, natural disasters and other menaces, the displaced persons pass through excruciating difficulties like loss of shelter and housing spaces, poor and inadequate food and diet and sometimes absence of it, lack of provisions of educational needs of the children and adults within school age, absence of medical facilities and other deprivations. In other situations, children are separated from their families and parents with no hope of re-union, the IDPs suffer stigmas, marginalization, discrimination and harassment. All these has raised awareness and creates need for humanitarian assistance of the IDPs locally and from perspective of the international community getting involved to alleviate the suffering of this group of people in different localities<sup>6</sup>.

It is on record that in more than 50 countries around the world, some 26 million individuals are uprooted from their homes and displaced in their respective counties as a result of conflicts or human rights violations in 2008. In addition, over 36 million persons are displaced worldwide in their countries as a result of the same cause<sup>7</sup>. African continent took a lion share in the percentage of the displaced persons mentioned above and this cannot be unconnected with the high rate of armed conflicts and internal crisis that have bedeviled most African states of late owing to corrupt, inept and dictatorial and sit tight regimes that have spread in the continent leading to frequent wars and internal uprising in the states, human rights violations as well as natural disasters. The crisis in Sierra-Leone, Liberia, Sudan, Uganda, Zimbabwe, and Democratic Republic of Congo are instances of states rocked by conflicts and violence leading to displacement of persons. The rising insurgency in Nigeria due to the rampaging activities of the Islamic Militants Sect "Boko Haram" in the North Eastern part of the country no doubt has led millions of Nigerians in that part displaced, the sect is now having in-road into other parts of the country and there is every expectation that there will be increased number of displaced persons in Nigeria beyond what the figure was from 2011 when the group first launched attack against Nigerian State in the present 2019.

In addition, the activities of the herdsmen in the Northern part of Nigeria and their in-road into other zones of the country of recent is also another source of worry as many Nigerians have been displaced as a result of this. There is no doubt that the incidents of their activities both in Benue, Kogi, and other areas in noted to have been devastating. Of course, we cannot claim ignorance of the violence that took place in the Niger-Delta region owing to the activities of the militants who sincerely in our view should not and never be seen as criminals but indigenes of traditional communities who are agitating lawfully and consistently that notwithstanding that their environment and traditional occupations of "fishing" and agriculture is being destroyed by the oil and gas production activities by the Federal Government of Nigeria and the multinational Oil

Corporations, there is no broad based programme to improve and develop the region and address the environmental problems in the area. The people still cry that whereas the oil resources from their region is used to develop other area and parts of Nigeria, there is clearly lack or absence of such development in the region. This in our fair view is a justified struggle. We also note the violence that rocked the South-Eastern part of Abia recently when the Nigerian Army in their Operation Python Dance II (Egwu Eke Abuo) moved to the country home of the leader of Indigenous People of Biafra "IPOB" Mazi Nnamdi Kanu, though the Nigerian Army denied having any contact with civilians in the operation, no reasonable Nigerian will accept their explanation hook, line and sinker without asking questions. With the seriousness that was attached to the operation by the Army and the level of arms and personnel that may have been involved in the operations, it will not be out of place to conclude fairly that many civilians may have been displaced.

4 A. U. Abonyi, "Analysis of the Concept and Nature of Legal framework for Animal Welfare Protection in Nigeria" (COOU Journal of Commercial and Property Law, Vol. 1, No 1, 2018 (Onitsha, Osuora Nig Ltd, Pgs 288-305).

6 Handbook for the Protection of Internally Displaced Persons by Global Protection Cluster working Group, ICRC Review 2006  
7 Ibid

Similarly, the natural disasters particularly flood and building collapses that occurred between the period of 2012, 2014, 2018 and 2019 in some states in Nigeria has contributed to the staggering increase of displaced persons and their camps in the country of late. The states affected included among others Oyo state (in Ibadan in particular) many were dead, others were rooted out of their homes, Anambra (especially in the riverine coastal areas of Oma Mbala (Aguleri, Anam, Ogbaru areas (camps were created by the State Government then at different places including Ozubulu in Ekwusigo LGA, Anambra State where displaced persons were accepted, identified and managed until such time that the flood ceased, other states like Benue, and Kogi were also affected. Similarly, the flood arising from heavy down pour also left some people killed and others displaced in Enugu in 2018<sup>8</sup>, same thing occurred in Bayelsa, Edo and Imo communities which the National Emergency Management Agency (NEMA) confirmed death of a pastor and the wife in Imo and members of the communities sacked<sup>9</sup>. In Bayelsa, the governor of the state Rt. Hon. Dickson announced closure of schools while in Delta State; government assured the victims of health care services<sup>10</sup>. River State was not left out as Mbiama community near Orashi River Tributary of River in Bayelsa was also hit<sup>11</sup>, the cases of displaced persons over flood and collapsed building in Lagos and other areas in Nigeria is also a case for consideration<sup>12</sup>.

The above issues raises serious concern and need for the protection of victims of internal displacement in Nigeria as is done in other countries and the world over. However, protection must be anchored on a template or framework. In Nigeria, there is still no template or framework upon which the protection of IDPs can be based. This is a problem which must be addressed and we as people and as a country must stand up to this golden responsibility and we cannot shy away from this truth. The conditions of displacement make the IDPs vulnerable and as a result, they deserve protection and every effort that must encourage and advance their protection must be undertaken and the very first step is coming up with a law that is indigenous to Nigeria for the protection and promotion of their rights.

- (iv) **Legal Framework:** A legal framework in the strict sense of it means a body of rules and regulations prescribing duties, rights and obligations in favour of persons or group or making provisions for the promotion, protection of persons or thing, group of persons or

things as case may be. It can also be referred to as an instrument outlining benefits, rights or privileges to which a person or group of persons are entitled to either from their co-citizens or from government of their states in their relationship with other citizens or their government.

In ordinary parlance, a legal framework is an enactment made by the legislature on any given subject or issue or for the protection of a group or specie of persons in the state. Such law may be made by the different tiers or levels of governments in the state depending on the powers granted and vested on them by the organic law in the country i.e. the constitution of the land. In regards to the internally displaced persons, a legal framework for the protection and promotion of rights of their rights or their assistance means an enactment by the national assembly of Nigeria and assented by the president in line with the provisions of the Constitution of Nigeria. Although, the Federal Government of Nigeria has taken up policies towards protection and advancing the rights and welfare of IDPs in Nigeria, the policies are mere political and pioneered by some agencies established by law to cater or issues related to those that find themselves in situations of emergency and humanitarian assistance. Thus, NEMA which is established by law and the National Commission for Refugees (NCR) at present coordinate and anchor government programmes intended for displaced persons in Nigeria. This no doubt is true because the status of refugees within the template of our existing laws - the Refugee Act and the United Nations Convention for refugees is different and distinct from the status of IDPs and they are not the same. This has ignited the concern and the trending need for a legal concern and protection of victims of internal displacement in Nigeria and in most African states as the continent is the most disproportionately affected by the menace all over the world.

*8 Christian Outlook Newspaper, Sat. Oct. 13<sup>th</sup>, 2018, Nnewi Local News, Cathedral Press.*

*9 Vanguard News, 26<sup>th</sup> Sept, 2018*

*10 Vanguard News, 1<sup>st</sup> Oct, 2018*

*11 Daily Sun, Oct 15<sup>th</sup>, 2018*

*12 Vanguard News Apr. 15<sup>th</sup>, 2019*

### **(b) Background Analysis of Internal Displacement**

Among the African state hit by the menace of internal displacement, the numbers of displaced persons in Nigeria have gone beyond proportion and increased speedily in an unimaginable rate in 2014 and 2015 and thereafter following the increased severe attacks from the dreaded terror group, Boko Haram<sup>13</sup>. Apart from attacks by the Boko Haram Sect, the rising number of internally displaced persons in Nigeria is also traced to cases of natural disasters particularly flood which hit many cities in different states between the period of 2012, 2014, 2018 and most recently in 2019. States of Benue, Taraba, Kogi, Bayelsa, Lagos, Anambra, Enugu, Rivers, Oyo and Delta remain the areas mostly affected. As a result of the floods, many deaths were recorded while a large number of civilian populations were left homeless and displaced. Other traces of internal displacement in the country arose as a result of manmade disasters ranging from building collapse with instances in Lagos and other cities including most recently in Onitsha in Anambra state.

Generally speaking, internal displacement as a global concept or phenomenon is usually orchestrated by factors ranging from <sup>14</sup>:



- (a) **Armed Conflicts:** Armed conflicts in this respect can be international armed conflict i.e. fighting between the forces of at least two states and at other times wars strictly for national liberation which is now classified as international armed conflict. There is also the non-international armed conflict which is fight within the territory of a state between the regular armed forces and identifiable armed groups within that state or between armed groups fighting one another. Thus, armed conflict whether international or non international and other hostilities or tensions or uprising as case may be involving arms lead to displacement of hundreds of thousands of people from their homes and places or residence to other places or areas within the area recognized as the international border of the state concerned. The civil strife and war between 1967 till 1970 in Nigeria following the declaration of Biafra as an independent state by Dim Chukwuemeka Odumegwu Ojukwu (Eze Ndi Igbo Gburugburu) is one good example of armed conflict that left many Nigerians and Biafran's displaced from their homes and places of residence. Many who were displaced during that that in glorious incident mostly women and children lost family contacts and ties and the possibility of reuniting with their families became impossible even uptil today.

