

**AN APPRAISAL OF THE LEGAL FRAMEWORK OF THE NATIONAL EMERGENCY
MANAGEMENT AGENCY (NEMA) IN THE PROTECTION AND ASSISTANCE OF
INTERNALLY DISPLACED PERSONS (IDPs) IN NIGERIA**

BY

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SEPTEMBER, 2015

DECLARATION

I hereby declare that the work in this thesis titled “An Appraisal of the Legal Framework of the National Emergency Management Agency (NEMA) in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria” is written by me; and it is a record of my research work in the Department of Public Law, Faculty of Law, Ahmadu Bello University, Zaria under the supervisions of Dr. I. F Akande and Dr. Kabir M. Danladi. This work has not been presented in any previous application for a higher degree or diploma in any institution. The information and materials used in this work, including quotations, have been specifically acknowledged by way of references provided in the footnotes and bibliography.

Tina ATALA

Date

CERTIFICATION

This thesis titled “An Appraisal of the Legal Framework of the National Emergency Management Agency (NEMA) in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria” by Tina ATALA meets the regulations governing the award of the Degree of Master of Laws, LL.M of Ahmadu Bello University, Zaria; and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

This work is dedicated to my Parents, Prof. and Mrs. T.K Atala.

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ABSTRACT

This thesis entitled: “An Appraisal of the Legal Framework of the National Emergency Management Agency (NEMA) in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria” is aimed at examining the constitutive legal instruments guiding the National Emergency Management Agency in the protection and assistance of Internally Displaced Persons in Nigeria, through the study of other constitutive International instruments and standards on this subject matter. The justification for this research is the concern for the plight of the displaced persons in the last five years which has been criticized by research experts and international bodies on various grounds such as; the unwillingness of Government to take bold significant measures to address the problems of internal displacement till date, lack of long term strategic planning, implementation and evaluation framework by key Institution and, the prevalence of corruption which to a large extent disrupts humanitarian efforts, among others. However, in the course of this research, the findings of the researcher (among others) revealed that there is no specific National Legal Framework on the Protection and Assistance of displaced persons in Nigeria apart from the general provisions of fundamental human rights provided in the Nigerian Constitution which is a legal right of every citizen. On this note, the objective of this research is to principally address the gaps and inadequacies in our national laws under which the National Emergency Management Agency operates. Thus in the final analysis, the researcher concluded by recommending that apart from the general legal provisions which directly or indirectly touches on the protection and assistance of internally displaced persons,, there should be specific provisions guiding the protection and assistance of the affected population as a legal basis for which the Government and the relevant institution and stakeholders can be held directly accountable for where they do not meet the required standard. There should also be an expansion of the National Emergency Management Agency Act to equip the Agency to go beyond conducting comprehensive disaster management around the country to providing durable solutions for internally displaced persons.

TABLE OF CONTENTS

Title page	-	-	-	-	-	-	-	-	-	-	i
Declaration	-	-	-	-	-	-	-	-	-	-	ii
Certification	-	-	-	-	-	-	-	-	-	-	iii
Dedication	-	-	-	-	-	-	-	-	-	-	iv
Acknowledgment	-	-	-	-	-	-	-	-	-	-	v
Abstract	-	-	-	-	-	-	-	-	-	-	vii
Table of Contents	-	-	-	-	-	-	-	-	-	-	viii
Table of Statutes	-	-	-	-	-	-	-	-	-	-	xi
Table of Cases	-	-	-	-	-	-	-	-	-	-	xiii
List of Abbreviations--	-	-	-	-	-	-	-	-	-	-	xiv

CHAPTER ONE

GENERAL INTRODUCTION

1.1	Background to the Study	-	-	-	-	-	-	-	-	-	1
1.2	Statement of the Problem	-	-	-	-	-	-	-	-	-	4
1.3	Aim and objectives	-	-	-	-	-	-	-	-	-	6
1.4	The Scope of the Research	-	-	-	-	-	-	-	-	-	6
1.5	Methodology	-	-	-	-	-	-	-	-	-	7
1.6	Justification	-	-	-	-	-	-	-	-	-	8
1.7	Literature review	-	-	-	-	-	-	-	-	-	10
1.8	Organizational Layout	-	-	-	-	-	-	-	-	-	18

CHAPTER TWO

CONCEPTUAL CLARIFICATIONS OF KEY TERMS

2.1	Introduction	-	-	-	-	-	-	-	-	-	20
2.2	Nature of the Concept of internal displacement	-	-	-	-	-	-	-	-	-	20

2.3	Types of Internally Displaced Groups and their Specific needs	-	-	-	-	-	-	27
2.4	Nature of conflicts induced Disasters in Nigeria	-	-	-	-	-	-	32
2.5	Management of Conflicts in Nigeria	-	-	-	-	-	-	34
2.6	Nature of Natural Disasters in Nigeria	-	-	-	-	-	-	39
2.7	Impacts of the disaster on individuals, communities and States	-	-	-	-	-	-	43

CHAPTER THREE

THE ROLE OF NATIONAL EMERGENCY MANAGEMENT AGENCY (NEMA) IN THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS (IDPs) IN NIGERIA

3.1	Introduction	-	-	-	-	-	-	-	49
3.2	Brief Background Information on Nigeria	-	-	-	-	-	-	-	49
3.3	History of Disaster Management in Nigeria	-	-	-	-	-	-	-	50
3.4	The Mandates of the National Emergency Management Agency under the National Emergency Management Agency Act 1999	-	-	-	-	-	-	-	51
3.5	The National Emergency Management Agency's Coordination Mechanism across the country	-	-	-	-	-	-	-	54
3.6	Existing Policies and Plans Complimenting the National Emergency Management Agency Act.	-	-	-	-	-	-	-	55
3.7	Implementation of Disaster Management Cycle: Mitigation, Preparedness, Response and Recovery in the Assistance of internally displaced persons	-	-	-	-	-	-	-	58
3.8	Roles of Stakeholders in the Protection and Assistance of Internally Displaced Persons	-	-	-	-	-	-	-	66

CHAPTER FOUR

OVERVIEW OF THE INTERNATIONAL STANDARDS IN THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS

4.1	Introduction-	-	-	-	-	-	-	-	74
4.2	Implementation of International Legal Standards in the Protection and								

	Assistance of internally displaced persons	-	-	-	-	-	-	-	74
4.3	Legal implications of violation of International Human Rights (IHR) and International Humanitarian Rights Law (IHRL) during armed conflicts								
	(Conflict induced displacement)	-	-	-	-	-	-	-	89
4.4	Enforcement of the Fundamental Rights of displaced persons in Nigeria	-							93
4.5	Nexus between the National Emergency Management Agency (NEMA) Act, the Kampala Convention and the Guiding Principles on the protection and assistance of Internally Displaced Person	-	-	-	-	-	-	-	96
4.6	Cooperating with the International Community in Developing Policy Guidelines, Systems and Procedures for Disaster Management in Nigeria	-							97
4.7	Disaster Profile of Nigeria	-	-	-	-	-	-	-	100
4.8.	Data on the Disaster Incidences in Nigeria and National Response to the Plight of internally displaced persons	-	-	-	-	-	-	-	104
4.9	Judicial Mechanisms used in handling matters in relation to Internal Displacement; resettlement, housing, compensation, reconciliation	-							110

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1	Summary	-	-	-	-	-	-	-	112
5.2	Observations	-	-	-	-	-	-	-	113
5.3	Recommendations	-	-	-	-	-	-	-	116
	Bibliography-	-	-	-	-	-	-	-	120

TABLE OF STATUTES

African Charter on Human and Peoples Rights Cap. A9 LFN 2004 Article-	62, 86
African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa 2009	
Article 3 - - - - -	3, 12, 83
Article 7 - - - - -	3
Article 1 - - - - -	23, 83
Article 13 - - - - -	70
Article 4(2) - - - - -	84
Article 9(2) (a) - - - - -	84
Article 9(2) (b) - - - - -	85
Article 11 - - - - -	110
Constitution of the Federal Republic of Nigeria (1999) Cap. C23 Vol. 3 LFN 2004	
Section 14(2)(b) - - - - -	3,11,117
Decree No.48 of 1976- - - - -	4
Geneva Conventions Cap. G3 Vol. 7 LFN 2004	
Articles 17-26 - - - - -	94
Article 49 Par. 2 - - - - -	94
Articles 5-78 - - - - -	95
National Commission for Refugees Act Cap. N21 Nol. 10 LFN 2004-	68
National Emergency Management Agency Act Cap. N34 Vol.10 LFN 2004	

Section 1	-	-	-	-	-	-	-	-	-	53
Section 6(1)	-	-	-	-	-	-	-	-	-	53, 54
Section 6(2)	-	-	-	-	-	-	-	-	-	55
Section 4	-	-	-	-	-	-	-	-	-	56
National Human Rights Commission Act Cap N46, Vol.11 LFN 2004-										69
Nigerian Red Cross Society Act Cap. N130 Vol.12 LFN 2004									-	69

TABLE OF CASES

Adamu v. Attorney General of Borno State (1996) 8 NWLR 203 - - -	-	-	-	99
Agbai v. Okogbue (1991) 7 NWLR (pt. 204) p.391 at 444 -	-	-	-	99
Blessing Onemeku v. Commissioner of Police, Delta State Command (2007)				
CHR page 193-183 - - - - -	-	-	-	99
Directive SSS v. Olisa Agbakoba (1998) NWLR pt.595 at page 425	-	-	-	89
Gani Fawehinmi v. Abacha (1996) 9 NWLR (pt. 475)	-	-	-	89
Gani Fawehinmi v. IGP Suit No. M/351/89; -	-	-	-	89
Island of Palmers Case (Netherlands v. US 22 AJIL (1928) 875	-	-	-	24
Jonah Gbemre v. Shell PDC Ltd & Others (2005) Suit No. FHC/B/CS/53/05	-	-	-	114
Nduukwem Chizir Nice v. A.G. Federation & Another (2007) CHR 218-235	-	-	-	78
Nwangwu v. Duru (2002) 2 NWLR pt. 751 at page 265	-	-	-	89
Ogugu v. The State (1994) 9 NWLR (pt.336)	-	-	-	89
Opeyemi v. Adele Williams, Suit no. B/6M/89	-	-	-	89
Oshire v. British Airways (1990) 7 NWLR (pt. 163) 489 -	-	-	-	89
Otunba Oyewole Fashawe v. Attorney General of the Federation & 3 others (2007)				
CHR 890-116 - - - - -	-	-	-	99
Theresa Onwo v. Oko (1996) 6 NWLR 587 -	-	-	-	99
Timothy v. Oporka (2008) All FWLR 1370 at 1381 -	-	-	-	114
Trendtex Trading Corp. Central Bank of Nigeria (1977) 1 ALL E.R. 881 at page 901-2-	-	-	-	78

LIST OF ABBREVIATIONS

AU	-	African Union
CRPC	-	Commission for Real Property claims
CSO	-	Civil Society Organization
DFID	-	Department for International Development
DRR	-	Disaster Risk Reduction
EHA	-	Emergency and Humanitarian Action
HFA	-	Hyogo Framework for Action
HPCC	-	Housing and Property Claims Commission
HPD	-	Housing and Property Directorate
HRL	-	Human Rights Law
HRO	-	Human Rights Organization
IASC	-	Inter Agency Standing Committee
ICRC	-	International Committee of Red Cross
IDMC	-	Internally Displacement Monitoring Center
IDP	-	Internally Displaced Persons
IHL	-	International Humanitarian Law
ICCPR	-	International Covenant on Civil and Political Rights
ICESCR	-	International Covenant on Economic Social and Cultural Rights
NCFR	-	National Commission for Refugees
NCP	-	National Contingency Plan
NEMA	-	National Emergency Management Agency

NERA	-	National Emergency Relief Agency
NGO	-	Non-Governmental Organization
NHRC	-	National Human Rights Commission
NRCS	-	Nigerian Red Cross Society
SAREEP	-	Search and Rescue and Epidemic Evacuation Plan
SEMA	-	State Emergency Management Agency
UN	-	United Nations
UNDP	-	United Nations Development Programme
UNHCR	-	United Nations Human Rights Commission for Refugees
UNISDR	-	United Nations International Strategy for Disaster Reduction
UNOCHA	-	United Nations Office for the Coordination of Humanitarian Affairs
WFP	-	World Food Programme
WHO	-	World Health Organization

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

Generally, the problem of protecting and assisting Internally Displaced Persons (IDPs) is not a new issue. In Nigeria and other parts of the world, internally displaced persons are amongst the most vulnerable populations. This is because they remain inside their own countries, and they rarely receive the assistance and protection afforded refugees under International Law.¹ Moreover, as many of the displacements are as a result of civil conflict and violence, the vulnerability of the displaced persons is heightened, as it becomes difficult for the States to implement the required special protective measures needed for the displaced persons. At such times, there is usually no local authority willing to provide assistance and protection during the displacement as well as during return or resettlement and reintegration.

The General Principles on Internal Displacement by the United Nations defines internally displaced persons as:

persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural, human-made disasters, or large scale development projects and who have not crossed an internationally recognized state border².

The term; ‘internally displaced persons’ is not specifically covered in the United Nation’s Conventions. It is however, used by the International community to describe people who have fled their homes for reasons similar to refugees, but who remain within their own national

¹ Goodwin G., Guy S., The refugee in international law. Oxford: Clarendon Press, 1999 pg. 264

² Deng F., "The guiding principles on internal displacement". E/CN.4/1998/53/Add.I, United Nations. New York: United Nations. http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html. Retrieved September 23, 2014.

territory and are subject to the laws of that state. Also, because of the special situation, specific needs and the heightened vulnerability that flow from the fact of being displaced, it is provided that internally displaced persons are entitled to special protection and assistance.³

An important difference between Refugees and internally displaced persons is that in International law, it is the responsibility of the Government concerned to provide assistance and protection for the Internally Displaced Persons' in their country. Refugees on the other hand, are granted legal status because they have lost the protection of their own country, and are therefore in need of international protection, which is not necessary for internally displaced persons who do not cross national borders, rather they remain citizens or habitual residents of their country and continue to be entitled to enjoy the rights available to the population as a whole.

Internal displacement, affecting some 25 million people in about 50 countries worldwide has become increasingly recognized as one of the most tragic phenomena of the contemporary world. Often the consequence of traumatic experiences with violent conflicts, gross violations of human rights and related causes in which discrimination features significantly; displacement nearly always generates conditions of severe hardship and suffering for the affected populations.⁴ In fact, the situation may likely be worsened, with the current incidences and frequent occurrence of disasters (man-made and natural) occurring globally. In Nigeria, 1,385,298 people are recorded to have been affected by insurgency and communal conflicts, most of whom were displaced.⁵

³Dennis. M., Report of the Representative of the Secretary-General, submitted pursuant to commission resolution 1997, page 39.

⁴ National Emergency Management Agency Newsletter, a Publication of the National Emergency Management Agency Vol.5 No 16. April, 2013

⁵ Displacement Tracking Matrix (DTM) Round 4, Report released by International Organization for Immigration, June 2015.

In Nigeria, the legal authority for coordination and integration of disaster management is the National Emergency Management Agency (NEMA). The National Emergency Management Agency is responsible for overall disaster management in Nigeria, including the coordination of emergency relief operations as well as assisting in the rehabilitation of victims where necessary. In practice basically, the protection and assistance of internally displaced persons is part and parcel of disaster management as the displaced persons are products of natural and human made disasters. All facets of disaster management cycle – Prevention, Mitigation, Preparedness, Response and Recovery are applicable to displacement situations and they constitute components of internal displacement management cycle. In theory however, the National Emergency Management Agency (NEMA) Act⁶ does not specifically make reference to *internally displaced persons*, rather, it refers to persons affected by various forms of disasters as 'victims of disaster'. It also does not provide for '*durable solutions*' which is the most complex phase in the displacement cycle. These are some of the lacunas in the National Emergency Management Agency Act affects the Agency's capacity and authority in managing displaced persons effectively. These are some of the issues that have caught the interest of the writer, and hence, the need to proffer solutions to address the situation.

Fundamentally, the occurrence of disasters often results in displacement of persons. Hence, the global increase in the number of magnitudes of disasters has directly led to the increase in human displacements. This has further given rise to the urgent need to develop laws and national policies on the protection and assistance of internally displaced persons, and to strategize on the implementation and the enforcement of these laws. In view of this situation therefore, the aim of this research is to examine the responsibility of Government through

⁶ National Emergency Management Agency, Cap 34, Vol. 10 Laws of the Federation of Nigeria 2004.

established Institutions, toward; relieving the suffering and distress of Internally Displaced Persons, the ultimate need to provide durable solutions, and advocacy for improvement in the sustenance of the welfare and security of the nation as provided in the Constitution of the Federal Republic of Nigeria, 1999.⁷

1.2 Statement of the Problem

National Emergency Relief Agency (NERA) was first established in 1976.⁸ It metamorphosed over the years and in 1999, it was renamed National Emergency Management Agency (NEMA). The National Emergency Management Agency was given a wider scope on disaster management activities. The Agency by its mandate is to coordinate and integrate the activities and efforts of other disaster management stakeholders and structures, and to compliment their resources to avoid duplication of efforts and chaotic rescue efforts at the scene of disasters.

However, based on the provisions of the National Emergency Management Agency Act, much is being expected from the Agency, hence the following questions can be raised; Have public expectations been adequately met? Does the Agency have the capacity to manage large (unforeseen) number of displaced persons and provide durable solutions over a long period of time? The general understanding (based on the activities of the Agency) is that they are concerned primarily with delivering of relief materials to the victims of disasters as well as emergency medical care when needed. They also undertake proactive measures in line with the

⁷ Section 14(2) (b), Constitution of the Federal Republic of Nigeria (1999), Cap 23, Vol. 3, Laws of the Federation of Nigeria, 1990. This also accords with Article 3(2) of the Kampala Convention on IDPs in Africa which requires State Parties to adopt implementing national legal Policy Frameworks on the Protection and Assistance of IDPs.