Aside the war in 1967, the attacks by the Boko Haram sect, the terror unleashed by the herders in different states in the north and their recent in road to other parts of the country has contributed a lot more to internal displacement in Nigeria and it will not be fair to overlook their impact in the overall assessment of armed conflict as one of the causes of internal displacement in Nigeria.

(II) **Situations of Violence or Generalized Violence:**

In addition to armed conflicts, many internally displaced persons live in situations of generalized violence ranging from tensions and disturbances. The terms internal tensions and disturbances refer to situations that fall short of armed conflicts but involve the use of force and other repressive measures by government agents to maintain or restore public order. Examples of internal tensions and disturbances include riots, such as demonstrating without any concerted plan from the outset, isolated sporadic violence as opposed to military operations carried out by armed forces or armed groups, and violent ethnic conflicts not amounting to full armed conflict. It is our firm view that causes can combine to produce displacement hence the concept of displacement is complex both in definition and in the analysis of the phenomenon. Thus, a situation of internal tension characteristically involves specific types of human rights violations such as large scale arrest, and other large scale measures restricting the freedom of persons, administrative detentions, political prisoners and the probable existence of ill treatment or inhuman conditions of detention. As Tamara Wood<sup>16</sup> pointed out, there is a relationship between conflicts and disaster and hence their interconnectivity in the analysis of displacement. As he reiterated, in 2011, millions of people were displaced within borders of Southern Somalia and forced to flee to other areas of Somalia due to combined effects of

*13 Women and Children Watch initiative online research. Com. idps*

*14 ibid*

Drought (natural disaster) and prolonged conflicts in the country. In this situation, it will be difficult to conclude which factor caused the movement.

In legal and policy circles, it is sometimes desirable to distinguish between those displaced by human causes such as conflicts and violence and those displaced by natural causes such as environmental hazards as is the case in Niger-Delta region of Nigeria and others displaced by natural disaster. As the above examples can show, it means and implies no doubt that the reality of the discourse of the concept of displacement is a complex one<sup>17</sup>. This is in our considered view correct especially among African states including Nigeria where internal displacement has been seen frequently to be as a result of combined pressures such as drought, flood, conflict, armed conflicts and insurgency, weak governance, poverty and other indexes.

(iii) **Human Rights Violations:**

In many countries of the world, human rights violation remains one of the vices that heightened the level of vulnerability among the victims of such menace. Africa records the highest in the rating as the continent with the greatest cases of human rights abuses bearing in mind that most African leaders and countries have dictatorial tendencies and their leadership style rooted in oligarchy system of government. In Nigeria, there were serious cases of human rights violations during the unconstitutional reign of the military juntas in the history of the existence of Nigerian state. Many citizens were forced out of their homes and made to flee their area of habitual residence in anticipation of attack or arrest and possible incarceration by the military dictators, others were arrested and detained and put out of circulation for years while there were series of protest and uprising by those opposed to the inhuman transgressions of government against the people. Some pro-democracy activists were incarcerated, their freedom deprived, the likes of Gani Fawehinmi, the case of Fela Anikulakpo Kuti, and others still remain alive in our minds together with the extra-judicial killing by Late Abacha of the OGONI environmental activist Ken Saro Wiwa and his associates, the Dele Giwa Saga and so on are cases we cannot forget in a twinkle of an eye. Even the attempts by the subsequent governments in revisiting the human rights violations through the setting up of Oputa Human Rights Investigation Panel became a mere child's play as the panel had no legal backup and power and even some of the persons who were meant to be investigated refused to appear before the panel and the panel had nothing to do. Indeed, the panel was a mere toothless bull dog. Whatever the case may be, our contention here which is true is that human rights violations is one of the causes of internal displacement in Nigeria as well as other parts of the world.

(iv) **Disasters**

Disasters have natural and manmade origin. Examples of disasters with natural background include drought, floods, earthquakes or typhoons, other disasters are nuclear disasters or famine. Manmade disasters range from displacement arising from government projects, industrial activities like in cases of oil exploration activities leading to gas flaring, spillage and other environmental hazards which force the residents to flee or leave their homes, building collapse as happened in Lagos and other parts of the countries in the past etc.

Victims of disaster whether natural or manmade might also become victims of discrimination and other human rights violations as a consequence of their displacement as they have to move to an area where they constitute an ethnicity minority. Similarly, so many a times, government responds

to these disasters by discriminating or neglecting certain groups of victims on political or ethnic grounds or by violating their rights in other ways<sup>18</sup>. In particular, the causes of displacement is not exhaustive and hence other possible causes of internal displacement can for instance include large scale development projects such as Dams built without government's attempt to resettle or compensate those displaced. Large scale development projects are mentioned in the United Nations Guiding Principle No 6 and referred to as cases of arbitrary displaced. A popular government project of the Present administration carried out in a large scale and capable of causing internal displacement assuming the Federal Government did not have a bold plan and structure on ground

*16 Tamara Woodonline research.ng.edu.idp.causes (16/5/2019)*

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leading to the resettlement of the people of the area concerned is the Zungeru Dam Project for power generation in Niger State. In such a large scale project, there is every tendency that many people will be forced to leave or flee their homes where there is no attempt or plan by the project undertaker to resettle the indigenes or indeed the population in the affected area.

As we have noted before now, the concept of internal displacement is a complicated one. Thus, the relationship between the primary causes of displacement is complex and one triggers the other and their combined pressure forces the people to move out or flee their area of residence and homes. This happens in displacement caused by caused by disasters as well as others. For example, as Tamara reasoned<sup>19</sup>, the relationship between conflicts and disasters when it comes to displacement is complex because they may operate sequentially forcing a person or persons from their homes and the other prompting onward movement. Many people may be forced out of their homes by conflicts and violent attacks and are at the risk of further displacement due to flooding during the annual rains. Within pastoralist communities in many African states, diminishing water and pastures have led to violent clashes both among pastoralists and between pastoralists and local communities providing further pressure for movement. Recent events in Benue State and some other states clearly show cases of violent clashes between the Fulani Herdsmen carrying their cattles from place to place in search of grazing resources and feeds for their animals and the farmers who contend that the cattles destroys their cattles. Whereas the herder's claim that cattle rearing are their business, the famers also contend that the crops destroyed is the source of their livelihood. The crisis has led to acrimonies between the federal government with some states such that whereas the Federal Government states is rooting for a "Grazing Law" that permits the creation of cattle colonies in different parts of Nigeria, States are rooting for "Anti Open Grazing Law" that prohibits grazing openly in their states. States like Benue and other sister states in Nigeria affected or threatened to be affected in the herdsmen farmers clashes have passed their respective state Anti Open grazing Law to check such clashes. Although some scholars and commentators have argued that herdsmen / farmers clashes is beyond the issue of mere "grazing and farming" activities, our considered view is that today herdsmen are more than the ordinary "Fulani herdsmen of the old that only move with their cattles having a long stick in their hands, a kettle and a dagger or matchets with a rope hanged and dangling from the neck through their hands as they move. The present herders are more "sophisticated" and it is this aspect that leaves doubt the people whether indeed they are herds men in practical sense of it or something else. Measures must be taken to

protect and provide protection to internally displaced persons. In our firm view, such protection must take care of the complex nature of the concept of internal displacement. Thus, the existing measures and the proposed plans for protection must not over look this important aspect of the concept and in doing this, identifying those that deserve the protection must appreciate and take into consideration the multi causality of displacement.

This is because; more often than not there is rarely a displacement arising from one sole cause. Thus, rarely, will a natural hazard be a sole cause nor will conflict be since in conflict ridden areas, poverty, weak governance and lack of social support may influence a person's decision to leave a disaster affected region. What it means is that in a displacement caused by disaster or for disaster displaced person or displacement caused by conflict or for conflict displaced person, there may not be a requirement that disaster or conflict is the only cause of displacement but only a contributing cause of displacement.

The mechanisms developed for the benefits of the people displaced must also recognize this complexity in the nature of the concept and in particular, any assessment that it is safe for disaster affected population to return home must not only look at whether the disaster situation itself has passed but more broadly to whether the area or place or region of return provides sufficient security and stability for the full realization of human rights. Failure to do so would not only undermine protection for those left vulnerable but would risk creating further displacement. As People go in search of security and stable livelihood<sup>20</sup> in Nigeria and the world over protection of IDPs no doubt is a fundamental question

*18 IDMC comments online "who is an internally displaced persons (IDMC-is Internally Displacement Monitoring Centre, Abuja)*

*19 Ibid (as in 16)*

### **(c) Victims Of Internal Displacement In Nigeria Visa Viz The Effects And Consequences Of Internal Displacement.**

In our most considered view, it is inadvisable and indeed difficult task attempting to circumscribe or restrict the victims of internal displacement to one particular group class or set of people. Such effort or attempt is not only time wasting but is also counterproductive and cannot in anyway assist or help promote and advance the protection of persons affected by internal displacement. This is because the number and range of persons affected by internal displacement as a result of armed conflict, natural and manmade disasters, human rights violations, generalized violence and other factors are better imagined than discussed. From the above, what is being contended is that the class of victims of internal displacement is wide and include among others:

1. Children
2. Women
3. Men
4. The aged as well as the sick.
5. and others who are forced to flee or leave their homes and place of habitual residence as a result of harsh political and economic policies of government which more or less makes them prisoners in their own state.

From the foregoing, it is evident that the victims of internal displacement properly speaking are mainly the civilian population who are forced out of their homes or areas of habitual residence as a result of armed conflict, generalized violence human rights violations or abuses, natural and man – made disasters and other variables. It is therefore expected or required that law must be used to protect and promote the rights of the victims or those under the pains and ravaging effects of internal displacement including the child, the women, the men alike, the aged and the sick. It is therefore intended that there should be no discrimination as to who is entitled or who should not be entitled to protection on the basis of one reason or ground and/or the other. Fairly speaking, a victim of internal displacement once collected should be accorded recognition as an IDP, given protection and assistance without emphasis on his status to deprive him such protection and assistance. What should be paramount is that he should be properly identified and documented (or registered) to ascertain his family lineages or linkage to assist in tracing the family links for reunion to his or her family members. It is our considered view further that prior to the full or complete identification and documentation process, any entitlement afforded to those already identified and documented should be extended to such person or persons as if they have been so identified and documented. Non identifications or registration of IDP in a place designed as IDP settlement home or camp is therefore not a ground for denial or deprivation of their entitlements like feeding, medication and other necessities including receipt of clothing materials and other things important for his or their survival.

The consequence of internal displacement on the individual or persons concerned is not only devastating but is also terrifying. As a result of armed conflict or natural disasters, there is the possibility of loss of lives, loss of properties and losses of different dimensions in armed conflicts, the civilian population stand risk of being killed, their properties become targets of military operations etc. Similarly on the side of disasters like flood, the individuals stand risk of death, loss of properties, loss of arable farming lands, excruciating and devastating effects on the economy, fall in the standards of education as many schools are swallowed by floods and students pushed out of their schools and homes, increased unemployment rate as many government institutions and parastals are submerged by flood and hence there is no productive capacity capable of leading to increased output of the labour. The incidents of flooding between 2012, 2014, 2018 and 2019 in some parts of Nigeria is a point of reference and cardinal consideration in this paper.

20 UNISDR online research <http://www.Unisdr.org/we/inform.terminology.idp> (accessed 31/5/2019)

Article 2 sub-sections a, b, c of the Kampala Document makes very important provision as it relates to protection and assistance to the victims of internal displacement as well as how to address the consequences of the internal displacement. Properly, Article 2 subsection a, b, c states that the objectives of the Kampala document shall be to:

- (a) Promote and strengthen regional and national measures to prevent or mitigate prohibit and eliminate the root causes of internal displacement as well as provide for durable solutions.

- (b) Establish a legal frame work for preventing internal displacement, and protecting and assisting internally displaced persons in Africa.
- (c) Establish a legal frame work for solidarity cooperation, promotion of durable solutions and mutual support between the states parties in order to combat internal displacement and address the consequences

From the wordings of Article 2 (a) (b) (c) of the Kampala document, every effort must be made both at national and regional level to promote and strengthen all measures capable of eliminating, preventing, mitigating and prohibiting the root causes of internal displacement and in doing so, there has to be a legal frame work to encourage solidarity among the states, their co-operation in their efforts or attempts to creative mutual support to each other towards creating or proving durable solutions to internal displacement and the consequences of same. The Article and its provisions no doubt represents a succinct and dynamic commitment towards protecting the victims of internal displacement and by this address the ever-growing consequences of the menace not just to the individual but to the state.

As we highlighted above, the consequences of internal displacement occurring as a result of any of the factors mentioned above to the individual is on a very serious note over bearing and enormous. In addition to the earlier consequences, internal displacement results in overcrowding of places of settlement or camps thereby increasing spread of diseases including contagious and non-contagious viral diseases like HIV/AIDS, and other sexual related diseases like Syphilis, Gonochachus erectus and other "STD's". There is also increasing cases of unwanted pregnancies, "child pregnancies", abortions, widening criminality of all sorts in the campus like rape, defilement of young girls, forced pregnancies, human rights abused and others.

On the part of the state or government, the consequences of internal displacement is colossal. First, it increases the budgetary and appropriation estimates to take care of the over bearing burden of the recurring expenditure of maintaining the IDPs in the camps likely to be scattered in the area deeply ravaged by the root causes of displacement. Take for instance, of late; the government of Nigeria has to face the effects of internal displacement in the North East arising from the unending armed banditry and hostility or conflicts between the Boko Haram Islamist Sect and the regular armed forces of the state of Nigeria. There are camps in almost all the states in the Northeast as the sect has not retreated and has continued to make way into many areas, taking over some cities and town and even the whole of a local government. The Nigerian military has not also stopped and has launched their own attacks but clearly against the highly sophisticated weaponry of the sect. Many Nigerians have died in the circumstances and million displaced. The rampaging "herdsmen" and their conflicts with farmers in some states in the North particularly in the Middle Belt-Benue, Kogi and other instances in Taraba is another scenario that have also increased the number of IDPs and their camps in the areas affected. The government expenditure profile has increased as a result and the government at the centre and the states where the action are taking place have all suffered one way or the other in addressing the needs of the IDPs.

At the centre, the Federal Government mobilized the National Emergency Management Agency (NEMA) and National Commission for Refugees (NCR) to work in synergy towards implementing Federal Government Political Programmes and policies towards assisting and helping the internally displaced persons in all parts of the country and who are under the effects of any of the root causes of displacement. Country and working with relevant governmental bodies, NGOs and others towards giving assistance to those displaced.

It is important to observe that the programmes measures and policies initiated and implemented by NEMA and NCR towards protecting and promoting rights of those displaced or offering assistance to them are purely political in the sense that though NEMA and NCR are agencies established by law, protecting and promoting the rights of IDPs and giving assistance to them as a result of displacement is not within the duties and powers of the two agencies. In effect, there is yet no law or legal backup to the protection of internally displaced persons in Nigeria.

Thus, it is evident that for now, there is practically no legal framework enacted in Nigeria for the protection of IDPs as well as their assistance. Owing to this lack or absence of legal framework, there is noticeable and clear misuse or abuse of powers in the implementation of programmes and policies of government towards assisting the IDPs by the agencies and their staff involved in the implementation. Such abuse arise from corrupt practices perceived among staff of the agencies especially in the utilization and distribution of materials either coming directly through Federal Government and State Government finances or through donations from donor agencies within and outside Nigeria as well as donations from private well meaning Nigerians and corporate bodies and institutions. The practices occur because there is seemingly no legislation on ground in relation to IDPs and hence monitoring becomes difficult.

Like we stated earlier, the government policies and programmes intended to assist the IDPs is not-restricted to displacement caused by a factor but concerns all manner of displacement including armed conflicts, generalized violence, human rights violations, natural and other disasters as well as displacement arising from government economic, social and other policies which when and where they become harsh and exploitative or directed against a certain group or persons. It will no doubt cause such group or persons to leave their homes. The floods of 2012, 2014, 2018 and some already noticed in some places in 2019 left many dead, many lost all properties they acquired for years, and many were left homeless and have no option than to leave their homes. The cases of flood in Ibadan (Oyo), the incident of same disaster in Anyamelum communities in Anambra State spreading from Aguleri, Anam, and other parts of Ogbaru are still clear in our minds. Many were rendered homeless, lost their farms and some families lost their dear ones, some of them alive were evacuated and collected and located at camps including Ozubulu Camp etc. The cases of flood in Bayelsa, Delta, Rivers, Benue, Taraba and even Lagos cannot be overlooked. Their consequences to the individuals affected, their communities and the state no doubt is colossal and counterproductive.

**(d) Internal Displacement in Nigeria and other Jurisdictions, State of the law:**

Internal displacement is a menace ravaging many countries of the world. It is important to observe that Africa is the continent that has suffered the greatest consequences of internal displacement and is indeed the worst area that has been hit by the vice. In Africa, many countries have faced the

agonizing effects of internal displacement. The same thing applies to countries in other jurisdictions including United States and other American States, countries under the European League of States, Asian States and so on and so forth. It is interesting to note that among the states in Africa, the major cause or source of internal displacement is armed conflict, generalized violence and insurgency combined with displacement arising from natural disasters. In other climes like among the American States, displacement mostly arise from natural disasters including disasters like Hurricane Florence that hit the Californian State of America in 2018 and others like the Hurricane Katrina etc. In Arab States like Iran, Iraq, Afghan and others, displacement arise as a result of armed conflicts mostly the case of Africa.