Furthermore, by virtue of the Convention's Article 7, both parties in Armed Conflict are obliged to respect the provisions of International Humanitarian Law (SIHL) and Human Rights Law (HRL) to ensure that violators of the rights of IDPs shall be held responsible for their acts both under International Law and National Laws

⁸Repeal of Cap. 257 LFN 1990.

expanded scope of the Agency to manage disasters. Nonetheless, issues of resettlement and rehabilitation of victims of disasters (Internally Displaced Persons) comes with even greater challenges.

The problems of internal displacement if not adequately handled could jeopardize the sustainability of peace and development in the country. Some of the challenges faced by the displaced persons after the disaster phase include; difficulty in recovering land or properties destroyed in the course of the disaster and generally finding permanent solutions; restoring livelihoods, utilities, rebuilding infrastructures and other things necessary to allow them to live decent lives at the end of the crises. In situations where they feel that they have suffered injustice for no fault of theirs, reconciliation becomes difficult. If durable solutions are not adequately provided for the displaced population, their potential for contributing to economic reconstruction and rehabilitation is limited. Social development and economic stability becomes stagnated particularly in the affected States.

However, all these assertions are not verifiable since there has been few, if any, or no systematic empirical studies on the activities of the Agency and their impact. Most of the criticisms and opinions tend to be mere speculations rather than concrete facts and information. For sure, there has been no empirical investigation of the legal dimensions of Agency's mandate especially with respect to internally displaced persons.

It is with this background that this study has been conceived to bridge the research gap of absence or specificity of facts and figures on the activities of the National Emergencies Management Agency by other writers. Thus, this study is aimed at providing empirical data about the activities performance and impact of Agency on internal displacement in Nigeria. This is important, considering that with the growing incidences of natural and man-made disasters; the

Federal Government is expected to brace up for emerging challenges through the instrumentality of its established structures.

In the light of these, the researcher further intends to look into some of the issues which may be productive in finding solutions to the challenges faced in internal displacement. These include: the existence and efficacy of legal framework for protection of displaced persons in Nigeria, the efficacy of the National Emergency Management Agency Act in guaranteeing the assistance and protection of displaced persons, the level of satisfaction of the clientele with the (application of the legal framework) activities of the Agency, and the appropriate strategy or model for effective and sustainable protection of displaced persons in Nigeria.

1.3 Aim and Objectives of the Research

The objective of this research is to principally examine the challenges of internal displacements and the role of the National Emergency Management Agency in addressing these challenges. Also, to promote effective response to the needs and rights of internally displaced persons in Nigeria through the use of existing legal instruments. In other words, the objective is to address the gaps and inadequacies in the National Emergency Management Agency Act, and the need for a reasonable expansion of the Act.

In connection with the above, the objective of this thesis extends to examining the role of the National Emergency Management Agency; its powers, functions, achievements and challenges so as to proffer suggestions to improve the capacity of the Agency to adequately address the problem of displacement in Nigeria, and to call for the full implementation of existing Frameworks, Policies, Guidelines and Systems on disaster management.

An extended objective of the thesis was to examine internal displacement caused by violence and conflicts as a violation of human rights as provided under national and international law, and to make recommendations as to how the abuse of these laws can be effectively curtailed.

1.4 The Scope of the Research

The scope of this research is focused on Nigeria. Statistics were gathered on disaster incidences in various States across the country which had led to internal displacement. This data was however limited to the last five years. In the course of the study, references were made to a few African countries with regards to their policies, systems and strategies of managing internal displacement.

The study discusses the functions of the National Emergency Management Agency (NEMA) Act as it relates to internally displaced persons. It also extends to reviewing the role of the National Emergency Management Agency in the protection and assistance of internally displaced persons with regards to the activities, systems put in place, strategies and challenges, as well as other International and National Frameworks instrumental to addressing the problem of internal displacement.

1.5 Methodology of the Research

The methodology of the research adopted was doctrinal and empirical research methods.

The Doctrinal research method; this was done through the use of Primary and Secondary sources. Primary sources include principal laws, relevant Statutes, and Case Laws. Secondary

sources include; Text books, Articles from journals and relevant websites from the internet.⁹ This is for the purposes of obtaining a good background to the study, definitions and conceptual clarifications of key terms used in the research, and other information.

The empirical method; this involved collection of data through granting interviews to targeted groups, and other forms of investigative exercises.¹⁰ This was effective in the present work as there was a need to visit the Agency in focus as well as Campsites to obtain substantial and reliable information. The information gathered was analyzed, and put to good use for purposes of this research, and for future reference by Institutions and Individuals directly and indirectly affected by the issues of internal displacement.

1.6 Justification

It is imperative to embark on this research in order to bring to light the major challenges faced by the National Emergency Management Agency in the protection and assistance of internally displaced persons, and to make recommendations that would be more strategic and effective in addressing the problem of internal displacement.

The overall national response to the plight of displaced persons in the last Seven years has been criticized by International community; United Nations Organizations, on various grounds. These include; the absence of national laws specifically designated to regulate the major Institutions and stakeholder in the management of displaced persons, lack of a proper and computerized registration and documentation systems which has led to inconsistencies in figures of displaced persons available, inefficient use of available resources due to allegations of

⁹ Akande I.F., *The Right to Democratic Governance under International Law; A case Study of Democratic Implementation in Nigeria*. August, 2008. pg 31

¹⁰ Ibid.

corruption, lack of medium/long term strategic planning, implementation, monitoring and evaluation framework, politicization of humanitarian assistance, and the system of setting up ad-hoc committees with United Nation Organizations each time there is crisis. It is against this background and contextual analysis that the writer found justifiable grounds to embark on this research

It is imperative to examine the critical issues of Internal Displacement which is fast turning out to be one of the dreaded global challenges, begging for the attention and intervention of Government and other relevant authorities. It is important for the authorities to be informed of the issues discussed herein, some of which include the following;

- i. Gaps and inadequacies in the National Emergency Management Agency Act, and the need for a reasonable expansion of the Act.
- ii. The need to re-evaluate the strategies that have been adopted by the National Emergency Management Agency for effective and efficient management of the problems of displaced persons in Nigeria.
- iii. Strategic and sustainable intervention measures that can be used for good programming, policy formulation and implementation; effective coordination and collaboration between National Authorities, Non-Governmental Organizations, United Nation Organizations, Humanitarian and Relief Organizations and development partners, in their efforts to provide durable solutions to the plight of displaced persons in Nigeria.
- iv. How to determine and evaluate internal and external displacement indicators, and tackle the numerous Human Rights and Humanitarian challenges. Also, the manner in which the plight of displaced persons affects the quality of our democratic governance, standard of

living, national security, reconciliation and peace-building as well as national development.

This research is therefore very vital in promoting the image of the country and advancing for the growth and development of the nation at large when put to good use. It is of immense benefit to the government institutions having the mandate of the protection and assistance of internally displaced persons, Stakeholders participating on the field, to legal practitioners with regards to enforcement and preservation of human right laws and International Humanitarian law in armed conflict situations. Academicians, subsequent researchers and the general public will also most definitely find this research work very useful.

1.7 Literature Review

For about fifteen years now, the issue of internal displacement has been placed on the international agenda and recognized as a matter of international concern. Since then, awareness of the global crisis of internal displacement and of the plight of affected population has grown. A normative framework for addressing the problem has been developed and its use is being widely promoted at the national, regional and international levels. International and Regional bodies, as well as Humanitarian and Human Rights development Agencies, have become increasingly engaged with internally displaced persons, both at the policy level and in the field. Sequel to this, a United Nations office has been established to co ordinate the activities and promote effective international response. As a sign of the wide recognition it has attained, the issue of internal

displacement now features regularly in international discourse and not only in human rights and humanitarian circles but also in debates of United Nations Security Council.¹¹

In the light of this, there are many literatures in this area of study which relate directly to this research work and as such, are relevant to this study. While some writers are concerned with causes of internal displacement such as disasters, armed conflicts and Human Right violation, others are concerned with the role of government in protecting and assisting internally displaced persons, and the growing statistics of the displaced population, while others are focused on policy making and proffering durable solutions. However, the diversity of this literature, on so many aspects of internal displacement has inevitably helped to enrich this research work. This research would not be complete without making reference to the works of some of these renowned scholars as we proceed with the review of pertinent literature.

Carly,¹² in his "Kosovo Case Study" discussed the global prevalence of internal displacement and questioned the adequacy of the efforts been made by the international communities in the protection and assistance of internally displaced persons. He asked the question "why should the international community help?" he explained that aside from a sense of moral obligation, displacement causes internal instability which could spill across borders, causing a domino-effect of regional instability, it could also lead to the creation of refugees from internally displaced persons seeking refuge in neighboring countries. He however, criticized the international community for focusing more on humanitarian assistance rather than establishing the legal Status of the displaced persons. He also raised problems of discrimination between the

¹¹Erin M., "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern", *Refugee Survey Quarterly*, Vol. 24, Issue 3, 2005

¹² Carly M., *A Kosovo Case Study: Internal Displacement, is Prevention Through Accountability Possible?* Published by the American University, 2009 at Page 14.

displaced population and the regular citizens, stating that internally displaced persons more often than not, are treated as though they have limited rights or in some cases, no rights at all.

This work is relevant to this research work because it underscores the importance of the role the international community in ensuring that the rights of internally displaced persons are guaranteed. The present research work as an improvement on the above work provides that as citizens of the country, the rights of internally displaced persons are ordinarily guaranteed, but the National Government with the necessary assistance by the international community can create the enabling environment to ensure that the host communities recognize these rights and that these rights are enforced by Government between and amongst humanitarian agencies and international organizations in supporting host communities in accommodating the internally displaced persons. This work further brings to fore the relevant provisions of the Guiding Principles¹³ and the African Union Convention¹⁴ which address issues of discrimination against any internally displaced person and empowers them to speak out and be heard in times of distress or any form of oppression.

Jakob,¹⁵ in his work stated that internal displacement poses perhaps one of the most daunting humanitarian challenges of today. The impact, not only on many millions of displaced persons, but also on countless host families and resident communities, it is hard, if not impossible to measure. Addressing their protection and assistance needs - often in the absence of national authorities assuming their responsibilities in this regard – requires a huge, concerted

¹³Principle 1 of Guiding Principles on Internal Displacement (2001) by Dennis McNamara, Published by United Nations High Commissioner for Refugees (UNHCR)

¹⁴ African Union Convention; For the Protection and Assistance of Internally Displaced Persons in Africa. Article 3 refers to the general obligations of state parties (d) addresses the problem of discrimination.

¹⁵ Jakob Kellenberger , On The International Committee of Red Cross's response to internal displacement: strengths, challenges and constraints In: Humanitarian debate: Law, policy, action Displacement. International Review of Red Cross (ICRC) Vol. 91, Number 875, September, 2009.

effort by the international humanitarian community as a whole. Jacob is of the opinion that faced with a humanitarian challenge of such magnitude; international actors, such as the International Committee of the Red Cross (ICRC) is just one of many actors needed to play its own particular role¹⁶.

This work is relevant to this research work because of its emphasis on the fact that ultimately, the task of assisting and protecting internally displaced persons cannot be done by one institution alone, all key stakeholders have a role to play to compliment each others' effort for a more successful outcome. This present work discusses practically, the current strategies adopted the National Emergency Management Agency (as the coordinating Agency) where cluster groups have been set up involving the different key stakeholders and their roles in managing disasters, This further extends to managing internally displaced persons in the camps.

Enu¹⁷, in his Book titled; *Human Security and Sustainable Peace Building in Nigeria: The Niger Delta Perspective* stated that it is the primary responsibility of the Government to provide peace and security for its citizens within the state. The focus of his analysis was the Human Security Dilemma in the Niger Delta as far back as 1990; he stated that human security and peace building must always remain top priorities to every responsible government because development and sustainability challenges must necessarily demand an atmosphere of peace and tranquility. In his perspective, he attributes the silence and sufferings in the region to all forms of neglect by the government. He stated that people engage in various forms of criminality to

¹⁶Jakob K., The ICRC's response to internal displacement: strengths, challenges and constraints. In: Humanitarian debate: Law, policy, action Displacement. International Review of Red Cross (ICRC) Vol. 91, Number 875, September, 2009.

¹⁷Enu D.B., Human Security and Sustainable Peace Building in Nigeria; The Delta Perspective: In Ugwu (ed.) Institute of Public Policy and Administration, University of Calabar, Journal of Sustainable Development, (2011) Vol. 4, No. 1.

advance their course within the context of their ignorant minds, thereby creating gross insecurity in all ramifications.

This work is relevant to this research because it defines the role of government in conflict situations and the problems that occur where there is an obstruction of peace and security in the nation. Discussing further, this current research provides that instability more often than not results in conflicts, underdevelopment and prolonged suffering of members of the affected communities. While the previous author focused on the Niger-delta crisis, this research focuses on the armed conflict between the government and the Boko Haram (insurgents) which has brought about the complex problems of internal displacement. This research also discusses how the instrumentality of the law can be used to address these problems and sustain peace and security¹⁸

Ladan, in his book, *Materials and Cases on Public International Law*,¹⁹ discussed the issue of Protection of the Rights of Refugees and Internally Displaced Persons. He stated that the growing number of Refugees and internally displaced persons is a formidable problem of global significance and implications. The total number of refugees and internally displaced persons is currently estimated at around 25million worldwide, with the majority of these people from Africa, Middle East and Asia. Their ever-increasing numbers pose enormous challenges to the international community and have proved capable of sparking tensions in areas and regions that were previously untroubled. Simple requirements as food, shelter, medical care and hygiene, through sheer quantitative needs, create huge logistical problems in terms of procurement and

¹⁸ Section 14(2) (b), Constitution of the Federal Republic of Nigeria (1999), Cap 23, Vol. 3, Laws of the Federation of Nigeria, 1990.

¹⁹ Ladan M.T., *Materials and Cases on Public International Law*, Published and Printed by Ahmadu Bello University Press Ltd. Samaru, Zaria. (2008) Chapter 18, page 278-281.

adequate and equal distribution, and the Governments concerned see themselves in apparently insoluble dilemmas.

Ladan related the situation of internally displaced persons to armed conflict and mass violations of Human Rights as well as other natural disasters. He stated that there are other deeper-seated factors underlying this phenomenon of mass displacement. Under development, poverty, unequal distribution of wealth, unemployment, ethnic tensions, subjugation of minorities, intolerance, absence of democratic procedures, and many other factors have been cited as causes.

He also stated that the consequences of internal displacement are manifold and can deprive the persons concerned of the essentials they need to survive. Loss of home, loss of employment and education, loss of security of person, threats to life and liberty, loss of healthcare, deprivation of food are amongst the harsh and immediate consequences of such displacement. Most of the displaced persons today have fled their homes because of massive and gross violations of human rights that threatened their life and livelihood. The flight of internally displaced persons from their habitual residence leaves them particularly exposed to further acts of violence, enforced disappearances and assaults upon their personal dignity including sexual violence.²⁰

According to the writer, internally displaced persons are like fugitives in their own country who, more often than not, find their rights and interests unrecognized and unprotected examples from Africa and the former Yugoslavia show that relevant government authorities are indeed unable and/or unwilling to respond adequately to the needs of displaced persons, and as a

²⁰ Ladan M.T., *Materials and Cases on Public International Law*, Published and Printed by Ahmadu Bello University Press Ltd. Samaru, Zaria. (2008) Chapter 18, pg. 278-281.

result are increasingly appealing to the international community for assistance. This has already caused United Nation Human Right Commission for Refugees (UNHCR) to include the plight of internally displaced persons in the execution of its mandate, although they are not officially a part thereof.

This work is essential to this research because it gives a background to the problems of Internally Displaced Persons. It also promotes the importance of enforcing fundamental human rights through available legally binding instruments. However, at the time the book was written, the Nigerian Government had not ratified the African Union Convention (Kampala Convention) on the Protection and Assistance of Internally Displaced Person. Hence the subsequent ratification of the Kampala Convention in 2012 is an indication of the growing National awareness and willingness by the Government to address the problem of internal displacement. This research therefore deals with the current legal regime which include; the Kampala Convention, Guiding Principles and other Policy Frameworks created specifically to adequately address the challenges and vulnerabilities of internally displaced persons, this work further advocates for the adoption of the National legal framework on the Protection and Assistance of internally displaced persons (draft) peculiar to the Nigerian situation and its full implementation.

Nina²¹ in her book: *Internal displacement: global trends in conflict-induced displacement* provided the global trends: figures and hotspots of internally displaced persons, summarized as follows: At the end of 2008, the global internal displacement figure was estimated at 25 million, a record high since the Internal Displacement Monitoring Center started monitoring displacement in 1998. This figure which has remained reflects the recent displacement of 4.6

²¹<https://www.icrc.org/eng/assests/files/other/irrc-875-birkeland.pdf>. by Nina M. Birkeland. (Head of Monitoring and Advocacy Department at the Norwegian Refugee Council's Internal Displacement Monitoring Center) IDMC, June 9, 2015.

million people from various countries. There were 900,000 more people newly displaced in 2008 than in 2007, when 3.7 million people were displaced.

Five countries had larger displaced populations than any other at the end of 2008. They are: Sudan- 4,900,000, Columbia- 2,650,000-4,360,000, Iraq- 2,400,000, Democratic Republic of Congo (DRC) - 1,400,000, and Somalia- 1,300,000. Figures are also provided on the displaced population in other countries such as America, Middle East, South and South-East Asia and Europe and Central Asia.

The statistics provided in this work is relevant because it indicates the growing challenge which internal displacement continue to pose to humanitarian and development organizations as well as human rights defenders.²² There was however no data from Nigeria, hence this current work provides the statistics of internally displaced persons in Nigeria following various disasters within a period of five years as one of the countries in Africa with the highest number of internally displaced persons. Details of this statistics are broken down in this research according to the percentages of men women and children to aid the humanitarian Agencies in conducting a comprehensive assessment and the required assistance. The statistics is also used to make informed decisions while tracking the rise and fall in numbers of displacement persons in different parts of the country. It is also very important to have an authentic data base in the country for reference and other purposes.