It is our concern to look at some of these areas and jurisdictions with a view of finding out the efforts or measures taken by the states concerned in addressing the challenges of internal displacement in their domain. This assessment will also take into account of whether or not there is a legal framework in place in such country or countries enacted towards protecting the victims of internal displacement. Thus, in this direction, effort is made to examine the laws or instruments on grounds in these communities or states towards promoting and advancing the rights of IDPs.

The reason for looking at the situation of the law in some the various jurisdictions is because the combination of the provisions and state of the law and regulations in the jurisdiction shape and influence the international law on the protection of IDPs which at the moment, there is still absence of any known international instrument or convention for the promotion and protection of the rights and welfare or assistance to the IDPs. The UN Guiding Principles merely highlights principles for the protection of IDPs but imposes no obligation on the states or international community or sanctions for derogation from such “so called obligation”.

#### **(I) African Continent-Nigeria and Others:**

Looking at the different jurisdictions and starting from African Continent, Nigeria as a state is of much importance as there is increase & rise of IDPs in the country owing mainly to recent and continuing activities of Boko Haram Islamic Sect in the North Eastern part of the country and the activities of the Fulani herds men under the aegis of Miyetti Allah Cattle Breeders Association of Nigeria who have clashed with farmers in many states including Benue, Kogi, Taraba, Nassarawa under the disguise of demand for grazing lands or cattle colonies etc. The herdsmen have made inroads just like the Boko Haram Sect to other parts of the country and indeed the activities of the two groups is not only threatening the security, peace and survival of Nigeria State but has also become a “monster” capable of disintegrating the country if not checked positively. Whereas the Boko Haram is waging war against the state of Nigeria and killing innocent Nigerians including members of the Nigerian Armed Forces. They are also overrunning and taking over towns and cities and hoisting their flags. The herdsmen on their own side have argued that they are involved in their legitimate cattle rearing business and anybody or group attempting or purporting to stop them including state government of states will be inviting the anger and wrath of the group. What we are saying is that the combined activities of Boko Haram, herdsmen and other arm carrying groups in Nigeria has led to internal displacement in the affected areas in Nigeria. In addition to internal displacement by armed conflicts by arm-wielding groups different from the regular armed forces in



Nigeria, internal displacement in the country also arise as a result of natural disasters particularly flood.

Our sense of reasoning is agitated to find out the national policy of the Federal Government of Nigeria on Internally Displaced Persons and the state of the law in Nigeria towards protection of IDPs. Precisely, by the report of the Federal Government of Nigeria on the National Policy on Internally Displaced Persons forwarded by the then Honourable Minister for Special Duties and Intergovernmental Affairs, Kabiru Turaki (SAN)<sup>15</sup>, while there is visible large number of IDPs in Nigeria scattered across various states arising from multiplicity of causes, there is no reliable data providing a comprehensive profile of IDPs in Nigeria. Similarly, as at the early part of 2006, there is the increasing number of IDPs due to conflict induced displacement, as result Nigerian Government had no option than to consider a National Policy on IDPs, the draft of which was tabled for consideration in 2007 before the national Executive Council but subsequently was for whatever reason not adopted. The draft was however revised between 2009 and 2012 to reflect the realities and framework provided by the Kampala Convnetion<sup>16</sup>. In Nigeria and elsewhere in the world, IDPs are amongst the most vulnerable populations for several obvious reasons. As a result, Nigeria signed, ratified of the African Union (Kampala Convention) which came into force in 2012) for the protection and assistance of IDPs in Africa. <sup>17</sup> During the ministerial conference on Humanitarian Assistance on internal Displacement in Africa held in Nigeria by ECOWAS, Under the leadership if Nigeria in 2011, the importance of every African Union member State to sign, ratify domesticate and implement the convention provisions was stressed. There was also emphasis on the implementation of the Kampala convention by ECOWAS members' states and the need to strengthen good governance with full respect and realization of Human rights and international humanitarian law in ECOWAS subregion towards preventing internal displacement notably caused by lack thereof or emanating from conflict and generalized violence and mitigating its devastating effects on the citizens of the region.<sup>18</sup>

*15 Federal Government of Nigeria Report on the National Policy on Internally Displaced Persons in Nigeria (see Abuja Conference-final communiqué of the 7<sup>th</sup> July 2011 online.com, Nigeria)*

It must be pointed out that as at 2011 when the ministerial conference was held and uptill the year 2019, many countries in the West African and indeed in the African continent have neither signed, nor ratified let alone domesticate the convention and subregion. Only 32 states of African Union has signed the Kampala Convention while only 12 states of the union ratified the convention. Though Nigeria is among the states that signed and ratified it, it is still unclear whether the convention has been domesticated by any member state including Nigeria.

The Kampala convention is a regional treaty on internal displacement which has become a template influencing the build up for an international draft rule or convention on internal displacement and also acting as a catalyst in the search for national framework in states for the protection of internally displaced persons. At present, there is no international instrument or local legislation on internal displacement in Nigeria and in other African States. Thus, in Nigeria, the internal response

to the plight of IDPs has remained largely fragmented and uncoordinated and the response or reaction to the root causes of displacement has been poor and ineffective<sup>19</sup>. This in our view is the case because there is no law on ground over internal displacement in Nigeria. And every response is based on a “fire brigade approach” of use of “NEMA” and “NRC” to put up an improvised relief package and programme to present a picture or semblance of governments implemented measure or strategy towards addressing the menace of displacement. Owing to absence of legal towards protecting the IDPs, the policy for their protection is based on a wishy-washy attempt by government in using more or less political strategies to provide assistance to IDPs without following any known legal procedure provided by any law with checks and other limitations on the actions of the actors in the implementation of the strategy.

As a result of the above, the IDPs in Nigeria have undoubtedly remained highly vulnerable and susceptible to all forms of exploitation, abuse and neglect across the federation. Existing figures on the number of the affected population are contradictory and pose a great challenge for assessing the extent and impact of internal displacement on host communities and national security. In Nigeria, as pointed out before now, most of instances of internal displacement occur because of:

- (a) Violent conflicts with ethnic/religions undertones.
- (b) Others are displaced as a result of natural disasters including flooding in the North, West and East, erosion in the East, oil spillage and development projects in the Niger- Delta and others that occur as a result of:
- (c) Clashes between Fulani herdsmen and famers and the one
- (d) Between governments armed forces and the armed groups.

Recent studies<sup>20</sup> have shown that people’s vulnerability to internal displacement in Nigeria is not only due to Natural and human made disasters, armed conflict or ethno-religious conflicts but also worsened by extreme poverty, lack of equal access to socio-economic resources and balanced development and environmental induced developments. It is also noted that undue emphasis on disaster-induced displacement has led government to prioritized disaster risk reduction and narrowing its focus to responding to disaster induced displacement. This approach has ignored non-disaster induced displacement and has orchestrated lack of strategic legal framework to address the plight of such displaced populations and by that provide durable solutions to all types of displacement.

The endorsement of the National IDP Policy by the Federal Government is a demonstration of political will to address the plight and needs of the IDPs. Whereas the mandate and trust of the Nigerian IDPs Policy is to give humanitarian assistance to IDPs and advance their welfare, care and protection, our firm view is that the absence of any legislative action towards enacting a local law protecting IDPs or domesticating the Kampala Convention to become part and parcel of Nigerian jurisprudence and legal order is an aberration to the ideals, ideas, values and intentions of the national Policy on IDPs as configured by the government of Nigeria.

*16 ibid 17. The need for ratification of the Kampala convention in prescribed under Article 17 (1)*

*18. Conference deceleration as contained in the conference communiqué at the end of conference, Abuja 2011.*

*19 M.T. Ladan “Overview of International and regional framework on internal displacement : A case study of Nigeria; being a paper presented at a 2 day stakeholders conference on international displacement in Nigeria*

*organized by civil society legislative advocacy center with IDMC Norwegian refusal limit, Nov. 23-23, Abuja.*

One of the key elements compounding the plights of IDPs in Nigeria lies in the weak or non-existent process of enabling IDPs make an informed decision voluntarily as to whether to return to their home communities or remain or settle elsewhere in the country. This process can only be motivated and boosted by a provision of a law or an enactment prescribing how and when or the modus operandi for the process. At present, there is no law in Nigeria to drive the process. Without the “driver” in the form of law, the situation remains as it is and the plight of the IDPs in Nigeria continues to remain a mere academic exercise without any legal probative value attached to it which at the end becomes a conclusion of being “neither here nor there”. In the whole analysis, the policy thrust of the Federal Government of Nigeria on IDPs is planned with a direction to provide a framework and platform for national responsibility towards preventing and protection of citizens from all forms of displacement, rehabilitation of victims of displacement, return them, reintegrate them and resettle them after displacement. The policy provides guidelines for humanitarian assistance and implementation of viable measures for assisting persons in situations of internal displacement in any part of Nigeria.

The policy adopts human rights and humanitarian law principals and has the intention of accommodating as much as possible the provisions of existing international conventions, treaties and protocols on displacement, and regional instruments etc. It also adopts the principles in the above instruments to drive a national legal framework for the protection and assistance for IDPs which at present is still lacking in Nigeria.

Africa is the continent mostly ravaged by the menace of internal displacement. As already been highlighted, Nigeria is one of the African countries seriously threatened by Internal displacement. In addition to Nigeria, African report on internal displacement has given credence to the fact that other country in the continent apart from Nigeria is also facing the harsh realities of internal displacement<sup>20</sup>. According to the report, displacement associated with conflict and disaster skyrocketed in many parts of Africa in 2006 and is likely to spread even more in the coming years. Specifically, conflict and violence resulted in a total number of 2.8 million displaced while disaster related displacement were a total of 1.1 million. The countries affected in the above displacement statistics include Libya with about 156,000 displaced persons arising from conflict, Niger Republic with about 166,000 IDPs displaced by conflicts and 46,000 by disasters, Senegal 24,000 IDPs (disasters), Chad 36,000 IDPs (conflict), Nigeria 501,000 (conflict) 78,000 (disasters) Cameroon 83,000 (conflict) Central African Republic (CAR) 46,000 (conflict), Democratic Republic of Congo (DRC) 922,000 (conflict) 130,000 (disasters) Somalia 113,000 (conflict), 70,000 (disasters), Ethiopia 296,000 (conflict) 347,000 (disasters) South Sudan 281,000 (conflict) Kenya 40,000 (disasters) Uganda 23,000 (conflict) Madagascar 51,000 (disasters) and Tanzania 36,000 (disasters)<sup>21</sup> that whereas in some countries mentioned the number of persons displaced by conflict tends to be more than those of disasters, in some other cases conflict may be the sole cause of displacement likewise disasters as can be seen with reference to cases in Tanzania, Madagascar, Uganda, South Sudan, Central African Republic, Cameroon, Chad, Senegal and Libya.<sup>22</sup> it is also instructive to point out that the Democratic Republic of Congo (DRC) ranks highest in the rating of countries with greatest number of IDPs disaster from conflict while Ethiopia ranked highest in disaster during the period reviewed with 922,000 IDPs included displacement and 34,700 conflict

respectively. Nigeria came immediately behind DRC in the number of cases of displacement induced by conflict with a total of 501,000 while DRC came immediately behind Ethiopia in the ranking of countries with the highest cases of disasters oriented displacement with a total number of 130,000 disasters.

The situation in Nigeria is not unconnected with the growing insurgency in the North Eastern part of the country perpetrated by the terrorist Boko Haram Sect and most recently violent clashes between Fulani herdsmen and the farmers in some parts of Benue, Taraba, Kogi which has spread to other parts of the North but is gradually but steadily having in road into other parts of the South East. In addition to the Boko Haram insurgence and the herdsmen issue, the violent communal clashes in some parts of the country has also gravitated to displacement, the clash among some communities in Taraba and Benue recently in year 2019 which led to burning down of houses and destruction of properties cannot be overlooked as many were left homeless and forced to leave or flee their habitual place of residence, the clash between some communities in Ebonyi State and others in Cross River State is also a case in our minds and the clash which was heralded by

*20 Ibid*

Generalized violence cannot easily be forgotten as many innocent women, men and children today have been forced to leave and flee their homes with yet no hope or certainty as to when they will return home if ever they will. We cannot also overlook those displaced by environmental degradation arising from depletion of the ecosystem due to oil exploration activities in the Niger-Delta Region.

Indeed, the African report on displacement highlights the severity of displacement in the continent, and the harsh reality that displacement will still continue in over 37 out of 55 African countries<sup>23</sup> and if not for any other thing,

There is need for collaboration so as to address the causes of displacement in Africa which is mainly violence and disasters <sup>23</sup>. Fairly also, we should think aloud to observe that in most African countries, violence creates opportunity for impunity and arbitrary use of power by the state actors and in the process people are displaced as a result of human rights violations. The cases of DRC and even Nigeria justify this as the federal forces engaged to fight perpetrators of the violence and conflicts in the respective countries are accused of human rights violations. The former Army Chief, General Ihejirika and his men were accused of human rights violations while they were combating insurgency, Our fair view is that though there was such allegations or accusations and denials, the point being made is that in attempts to combat or counter violence, there is every tendency that human rights violations may take place and force people to flee their homes.

Summarily therefore, in Africa, displacement is a persistent and serious problem and this is notwithstanding the seemingly strong commitment by states to address the menace. There is an age long displacement crisis in Africa and many approaches are demanded to reduce it or reverse the trend to avoid long term displacement and deprivation. There is thus need for all hand to be on deck in African states towards full implementation and realization of the benefits of the Kampala Convention. This can be harnessed and achieved through strong political will to domesticate the

instrument and by this make it part of the local or municipal law. Domesticating the instrument by African countries will advance the rights and welfare or assistance to victims of displacement as most of the states within the African continent as at today has no national legal framework for the protection and promotion of rights of IDPs.

**(e) Internal Displacement in Other Jurisdictions:**

**(a) The United States of America**

It has been posited and strongly too that within the United States, a national policy towards addressing the issue of internal displacement has been curiously unfocused in the face of the internal displacement phenomenon both within the states and internationally.<sup>24</sup> In looking at the United States response to internal displacement, one is minded to consider the key issues which borders on statutory basis, congressional interest, and authoritative policy. Government lead agency, reserve allocations to issues related to displacement and the external linkages which indeed must be in place for the country to drive an effective policy and commitment towards preventing or reducing the effects of displacement where it has already occurred.<sup>25</sup> What is important to be noted and observed as it concerns United States and the menace of displacement is that the phenomenon which has attained universal and global recognition deserve a merit attention by the United States Government. This is in line with the strong argument that assistance and protection of internally displaced persons in the country should not be a ground for excuse to restrict any assistance to other deserving concerned populations that are vulnerable and should be protected and assisted like the refugees, illegal migrants workers and others.

In the United States, the public policy issue with reference to internally displaced persons, social security and provision of basic amenities like clean drinking water is anchored and constructed on a policy and program that consists of six elements:<sup>26</sup>

*21 from the figure above, it is evident that in African, most of the cases of displacement recorded is as a result of conflict and disaster. Ibid*

*22ibid*

(1) *A Sound Statutory basis for action:* The purport of this element is that any action to be taken by the government must have congress authority by way of action or by general grant of authority that can be interpreted as providing a basis for the action. Thus, in the United States, any action directed either towards assisting the IDPs, tackling security or provisions of internally displaced persons must be backed up by law or if there is no law in place, there must be a congress authority in the form of a “resolution” empowering the state to take such actions or measures accordingly. It is our firm view, which is sustained by the Brookings project Report that numerous provisions of U.S law are potentially beneficial to internally displaced persons especially those residing in developing countries. Who may not necessarily Americans by birth.

(2) *Focus on the Policy Issue by Congress and Appropriating Committees by Influential Members of Congress:* Where the statutory basis has been achieved for the action, there has to be a

drive for the policy to be facilitated by influential members of congress. This will involve oversight hearings, congressional inquiries and budget reviews

- (3) *Authoritative Policy Documents:* The government of United States place special interest on policy documents which is based on legislative guidance and derived from systematic analysis and debate which form part of the states policy infrastructure. Such documents include Presidential Decisions Directives, Departmental Documents, and Presentations before Congress and Agency Performance Plan.
- (4) *A Lead Government Institution with clear Responsibility for the Policy Initiative:* A program and policy focal point is required within the US government to gather data and analyze it and advocate for support for the policy initiative. Thus, a particular institution of the state must be known and vested with the responsibility to drive the policy mandate.
- (5) *Financial and Staff Resources:* Any good policy expected to succeed must be funded. Even the most well-crafted policy initiative of government will fail without adequate budgetary resources and sufficient staff to manage the initiative.
- (6) *Structural Linkages with External Fora and Actors:* Successful policy initiatives require two-way flow of information exchange with interested organizations and individuals outside government including interested groups and the media.

Assuming the United States had in places a model policy on internal displacement, each of the above six elements would be present.<sup>27</sup> However, an examination of the US government record to date regarding internally displaced persons suggests something quite different. A review of US documents and interviews arising from the Brookings Institution Project on Internally Displaced Persons show the existence of the findings below:

1. The current law provides a minimal but not sufficient statutory basis for U.S Government Action on behalf of the migration and Refugee Assistance Act and the Foreign Assistance Act deserve special attention because the type and kind of assistance they mandate are the same kinds of assistance required by internally displaced persons per se. However, these laws offer only indirect aids to internally displaced persons as they were not mentioned in the Act. The Migration and Refugee Assistance Act (MRA) 1962 as amended, provides the basic authority and guidance for U. S government for assistance to refugees and other migrants with approximate annual allocation of \$700 million for the bureau managing Programs for the refugees and are channeled through international organizations

<sup>23</sup> *Ibid*

<sup>24</sup> James kunder, "The US Government and Internally Displaced Persons: Present, but not accounted for," *The Brookings Institution Project on IDPs and US Committee on Refugees*, 1999.

<sup>25</sup> *Ibid*

<sup>26</sup> *Ibid*

Designated in the statute in particular the UN High Commission for Refugees (UNHCR) and the International Committee of the Red Cross.