The Brookings-Bern Project on Internal displacement titled *Protecting Internally Displaced Persons: A manual for Law and Policy makers*, promotes and encourages the application and use of the Guiding Principles to provide national frameworks on internal

²² Nina M.B, Internal displacement: global trends in conflict-induced displacement. In: Humanitarian debate: Law, policy, action Displacement. International Review of Red Cross (ICRC) Vol. 91, Number 875, September, 2009.

displacement. The manual provides the steps from the point of drafting to implementation of the national legal framework for purposes of national responsibility, among other things.²³ This is relevant to the research because, though the Guiding Principles are not in themselves legally binding, they are grounded in existing human rights and humanitarian law standards. They reflect existing rules and explain how they can be applied in internal displacement situations, instead of creating new obligations. This current research as an improvement on the above, discusses the key Principles under the Guiding Principles that are applicable in the Nigerian situation. For practical purposes, recommendations have been made to include some of these principles in the proposed National Policy Framework on the protection and assistance of internally displaced persons in Nigeria.

In the article; *Legal and Policy Imperatives for the Prevention, Protection, Assistance and Durable Solution to the Plight of Internally Displaced Persons (IDPs) in Nigeria*²⁴, Ladan stated that Nigeria's inability to respond adequately to the plight of displaced persons and address the root causes of internal displacement is an inevitable consequences of the social ills of the society; a situation made worse by an apparent lack of political will to come to grips with the problem at hand. Hence internally displaced persons remain largely vulnerable and susceptible to all forms of exploitations and neglects across the Federation. He further stated that the constrained national response has resulted in inefficiencies and support gaps to the affected population.

²³ Protecting Internally Displaced Persons: A manual for Law and Policymakers. Brookings Institute- University of Bern, project on internal displacement. Published by Monitoring and Advocacy Department at the Norwegian Refugee Council's Internal Displacement Monitoring Center, 2010.

²⁴ Ladan M.T., *Legal Policy Imperatives for the Prevention, Protection, Assistance and Durable Solution to the Plight of Internally Displaced Persons (IDPs) In: African Yearbook of International Humanitarian Law (AYIHL) on International Humanitarian Law, 2011*

Ladan provided that National Emergency Management Agency is the Agency responsible for overall disaster management in Nigeria including the coordination of relief operations as well as assisting in the rehabilitation of victims where necessary.²⁵ This current work as an improvement on the former, discusses the role of the National Emergency Management Agency as the focal Agency in the protection and assistance of internally displaced persons in collaboration with key stakeholders such as; National Human Right Commission, Ministry of Health, Military personnel and others in line with the provisions of the United Nations Guiding Principles and the Kampala Convention and Internally displaced persons. This work also discusses the robust relief interventions done by the Agency which has to a very large extent, relieved the sufferings of the internally displaced persons and cushioned the effects of their unfortunate circumstance. The recent activities provided in this work are indications of a renewed political will of government to improve on the existing systems.

In general, this research work is particularly different from the work of the above distinguished authors because so far, there is no data on disaster incidences and response by the Agencies which describes graphically, the current challenges and the way forward in the protection and assistance of internally displaced persons. This is very important in order to avoid assessments of the Agency's efforts through mere speculations. This work analyzes the emerging trends of the causes and effects of internal displacement peculiar to some States in the Northern parts of Nigeria that have been most affected. This research work has to a very large extent added value to the other works by reviewing the National Emergency Agency Act vis-à-vis the activities of the Agency in order to carry out an objective assessment of the Agency's efforts and

²⁵ Ladan M.T., Legal Policy Imperatives for the Prevention, Protection, Assistance and Durable Solution to the Plight of Internally Displaced Persons (IDPs) In: African Yearbook of International Humanitarian Law (AYIHL) on International Humanitarian Law, 2011

come up with constructive recommendations. This is a humble attempt geared towards re-casting the mind of readers to a better and more effective means of addressing the lingering problems and plights of displaced persons in Nigeria.

1.8 Organizational Layout

This deals with the formal arrangement of the work. It gives the reader a sketchy outline of the contents of the thesis. The thesis is divided into five chapters.

Chapter one; states the general introduction of the topic of the thesis, provides general information on the background of the study, and other formal introductory concepts such as, Statement of the problem, Scope of the research, aims and objectives and justification of the research.

Chapter two; deals with conceptual clarifications of key terms used in the research work, this is to avoid confusion or misapplication of terms and definitions as the reader proceeds to the other chapters. This chapter explains the meaning and nature of disasters and conflicts in Nigeria as root causes of internal displacement, and its impact on individuals, communities, and the nation.

Chapter three; centers on the main theme of the research title- “The Role of National Emergency Management Agency (NEMA) in the Protection of Conflict Induced Displaced Persons under the Law in Nigeria”. The chapter examines the mandates of the Agency, Internally Displaced Persons management activities organized by the Agency, and the roles of other identified Stakeholder in the management of internally displaced persons. It further discusses, the International Legal Instruments on protection and assistance of Internally Displaced Persons.

Chapter four; examines the International Standards on the protection and assistance of internally displaced persons, the importance and efficacy of the general laws been applied to the Nigerian situation. It goes further to discuss the enforcement of International Human Rights law and Humanitarian Rights Laws in cases of abuse leading to displacement and in the course of internal displacement.

Chapter five; states the general conclusion of the research work by outlining the findings, observations, problems, and recommendations thereto. It ends with a final conclusion on the research topic.

CHAPTER TWO

CONCEPTUAL CLARIFICATION OF KEY TERMS

2.1 Introduction

This chapter provides the meaning and nature of the concept of internal displacement. It further provides the types of internal population movement, categories of internally displaced groups and their specific needs. The chapter also explains the meaning and nature of conflicts in Nigeria, meaning and nature of disasters and the impact of disasters on Individuals, Communities and the State.

2.2 Meaning and Nature of the Concept of Internal Displacement

Despite being firmly embedded in the international lexicon, there is a question as to whether “internal displacement” has become a term of art. In fact there exists, different ideas as to what is meant by “internal displacement and “internally displaced persons”.

For some time, the term “internally displaced persons” referred only to people uprooted by conflict, violence and persecution; that is, people who would be considered refugees if they crossed a border. Global statistics on internally displaced persons generally reinforce this view by counting only those displaced by conflict. Others however consider internal displacement to be a much broader concept and to encompass the thousands of persons uprooted by natural disasters and development projects. Still, others question whether it is useful to single out internally displaced persons who commonly are referred to as “IDPs” as a category at all.

There is also no consensus on “when internal displacement ends”, that is, when an internally displaced person should no longer be considered as such. Compounding matters further is that in common parlance the internally displaced often are referred to as “refugees”,

which tend to be catch-all phrase to describe all uprooted people without regard to whether they have left the country as the legal definition of “refugee” requires. In short, there is a need for clarity on a number of conceptual issues¹. Some of which are as follows;

- i. Internal Displacement: According to African Union Convention for Protection and Assistance of Internally Displaced Persons in Africa “internal displacement” means “the voluntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized state borders”².
- ii. Forced Displacement: this refers to the involuntary movement of refugees and internally displaced persons from their place of residence. Those displaced by conflicts (generalized violence) as well as by natural hazards (floods, landslides, droughts) or environmental disasters, chemical or nuclear disasters, famine, or development projects. There are two Categories of Forced Displacement as follows:
 - a. Refugee – a refugee is a person who “owing to well-founded fear of being persecuted for reasons of race, religion, membership of a particular group or political opinion is outside his country of nationality and is unable or, owing to such fear is unwilling to avail himself of the protection of that country’³.
 - b. Internally Displaced Persons (IDPs) – “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of

¹Erin M. "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern", Refugee Survey Quarterly, Vol. 24, Issue 3, 2005

² Article 1, African Union Convention for the protection and assistance of Internally Displaced Persons in Africa adopted by a special summit of the Union held in Kampala, Uganda, on 22nd October, 2009. (Also known as the Kampala Convention, 2009)

³ 1951 Convention, Art. 1A (2), 1967 Protocol

generalized violence, violation of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”⁴.

- iii. Comparism of Internally Displaced Persons and Refugee definitions- It is important to understand the difference highlighted as follows:
- a. The requirements to become a refugee according to the 1951 Convention are precise and limited- there has to be a “well founded fear of persecution” and this fear must be linked to one of the enumerated grounds. The definition of internally displaced persons is much broader and includes natural and human-made disasters.
 - b. A person becomes a refugee only when he or she crosses an international border where as an internally displaced person remains within his or her country.
 - c. The legal status of refugees is set by an international legal document. No similar binding document defines internally displaced persons.
 - d. The status of refugee entitles the individual to certain rights. Being internally displaced does not entitle one to any additional rights. Internally displaced persons have the same rights as other citizens of the country.⁵
- iv. Livelihoods: This refers to “the combination of resources used and the activities undertaken in order to live. The resources might consist of individual skills and abilities (human capital), land, savings and equipment (natural, financial and physical capital, respectively) and formal support groups or informal networks that assist in the activities

⁴ ibid

⁵ Mooney E., "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern", in: Refugee Survey Quarterly, Volume 24, Issue 3, 2005.

being undertaken (social capital)”. Upon displacement, majority of the displaced persons lose their means of livelihood as explained.

- v. Returnees: This refers to persons or groups of persons returning to their communities after displacement by armed conflicts, natural or human induced disasters, situations of generalized violence, forced evictions or human rights violations. They are forced to start life all over again when they return, with the support and welfare from government, this can be made easier for them.
- vi. Resettlement: Enabling internally displaced persons to voluntarily return to their communities, rebuild their homes and re-unite with their families or enabling them to integrate into another community or place within the territory of Nigeria other than their place of original displacement for the purpose of durable solution”.
- vii. Sovereignty: Sovereignty in relations between States signifies independence. Independence is coterminous with sovereignty which Judge Huber defined in the Island of Palmers case as ‘a portion of the globe with the right to exercise therein to the exclusion of any other State’.⁶
- viii. Vulnerability: this refers to “the characteristics of a person or group and the situation that influence their capacity to anticipate, cope with, resist and recover from the impact of a hazard”.⁷

⁶ Island of Palmers case (Netherlands vs. U.S) 22AJIL (1928) 875.

⁷ National Policy on the protection and assistance of Internally Displaced Persons (IDPs) in Nigeria (Draft Document) 2012.

2.2.1 Emergence of the concept of Internal Displacement

When the issue of internal displacement emerged into international agenda in the early 1990's, no definition of internally displaced persons existed. Yet having a definition was essential for identifying the population of concern and their particular needs, compiling data and framing laws and policies designed to assist them. Developing a definition for this group of people was therefore a key task for the representative of the United Nations Secretary-General on internally displaced persons at the outset of his mandate.

A starting point was the working definition that had been put forth in 1992 by the United Nations Secretary-General, which was not all encompassing. However, a definition eventually emerged from the various deliberations⁸. The principles, which were presented to the United Nations in 1998 have since gained wide recognition as an important tool and a standard for addressing internal displacement and are being used around the world by government, the United Nations regional bodies, non- governmental organizations and the sectors. While there are no official definitions of an internally displaced person, the Guiding Principles on Internal Displacement set by the Office for the United Nations High Commissioner for Refugees (UNHCR) however, holds internally displaced persons to be "persons or groups of persons who have been forced to flee, or leave, their homes or places of habitual residence as a result of armed conflict, internal strife, and habitual violations of human rights, as well as natural or man-made disasters involving one or more of these elements, and who have not crossed an internationally recognized state border".⁹

⁸ It is contained in the *Introduction to the Guiding Principles on Internal Displacement*, 1998. This definition is what is applicable today.

⁹ <http://www.unhcr.ch/07/05/2015>

The definition by the Secretary General Representative highlights two elements-

- a. The coercive or otherwise involuntary character of movement.
- b. The fact that such movement takes place within national borders.

The definition internally displaced persons also contains components which are worthy of note. They consist of the following;

- a) Persons or group of persons: internal displacement can affect persons in particular or an entire group.
- b) Forced or obliged: covers a range of possibilities of being expelled by force or intimidated to leave by threat or necessity. The most important fact is that displacement is coerced or involuntary.
- c) To flee or to leave: displacement does not only include movements of people running away from an immediate danger, but can also take the form of more prepared and organized departures in anticipation of dangers, evictions, etc.
- d) As a result of or in order to avoid the effects: the definition is flexible in terms of proximity to the causes of displacement (conflicts, disasters) or whether they have taken place or not. The phrase “as a result of” implies effects that have already taken place while “in order to avoid” implies fear that these effects are expected to take place.

- e) Their homes or places of habitual residence: habitual residence is not necessarily a house or a building, but can be land on which groups traditionally live, as in the case of pastoralists on pastoralists and other groups with a special dependency on their land.¹⁰

2.2.2 Other Types of Internal Population Movements

1. Migrants: the term migrant is usually understood to cover all cases where the decision to migrate is taken freely by the individual concerned for reasons of “personal convenience” without intervention or an external compelling factors. This term therefore applies to persons and family members moving to another area, country or region to better their material or social conditions and improve the prospect for themselves or their family.¹¹
2. Nomadic groups: indigenous and traditional people whose livelihoods depend on extensive common property use of natural resources over an area, who use mobility as a management strategy for dealing with sustainable use and conservation and who possess a distinctive cultural identity and natural resource management system.¹²
3. Homeless: a person lacking permanent housing.¹³ Homelessness describes the condition of people without a regular dwelling. People who are homeless are most often unable to acquire and maintain regular, safe, secure, and adequate housing, or lack "fixed, regular, and adequate night-time residence."¹⁴ The legal definition of "homeless" varies from country to country, or among different entities or institution[s] in the same country or

¹⁰ Principle 9, United Nations Guiding Principles, www.guidingprinciples.org. 12/05/2015

¹¹ International organization for Migration, Glossary on Migration, 2004

¹² Dana Declaration on mobile people conversation, June 2002

¹³Center on Housing Rights and Eviction. From Wikipedia, the free encyclopedia December 2007. http://en.wikipedia.org/wiki/Centre_on_Housing_Rights_and_Ev...

¹⁴ United States Department of Housing and Urban Development, "Federal Definition of Homeless. <http://en.wikipedia.org/wiki/Homelessness#cite-note-1>

region. The term homeless may also include people whose primary night-time residence is in a homeless shelter, a warming center, a domestic violence shelter, cardboard boxes or other ad hoc housing situations. American Government homeless enumeration studies¹⁵ also include persons who sleep in a public or private place not designed for use as a regular sleeping accommodation for human beings.¹⁶ An estimated 100 million people worldwide were homeless in 2012. Tied into this were an increasing number of impoverished and runaway children, teenagers, and young adults, which created more street children or street youth. Modern homelessness started as a result of economic stresses in society and reductions in the availability of affordable housing. Most countries provide a variety of services to assist homeless people. They often provide food, shelter and clothing and may be organized and run by community organizations (often with the help of volunteers) or by government departments. These programs may be supported by government, charities, churches and individual donors. While some homeless have jobs, some must seek other methods to make a living. Begging or panhandling is one option, but is becoming increasingly illegal in many cities.¹⁷

4. Displaced Population resulting from development: this is a type of displacement that occurs as a result of development projects, policies and processes, and therefore constitutes a social cost for development¹⁸. People are forced to leave the home region to which they are attached and for which they have the knowledge to make a living most

¹⁵ Bogard, Cynthia J., "Advocacy and Enumeration: Counting Homeless People in a Suburban Community", *American Behavioral Scientist* September 2001 vol. 45 no. 1 105-120

¹⁶ Gabbard, W. Jay; et al, "[Methodological Issues in Enumerating Homeless Individuals](#)", *Journal of Social Distress and the Homeless* Volume 16, Number 2 / May 2012, pg. 90-103

¹⁷ Svitek, P., "Evanston homeless find warm shelters". Daily Northwestern.

<http://www.dailynorthwestern.com/city/evanston-homeless-find-warm-shelters-1.2458986>. Retrieved.

¹⁸ Displaced person/Displacement/United Nations Education, Scientific and cultural Organization windows explorer <http://www.unesco.org/new/en/social-and-human-sciences/theme...>

effectively, the displaced populations often become impoverished as a result of the loss of livelihood.

2.3 Types of Internally Displaced Groups and their Specific Needs

Internally Displaced Persons (IDPs) are groups of people who are forced to flee their homes, often for the very same reasons as refugees - war, civil conflict, political strife, and gross human rights abuse - but who remain within their own country and do not cross an international border. They are therefore not eligible for protection under the same international system as refugees. Also, there is no single international body entrusted with their protection and assistance. Estimates on the number of internally displaced persons are often very rough, and they tend to differ greatly in terms of the source (governments, international agencies, non-governmental organizations). This is partly because movement of internally displaced persons in contrast to forced migration, typically involve short distances and often short time frames.

In addition, internal movements are much less recorded than international movements. One reason is that the inherent interest of a receiving country in who is entering is absent in the case of internal movements, which are free of restrictions and subject to fewer administrative hurdles. Also, considering that they are still living in the country where they have been persecuted, the internally displaced may be less willing to register than those who enjoy the protection of their asylum country.¹⁹ At this juncture, the varying categories, and their specific needs are discussed one after the other below;

¹⁹ Displaced person/Displacement/United Nations Education, Scientific and cultural Organization windows explorer <http://www.unesco.org/new/en/social-and-human-sciences/theme...>

2.3.1 Internally Displaced Children: Children are the most vulnerable group of the displaced persons as they are more likely to be neglected and exposed to abuses. For many armed groups, the recruitment and use of children has become the means of choice for waging war.²⁰ The social upheaval and poverty caused by hostilities make children vulnerable to recruitment. During armed conflict and displacement, internally displaced children, some of whom may be separated from their families are at high risk.²¹ The children are abducted and recruited from displacement camps or host families and sometimes, some follow armed groups or soldiers to find protection, while others are recruited by local self-defense militias. They are used as combatants, porters, domestic servants or sex slaves.

The Guiding Principles on Internal Displacement, reflecting international law, as enacted in the Convention on the Right of Children and its additional Protocols, underline that children and unaccompanied minors '...shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.'²² All Guiding Principles apply equally to displaced children, but some provisions specifically address the situation of children, expressly prohibiting their enslavement, use in forced labor, and participation or recruitment in armed hostilities. In practice, however, children displaced in many conflict situations, continue to suffer great violations of their basic rights as they are exposed to extreme violence and deprivation.²³

²⁰ United Nations General Assembly, Report of the Special Representative of the Secretary General for Children and Armed Conflict, United Nations Doc. A/63/227, August 6, 2008. Para. 43

²¹ Coalition Against the use of Child Soldiers, Child Soldiers Global Report 2008, pp. 22-24, available at <http://www.childsoldiersglobalreport.org> (visited September 9, 2009)

²² Principle 4 (2), United Nations Guiding Principles, www.guidingprinciples.org. 12/05/2015

²³ Nina M.B, Internal displacement: global trends in conflict-induced displacement. In: Humanitarian debate: Law, policy, action Displacement. International Review of Red Cross (ICRC) Vol. 91, Number 875, September, 2009.

2.3.2 Internally Displaced Women: The rights of displaced women are violated in many countries, according to the reports by Internal Displacement Monitoring Center (IDMC) in 2008, with often devastating physical and psychological consequences for them and their families.²⁴ The reports indicate that sexual or gender-based violence against women or children was a serious problem in at least 13 out of the 18 countries recorded in Africa. Government troops were cited as the primary perpetrators of sexual abuses, followed by members of non-state armed groups, criminal groups and the general population (such as relatives and neighbors). Abuses were generally perpetrated with total impunity. In addition, many displaced women were unable to access essential reproductive health services, due to prohibitive fees, lack of health care infrastructure and insecurity.

The Guiding Principle explicitly provides protection for displaced women against violence and exploitation.²⁵ And promote equal access to assistance, services and education,²⁶ as well as their participation in decisions affecting them.²⁷ Reflecting international laws such as: The Convention on the Elimination of All Forms of Discrimination against Women, provisions in favor of the displaced women are guided by the need to safeguard them from gender-based violence, and to uphold their rights to equal access to services.

However, in practice, displaced women in most countries do not receive assistance due to them as displaced persons to take possession of, or receive compensation for their land and property, or travel freely in their country. Widows in particular face obstacles to owning or

²⁴ Gender based violence Global Technical Support Project, Gender-based Violence in Populations Affected by Armed Conflicts, Reproductive Health Response in Conflict Consortium, Arlington, 2004.

²⁵ United Nations Guiding Principles on Internal Displacement, Guiding Principle 11(2)

²⁶ Ibid Guiding Principles 18(2), 19, 20 (3) and 23 (3)

²⁷ Ibid Guiding Principles 7 (3)(d) and 18 (3)

inheriting property or land. They and their dependants are thus, deprived of adequate housing and land, and denied the chance to return to their former homes.

2.3.3 Displaced Elderly People: Older people can have more difficulty accessing services, and are less able to flee quickly or to protect themselves from harm during conflicts. Among them, older widows are often the most vulnerable.²⁸ In few countries affected by internal displacement in which older people received state pension, the internally displaced persons often lacked the documentation needed to claim their entitlements. For example, in Russian Federation, older persons struggled to get their full pension as archives had been destroyed and they had no way of replacing documents lost during the conflict.

The Guiding Principles on Internal Displacement state that ‘elderly persons... shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.’²⁹

2.3.4 Internally Displaced Minorities: Indigenous people, minorities, pastorals, and groups with a special dependency on, and attachment to their lands make up a disproportionate share of internally displaced populations across the world. A number of international norms recognize the vulnerabilities these groups face in the context of displacement. Guiding Principles emphasize the obligation of States to protect indigenous people and minorities from displacement.³⁰ Acknowledging the importance of their dependence on their land for survival, and the continuation of their way of life, Article 10 of the United Nations Declaration on the rights of indigenous people states that they ‘shall not be forcibly removed from their lands or territories’.

²⁸ Inter-Agency Standing Committee, Humanitarian Action and Older Persons. An essential brief for humanitarian actors, October 2008, available at <http://www.unhcr.org/refworld/docid/490bo0c102.html> (visited 11 August 2009).

²⁹ UN Guiding Principles on Internal Displacement, Guiding Principle 4(2)

³⁰ Ibid, Guiding Principle 9

Nevertheless minorities were internally displaced in at least 36 countries surveyed by Internal Displacement Monitoring Center: as a mechanism to eliminate them or claim autonomy, they were forced to give up their traditional way of life,³¹ and had to settle among subsistence farmers or flee to neighboring states. Language problems and lack of government officials trained to deal with their special needs further complicated the situation of displaced minorities, especially when they have been displaced beyond their own region.

2.4 Nature of Conflict induced Disasters in Nigeria

Conflict is a negation which is anchored on behavioral norms. It is a negative attitude or over-reaction to situations, ideas, principles and other forms of behavior. To properly analyze conflict situations, the behavior of people in a community or among communities was considered.³²

Below are the types of conflicts commonly experienced in Nigeria;

1) Political Conflict

This emanates from political institutions and systems. It is characterized by revolutionary political ambition to disrupt or reform the constitutional order in practice. In political terms, conflict can refer to wars, revolutions or uprisings that involve the use of force. This can also be referred to as armed conflict. In early times, virtually most parts of Nigerian region were non centralized states but they transformed to a centralized state before 1900. Violence is also defined as a human behavior in political conflict as “the use or threat or physical act carried out by an individual or group of individuals within a political system against one another and/or property, with the intent to cause injury or

³¹ Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, adopted 27 June 1989, entered into force 5 September 1991, Art. 16

³² *Webster Dictionary, Vol. 1, 2007*

death to persons and damage of property.”³³ Groups enter into political conflict as a result of feelings of dissatisfaction arising out of comparison between what is currently enjoyed and what ought to or expected to be enjoyed.

In Nigeria, the immediate pre-colonial period which is, the nineteenth century was full of revolutions. These revolutions meant drastic changes in conditions, methods and ideas which formed part of the treaties and agreements which brought about several complexities.

2) Religious Conflict

This is a type of conflict that is peculiar to Nigeria. It is mostly prone to violence. It occurs when people of different religions fail to co-exist and relate with each other by respecting what each other stands for. In Nigeria, religious conflict has claimed lives and properties. At any slight provocation, religious conflicts resurge. The violence thereafter contributes to socio-economic and political instability. At times the religious conflict possesses an ethnic undertone or vice versa. In the contemporary period, it is a type of conflict that has permeated the Nigeria polity. To solve the problems there are Inter-faith mediation centers nationally and globally established to co-ordinate religious teachings to stop conflict situation.

3) Economic Conflict

This is a type of conflict associated with economic issues. In this case, money is the mechanism and decisive factor that determines the level of opposition or competition. Competition is a behavior synonymous with this type of conflict, because the principle of capitalism which emphasizes maximization of profit at all cost, makes competition

³³ Olanike A., Francis R. and ors. Violence and Politics in Nigeria: The Tiv and Yoruba Experience, New York, NOK Pub. 1981. page 350. www.unilag.edu.ng/staffdirectorydeatils.

inevitable. There is perpetuity of lack of mutual benefit and less co-operation because the strong group tends to dominate and undermine the weak group. It is pertinent to note that economic conflict has to do with production and distribution processes through the parties/groups involved. For instance, an entrepreneur tends to maximize profit by paying workers less wages than they deserve conflicts in forms of protests, demonstrations, strikes or boycotts arise to ensure changes/change. In other cases in Nigeria, the rich manipulate some of the poor illiterates and perpetuate injustice.

4) International Conflict

This occurs among different countries that constitute an international organization. This may occur through varying interests on socio-economic and political policies to be adopted. Each member country would always prefer that the aims and objectives of the organization correspond with its foreign policy objective. This could also cause division among members of the one country who are taking different sides regarding the policy or action taking place in another country.

5) Environmental Resource Conflict

The availability of natural resources in a community serves as source of revenue or livelihood as well as cause conflict. In contemporary times, the natural endowment of crude-oil in the Nigerian Niger-Delta, has been the bane of the uprisings and crises which continues to resurge by escalating different dimensions of violence. The emergence of conflict is not sudden, it occurs as a result of wars and/or crises that had occurred in the past. Policy issues either in the traditional or modern constitutions are results of peace building mechanisms that were designed to correct conflict situations.³⁴

³⁴ Raheed O., History Of Conflicts In Nigeria, Department of History, Faculty of Arts University of Ibadan Ed. Professor Remi Anifowose National Open University of Nigeria, Published by University of Ibadan, 2010.

2.5 Management of Conflicts in Nigeria

Conflicts among people from different ethnic and religious backgrounds are part of the most recurring issues in Nigeria. The issue has permeated the landscape since the colonial period and up till the present time. Institutional efforts which were made to satiate these tendencies since independence in 1960 has proved inadequate. According to the International Institute for Democracy and Electoral Assistance,³⁵ ‘numerous actors have a stake in the promotion of ethno-religious conflicts.’³⁶

The State has responsibilities to the citizens not only in terms of safeguarding their legal or civil rights, but to protect and promote their freedom as well.³⁷ Basically, democracy is a system of government that guarantees freedom to make a wide range of choices; the right of justified property ownership; social justice and fairness; absence of social and class barriers, equality of opportunity; and the solution of common problems through the exercise of the free will of the people.³⁸ It allows for conflicts in society to be resolved by rational argument and persuasion rather than by violent coercion.

However, when the state is generally perceived as serving the particular interests of one group, it loses its legitimacy, and indeed, its authority. Peace rather than violence constitutes the basic requirement for growth, development and national integration, the basic responsibility of all Nigerians should be to prevent, manage and amicably resolve conflict situations especially since the atmosphere of insecurity currently pervading the nation is at its worse.

³⁵ www.idea.int. International Institute for Democracy and Electoral Assistance(Head office situated at Stroomsburg, SE-103 34 Stockholm, Sweden) 19/05/2014

³⁶ ibid

³⁷ ibid

³⁸ ibid

2.6 Nature of Natural Disasters in Nigeria

The United Nations has defined a disaster as “a serious disruption of the functioning of a society, causing widespread human, material, or environmental losses which exceed the ability of the affected society to cope using its own resources”. By this definition, not every fire, earthquake, drought, epidemic, or industrial accident constitutes a disaster, only those where the losses exceed a society’s ability to cope and external aid is required. Most classifications of disaster identify two main types: natural and human-made. Natural disasters may be broken down into three subcategories-sudden impact, slow-onset, and epidemic diseases-while human-made disasters include two sub-categories-industrial/technological disasters and complex emergencies:

1. Sudden impact disasters include floods, earthquakes, tidal waves, tropical storms, volcanic eruptions, and landslides. Floods are the type of natural disaster most frequently associated with sudden migration of large populations and food shortages. Earthquakes cause the greatest number of deaths and overwhelming infrastructural damage.
2. Slow-onset disasters include droughts, famine, environmental degradation, deforestation, pest infestation, and desertification (conversion of arable lands to deserts). These disasters are usually the result of adverse weather conditions combined with poor land usage.
3. Epidemic diseases such as cholera, measles, dysentery, respiratory infections, malaria, and, increasingly, HIV, Ebola, generally do not trigger large-scale displacement even during a severe outbreak although they often threaten displaced populations, especially those clustered in overcrowded and unsanitary conditions following a major disaster.

4. Industrial/technological disasters result from a society's industrial and technological activities that lead to pollution, spillage of hazardous materials, explosions, and fires. They may occur from poor planning and construction of facilities or from neglect of safety procedures. Sudden-onset disasters such as earthquakes and floods as well as human factors such as armed conflict or a terrorist attack may trigger secondary disasters such as fires, industrial explosions and pollution/contamination.
5. Complex emergencies are usually human-made with multiple contributing factors (these may include war, internal conflict and natural disaster) and are marked by large-scale displacement, food insecurity, human rights violations and elevated mortality.³⁹

2.6.1 Potential Risks Intrinsic to Displacement Resulting from Disasters are:

1. Loss of land: Expropriation of land removes the main foundation upon which people's productive systems, commercial activities, and livelihoods are constructed. This is the principal form of de-capitalization and pauperization of displaced people, as they lose both natural and human-made capital. This is especially common in cases of bomb-blasts.
2. Joblessness: The risk of losing wage employment is very high both in urban and rural displacements for those employed in enterprises, services, or agriculture. Yet, creating new jobs is difficult and requires substantial investment. Unemployment or underemployment among displaced persons often endures long after physical relocation has been completed.
3. Homelessness: Loss of shelter tends to be only temporary for many displaced persons; but, for some, homelessness or a worsening in their housing standards remains a lingering

³⁹ Courtland W.R., Risks and Rights: the Causes, Consequences and Challenges of Development-Induced Displacement, published by the Brookings Institution-SAIS Project on Internal Displacement, May 2003.

condition. In a broader cultural sense, loss of a family's individual home and the loss of a group's cultural space tend to result in alienation and status deprivation.

4. **Marginalization:** Marginalization occurs when families lose economic power and spiral on a “downward mobility” path. Many individuals cannot use their earlier acquired skills at the new location; human capital is lost or rendered inactive or obsolete. Economic marginalization is often accompanied by social and psychological marginalization, expressed in a drop in social status, in the displaced persons' loss of confidence in society and in themselves, a feeling of injustice, and deepened vulnerability.
5. **Food Insecurity:** Forced uprooting increases the risk that people will fall into temporary or chronic undernourishment, defined as calorie-protein intake levels below the minimum necessary for normal growth and work.
6. **Increased Morbidity and Mortality:** Massive population displacement threatens to cause serious decline in health levels. Displacement-induced social stress and psychological trauma are sometimes accompanied by the outbreak of relocation related illnesses, particularly parasitic and vector-borne diseases such as malaria and schistosomiasis. Unsafe water supply and improvised sewage systems increase vulnerability to epidemics and chronic diarrhea, dysentery, and so on. The weakest segments of the demographic spectrum-infants, children, and the elderly-are affected most strongly.
7. **Loss of Access to Common Property:** For poor people, loss of access to the common property assets that belonged to relocated communities (pastures, forest lands, water bodies, burial grounds, quarries, and so on) result in significant deterioration in income and livelihood levels.

8. **Social Disintegration:** The fundamental feature of forced displacement is that it causes a profound unraveling of existing pattern of social organization at many levels. When people are forcibly moved, production systems are dismantled. Long-established residential communities and settlements are disorganized, while kinship groups and family systems are often scattered. Life-sustaining informal social networks that provide mutual help are rendered non-functional. Trade linkages between producers and their customer base are interrupted, and local labor markets are disrupted. Formal and informal associations, and self-organized services, reduced by the sudden scattering of their membership. Loss of title holders in traditional systems, loss of access to public services, loss of access to schools for children, and the loss of civil rights or abuse of human rights.
9. **Loss of Access to Community Services.** This could include anything from health clinics to educational facilities, but especially costly both in the short and long term are lost or delayed opportunities for the education of children.
10. **Violation of Human Rights;** violations of civil and political rights, including: arbitrary arrest, degrading treatment or punishment, temporary or permanent disenfranchisement and the loss of one's political voice, there are also violations of economic and social rights caused by arbitrary displacement without compensation.

Displacement carries not only the risk of human rights violations but also the risk of communal violence when new settlers move in amongst existing populations. These are the impoverishment risks associated with disasters which lead to various situations of internal displacement.⁴⁰

⁴⁰ Michael C., "Social Integration and Population Displacement." In: *International Social Science Journal*, 143/1. 1995

2.7 Impacts of Internal Displacement on Individuals, Communities and States

Displacement has a great impact on social roles in a community, as well as on its specific groups, including women and children who typically make up the majority of internally displaced populations and face an array of particular risks, during different phases of displacement. Gender aspects of displacement and its short-term or long-term impact on female and male roles in a given culture are frequently touched upon. Find below the impact of disasters on individuals (female, male and children), Communities and the State:

2.7.1 Impact of Disaster on the Female Population

Women, “in certain cultures... are not permitted to travel unless accompanied by their husband or a male family member”. They often do not have the necessary personal documentation to cross checkpoints or (worse in the case of international refugee flow) international borders. Furthermore, they may be stopped, harassed, or subjected to humiliating body searches. Once (if ever!) they reach their final destination, they often congregate in camps, which presents a new set of risks and burdens for women, who frequently shoulder all the daily responsibilities of ensuring their survival and that of their families, which absorbs huge amounts of their time and energy. This is especially true in cases of conflict-induced displacement when male family members are recruited to fight or are even dead.⁴¹

This can result in a loss of identity and status, especially when combined with the disintegration of the family unit which forces women to assume unfamiliar and new roles as livelihood providers: they often have to travel long distances to find water, food, firewood, medicines, and other basic necessities, and as they move around, they are at risk of being raped or suffer injuries from landmines and

⁴¹ *Developing DFID'S Policy Approach to Refugees and Internally Displaced Persons: Consultancy Report and Policy Recommendations*, (Oxford: Department of International Development University of Oxford, 2005), at 29.

unexploded ordnance (UXOs). In camps their voices often go unheard as women tend not to talk openly about their most personal needs.⁴²

2.7.2 The Impact of Disaster on the Male Population

The male population is also subject to specific problems – as the traditional breadwinners they tend to encounter problems finding employment and generating income in their new displacement environments, which can be a traumatic experience for an individual accustomed to sustaining their family and can lead to recourse to violence, drinking or even criminal activity. The Economic aspects of involuntary displacement (whether they are conflict-, development-, or disaster-induced) are, however, a general issue that affect displaced populations as a whole. One of the general conclusions is that in embracing the micro-economic challenges of projected involuntary displacement the shift is needed from the short-sighted economics of merely compensating the displaced to an economics of support for the resettled populations' full recovery.

If this principle, which, in its essence, stresses that the economic and social lose resulting from displacement cannot be substituted easily, is not taken into consideration, the displaced populations risk long-term impoverishment. On the macro-economic side, internal displacement can again have heterogeneous impacts on social welfare. However, as it is (contrary to internal economic migration flows) involuntary, it is expected that its impacts are rather negative in the short-term and only potentially positive on the long term (depending on various other economic and politico-social factors or the duration of displacement).

2.7.3 The Impact of Disaster on Children

Children are another social group affected by displacement caused by armed conflict and natural disasters. Displacement not only disrupts their education and normal development, but also frequently results in separation from their families in the chaos of flight, they are sometimes left to fend for them and are at heightened

⁴² Mooney E., "The Concept of Internal Displacement and the Case for Internationally Displaced People as a Category of Concern", *Refugee Survey Quarterly* (2005), 9, at 15.

risk of abuse. The disruption of their education means that, their opportunities to escape these risks are diminished, in both the short and long-terms. In addition to this, the displaced are often stigmatized and may also be viewed with suspicion and hostility in the areas to which they flee.