Although the internally displaced persons are not discussed in the MRA, they may receive assistance through MRA supported programmes when the recipients of U.S government funding primarily the UNHCR and ICRC

Provide support to internally displaced persons. Thus, if there is no such support programs to the IDPs by the recipients of the funding by U.S government, what it means is that the IDPs gets nothing-and this is notwithstanding the condition they find themselves.

We observe fairly that since the combined assistance by the two international bodies is unlikely to reach even half of the world's IDPs, and since the primary focus of United Nations High Commission for Refugees is the refugee population, MRA coverage of the IDPs is more or less fragmentary at best if not entirely zero. Thus, there is serious dichotomy as to the status of IDPs and the Refugee within the intendments of MRA. Interpretation of the MRA by the bureau of Population, Refugee and migration (BPRM) limit the reach of the statute as a potential source of support for internally displaced persons.

According to the Population, Refugees and Migration Fiscal year 2000 Congressional Budget Presentation, the government of United States has also continued the state policy of assisting internally displaced persons who are beneficiaries to UNHCR and ICRC programs. The MRA therefore is not the initial source of the assistance by United State Government to IDPs. This was firmly elaborated by the Assistant Secretary of State for Population Refugees and Migration Julia Taft in congressional testimony in early 1998 thus:<sup>28</sup>

*"We ought to be looking at what are the needs of the people who are displaced whether they crossed a border or they haven't crossed a border.....UNHCR, before it was asked to intervene in Bosnia for IDPs only dealt with refugees and it was the UNICEF and other organizations at the United Nations that had primary responsibility for IDPs.....this has an implication for us because PRM funds refugees and AID (Agency for International Development) and the office of Foreign Disaster Assistance generally deals with IDPs. So, we have a question of what funds and what agencies are involved".*

The MRA without mincing words provides a restriction or limited statutory basis for assistance to IDPs in United States and the law cannot be relied in advocating for the protection and promotion of the rights, welfare of IDPs in United States. The MRA places emphasis on refugees than on IDPs. Similarly, the NEMA Act and the Nigerian Refugees Act creating National Council for Refugees (NRC) and National Emergency Management Agency did not make specific provisions for internally displaced persons but rather cover protection of refugees i.e. the Refugees Act and deals with emergencies in any part of Nigeria as it related to NEMA respectively.

Still in United States, the Foreign Assistance Act of 1961 as amended or FAA also makes general statutory framework for assisting IDPs without specifying internal displacement per se <sup>29</sup>. Section 491 (b) of FAA is very important and relevant to IDPs during the critical emergency phases of displacement as it provides authority for government to assist disaster victims and authorizes the activities of the Office of the U.S Foreign Disaster Assistance (OFDA) of the U.S Agency for International Development (USAID).

From the clear provisions of FAA in the foregoing Section 491 (b), it means that the President of the United States is authorized to give assistance to any foreign country, private voluntary organization or International organizations for international disaster relief and rehabilitation including assistance related to disaster preparedness and natural disaster abroad. The FAA merely authorized assistance by US Government to foreign countries as a result of disaster of international character and indeed national disasters. There is no mention of

*27 Ibid*

*28 Julia Taft, Congressional Testimony on MRA and support and Assistance to IDPs. Brookings Project Report, 1999.*

*29 Section 491 (b) of FAA*

*30 brookings reporty 1999.*

IDPs but merely victims of the disasters and the IDPs are by implication and expansion of the word “victims” accommodated.

Another aspect of the law that addresses issues related to the internally displaced persons is the human rights reporting requirements found in Sections 116 (d) and 502 (b), the sections provides useful statutory authority to benefit internally displaced persons. Human rights violations reported to congress become the basis for bilateral demarche by US diplomats. Current country report on Human Rights Practices by the Bureau for Democracy, Human Rights and Labour (DRL) has pledged increased attention and support in United States.<sup>30</sup> In addition to the above, significance assistance may be provided to IDPs in the United States under the authority of Title II of the Agricultural Trade Development and Assistance Act of 1954 as amended commonly referred to as P. L. 480 or the “Food for Peace Act”. The Title II programs provide agricultural commodities to foreign countries on behalf of the United States to address (a) Famine or other urgent or extraordinary relief requirements (b) Combat malnutrition especially in children and mothers (c) Carryout activities that attempt to alleviate the causes of hunger, mortality and morbidity. (d) Carryout feeding programs. Many programs authorized under Title II reach internally displaced persons along with other conflict victims or victims of natural disasters. However, Title II address only a narrow portion of spectrum of physical needs confronting the internally displaced persons and address only indirectly the protection needs of internally displaced communities. In summary, the US law applicable to internal displacement abroad locates a number of provisions that assist migrants, disaster victims, victims of human rights abuse, those needing supplementary food assistance and citizens of authoritarian or inefficient governments, all of which provisions might partially encompass the internally displaced or at least segments of the displaced population. US law does not focus on the internal displacement per se.<sup>31</sup>

From the foregoing, the review of situations of law in United States shows that most of the laws in the state did not specifically make provisions protecting internally displaced persons rather the



IDPs are protected indirectly through protection of other victims related in circumstance with them. House and Senate activities of the United States Congress also suggests that the congress has not focused significantly on internal displacement and is not providing impetus to the executive branch on the topic. According to sources close to the Capital Hill, the congress of United States makes no distinction between internally displaced persons and other classes of humanitarian assistance recipients. Thus, congress does not believe that special assistance or protection should be given to IDPs more than any other victims or victims receiving or entitled to receive humanitarian assistance. Congress over the years make hearings and oversight programs for refugees and raise awareness on other focal issues but has not observed any hearings or oversight activities or advocacy on rights of internally displaced persons or their assistance, this tends to show that there is quantifiable evidence either that congress has not been made aware of the magnitude of internal displacement or that they have ignored the human rights issues relating to the protection and assistance facing internally displaced persons. A search of the library of congress database on published committee hearing reports reveals a short fall and a scanty reference to internal displacement.<sup>32</sup>

Although, by the state of law and congressional assessment as to the interest attached to the welfare of IDPs, it is evident that the issue is getting no significant attention. Recent trend has shown that there is concern by experts, voluntary and non-government organizations and some House members and Senators that are on the issue of internal displacement in the United States. This is our firm and fair view. We cannot draw the curtain on United States and the issue of IDPs without mentioning the Stafford Act of 1988 which establishes the framework for government's response in situations involving hurricane or other major disasters. The Act authorizes the President of United States to issue major disaster declarations which in turn authorize Federal Agencies to provide assistance to affected states and local governments. Though by executive orders, the president has always delegated responsibility for administering the Acts major provisions to the federal

*31 Brookings Project Report, 1999.*

*32 [www.congressionalhearings.search.internaldisplacement.org](http://www.congressionalhearings.search.internaldisplacement.org)*

*33 Federal Stafford Act Disaster Assistance Presidential Declarations: Eligible Activities and Funding Congressional Research Service, 2005*

*33 Ibid*

Emergency Management Agency (FEMA) within the Department of Homeland Security (DHS) while the funding comes from Federal Disaster Relief Fund.<sup>33</sup>

Although, the Stafford Act is a laudable effort and framework towards assisting victims of disasters, the law has come under attack and criticisms especially by E. D. Blackely and Senator Mary Landrieu of Louisiana to the effect that the Act does not match the emergency response and long term recovery needs of catastrophic disasters such as Hurricane Katrina and Rita. There is nothing in place like shelter where large numbers of people can be evacuated to nor are there systems or facilities to urgently assist those who cannot and are unable to self-evacuate because of age, income, disabilities or other restrictions on movement.<sup>33</sup> The same argument above stands for cases of Hurricane Florence that occurred in 2018 in some parts of Florida and other areas.

The disaster of this nature is often devastating such that there is practically nothing that can be done within the state capacity to address them.

Summarily, in the United States, there are laws and congressional activities which tends to protect refugees (precisely) and other victims of disaster, human rights violations as well as conflicts which makes provisions for humanitarian assistance and authorize such assistance to such victims. In all these laws including the MRA, the FAA, Title II or Food for Peace Act and the Stafford Act, there is no distinct protection accorded to internally displaced persons other than protection given to other classes of recipients of humanitarian assistance in United States. The argument of the state and indeed the congress is that there is no difference and distinction between the IDPs and others in situations of humanitarian need and there is no basis singling them out.

### **State of the Law in Colombia over Internal Displacement**

Colombia is one of the countries highly affected by internal displacement. According to Brookings Project on internal displacement in 2014, Colombia is currently second to Syria in terms of the total IDPs. The total number of displaced persons in Colombia as at 2014 is about 5.7 million.<sup>34</sup> notwithstanding the efforts of Santos government to end displacement in Colombia. it appears clearly in our view that people are still being displaced. The government of Colombia as records show has developed the world's most comprehensive legal system for IDPs; the constitutional court has played an impressively assertive role in protecting IDPs and civil society organization are among the world's strongest advocates of protection of IDPs.<sup>35</sup> However, there are some parts and areas of the country not accessible to humanitarian actors and to the state there by making criminal gangs, paramilitaries, narcontrapico groups, cartels, guerillas and other non-state actors who are still active inspite of massive investments in activities that are not acceptable by law. The situation in Colombia is a paradox in the sense that you see a state with a strong political system, competent institutions and a commitment to human rights yet it struggles against a complex variety of gangs operating outside the law. Even this helpless and very disturbing situation extends to the presence of international humanitarian agencies which has been present for decades with ambitious programs and staff coordinating same, the agencies only support the state in its efforts to protect and assist IDPs unlike other places where such agencies provide assistance to IDPs and often substitute for the state.<sup>36</sup> What is being contended here is that in Colombia, the International Humanitarian Agencies are more or less lukewarm and play a mere supporting role to the state than demonstrating stronger commitment towards alleviating the hardship of IDPs arising from the excruciating effects of displacement.