Indeed, conflicts and natural disasters kill thousands of girls and boys and render many more – through injury, disease or malnutrition. The experience of war often harms children’s physical development while the violence they witness inevitably has a psychological impact on them.

One cross-cutting issue that affects the majority of displaced populations, but is particularly harmful for younger generations, is food insecurity. With limited and often no access to land and also cut off from their normal means of income, displaced populations tend to be more dependent on food assistance than others in the local population. Displacement creates particular vulnerabilities that may not be suffered to the same extent by the non-displaced populations which increase their food insecurity. Malnutrition is a major cause for some of the highest death rates recorded in humanitarian emergencies involving the internally displaced and explains why death rates among their population have often been substantially higher than for non-displaced, this is a problem that does not necessarily improve over time.

2.7.4 The Impact of Disaster on the Community

The existing data on the health situation of internally displaced persons (though limited) suggests for instance that more than half the countries affected by internal displacement, including practically all African and most Asian countries, internally displaced persons – and in many cases the population at large – have no access to adequate health care. Lack of access to water, insufficient sanitation, poor and insufficient hygiene and sanitary conditions contribute to the outbreak and spread of various diseases, including those highly infectious that are common to the areas of high population density and HIV/AIDS. Although the latter would not automatically result from displacement, there is an agreement that in emergencies “there is the potential

for increased susceptibility to infection with HIV and increased vulnerability to the impacts of the HIV and AIDS epidemic". The World Food Programme (WFP) noted that they typically comprise the majority of beneficiaries of its assistance.⁴³

These are some aspects of internal displacement affecting the communities which indicate that we are dealing with a complex phenomenon, that can and should be looked at from an interdisciplinary perspective. There are many other perspectives, such as anthropological, psychological and policy-oriented, which usually remain neglected or only partially addressed.

2.7.5 The Impact of Disaster on the State

Over the years Nigerians have had to rely on sheer luck and providence to save them from disasters with little or no help coming from security and emergency agencies which lack the capacity and wherewithal to intervene in such difficult moments. Disasters derail socio-economic progress, and put millions of people into dire poverty or make the poor even poorer.

Basically, the occurrence of disasters in Nigeria like in most countries has been on the increase in recent times, particularly due to communal conflicts and technological malfunctions. Stakeholders regretted that natural resources which could be utilized for the benefits of human and physical development are either lost or misused while budgetary provisions and other resources that could be utilized for the benefits of human and physical development are deployed to address avoidable disaster due to communal clashes and epidemics. Yet, while the number and gravity of disasters are on the increase locally and globally, the traditional strategies for disaster management through relief measures have become ineffective because they are largely reactive instead of being proactive in reducing the risk. "Disasters that are not properly managed have

⁴³World Food Programme, "The Right to Food in Emergencies", in *The Right to Food in Theory and Practice* (Rome: United Nations Food and Agriculture Organization, 1998).

contributed significantly to loss of skilled personnel, diversion of scarce resources, and destruction of infrastructure, negative investment climate and political destabilization”. In the same vein, it was observed that the public, most especially the citizenry are not adequately informed and educated by the media and relevant information organs of government on potential areas of disasters, precautionary measures and expectations in case of disasters.

Furthermore, Nigerians are convinced that disasters are indeed a development concern and are increasingly aware of the impact of climate change. The need to systematically reduce the increased impact of disaster should at this rate, be steadily gaining recognition and commitment of governments worldwide.

It is the first time that Nigeria in recent times, talks about the financial impact of disasters on the state and the people. Another reality that has equally come to the fore is the realization that for Nigeria to effectively reduce the risk of disasters, she needs to incorporate her risk reduction policies into the national development effort.⁴⁴

It is encouraging however, to see this deeper interest in the triggers of disaster, and, the strong political commitment to strengthen disaster risk reduction as integral for protecting development gains. It is really important that we make progress because building a safer and more resilient country will be a long and challenging road. The need for good early warning systems is especially important.⁴⁵

⁴⁴ Thisday, Leaders and Company Ltd. Jan. 2, 2009. <http://www.thisdayonline.com>

⁴⁵ United Nations Office for Disaster Risk Reduction - Regional Office for Africa (UNISDR AF). June 12, 2013.

CHAPTER THREE

THE ROLE OF NEMA IN THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS (IDPs) IN NIGERIA

3.1 Introduction

This chapter discusses the existing National Laws, policies, activities and Institutions put in place by the Federal Government to manage disasters and emergency situations and to mitigate its impact on people in the affected communities (internally displaced persons) and the effect of displacement on the society in general.

3.2 Brief Background Information on Nigeria

Nigeria is a country with land area of about 936,768 sq km (356,669 sq miles). It has diverse climate and terrain which ranges from the equatorial climate of the southern lowlands, through the tropical central hills and plateau, to the arid northern plains which mark the southernmost extent of the Sahara desert.

Two major rivers run through Nigeria – Niger and Benue. The River Niger flows from the northwest through the country to its vast delta in the south, while River Benue has its source from the Cameroon Mountains and flows into the country from the east joining River Niger at Lokoja in Kogi State. Nigeria has borders with Niger to the North, Chad (across Lake Chad) to the Northeast, Cameroon to the East and Benin to the West. It is indented in the South by the Gulf of Guinea. Nigeria has rich natural resources that include oil and gas and solid minerals, with about 70% of the population engage in agriculture.¹

¹ National Emergency Management Agency, Action Aid, et al, National Policy on the Assistance and Protection on Internally Displaced Persons (Draft) Published by Action Aid, Abuja July, 2012

3.3 History of Disaster Management in Nigeria

Organized Disaster Management in Nigeria can be dated back to 1906 when the Fire Brigade was established with functions that went beyond fire fighting to the saving of lives and property, and provisions of humanitarian services during emergencies. In the 1960's and 70's, this noble and systematic approach was replaced with ad-hoc arrangements domiciled in the offices of the Head of State and the State Governors. During this period, disaster response was considered as mere security issues.

In 1972/73, Nigeria experienced a devastating drought which had negative socio-economic consequences and cost the nation the loss of many lives and property. This event amongst others, led to the establishment of National Emergency Relief Agency (NERA) in 1976, with the mandate of collecting and distributing relief materials to disaster victims. In 1997, the management of the Agency organized a National Workshop involving major stakeholders in disaster management in Nigeria to deliberate on critical factors for an effective disaster management system in Nigeria and noted the need to;

- i) Expand the functions of National Emergency Relief Agency, amend the decree setting establishing it and change the name to National Emergency Management Agency (NEMA).
- ii) Structure the new Agency by putting into consideration appropriate policies and strategies: Search and Rescue resource mobilization capabilities; information, Education and Prevention strategies; Administration, Finance and Logistic systems; Relief and Rehabilitation capabilities; Research and Planning.
- iii) Provide appropriate budgetary allocation for the operations of the Agency.

The acceptance of these recommendations by the Federal Government led to the establishment of National Emergency Management Agency in March by Act 12 of 1999 to manage disasters in all its ramifications.²

3.4 The Mandates of the National Emergency Management Agency under the National Emergency Management Agency (NEMA) Act, 1999.

The National Emergency Management Agency Act section 1, provides for the establishment of the Agency, the Act goes further to list out fifteen (15) broad functions of the Agency under Section 6 (1)³:

- a) Formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disaster at national level;
- b) Co-ordinate and promote research activities relating to disaster management at the national level;
- c) Monitor the state of preparedness of all organizations or agencies which may contribute to disaster management in Nigeria;
- d) Collate data from relevant agencies so as to enhance forecasting, planning and field operation of disaster management;
- e) Educate and inform the public on disaster prevention and control measures;
- f) Co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call;

² Department of Planning Research and Forecasting, National Emergency Management Agency, National Disaster Management Framework, Published by NEMA, Abuja, Page 3& 4, 2008.

³ Cap. N.34, Vol.10, National Emergency Management Agency, (NEMA) Laws of the Federation of Nigeria, 2004

- g) Co-ordinate the activities of all voluntary organizations engaged in emergency relief operations in any part of the Federation;
- h) Receive financial and technical aid from international organizations and non-governmental agencies;
- i) Collect emergency relief materials to victims of natural or other disasters and assist in the rehabilitation of the victims where necessary;
- j) Distribute emergency relief materials to victims of natural or other disasters and assist in rehabilitation of victims where necessary;
- k) Liaise with State Emergency Management Committees established under section 8 of this Act to assess and monitor where necessary, the distribution of relief materials to disaster victims;
- l) Process relief assistance to such countries as may be determined from time to time;
- m) Liaise with the United Nations Disaster Reduction Organization or such other international bodies for the reduction of natural and other disasters;
- n) Prepare the annual budget for disaster management in Nigeria; and
- o) Perform such other functions which in the opinion of the Agency are required for the purpose of achieving its objectives under this Act.⁴

It is the primary goal of the government to integrate disaster management in the national development process in order to facilitate quick and coordinated response to such situations as may be required so as to save as many lives as possible when disasters occur. Bearing in mind also that increased safety will promote the use and enjoyment of our environment and economic development.

⁴Cap. N.34, Vol.10, National Emergency Management Agency, Laws of the Federation of Nigeria, 2004.

Based on the functions provided under the Act, the Agency can be described primarily as a coordinating Agency. Basically in Nigeria, the legal authority for coordination and integration of disaster management is the National Emergency Management Agency. However, the response to the protection and assistance of internally displaced persons is generally addressed through disaster management mechanisms. As part of its functions under Section 6(1) (j) the Agency distributes emergency relief materials to victims of "natural or other disasters" and assists in the rehabilitation of the victims where necessary".⁵ They are also mandated to coordinate emergency relief operations, the Agency works in collaboration with other federal, state and local agencies to this end, and perform its responsibilities provided above.

Section 6(2) of the Act further provides:- for purposes of paragraph; (e), (f), (j), (k) and (m) of subsection (1) - "natural or other disasters" includes any disaster arising from any crisis, epidemic, drought, flood, earthquake, storm, roads, aircrafts, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country.

In practice therefore, the management and assistance of Internally Displaced Persons is part and parcel of disaster management because Displaced Persons are products of natural and human made disasters. All facets of disaster management cycle – Prevention, Mitigation, Preparedness, Response and Recovery are applicable as and they constitute components of Internal Displacement management. In theory however, the Act does not specifically make reference to *internally displaced persons* (IDPs) in Nigeria, rather it describes them as 'victims of disaster'. The difference is that victims of disasters are people affected by disasters that are not necessarily uprooted from their homes permanently or for a relatively long period of time and whose needs may be attended to on a short term basis. Internally displaced persons on the other

⁵ Olabisi D., Kampala Convention. One year on: progress and Prospects, Internal Displacement Monitoring Center (IDMC) Publishing Company, Addis Ababa, Ethiopia, 2013, Page 17.

hand are people who are affected by disasters that have caused them to flee from their home, villages, local government areas or even their states and would therefore require an extensive process of recovery.

The management of internal displacement consists of three phases; Protection from displacement, protection and assistance during displacement, and durable solutions. The National Emergency Management Agency Act is however silent on the last phase which is; durable solutions. Durable solutions are linked to higher struggles for peace, security, territorial control, equal treatment, access to reparations and justice. While the traumatic experience of displacement cannot be undone, internally displaced persons need to be able to resume a normal life by achieving durable solutions. As articulated under the Guiding Principles, internally displaced persons have a right to durable solutions and it is the responsibility of the national authorities to assist them. Hence for the National Emergency Management Agency to adequately address the problems of internal displacement, they must be able to manage all phases of internal displacement cycle. Durable solutions cannot practically come from one Agency alone, but it is part of the functions of the coordinating Agency to build synergy among national authorities and humanitarian actors in order to achieve this objective.

3.5 National Emergency Management Agency's Coordination Mechanism across the Country

The Federal Government is responsible for establishing and strengthening disaster institutions, partnerships, networking and mainstreaming disaster risk reduction in the development process so as to strengthen the resilience of vulnerable groups to cope with potential disasters. This implies that there must be institutions or organizations and procedure at

the various levels of government to cater for the pre-impact, impact, and post impact levels of disasters. All the organizations involved in the management of disaster need to be well coordinate in a large country like Nigeria.

Basically, there are disaster management structures at all levels. National Emergency Management Agency at the Federal level has one central office in Abuja and 6 Zonal offices, one in each of the 6 geo political zones of the country and a growing number of Operational offices in various States of the Federation.⁶ The Act also provides for State Governments to establish State Emergency Management Agencies (SEMAs)⁷. Currently 22 out of 36 states have established SEMAs as the leading Agencies for disaster management in the States. The zones serve as liaison between the central office in Abuja and operational SEMAs. The Act however, does not make it mandatory to form Local Emergency Management Agencies (LEMA). The role of the National body is to supplement the emergency response delivered at the State level. The State distributes relief supplies provided by the National Emergency Management Agency, participates in camp management and collate data, but their capacities vary widely across the country and very few states are able to respond effectively to internal displacement crisis. Unfortunately also, no bilateral coordination mechanism exists between any two neighboring states and local governments Agencies. Hence in cases where the State Emergency Management Agencies are not fully functional, they rely instead on ad hoc emergency committees set up by the Federal government and the National Agency⁸ (working through the Zonal and Operational Offices).

⁶ National Emergency Management Agency, National Emergency Management Agency Annual Report 2013, published by Yaliam press Ltd. 2013.

⁷ Section 4, National Emergency Management Agency, Cap 34, Vol. 10 Laws of the Federation of Nigeria 2004.

⁸Femi A., After Mission Report: Assessment of National Emergency Management Agency (NEMA), Published by Internal Displacement Monitoring Centre, July 5, 2013, Page 7.

The highest decision making body on disaster management is the Governing Council of the National Emergency Management Agency which is headed by the Vice President, while State Emergency Management Agency's Governing Council are headed by the Deputy Governors. The governing councils at both levels are chaired by the second in command in political leadership who in some instances, have limited powers and authority in allocating financial resources and taking immediate decisions in emergency situations. There is also the problem of weak horizontal and vertical linkages between the National, States and Local Agencies.⁹

3.6 Existing Policies and Plans Complimenting the National Emergency Management Agency Act.

In line with the Agency's expanded mandate of being proactive, it has put in place various plans and policies to prepare for and respond effectively to different forms of disasters when they occur, this process is what forms the foundation towards mitigating, or at best preventing internal displacement. It is the escalation of these disasters (if not properly managed) that results in the displacement of people from their original place of abode to seek succor and safety in other states or places. The following frameworks are currently in place:

i. The National Disaster Management Framework¹⁰ is the framework which reflects the plans, programmes and procedures upon which disaster management can be developed or sustained. It is a generic plan covering all hazards. It is structured into seven thematic areas, namely: Institutional Capacity, Co-ordination, Disaster Risk Assessment, Disaster Risk Reduction, Disaster Prevention, Preparedness/Mitigation, Disaster Rehabilitation; and Facilitators.

⁹ ibid

¹⁰ www.preventionweb.net/english/professional/policy, Developed by Department planning Research and Forecasting, of the National Emergency Management Agency, Published by NEMA Abuja, March 29, 2008

National Disaster Management Framework,¹¹ outlined numerous ways on how to tackle disasters in the country which include the disaster preparedness, mitigation, response and recovery. In this framework the Government set out the objectives of preparedness/ mitigation to include the following:

- i. Reducing or eliminating the potential impact or damage that could be caused by hazards on health, lives, property, infrastructure, environment and services
- ii. Mobilizing relevant stakeholders for effective disaster preparedness, prevention and mitigation activities.
- iii. Implementing integrated and appropriate measures in harnessing resources towards disaster prevention, preparedness and mitigation.
- iv. Developing and sustaining national, state, local and community based early warning systems.

Though the Framework is been used as a guideline by the Agency, it has not been formally endorsed by the Federal Executive Council (FEC).

ii. Search and Rescue (SAR) and Epidemic Evacuation Plan (SAREEP)¹² covers action plans in nine disaster scenarios: Epidemic, Food, Fire, Collapsed building, Road traffic accident, Rail accident, Maritime related disaster, Aviation disaster; and Oil spill disaster. **SAREEP** specifies the alerting system; lines of authority, organizational roles and responsibilities at strategic, tactical and operational levels at the scene of a disaster, for effective coordination. For this Plan to be effective, Stakeholders must understand and carefully apply its provisions.

¹¹ibid at note 7.

¹² Search and Rescue Department of the National Emergency Management Agency, Search and Rescue (SAR) and Epidemic Evacuation Plan, Published by National Emergency Management Agency, Abuja, 2011.

iii. The National Contingency Plan for Nigeria¹³ is another multi-hazard emergency management plan. It focuses on the hazards with the highest probability of occurrence and severity such as flood, communal conflicts, drought and epidemics. The Contingency Plan addresses the readiness of disaster management stakeholders in the country and defines the modus-operandi for engaging international assistance if and/or when required. It is however limited to victims of natural disasters and a population of only 10,000 was used as a benchmark for planning assumptions. Though the plan is detailed, it is not pragmatic, during the floods of 2012; it could not be implemented as the caseload went up as high as about 1.5million people affected, rendering the plan unworkable in the circumstance.¹⁴

iv. Lake Nyos Disaster Response Plan¹⁵

This Manual is an addition to the Agency's Disaster Risk Reduction efforts, it is aimed at provide guidelines on how to respond to emergencies, including flood, prior to, during and after the disasters. The plan was drafted following the flood tragedy of 2012 which caused the death and displacement of hundreds of people caused by the overflowing of the Dam into some states in Nigeria. The Lake Nyos Dam in Western Cameroon is very close to Nigeria. The plan was drawn following the recollection of the prediction that the Dam is likely to collapse in less than ten years¹⁶. The report also stated that the collapse might be caused by gradual erosion by rain, wind and lake waters or as a result of violent volcanic eruption. The eventual failure of the Dam would result in the discharge of about 55million cubic meters of water which would result in

¹³ National Emergency Management Agency, National Contingency Plan For Nigeria, Published by National Emergency Management Agency, Abuja. March 2011. It provides the requirements for Humanitarian response for the initial ten days during an emergency. The plan was generic in nature and prepared with UNICEF support.

¹⁴ Retrieved from <http://www.internal-displacement.org/publications/global-estimates-2012>. Internal Displacement Monitoring Center collected the data used for their annual report on People Displaced by Disasters.

¹⁵ National Emergency Management Agency, Lake Nyos Disaster Response Plan, published by National Emergency Management Agency, Abuja, 2011.

¹⁶United Nations Development Program, Predicted by the United Nations Development Program report, 2005

very serious flooding. The Response Manual was produced to prepare for the catastrophe that could arise if the Dam collapses. There is need for various Ministries to also develop their Standard Operating Procedures in this regard. The Manual must be constantly developed to be in tune with current realities so that the nation is not taken unawares again and it does not overwhelm the State or Government. The attitude of medicine after death must change.

3.7 Implementation of Disaster Management Cycle: Mitigation, Preparedness, Response and Recovery in the Assistance of Internally Displaced Persons

The new paradigm shift in disaster risk management by the National Emergency Management Agency from mere distribution of relief materials to disaster victims, to an Agency with a more pro-active mechanism for handling and managing disaster in all ramifications, offers a good opportunity to formulate policies pertaining to social development, equity, economic growth, environmental quality and sustainable land use.

Emergency management requires an integrated approach that pays attention to all phases and types of emergencies whether natural or man-made. The process of emergency management involves four phases: Mitigation, preparedness, response, and recovery. Where efforts at mitigating do not succeed, there should be a rapid response and a recovery mechanism in place to cope with the challenges posed by the occurrence of disaster. The strategies are as follows;

1. Disaster Risk Reduction (DRR)

This is the integration of holistic disaster reduction strategies into development policies to solve a broad range of social, economic and development problem. Disaster risk mainstreaming requires the participation of all sectors of the economy such as environment, industry, transport, construction, agriculture, education and health. Developmental failure leads to higher incidence of poverty and diseases. Food and livelihood problems are compounded by political crisis,

terrorism, communal crisis and exposure to hazards.¹⁷ This is a relatively new area that is been explored by the Agency. It is an effective strategy that has worked for the international communities and should bring about great improvement when fully implemented by the agency.

2. Disaster Preparedness

Preparedness is a continuous cycle of planning, managing, organizing, training, equipping, exercising, creating, evaluating, monitoring and improving activities to ensure effective coordination and enhancement of capabilities of concerned organizations to prevent, protect against the effects of natural disasters, acts of terrorism, and other man-made disasters.¹⁸ In the preparedness phase, emergency managers develop plans of action carefully to manage and counter their risks and take action to build the necessary capabilities needed to implement such plans.¹⁹

Another aspect of preparedness is casualty prediction, the study of how many deaths or injuries to expect for a given kind of event. This gives planners an idea of what resources need to be in place to respond to a particular kind of event. Emergency Managers in the planning phase are usually flexible, and all encompassing-carefully recognizing the risks and exposures of their respective regions and employing unconventional, and atypical means of support. Depending on the region – municipal, or private sector, emergency services can rapidly be depleted and heavily taxed. Non-governmental organizations that offer desired resources, i.e., transportation of displaced home-owners to be conducted by local school district buses, evacuation of flood

¹⁷ Olusegun E., Disaster Risk Reduction Seminar paper, a paper delivered at, National Emergency Management Agency, Abuja. 2009.

¹⁸ ibid

¹⁹http://wikipedia.org/wiki/Emergency_management#cite_note-10. 09/03/2014

victims to be performed by mutual aid agreements between fire departments and rescue squads, should be identified early in planning stages, and practiced with regularity.²⁰

Disaster preparedness shall involve measures taken in advance to ensure effective response to the impact of disasters; timely and effective early warning; and the evacuation of people and property from threatened locations. Disaster preparedness shall enable National Emergency Management Agency, State Emergency Management Agency, Local Emergency Management Agency (NSL) and other relevant stakeholders to: Develop emergency plans ; Build capacity at all levels and sectors; Educate communities at risk; Provide regular monitoring and evaluation; Ensure availability of resources.

The Disaster preparedness strategy outlined in the framework included the following:

- i. Planning for threats and emergencies, such as heavy rainfall; flooding; strong winds; bush; market; formal or informal settlements fires; communicable disease outbreak; conflicts among others
- ii. Forecasting and planning for potential threats.
- iii. Establishing clear information disseminating processes to alert vulnerable communities of impending threats.
- iv. Specifying evacuation procedures, routes and sites in advance of expected emergencies.
- v. Disseminating clear communication procedure and protocol in advance for different emergency situations.
- vi. Updating contingency plans for specific threats.

²⁰ Federal Emergency Management Agency. Build-a-kit. Retrieved on January 18, 2012 from <http://www.ready.gov/build-a-kit>

3. Disaster Mitigation

Mitigation efforts are attempts to prevent hazards from developing into disasters altogether or to reduce the effects of disasters. Mitigation is the effort to reduce loss of life and property by lessening the impact of disasters. This is achieved through risk analysis, which results in information that provides a foundation for mitigation activities that reduce risks. The mitigation phase differs from the other phases in that it focuses on long-term measures for reducing or eliminating risk. The implementation of mitigation strategies is a part of the recovery process if applied after a disaster occurs.

In disaster mitigation, the framework sorts to refer to measures for minimizing the destructive and disruptive effects of hazards and reducing its magnitude. They should be structural and non-structural measures that limit the adverse impact of natural and human-induced disasters on vulnerable areas, communities and households. These efforts should target people who are at risk, by reducing their vulnerability to specific hazards and threats.

4. Disaster Response

The response phase includes the mobilization of the necessary emergency services and first responders in the disaster area. This is likely to include a first wave of core emergency services, such as firefighters, police and ambulance crews. A well rehearsed emergency plan developed as part of the preparedness phase enables efficient coordination of rescue. Where required, search and rescue efforts commence at an early stage. Organizational response to any significant disaster-natural or terrorist-borne-is based on existing emergency management organizational systems and processes.

Practically in Nigeria, disaster response should be the immediate actions that are taken after the occurrence of a disaster. It should demand persistent and consistent liaison and coordination among a larger number of government agencies, response organizations as well as community support resources. It should be a multi-sectoral, multi-disciplinary and multi-resource responsibility, given the diverse nature of disasters.

5. Declaration of a State of Disaster

In Nigeria, the declaration of State of Emergency based on disasters shall depend on the magnitude of the disaster. The National Emergency Management Agency at the Federal, State Emergency Management Agency and Local Authorities shall make recommendations to the appropriate organ of government on the declaration of a state of a disaster at the national, state and local levels respectively. The National Framework on Disaster Management outlined that the Agency and the relevant stakeholders shall conduct disaster response planning, monitoring, evaluation and documentation of experiences in the affected area. Response co-ordination shall be in the purview of all the levels of government.

Section 305 (3)(e) of the Nigerian Constitution²¹ is essentially about disasters with the potential to require the declaration of a State of emergency. It provides that the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation shall be a ground for declaration of the State of emergency by the President, subject to the provisions of the Constitution.

The National Emergency Management Agency is charged with the responsibility for managing these kinds of disaster. Over the years, the Agency has developed a mechanism for

²¹ Section 305(3) (e), Constitution of the Federal Republic of Nigeria 1999

assessing the magnitude of damage and impact of disaster through the Relief and Rehabilitation Department to enable it mobilize resources effectively. These reports can become the material that can be used to advise the President or the propriety or otherwise of declaring the State of emergency on this section of the Constitution.

These reports which are based on collaborative efforts of the Local Emergency Management Committees, State Emergency Management Agencies, and inputs from other Sectoral stakeholders are very comprehensive and therefore can become the authentic and reliable guide in assessing the state of disaster in a section of the country or across the country to warrant such declaration of emergency. This can guarantee that the declaration of emergency based on disasters is a well thought out process considering its wider implications often resulting in suspension of rights of citizens, amongst others.

6. Disaster Recovery Action Plan

The aim of the recovery phase is to restore the affected area to its previous state. It differs from the response phase in its focus; recovery efforts are concerned with issues and decisions that must be made after immediate needs are addressed. Recovery efforts are primarily concerned with actions that involve rebuilding destroyed property, re-employment, and the repair of other essential infrastructure.

In the Recovery stage, disaster recovery shall include programmes, activities and interventions conducted to help disaster survivors and affected communities to return to normal life and minimize the risk of future disaster. It shall cover rehabilitation of survivors, reintegration of displaced persons, vulnerable groups, and reconstruction of infrastructure and remediation of the

environment affected by the disaster. This is also known as durable solutions in cases of internal displacement.

In the United States, for instance, the National Response Plan dictates how the resources provided by the Homeland Security Act of 2002²² will be used in recovery efforts. It is the Federal government that often provides the most technical and financial assistance for recovery efforts in the United States.²³

Depending on the complexity of the disaster, recovery action shall have short and long term stages.

Short Term Recovery: This shall be the immediate actions that include:

- i. Providing essential public health and safety services
- ii. Restoring interrupted utilities
- iii. Re- establishing transport route
- iv. Repairing damaged houses for those displaced by the incident
- v. Providing guidance and counseling to traumatize internally displaced persons / vulnerable groups.

Long Term Recovery

- i. Redevelopment of damaged areas with basic infrastructural facilities
- ii. Relocation of affected communities to new area
- iii. Reconstruction and/or construction activities and rehabilitation programme with consideration of vulnerable groups

²² 107 - 296, Public Law, 116 Stat. 2135. Department of Homeland Security and other purposes (HAS) 2002

²³ http://en.wikipedia.org/wiki/Emergency_management*cite_note-had-dow-1, November 26, 2014

- iv. Clean-up and remediation of impacted sites.

After a careful and critical look at the framework formulated by the National Emergency Management Agency, one cannot help but wonder when the agency will be able to fully implement the strategies in the protection and assistance of Internally Displaced Persons. It appears there is still a lot of problems which the agency faces such as; absence of joint planning mechanisms with other stakeholders which triggers unnecessary competition from stakeholders rather than cooperation, Insufficient man power and sophisticated equipment such as bomb dictators, and lack of political will of the government to adequately fund and promote the disaster management framework to its absolute realization, to mention but a few.

3.8 Roles of Stakeholders in the Protection and Assistance of Internally Displaced Persons

1) National Commission for Refugees (NCFR)²⁴

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

²⁴ Cap N21, Vol.10, Laws of the Federation, 2004.

reports indicate that the Commission is not as effective as it should be due to budgetary restraints and other factors needed to provide a more effective response.²⁵

2) Nigerian Red Cross Society (NRCS)²⁶

The complex nature of management of internally displaced persons, numbers and resource constraints often result in non government agencies playing a prominent role. Humanitarian organizations such as the Nigeria Red Cross are often critical in providing emergency support at the local level as a prelude to the intervention by local government structures. Part of their mandate is to restore family links in cases of dispersed family members as a result of the attacks by insurgencies, they have a platform which brings and keeps families together in the government camps during the crises period. They are also active in camp management in collaboration with other stakeholders. The international Committee of Red Cross as the international body has the mandate of ensuring humanitarian protection and assistance of victims of war and other situations. They also monitor respect for international humanitarian law and to protect civilians in armed conflict.

3) National Human Rights Commission (NHRC)²⁷

The NHRC is mandated to deal with matters relating to the protection of human rights as guaranteed by the constitution of the Federal Republic of Nigeria.²⁸ They are also required to protect the rights of vulnerable groups (such as ethnic minorities, women or children). The commission is mandated to monitor and report on respect for human rights in the country, investigate allegations of human rights violations, and to advise their government on the

²⁵Internal Displacement Monitoring Center (IDMC) yearly report, December 3, 2010. Page 97

²⁶ Cap. N130, Vol.12, Laws of the Federation, 2004

²⁷ Cap. N46, Vol.11, Laws of the Federation, 2004

²⁸ Supra

development of laws and policies. The Commission has a crucial role to play in promoting and protecting the rights of displaced persons. They are mandated to make informed government policies to respond to existing situations and challenges of internal displacement as well as arbitrary displacement due to projects and other causes.

As with any abuse of human rights, Human Rights Organizations (HROs) can seek to end the violation and to prevent its repetition. Monitoring, investigation, and reporting are traditional human rights techniques through regular participation a good understanding of the situation of the displaced persons most especially those living in the camp. The Human Rights Organization is expected to make significant contribution to the enforcement of human right (in line with its mandates). The United Nations Principles relating to the status of National Human Rights Institutions (NHRIs) known as the Paris Principles, set out basic guidelines for establishing NHRIs, including requirements to ensure their autonomy from the government for it to be more effective.

4) Civil Society Groups (CSO)

It is said that non-government agencies end up providing emergency response support to government agencies. Basically the scope of activities for civil groups for displaced persons is very broad. They include the following;

i) Accurate information: a pre-condition for protection and assistance- Efforts to provide adequate protection and assistance to internally displaced persons must be based on accurate information about their number (reflecting the number of children, women and men in different age groups) in all locations such as camps, cities, rural settings. It is therefore important to ensure that all displaced persons are identified from the start.²⁹ There are

²⁹Article 13 (1) African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009.

circumstances where not all displaced persons will want to come forward to be registered as such, especially where they have been displaced by the actions of their own government or where they may risk reprisal from non-state armed groups for registering as displaced persons. Civil organizations have a role to play in ensuring that any registration system takes account of these considerations. Internally displaced persons are entitled to protection and assistance on the same basis as other citizens and residents of their country. In situations where civil society organizations have information that people have been displaced, but where there is insufficient information to guide protection and assistance programmes, the civil organizations can either encourage the responsible authorities to conduct the required needs assessment or they can do it themselves.

ii) Prevention of displacement and protection against arbitrary displacement- There is an important role for civil society in monitoring situations of forcible displacement in the state, in order to ensure that it does not amount to arbitrary displacement by states. The civil organizations could assist the victims to obtain a legal remedy, including compensation. Also in situations of armed conflict. They also have a role in making non-state armed groups aware of their obligation to respect International Humanitarian Law including the prohibition on the prohibition on the displacement of civilians, unless such displacement is necessitated by the security of civilians or imperative military reasons.

iii) Durable solutions; civil organizations have an important role to help provide durable solutions. They can specifically target their activities to contribute to durable solutions for internally displaced persons and to ensure that their rights relating to durable solutions continue to be protected.

Furthermore, CSOs can advocate for legal or policy frameworks to address gaps related to durable solutions. They can assist displaced persons with skills and the creation of livelihood opportunities, to enable them to start rebuilding their lives. They can also contribute to peace-building activities aimed at ensuring good relations between the displaced persons and the local communities where they intend to settle permanently, be it in their places of origin, in their places of displacement, or elsewhere in the country.

6) International Operational Agencies in Nigeria

The World Conference on Disaster Reduction³⁰ helped to develop new strategies to reduce the effects of disasters. The international community evaluate its achievements every decade and works to secure agreement among agencies of the United Nations system on the division of responsibilities such as the establishment of coordination mechanisms. They work out need-assessment missions in preparation for consolidated appeals and resource mobilization. The core functions of the Emergency Relief Coordinator are:

- i. Policy development and coordination, ensuring that all humanitarian issues, including those which fall between gaps in existing mandates of agencies-such as protection and assistance for internally displaced persons are addressed.
- ii. Advocacy of humanitarian issues with political organs, notably the Security Council; and
- iii. Coordination of humanitarian emergency response, by ensuring that an appropriate response mechanism is established on the ground. This is done through deliberations of the Inter-Agency Standing Committee (IASC), which is chaired by the Emergency Relief Coordinator.

³⁰ gopher://gopher.undp.org/1/unconfs/disaster, Yokohoma, Japan,1994

There are United Nations entities that have primary roles in the delivery of relief assistance. Some of these entities are as follows;

i) **United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA)**³¹

This is the first coordinated humanitarian relief operations in Europe following the devastation and massive displacement of people in the Second World War. The United Nations has been relied upon by the international community to respond to natural and man-made disasters that are beyond the capacity of national authorities alone. Today, the Organization is a major provider of emergency relief and longer-term assistance, including food, shelter, medical supplies and logistical support, primarily through its operational agencies, and a catalyst for action by the Nigerian Government through the National Emergency Management Agency. During the 1990s, for instance civil conflicts had become a central cause of emergency situations. By 1997, an estimated 50 million people had been forced to flee their homes-1 out of every 120 people on earth. In 1997 alone, the United Nations launched 10 new consolidated inter-agency appeals which raised more than \$800 million to assist 15 million people in some 15 countries. ³²

ii) **The United Nations Development Programme (UNDP)**³³ is the agency responsible for operational activities for natural disaster mitigation, prevention and preparedness. When emergencies and natural disasters occur, the Resident Representatives coordinate relief and rehabilitation efforts at the national level. On many occasions, the Nigerian Government calls on the organization to help design rehabilitation programmes and to direct donor aid.