The impact of these agencies is more pronounced in places like Somalia and Democratic Republic of Congo (DRC). Notwithstanding the devastating size or level of displacement in Colombia, there are no IDP camps in Colombia. Excerpts of record from the World Food Programs and Small Scale Humanitarian Assistance by ICRC, intergovernmental organization do not provide material aid to IDPs in Colombia. Indeed, the Colombian's governments' program for IDPs for some years are budgeted at around USD 1 billion per year.<sup>37</sup> With no IDP camps in Colombia and no aids to distribute, it becomes clear that Colombia is in a serious trouble. As a result, it

<sup>34</sup> Elizabeth Ferris, "Project on Internal Displacement" Brookings, LSE, Dec. 2014

<sup>35</sup> *Ibid*

<sup>36</sup> Brookings Project in Internal Displacement by Elizabeth Ferris, 2014

<sup>37</sup> *Ibid*

*38 Ibid*

become necessary to look at efforts of government of Colombia, what actions has been taken towards addressing internal displacement; is there a legal framework protecting and promoting the welfare and assistance to IDPs in the country? It is on record that for over 50 years, Colombia has experienced conflicts, hundreds of thousands of people have been killed, human rights violations have been massive and millions of people have been forced to leave their communities.<sup>38</sup>

The conflict which is traced to the period between 1948-1958 known as La Violencia led to loss of many lives.<sup>39</sup> Inspired by Cuban revolution; many rural self defence forces were created. Many guerrilla groups were formed and human rights abuses were committed in a large scale including forcible recruitment of children, extortion, kidnappings and indeed lucrative cocaine business boomed and became a high source of income.<sup>40</sup> Those who were unable to cope with the situation had no option than to leave their places of residences in large numbers. The guerilla insurgency was not the only source of displacement in Colombia, the military's campaigns against the guerilla groups were accompanied by serious human rights abuses by the armed forces and displacement, this is a fact which the government was finding it difficult to accept.<sup>41</sup> With substantial support from the US government through plan Colombia beginning in 2000, the government's war on drugs led to wide spread coca fields which also caused displacement. Paramilitary right wing groups driven by large land owners business interests as well as drug cartels joined the state to fight against guerilla, the paramilitary targeted civilians perceived to be supporting the guerillas, attacked community leaders and terrorized communities deemed guerillas supporters through extreme method such as public execution disappearance and sexual violence.<sup>42</sup> In Colombia, displacement has affected many classes of people, women, children and particular ethnic groups. The question is why should the IDPs in Colombia be protected more than other citizens; is there law or laws permitting such protection?<sup>43</sup>

IDPs in Colombia have lower standard of living. The Constitutional Court of Colombia mandates a monitoring institution to assess government policies to comply with the court's decision to devote more resources to IDPs. The monitoring institution issues reports and documents showing the particular vulnerabilities of IDPs.<sup>44</sup> Colombia since mid 1990's has adopted laws and policies with respect to internal displacement and over the years has developed a rich body of jurisprudence. The country's first law on internal displacement was adopted in 1997. This is even before the United Nations Guiding Principles on internal displacement was finalized. This no doubt in our firm view is a right step in the right direction and is a positive commitment by Colombia to the welfare and survival of victims of displacement and their assistance.

Unlike the situation in Somalia and the DRC, the Colombian government has taken steps to respond to IDPs within a dynamic judicial process<sup>45</sup>. The trend in the efforts of government has changed from year to year and time to time and laws are adopted, amended and rulings of court made and sometimes overturned or sustained. The year 2004 marked an important shift in the legal framework for IDPs in Colombia. After almost seven years of implementing law 387-the first legislation creating national policy in displacement in Colombia, the Constitutional Court reviewed over 100 " acciones de tutelas" i.e. documents submitted by IDPs. In these documents, the IDPs claimed that they were not receiving services or protection as guaranteed in law 387 and hence

sought judicial action through the courts.<sup>46</sup> The Constitutional Court in her decision T-025 in response to these claims and complaints declared that:

“The fundamental rights of the internally displaced persons in the country were being disregarded in such massive, protracted and reiterated manner that an “Unconstitutional state of affairs has risen”.

39 *Ibid*

40 *Ibid*

41 *Ibid*

42 *Ibid*

43 Donny meertens *“Forced Displacement and Gender Justice in Colombia Between Disproportional Effects of Violence and Historical Injustice (Brookings Case Study, 2012”*.

44 *Ibid*

45 *Ibid*

46 *Ibid*

The intervention of the Constitutional Court and indeed judicial process in the protection and promotion of the rights of IDPs in Colombia is in our firm view a welcome development which should be exploited in other states including Nigeria. The court is the last hope of the common man and where in any state there appears to be no legal framework or enactment promoting specifically the rights of the IDPs, their protection should be activated

through the fundamental rights provisions of the constitution in the state which applies without discrimination to all citizens. In continuation of the commitment towards protecting the IDPs in Colombia, the Constitutional Court after declaration of the unconstitutional state of affairs of government against IDPs as a nullity in 2004 to recognize the rights of IDPs as fundamental.

The human rights lawyers in Colombia and democratic politicians advocated that the sufferings of victims of conflicts and other causes of displacement should be visible. The President responded by making decrees creating rooms for individuals reparations through administrative means. It is observed that the response of Colombia to IDPs has been both comprehensive and complicated. First, it was through the passage of law 1448 that for the first time, there was recognition that there is presence of armed conflicts in the country and the need to take steps to assist the victims. IDPs registered with the government in a National Registry of the Displaced Population (NRDP) and the ones registered were eligible for a range of services beginning with 3 months humanitarian assistance which could be extended and after 3 months, the IDPs receives what is called stabilization assistance to support their transition to self reliance through ensuring access to public services such as education, training and support for finding a stable employment. The process of coordinating assistance for IDPs was led by the National System of Integrated Attention to People Displaced by Violence (SNAIPD). The outfit coordinates national and local actions deliberately put together to improve and sustain assistance to IDPs.

In implementing the system planned to assist the IDPs in Colombia, the government following the rulings of the Constitutional Court, the Presidential Orders and Legislative Revisions, patterned a system which entails:

1. First, to make the suffering of the victims of armed conflicts and other causes of displacement to be visible.

- 2 Secondly, the IDPs thereafter are registered in the National Registry.
3. Thirdly, upon being registered, the IDPs become entitled to national services which begins with
  - (a) 3 months humanitarian assistance which could be extended.
  - (b) After 3 months, the IDPs will receive what is called stabilization assistance which allows them key-into Federal Government System to address unemployment.

This is indeed a welcome development and our considered view is that such presidential orders and legislative revisions flowing from declarations of the Constitutional Court enhances progressive promotion of protection , welfare and assistance to IDPs as the court rulings was intended to operationalize legal framework and solutions for internal; displacement.

It is imperative to observe that the IDPs and other groups have been recognized as victims of armed conflicts in Colombia. Law 975 which is known as the “Law of Justice and Peace” was passed during the Uribe administration in 2005 to facilitate the individuals and collective reparation of members of armed groups into civil society and to guarantee the rights of victims including IDPs to truth, justice and reparations. It means that Law 975 in Colombia allowed members of the armed groups operating outside the law to receive reduced sentences and re-integration assistance in exchange of “truth telling” and demobilization. This indeed in our mind is a form of amnesty. The law 975 defined victims of armed conflicts as persons who have suffered direct harm either temporary or permanently and have passed through or suffered some psychological, physical or sensorial disability, emotional suffering, financial loss, and reduction to make consequential orders to the effect that institutions in the state must provide evidence that they were taking steps to ensure that adequate resources were allocated and timely institutional restructuring done to guarantee that adequate services were provided to the IDPs as outlined by law.<sup>47</sup>

*47 Ibid*

Since the T.025 decision which is a decision marking expansive judicial intervention in the protection of IDPs, the Colombian Constitutional Court has continued to be instrumental in pressing government institutions at national and local levels to comply with legislation aimed at protecting and assisting IDPs and in challenging governmental implementation of viable policies that promotes the welfare of IDPs. There have also been presidential Decrees or orders and Legislative Revisions that have come on board as consequences to rulings and decisions of the Constitutional Court.