³¹ www.unocha.org. It is part of the United nation Secretariat responsible for supporting humanitarian response and operations, globally. 02/07/2014

³² *ibid*

³³ www.undp.org, 12/07/2014

They help to ensure that recovery activities are integrated with relief operations. Humanitarian aid and development support are thus linked, bringing the earliest possible resumption of sustainable development to a troubled area. They have rehabilitation projects aimed at alleviating poverty, often the root cause of civil strife. To ensure that the resources provided will have the greatest possible impact, each project is carried out in consultation with local and national government officials. This community-based approach has helped provide urgent but lasting relief for hundreds of thousands of victims of war or civil upheaval. Today, many conflict-scarred communities have improved their living standards; thanks to training programmes, credit schemes and infrastructure projects.

iii) **The World Food Programme (WFP)**³⁴ provides relief to millions of people who are the victims of disasters. It is responsible for mobilizing food and funds for transport for all large-scale refugee-feeding operations managed by the Office of the United Nations High Commissioner for Refugees. World Food Programme emergency response teams supplies to millions of the victims of war, ethnic conflict and political strife or flood drought and crop failure. Such crises, especially man-made disasters, consume most of their resources. A decade ago, two out of three tons of the food aid provided by World Food Programme was used to help people become self-reliant. Today, the picture is reversed, about 70 per cent of their resources going to victims of conflict. In 1997, WFP assisted 14.9 million internally displaced, 4.2 million refugees and 10 million victims of earthquakes, floods and droughts. World Food Programme is currently in partnership with the National Emergency Management Agency to bring home these benefits.³⁵

³⁴www.wfp.org 07/11/2014

³⁵Op sit

iv) **Office of the United Nations High Commissioner for Refugees**³⁶ has provided international protection and assistance to over 20 million people annually -- refugees as well as a growing number of displaced people.³⁷ The Office has of recent partnered with the National Emergency Management Agency in assessing and evaluating the challenges of internally displaced persons in Nigeria, with a view to providing immediate assistance to victims. They could extend the humanitarian action by the United Nations systems, to involve long-term rehabilitation and development for internally displaced persons where necessary. A central component of United Nations policy is to ensure that emergency relief contributes to recovery and longer-term development in the affected area. Economic and social development remains the best protection against disaster -- whether natural or, as is increasingly the case, man-made.

v) Within the United Nations systems, the **World Health Organization (WHO)**³⁸ Division of **Emergency and Humanitarian Action (EHA)** coordinates the international response to emergencies in the area of health. They provide expert advice on epidemiological surveillance, control of communicable diseases, public-health information and health-emergency training. Emergency and Humanitarian Action's emergency relief activities include the provision of emergency drugs and supplies, fielding of emergency-assessment missions and technical support. In emergency preparedness, their main objective is to strengthen the capacity of Member States to reduce the adverse health consequences of emergencies. Nigeria been a member state is a beneficiary of this system.³⁹

³⁶ www.unhcr.org/12/07/2017

³⁷ <http://www.wfp.org/17/07/2014>

³⁸ <http://www.who.org/02/07/2014>

³⁹ *ibid*

CHAPTER FOUR

OVERVIEW OF THE INTERNATIONAL STANDARDS ON THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS (IDPs)

4.1 Introduction

Since the end of the cold war, the United Nations has facilitated domestic responses to internal displacement through the humanitarian assistance provided by its specialized agencies, and also through the identification of the rules of international law that govern all states' responses to displacement.¹ The result was the Guiding Principles on Internal Displacement. These principles reflect and are consistent with International Human Rights law and International Humanitarian Law and other bodies of law. It goes without saying that the observance of human rights is a tribute to the rule of law.² Also, according to Denning L.J, 'International Law is known as the sum of rules or usage which civilized States have agreed shall be binding upon them in their dealings with one another'.³

4.2 Implementation of International Legal Standards in the protection and assistance of displaced persons in Nigeria

This includes the following; -

- a) The United Nations Guiding Principles on Internal Displacement;⁴

¹ These efforts have been strengthened since 2006, with the gradual implementation of a reform of the humanitarian system composed of three components (1) creation of a Central Emergency Relief Fund (CERF), (2) improved support for UN resident and humanitarian coordinators, and (3) introduction of the cluster approach by designing clusters with an agency responsible for leading the cluster at the international as well as the country levels and for acting as a provider of last resort if no other organizations are available in a given situation to undertake necessary cluster activities. The cluster and designated agencies are; nutrition (UNICEF), water and sanitation (UNICEF), health (WHO), shelter in conflict for IDPs, camp coordination in conflict for IDPs (UNHCR), Logistics(WFP), (OCHA/UNICEF/WFP), early recovery.

² Ndukwem Chiziri Nice v. A-G Federation & Another (2007) CHR 218-235

³ Trendtex Trading Corp. Central Bank of Nigeria (1977) 1 ALL E.R. 881 at page 901-2

⁴ The Guiding Principles on Internal Displacement. 1998 www.brookings.edu/project/idp/gp_page.aspx

- b) The African Union Convention for the Protection and Assistance of IDPs in Africa;⁵
- c) The African Charter on Human and Peoples' Rights;⁶
- d) The Geneva Conventions, 1949 and their Additional Protocols 1-2 of 1977;⁷

a) The Guiding Principles on the protection of Internally Displaced Persons

The Guiding Principles⁸ on Internal Displacement are the first International standards specifically tailored to the needs of internally displaced persons. Based on International Humanitarian Law (IHL), International Human Rights Law (IHRL) and Refugee Law, by analogy, the Guiding Principles set forth the rights of internally displaced persons and explain the obligations of national authorities and non-state actors towards the displaced persons. It covers all phases of internal displacement: the pre-displacement phase; during displacement; and during return or resettlement and reintegration.

The Guiding Principles begin with an Introduction explaining their scope and purpose.

Principle 1 sets out general principles relating to the rights of internally displaced persons and responsibilities of national authorities. Importantly, Principle 3(1) explains that national authorities have the primary duty and responsibility to provide protection and assistance to displaced persons within their jurisdiction. That primary responsibility for protecting and assisting internally displaced persons rests with their national authorities is a theme that underpins and is underscored throughout the Guiding Principles on Internal Displacement, which set forth their rights and the obligations of government towards them. Developed at the requests of governments, as expressed in resolutions of the United Nations General Assembly and Commission on Human Rights, 30 principles provide a normative framework for understanding

⁵ The African Union Convention for Protection and Assistance of Internally Displaced Persons in Africa, 2009.

⁶ The African Charter on Human and Peoples rights, Cap A.9. Laws of the Federation, 2004.

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

⁸ *ibid*

what national responsibility should entail. Indeed, the Principles have been recognized by government worldwide as an important tool and standard for addressing situations of Internal Displacement, and which states have been encouraged to widely disseminate and use.

In addition, Principle (1) stipulates that internally displaced persons are entitled to enjoy in full equality, the same rights and freedom as other persons in their country and shall not be discriminated against because of their displacement. At the same time, the Guiding Principles acknowledges that certain groups among the displaced population- especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, persons with disabilities and elderly persons- may require specific attention (Principle 4(2)).

The third and most extensive section of the Guiding Principles identifies the full range of civil, political, economic, social and cultural rights that all persons including internally displaced persons should enjoy. This includes for instance, 'the right to be protected against the use of violence, torture and cruel, inhuman or degrading treatment...'

The Guiding Principles therefore address situations of displacements caused by armed conflict, violence, disasters and developments projects. They define who is an internally displaced person and highlight how internal displacement often results from or leads to violations of existing International Humanitarian Law (IHL) and Human Rights Law (HRL). They reflect states' responsibilities to respect and ensure respect for rights of internally displaced persons. These include preventing displacement and minimizing its effects, protecting and assisting them during the phase of displacement and creating conditions for their safe return or settlement elsewhere in the country as well as their reintegration into society. The purpose of Guiding Principles is not to create new legal norms, but rather, to give guidance on how to apply

Universal Rights and guarantees to the specific situation of displaced persons, and to help states to fulfill their obligations.

The Principles basically, serve as a guide in designing an effective national response and developing the steps needed to address problems of internal displacement in a way that will fit national conditions. Government is encouraged to consider measures to: prevent or mitigate displacement.; raise national awareness of the problem; collect data on the numbers and conditions of displaced persons; support training on internal displacement and the Guiding Principles; create a national legal framework for upholding their rights; develop a national policy on internal displacement; designate an institutional focal point on Internally Displaced Persons; encourage national human rights institutions to integrate internal displacement into their work; allocate adequate resources to the problem; ensure their participation of in decision making; and support lasting solutions for the displaced. In addition, cooperation with the international community, when national capacity is insufficient to address the needs of the displaced, these are key elements in national policy.

The Principles have in addition served as an important framework for monitoring conditions in different countries. Indeed United Nations Resolutions have encouraged governments to develop national laws and policies for the protection and assistance of their internally displaced populations taking into account the "Guiding Principles". Overall, the Guiding Principles provide a normative framework that should be the basis for national as well as international responses to internal displacement. The fourth section deals with the issue of humanitarian assistance and specifies that when governmental authorities are unable or unwilling to provide assistance to the displaced, international organizations have the right to offer their services, and that consent for them to do so shall not be arbitrarily withheld.

The final section of the Guiding Principles emphasizes the importance of providing long term options, namely voluntary return in safety and dignity of resettlement in another part of the country. It also emphasizes the importance of durable solutions, including the need to provide reintegration assistance, whether they return or resettle, and to ensure they have equal access to public services. This section also explains the duty of national authorities to assist in recovery of property and possessions that were lost upon displacement, or when this is not possible, to assist them in obtaining compensation or another form of just reparation.

The United Nations Commission on Human Rights and the General Assembly requested the former Representative of the Secretary-General on Internally Displaced Persons, Francis M. Deng, to develop a normative framework on internal displacement. In 1998, he presented the Guiding Principles to the United Nations. Although not a binding document like a treaty, they have gained considerable international standing and authority. Both Commission on Human Rights and the General Assembly in resolutions, adopted by consensus, have recognized the Guiding Principles as “*an important tool*” and ‘*standard*’ for addressing situations of internal displacement, encouraged their wide dissemination and welcomed their increasing use by states, United Nations agencies and regional and non-governmental organization.⁹

The United Nations Secretary-General has also called on the Security Council to encourage states to observe the Guiding Principles in situations of mass displacement, and in his 2005 report on United Nations reform, he urged member states to accept the Guiding Principle as ‘the basic international norm for protection of internally displaced persons.’¹⁰ Guiding Principles

⁹ UN Commission on Human Rights Resolution 2004/55, Geneva Assembly Resolution 2004/58 and commission on Human Rights Resolution 2005/46

¹⁰ UN Secretary General Kofi Annan for ‘In Larger Freedom – Towards Development, Security and Human Right for All’ Report of the Secretary-General of the United Nations by Heads of State and Government in September 2005 UN doc A/59/2005 (2005) paragraph 210.

are being used at the national level in countries in countries affected by internal displacement. Noteworthy is the development of national laws and policies based on these principles.

In Africa, Angola led the way as the first country to incorporate Guiding Principles into its domestic legislation, adopted in 2001 in anticipation of the end of the conflict in the country and the possibility of durable solutions for the displaced. The norms set forth minimum standards for the protection and assistance of internally displaced persons during their resettlement. For instance they affirm that all returns must be voluntary and occur in conditions of safety. In West Africa, In Liberia, the President announced the endorsement of the Guiding Principles, which have been referenced in domestic law. Several other governments including Burundi, Colombia, Georgia and Uganda, have also expressly referenced the Guiding Principles in their national laws and policies.¹¹ In Nigeria however, the principles are been used as a guide in drafting the national framework policy on the protection and assistance of internally displaced persons.

The normative framework found in the Guiding Principles not only sets out the norms to be observed, but also provides a framework for dialogue on displacement issues, thereby lending support to the development of effective strategies for preventing and effectively responding to internal displacement in a number of countries including West Africa. International Agencies have organized training workshops bringing together representatives of national and local government, civil society, displaced communities and international Agencies have raised awareness and understanding of the Guiding Principles and stimulated the development of strategies promoting their application. As a sign of their broad use, the guiding principles have

¹¹ Kalin W., Opening speech at the first Regional Conference on IDPs in West Africa, hosted by the Federal Government of Nigeria and co-sponsored by ECOWAS, the Brookings-Bern Project on Internal Displacement, the Representative of the UN Secretary General on human rights of IDPs and the UN High Commissioner for refugees (UNHCR), Abuja Nigeria, 1. 26- 28 April, 2006

been translated from English into over 40 languages, including French, Portuguese, Hausa, Ibo, and Yoruba.¹²

b) The African Union Convention (The Kampala Convention) on Internally Displaced Persons¹³

The African Union Convention for the Protection and Assistance of internally displaced persons in Africa is the first ever binding legal instrument dealing with internal displacement. It is universally appraised and recognized as an essential step in filling the existing legal gaps with respect to the protection and assistance of internally displaced persons. It covers all causes and stages of internal displacement.¹⁴

Historically, many African states have experienced forced population displacement, and many continue to do so. Over the past two decades the number of refugees in Africa has fallen, but the number of internally displaced persons has not; today most Africa's forcibly displaced people are internally displaced, states have therefore increasingly faced the need to respond to internal displacement of civilian populations. In 1969, the Organization of African Unity (OAU) as it then was took the lead in addressing forced displacement at the continental level by adopting the Convention Governing the Specific Aspects of Refugee Problems in Africa. The OAU was the first regional organization to adopt a binding instrument to specifically address the experience of refugees.

¹² Adopted by the Special Summit of the African Union, held in Kampala, Uganda. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (also known as Kampala Convention) is a Resolution on the Mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa. October 23, 2009. www.africa-union.org

¹³ *ibid*

¹⁴ Allehone M.A., The African Union Convention on Internal Displaced Persons: Its Codification Background, Scope, and Enforcement Challenges. University of Bern, Refugee Survey Quarterly, (2010) Vol. 29, No 3 Page 28

At a special summit in Kampala on 22-23 October, 2009, Africa Union (AU), successor to the Organization for African Union, again set a precedent in International Law by adopting the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention). Building on the Guiding Principles and the experiences, laws and policies of African states, the Kampala Convention provides a common legal framework for developing comprehensive responses to internal displacement. It represents an important milestone for guaranteeing physical security and integrity, as well as enjoyment of basic rights such as access to food, adequate housing, health care and education for internally displaced persons and their right to freely choose where to rebuild their lives – whether back home or in other parts of their country.

The Kampala Convention is the first regional convention to comprehensively address internal displacement, including prevention, response and durable solutions. It explicitly protects the rights of people displaced by natural disasters, armed conflicts, generalized violence, human rights violations and development projects. It reiterates existing International and African Union law, including human rights and international humanitarian law standards. By reinforcing these norms and bringing them together into one instrument, it offers a unique legal framework to address the specific problems of internal displacement on the African continent, and provides a clearer and stronger legal basis for the protection and assistance of internally displaced persons..

Under the Kampala Convention "Internally Displaced Persons" means persons or groups of persons who have been forced or obliged to flee or to 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 human made disasters, and who have not crossed an internationally recognized State border"

The definition internally displaced persons in the Kampala Convention is consistent with the Guiding Principles and provides for equal treatment of all internally displaced persons, whether displaced by armed conflict, generalized violence, human rights violations, disasters or development projects. The definition is not restricted to citizens but includes non-nationals who are displaced within their country of habitual residence. While every person who is displaced, irrespective of nationality, is entitled to basic protection and assistance under the Kampala Convention, some rights such as voting rights may be restricted to citizens.¹⁵

Under the Responsibility of States "State parties shall [...] respect and ensure respect and protection of human rights of internally displaced persons, including humane treatment, non-discrimination, equality and protection of law".¹⁶

The Kampala Convention sets out the responsibilities of states regarding internal displacement, the rights of Internally Displaced Persons and the rights and duties of other relevant stakeholders such as armed groups, Civil Society Organizations, International Organizations and African Union. In line with international humanitarian law (the laws of war) the Kampala Convention recognizes that, in situations of armed conflict, non-state armed groups have obligations to respect the rights of internally displaced persons.

In Prevention and Protection against Displacement "States Parties shall devise early warning systems, in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster

¹⁵ Article 1(k) Kampala Convention Op sit.

¹⁶ Article 3(d) Ibid

preparedness and management measures and, where necessary, provide immediate protection and assistance to internally displaced persons".¹⁷

One of the aims of the Kampala Convention is to promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement. To this end, it requires a state to prevent displacement as a result of conflict and human rights violations, by respecting their obligations under international law.

The Kampala Convention provides that states shall bear the primary duty and responsibility for providing protection and assistance, without discrimination of any kind. Accordingly, the convention imposes obligations on states to assess the needs and vulnerabilities of displaced persons and host communities (or to facilitate such assessments) and to provide adequate humanitarian assistance in all phases of displacement.¹⁸

The Kampala Convention highlights the specific needs of separated and unaccompanied children, female heads of household, expectant mothers, the elderly and the disabled

States shall provide internally displaced persons to the fullest extent practicable and with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other social services and where appropriate, extend such assistance to local and host communities.¹⁹

However, experience has shown that as a result of displacement, the displaced persons often lack basic necessities, are vulnerable to risks like sexual violence and family separation, are unable to access education and have difficulty finding work opportunities.

¹⁷ Article 4(2) *ibid*

¹⁸ Article 9(2) (a) *ibid*

¹⁹ Article 9(2) (b) *ibid*

In cases of durable solutions the Kampala Convention commits States to seeking lasting solutions to the problem of displacement and explicitly recognizes the right to voluntarily choose to return home, integrate locally in areas of displacement or relocate to another part of the country. States are responsible for promoting and creating satisfactory conditions for each of these options on a sustainable basis and in circumstances of safety and dignity. States however must endeavor to incorporate relevant principles contained in the Kampala Convention into peace negotiations and agreements for the purpose of finding sustainable solutions to the problem of internal displacement.

For purposes of monitoring states' compliance, the Kampala Convention provides for the establishment of a conference of State parties to monitor and review the implementation of the objectives of the Convention. States must also indicate the measure they have taken to give effect to the Kampala Convention whenever they present their reports under Article 62 of the African Charter on Human and Peoples' Rights, which has been ratified by all 53 AU member states.²⁰

For states that have already ratified the Kampala Convention (this includes Nigeria), it is important to establish the extent to which states existing frameworks are in line with the Kampala Convention. Laws and policies should be reviewed on a wide range of subjects including personal identification documents, housing, land and property issues and access to schools, work and health care. States which do not have a national framework on protection of internally displaced persons or where there are gaps in the existing framework, or inconsistencies with the Kampala Convention which are directly in conflict with some provisions of the Convention, or where national laws and policies create certain obstacles to the enjoyment of these rights protected by Convention must streamline their laws and policies to be at par with the

²⁰ Op Sit at footnote 10

Kampala Convention. On the basis of information about such gaps and inconsistencies, Member States have been urged to legislate and amend the existing legal framework to bring it into line with the Kampala Convention. Others are however encouraged to develop their own national frameworks in line with the provisions of the Kampala Convention.

c) Human Rights of Displaced Persons under the African Charter on Human and Peoples' Rights, Cap. A9, Laws of the Federation of Nigeria, 2004.