It is noted that IDPs not registered are not entitled to assistance. We suggest and view that the idea of using registration to disentitle some IDPs assistance is not acceptable and should be revised by the government of Colombia in so far as registration is necessary, no IDPs should be denied assistance as a result of non-registration especially where it is evident that the suffering is visible on such IDP or IDPs. One of the problems noticed in Columbia is the discrimination against some classes of IDPs over issue of registration and the inherent difficulties in stabilization programs where there is pressure on the state to provide enough and sufficient facilities to enable the IDPs compete favorable in the labour market with other people in urban areas and who are not faced by displacement.

In summary, Columbian laws and policies reinforced by the court in our reasoned view have been the main driving force in the efforts to prevent displacement in the country and protect the victims where it has occurred. Sincerely, progress could not have been recorded in Colombia over welfare and assistance of IDPs save for the constitutional court decision Seritencia T-025 in 2004 which forced the government to develop policies, establish institutions and commit resources to millions displaced particularly by conflict. This decision had more impact on the displaced population than the actions of international actors and humanitarian reform. Notwithstanding the rich legal and policy frameworks and tradition in Columbia, displacement has not stopped in the country. Finally, in Colombia, IDPs are now recognized as victims of the countries decade of armed conflict. The IDPs are presently in Colombia no longer being stigmatized as if they caused the displacement for themselves, they are no longer seen as dirty people nor are they rejected, they are now being recognized as victims under many victims law and at present they are more or less no longer described as IDPs but victims and in Colombia, IDPs are not accorded any priority more than any other victim or victims under the different laws in the country. Nonetheless, our view is that the protection of IDPs in Colombia by judicial intervention is a step in the right direction and should be adopted in other states facing familiar situations including Nigeria.

**(f) Challenges to Effective Implementation Of Policies Towards Protecting IDPs In Nigeria**

It is one thing for a government to come up with a policy directed towards addressing a specific problem in a country, it is another to implement the policy in order to realize the goals and aspirations of the government. In Nigeria, many policies have suffered as a result of poor implementation. Implementation of policy of government designed for the promotion of welfare and assistance of IDPs is faced by several challenges which include:

- (a) Challenge of absence of national Legal Framework for Protection of Victims of Internal Displacement.
- (b) Challenge of Implementing the Kampala Convention for the protection and assistance of IDPs in Nigeria.
- (c) Challenge of Lack of Effective national Policy with Legal Flavour for Protection of IDPs in Nigeria.
- (d) Challenge of Institutional Decay, Corruption and perceived State irresponsibility for the protection and assistance to IDPs in Nigeria.

At present, there is no National Legal Framework in Nigeria specially enacted to protect, promote and assist the internally displaced persons. The purport of this is that notwithstanding the vulnerability of the IDPs orchestrated by the situation and circumstances they find themselves, they are mainly protected just like any other citizens. Hence, there is no law recognizing their peculiar situation and they are more or less protected by the same law protecting the other citizens including the constitution and other legislations. This is a serious setback in the quest to place the country at the same pedestal in the emerging international practice and standards for the protection of and assistance to IDPs.

In addition, the Kampala Document which is the regional instrument put in place by the African Union and ratified by some member states including Nigeria is yet to be domesticated by Nigeria. Thus, there is no legislative action of the National Assembly presently in Nigeria domesticating the convention so as to be part and parcel of Nigerian Law and for its provisions to be implemented to assist the IDPs. The Kampala Document is recognized internationally as template for global reference towards giving foundation for the promotion of welfare and assistance to IDPs. Thus, in the absence of a National Law in Nigeria protecting IDPs and without domesticating the convention, the much ado by the government of its commitment and dedication towards protecting the IDPs is still a mirage.

Without mincing words, institutional decay, corruption and perceived state irresponsibility for the protection and assistance of IDPs is also a threat to any attempt at promoting the welfare of IDPs. There is no institutional synergy, each agency wants to be seen to be “on top” of the game. Sometimes, there will be conflicts of interest and overlap in function, more often than not, corruption eats deep into the fabrics of such institution as can be revealed during the investigation publicly carried out recently by a committee of the House of Representatives on the activities of “NEMA” National Emergency Management Agency, one of the agencies used by the Federal government to pilot government’s policy of assistance to IDPs.

The noticeable aspects of these corruptions in these agencies include diversion of monies meant to provide the needs of IDPs, lack of accountability, diversion of donated items and other worrisome issues. All these challenges make it practically impossible for the impact of the government towards the welfare of the IDPs to be rarely felt or noticed by these IDPs. Some of the donations and gift items are sold and converted to private pockets. This no doubt defeats the aim and objectives of such laudable effort and policy of government.

The question of state responsibility for the protection of IDPs is also a crucial issue for concern. Writing on this, Bagoni Bukar, insisted that there is legal and policy challenges in the assistance and protection of internally displaced persons in Nigeria.<sup>48</sup> There is alarming increase of IDP’s in Nigeria owing to ethnic, religious and political conflicts as well as rising cases of insurgency unleashed by the Boko Haram sect and the herders. This no doubt in our mind has also led to human rights violations. Though the government of Nigeria constituted a committee to draft a national policy for protection of IDP’s in 2003, and the committee in 2011 submitted a draft policy guidelines with inspiration from the Kampala convention and Un Guidelines, there is no legislative action yet to legalize the said draft meaning that there is still absence of legal framework or institution providing assistance, protection, reintegration and resettlement or rehabilitation of IDP’s in Nigeria.<sup>49</sup>

The drafts policy has no legal flavour and status and cannot provide the needed assistance to IDP’s and is more or less no instrument to anchor any state responsibility to the IDP’s. Though the constitution empowers the government of Nigeria as its primary duty to protect all citizens, the general protection of citizens in the constitution in our fair view will not be enough to take care of the suffering and situation of those forced out of their homes and residence and displaced without

trace of their family members either due to armed conflict, natural disasters, environmental disasters as well as other forms of displacement induced by human activities or even harsh political policies or human rights violations.

**(g) Summary of Findings**

In our firm view, the following exist in Nigeria as it relates to internal displacement.

1. There is growing increase in number of internally displaced persons owing to conflict especially insurgency arising from Boko Haram and herders/farmers clashes in the north which is moving in road to the southern part of Nigeria.

*48 Bagoni Alahaji Bukar "Nigeria needs to take responsibilities for its IDPs" forced migrattion review, P1 of 6.*

*49 Ibid*

2. Part of the internal displacement which has forced thousands of Nigerians out of their homes also result from natural disasters and prominent among them is flood and environmental degradation. Flooding has led to death of many Nigerians in many states including Lagos, Benue, Taraba, Oyo, Ogun, Delta, Bayelsa, Enugu, Anambra, Rivers and other areas and rendered many displaced and homeless between the periods of 2012, 2014, 2018 and recently in 2019 which affected areas like Benue and even Lagos State.
3. There is no legal framework yet in Nigeria protecting the internally displaced persons and no institution or agency has been established or created to promote and advance the welfare and assistance of IDP's in Nigeria.
4. There is a draft policy in Nigeria for protection and assistance by the federal government this was drafted with inspiration from the provisions of the Kampala convention and the UN Guidelines on Assistance and protection of IDPs; however the draft policy has no legal status for now. The only agency Promoting the assistance and welfare of IDPs based on the draft policy of Government is the NEMA and the National Commission for Refugees.
5. In addition, the Kampala convention is yet to be domesticated by Nigeria hence with the absence of national legal framework on IDPs, reliance cannot be placed on the Kampala document to protect IDPs.

**(h) Conclusion:**

On the basis of the foregoing, we make bold to conclude that Nigeria still have a long way to go in quest for a viable advancement of the welfare and assistance to internally displaced persons.

**(i) Recommendations:**

In our humble view, the following recommendations need to be made and considered by the government and all well-meaning Nigerians towards protecting the IDPs:

1. The draft policy framework for the protection and assistance of IDPs should immediately be given the legal status it deserves. To this end, the executive arm of Government and National Assembly must work towards bringing in place a national legal framework to



protect and assist the IDPs. We suggest therefore that an executive bill to be titled “National Internally Displaced Persons Protection, Welfare and Assistance and other Related Matters Bill” be forward to the National Assembly for immediate Legislative Action.” This is the only panacea towards addressing the needs and aspirations of IDPs in Nigeria.

2. The federal government as a matter of urgent national importance must put measures in places as well as effort to ensure that the Kampala convention is domesticated by the National Assembly.
3. A Commission should be erected or established by the Federal Government to specifically address the issues relating to the welfare, protection and assistance to IDPs and implementation of the national Policy for IDPs. This will also mean that legislative actions to enact the law creating the commission must be expediently taken.
4. The federal Government should also sit up and take drastic actions capable of addressing the conflicts and insurgencies that have increased the rate of displacement in the country like the Boko Haram insurgency, herdsmen attacks, insurgency in the Niger-Delta and spates of kidnapping in many parts of Nigeria; as well as communal clashes.
5. Finally, we recommend that the Federal Government should retrace her steps in some of her policies that are capable of triggering conflict between different ethnic divides. The present plan to set up RUGA settlements or cattle colonies should be reviewed for purposes of permanently weighing the perceived benefits and negative effects and decide whether to still go on with it or not, but in our fair view, the RUGA program will bring disunity than uniting Nigeria and should be disbanded.