In addition to the above legal Instruments on the protection of the rights of internally displaced persons, displaced persons in Nigeria like any other individual or group, are guaranteed their civil, political, social, economic, environmental and developmental rights under Articles 2-24 of the African charter.²¹ This cluster of rights includes rights to education, housing/shelter, health, food, employment, social security, adequate standard of living, safe environment, cultural life and development. This instrument has been ratified by Nigeria²² as well; Nigeria did not just ratify the African Charter on Human and People's Rights but has further enacted it into domestic Legislation.²³ The implication of this according to the Supreme Court in the case of *Ogugu v. The State*²⁴ is that the country has adopted the African Charter as part of her municipal law and the provisions of the charter are enforceable in the same manner as those of chapter four of the constitution. However, almost all cases have been confined to the enforcement of the African Charter²⁵ decided by the Supreme Court *Gani Fawehinmi v. Abacha*.²⁶ In the case of *Oshire v. British Airways*²⁷ the court of Appeal held that it is useful to

²¹ Cap. A9, Laws of the Federation of Nigeria, 2004.

²²The African Charter on Human and people's Rights, the ICESCR and the ICCPR, the last two were ratified by Nigeria in 1993.

²³ Supra at footnote 19 page 87

²⁴ (1994) 9 NWLR (pt. 366) 1, *Directive SSS v. Olisa Agbakoba* (1998) NWLR pt. 595 at page 425, *Nwangwu v. Duru* (2002) 2 NWLR pt 751 at page 265.

²⁵ *Gani Fawehinmi vs. IGP* Suit No. M/351/89; *Opeyemi vs. Adele Williams* Suit No. B/6M/89.

²⁶ (1996) NWLR (pt 475) 710.

²⁷ (1990) 7 NWLR (pt 163) 489.

appreciate that an international agreement embodied in a covenant or treaty is autonomous of the municipal laws of contradicting states as the high contracting parties have submitted themselves to be bound by its provision which are therefore above domestic legislation.

d) International Humanitarian Law (the Geneva Conventions and Additional Protocols)

Having ratified the Geneva Conventions of 1949 on June 20, 1961 and the Additional Protocols 1-2 of 1977 on October 10, 1988, Nigeria further domesticated the Geneva Conventions as an Act²⁸. International Humanitarian Laws (IHL) expressly prohibits the displacement of civilians. In addition, these rules are intended to spare civilians from the effects of hostilities play an important role in preventing displacement, as it is often violations of these rules that cause civilians to flee their homes.²⁹

Of particular relevance are: the prohibition on attacking civilians or civilian property and on indiscriminate attacks; the prohibition on starving civilians as a method of warfare and on destroying objects indispensable to their survival; the prohibition on reprisals against civilians and civilian property; the prohibition on using civilians as “human shields”; the prohibition on collective punishment, which, in practice, often consists in destroying homes and thus leads to displacement; the obligation for all States and all parties to a conflict to allow the unhindered passage of relief supplies and the provision of assistance necessary for the survival of civilians.³⁰

²⁸ Cap. G3, Vol. 7, Geneva Conventions, Laws of the Federation, 2004

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

³⁰ Ibid. Rules 2, 7, 9, 10, 11, 12, 14, 97 of Customary International Humanitarian Law (ICRC) Vol. 2 Cambridge University Press, 2005.

In situations of armed conflict to which the Geneva conventions of 1949 and their additional Protocols of 1977 apply, refugees³¹ and stateless persons are recognized as requiring special protection and treatment. This issue is specifically dealt with in Article 44 of the Fourth Geneva Convention of 1949 and Article 73 of additional protocol I of 1977. In situations of International armed conflict refugees and stateless persons are protected persons in all circumstances and without any adverse distinction within the meaning of parts I and III of the Fourth Geneva Convention. In conflicts not of an international character, Article 3 common to the four Geneva conventions of 1949 states that persons taking no active part in the hostilities must be treated humanely in all circumstances, and without any adverse distinction, by the parties to the conflict. Additional Protocol II of 1977 offers specific measures of protection for the civilian population, in which refugees can be included.

As for the protection of internally displaced persons, the first observation to be made is that they do not take active part in hostilities, hence must be considered as civilians and are entitled to all the levels of protection accorded to civilians in situations of armed conflict³². Also of particular relevance to displaced persons is Article 26 of the fourth Geneva Convention of 1949 which stipulates that: -

Each party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of Organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

³¹ Ladan M.T., Introduction to International Human Rights and Humanitarian Laws, Ahmadu Bello University Press, Zaria, Nigeria; 2001. pp. 258-259;

³² Ladan M.T., Materials and Cases Public International Law. A.B.U. Press, Zaria, Nigeria, 2008, Chapter 33 at p. 906.

In this connection, Article 33³³ addresses the issue of “missing persons” and the obligation for parties to conflict to search for them and facilitate such searches. Article 74 of the same instrument addressed the issue of reuniting dispersed families.

The fourth Geneva Convention of 1949, (applicable in situations of international armed conflict) prohibits individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the occupying power or to that of any other country, occupied or not, regardless of their motive. It furthermore states, in the same article, that the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies. Article 85(4) (a)³⁴ stipulates that the previously mentioned acts, when committed willfully and in violation of the Conventions or the Protocol, shall be regarded as grave breaches.

In situations of armed conflict not of an international character, protection of the civilian population is offered by Article 3 common to the four Geneva Conventions of 1949 and by Additional Protocol I of 1977, (applicable in situations of high-intensity non-international armed conflict). Rules for the general protection of the civilian population against the dangers arising from military operations are set out in Articles 13 to 16 Protocol II. Article 17³⁵ prohibits the forced movement of civilians unless the security of the civilians involved or imperative military reasons so demand. Paragraph 2 of this article states that: - *“civilians shall not be compelled to leave their own territory for reasons connected with the conflict”*.

As recent history shows, states very often have difficulty in admitting that there is an armed conflict on their territory and therefore operations conducted by the government are merely police operations aimed at restoring public order. Although it is true that there is no clear

³³ Article 33 of the Additional Protocol I of 1977, Cap. G3, Vol. 7, Geneva Conventions, Laws of the Federation, 2004.

³⁴ *ibid*

³⁵ *ibid*

definition of non-international armed conflict, states must nevertheless be encouraged to apply and respect principles of humanitarian law in armed conflict situations. This is particularly relevant where the plights of displaced persons are concerned.³⁶ Their right to return to the place of their habitual residence is often not respected. Such return must take place under acceptable conditions of security and with guarantees of fundamental respect for their human dignity. Quite often internally displaced persons have lost all identification documents. The provision of such papers is crucial for them to enjoy their right to legal personality through, for instance, registration of births, deaths and marriages. The International Court of Justice stressed in the North Sea Continental Shelf cases that States must feel impelled by legal obligations not habitual action...³⁷ or inaction.

The special and new position of internally displaced persons calls for additional standard setting at the United Nations level, for instance is by creating a convention on the protection and assistance of internally displaced persons. However, consideration must also be given to the risk that such a convention may undermine the legal standards in various countries already in force. Suffice to say in general that there is no lack of legal standards to protect their position and rights, but rather a lack of assiduity in applying the legally binding norms already in existence.

³⁶ Ibid at p. 260.

³⁷ 1969 ICJ Rep 3

4.3 Legal Implications of Violation of International Human Rights (IHR) and International Humanitarian Rights Law (IHRL) during Armed Conflicts (in Conflict Induced Displacement)

The following bodies of law provide a comprehensive legal framework for protection in all situations of internal displacement including armed conflict.

- i. Protection of Displaced Persons under International Humanitarian Law in Non-International Armed Conflict

Once an armed conflict exists in a given country, Humanitarian Law becomes applicable to those internally displaced persons who live within that situation. Human Rights Law remains applicable as well, although its rights and guarantees are increasingly subject to restrictions and, in extreme cases, even derogation, except for the core of non-derogable rights. Nevertheless, Human Rights Law and Humanitarian Law converge to a large extent in purely internal armed conflict situations and they reinforce each other.³⁸

Human Rights Law generally restrains the abusive practices of one party to a conflict. Since only States are proper parties to human rights treaties, it is usually the Governments of States that are internationally responsible for human rights violations under those treaties. Comparable abuses committed by private actors, such as rebels or other dissident groups, are not the subject matter of admissible complaints before monitoring bodies established under existing human rights conventions unless private acts are instigated, encouraged or at least acquiesced in by Government concerned; otherwise, they are typically labeled as infractions of a country's domestic laws. However, the notion that non-governmental actors should be internationally responsible for human rights abuses has gained ground in recent years. To the extent that certain internationally recognized crimes are co-extensive with proscriptions under human rights treaties

³⁸ Carey J., Dunlap W., *International Humanitarian Law Origins*. Published by N.Y Transnational, 2010

or fall under the jurisdiction of international tribunals, private actors may incur individual penal responsibility for the commission of such crimes, including, *inter alia*, genocide or torture.³⁹

Together with Article I common to the four Geneva Conventions, mandating contracting parties to respect and to ensure for the Conventions in all circumstances, the only other provision in these instruments that directly governs all internal armed conflicts is article 3, also common to the four Conventions. Article 3 binds both parties to the conflict, i.e. Government and dissident forces. It does not apply to mere acts of banditry or unorganized and short-lived rebellions but typically to armed strife between governmental armed forces and organized, armed dissidents generally occurring within the territory of a particular State. It also applies to cases in which two or more armed factions within a country confront one another without the involvement of governmental forces, for example, when the established Government has dissolved or is too weak to intervene. The application of common article 3 is automatic as soon as a situation of armed conflict for the protection of persons who do not, or who no longer, take an active part in the hostilities.

The obligation to apply Article 3 is absolute for every party to the conflict and independent of the obligation of the other party. Accordingly, individual civilians, including those forcibly or voluntarily displaced by virtue of the hostilities, are entitled to the absolute guarantees of Article 3 when they are captured by or subjected to the power of either government or dissident forces. In addition, article 3, by inference, and customary law,⁴⁰ prohibits displaced persons and other civilians living in combat zones or areas controlled by the enemy from being

³⁹ Fleck D., *The Handbook of International Law*, second Edition, Oxford University Press, USA, 2008.

⁴⁰ Jean-Marie H., study on Customary International Humanitarian Law: a contribution to the understanding and respect for the rule of law in armed conflict, Rules 129(b), 131-138 of Customary International Humanitarian Law, Publication Ref.0860, November 24, 2006.

directly attacked. Deaths of civilians resulting from such illicit attacks are tantamount to homicide and cannot be considered legitimately to be wartime casualties.

Protocol II, according to its article 1 (1)⁴¹, applies to non-international armed conflicts “which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory to enable them to carry out sustained and concerted military operations and to implement this Protocol.” Because of these objective requirements, the Protocol essentially applies to situations of civil war. Protocol II does not alter Common article 3, but rather the two apply collectively and in conjunction with one another.

ii. Protection of Displaced Persons under International Humanitarian Law in Inter-state Armed Conflict

Inter-state, i.e. international armed conflict represents another situation creating internal displacement that receives distinct treatment under international law. Here, human rights law remains applicable during inter-State conflict, and it becomes especially important to protect internally displaced persons against their own government where humanitarian law may not afford protection. However, because of the nature of an inter-State conflict, human rights guarantees may become subject to restrictions or even derogations. Non-derogable rights must be respected under all circumstances.

In such situations, humanitarian law, notably the Geneva Conventions of 12th August 1949 and Protocol I⁴² as well as the customary laws of war, become fully operative for States parties in inter-State hostilities which, according to article 2 common to the four Geneva

⁴¹ Cap. G3, Vol. 7, Geneva Conventions, Laws of the Federation, 2004

⁴² *ibid*

Conventions, involve a declared war, or, in its absence, any conflict between two or more States leading to the intervention of armed forces, including occupation. The armed forces of States engaged in international wars must implement, enforce and comply with all the highly developed rules and protections contained in the 1949 Geneva Conventions, Additional Protocol I (where applicable) and the customary laws of armed conflict.

Most norms concerning the protection of civilians in international armed conflicts were designed for non-nationals of the State that effectively holds the power in the respective territory.

In this regard, article 4 of the Fourth Geneva Convention, provides in relevant part:

Persons protected by the Convention are those who, at a moment and in any manner whatsoever, find themselves, in case of a conflict of occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral state who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hand they are.

Some provisions contained in Part II of the Fourth Geneva Convention and part IV of Protocol I have, however, broader applicability. Part II of the fourth Geneva Convention “cover(s) the whole of the populations of the countries in conflict” (art 13), and thus also internally displaced persons in the territory controlled by their own government. It contains provisions for hospital and safety zones and localities, neutralized zones, for the protection of the wounded, sick, infirm and expectant mothers including provisions concerning hospitals, transports and the “endeavor to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way

to such areas”, concerning child welfare, the exchange of family news and inquiries made by members of dispersed families.⁴³

Part IV of Protocol I defines a different scope of application than the Fourth Geneva Convention. Concerning the territorial aspect, “the provisions of this Protocol with respect to attacks apply to all attacks in whatever territory conducted”⁴⁴. With respect to the personal scope of application, Protocol I refers to civilians in general and does not distinguish between nationalities but concentrates on the inoffensive character of the persons to be spared.

In this context, the following provisions are particularly important: the prohibition of specific and indiscriminate attacks against civilians, the prohibition of starvation of civilians, the protection of non-defended localities and demilitarized zones, the provision of relief to the civilian population, the reunion of dispersed families, the general fundamental guarantees applicable to everyone and the protection of women and children.⁴⁵ It is noteworthy, however, that only a limited number of States have ratified Protocol I which means that many internally displaced persons cannot benefit from these guarantees.

⁴³ Article 17 - 26. Cap. G3, Vol. 7, Geneva Conventions, Laws of the Federation, 2004

⁴⁴ Article 49, para 2

⁴⁵ Article 51 - 78 *ibid*

4.4 Enforcement of the Fundamental Rights of Internally Displaced Persons in Nigeria

As citizens or habitual residents of their country, internally displaced persons remain entitled to all and equal protection under the states' national laws which should be compatible with states obligation under international law. They are entitled to enjoy equally without discrimination, the same rights and freedom under the relevant International laws stated which have been ratified and domesticated in Nigeria, as well as national laws as do other persons in their country.⁴⁶

The challenge of international agencies, Non-Governmental Organizations and states has been to identify the rights and guarantees dispersed in the rich body of international law that respond to the particular needs and protection risks that arise during displacement. Although none of these instruments specifically address internal displacement, they do cover a range of risks that displaced persons often face, and reinforce protection for particular groups of persons who tend to be disproportionately affected by displacement.

Many human rights are also part of international customary law. Norms of customary international law include- right to life, right human dignity, right to freedom of movement as provide in the Nigerian Constitution as well. There is also freedom from torture, freedom from discrimination on grounds of gender, ethnic origin or race, freedom from slavery and freedom from genocide - all of which also are affirmed in international conventions and national laws as well.⁴⁷

⁴⁶ Otunba Oyewole Fashawe v Attorney-General of the Federation & 3 others (2007) CHR 870-116.

⁴⁷ Section 1, Protocol 1, Additional to the Geneva Convention, Part IV: Civilian Population. ⁴⁷ Cap. G3, Vol. 7, Geneva Conventions, Laws of the Federation, 2004

A number of humanitarian rights must not be suspended, whatever the situation including during armed conflict- right to life, prohibition of genocide, freedom from torture and cruel, inhuman and degrading treatment or punishment, freedom from slavery, freedom of thought, conscience and religion, the right of due process law and the prohibition of punishment for any act that was not a crime when the act was committed.⁴⁸ The fact of being displaced from ones home, places the displaced persons in a situation of vulnerability to human right abuse, such that they may be in need of some additional protection above and beyond those available to other members of a population. It is therefore the duty of the state to respect and protect and fulfill human rights of its citizens and to ensure its application at all times including during natural disasters and conflict induced displacement.

These laws provide freedom and entitlements that every individual should enjoy.⁴⁹ International Human Rights law which consists of both customary and treaty law guarantees these rights and obliges states to respect, protect and fulfill the human rights of all persons without discrimination of any kind, such as on the grounds of age, gender, ethnic origin, religion, political or other opinions etc⁵⁰, including on the grounds of being or having been internally displaced. Human rights are interdependent and equal. However, in certain situations, the violations of one particular right can lead to a whole series of other rights violation, to this extent, it is essential to monitor and protect efforts on these key rights.

International humanitarian law applies in all situations of armed conflict, both international conflict (between states and non-international conflict (between states and non-state

⁴⁸ Supra

⁴⁹ Blessing Onomeku v. Commissioner of Police, Delta State Command (2007) CHR page 173-183)

⁵⁰ Adamu v. Attorney General of Borno State (1996) 8 NWLR 203; Theresa Onowo v. Oko (1996) 6 NWLR 587; Agbai v. Okogbue (1991) 7 NWLR (pt.204) p 391 at 444.

actors) or between two or more of such actors. It is binding on all parties to an armed conflict. However because some human rights can be temporarily limited or suspended during armed conflict, the protection provided by international humanitarian law is particularly important. The more specific of international humanitarian law also assist in interpreting applicable human rights principles in situations of conflict. For example evacuation of civilians on grounds of military necessity that is permissible under international humanitarian law, though they are a limitation of the right to freedom of movement under human rights law.⁵¹ The burden of enforcing these rights in the Nigerian setting falls largely on the National Human Rights Commission and the Ministry of Justice as it lies within their mandates to protect, defend and enforce the rights of Nigerian citizen. With the situation at hand they would need to give more attention to protecting the rights of the internally displaced persons.

⁵¹ www.humanitarianforum.org. Handbook-for-protection of Internal Displaced Persons- Global cluster-working-group. Handbook for the Protection of Internally Displaced Persons, 2007

4.5 Nexus between the National Emergency Management Agency (NEMA) Act, the Kampala Convention and the Guiding Principles on the protection and assistance of Internally Displaced Persons.

The National Emergency Management Agency (NEMA) Act is primarily focused on managing disasters and coordinating disaster management activities across the country. It also provides for relief and rehabilitation of victims of disasters in Nigeria. The Kampala Convention on the other hand is focused on the protection and assistance of internally displaced persons in Africa. However in line with Policies, systems and Presidential directives, the Agency has been conducting and coordinating all activities on the protection and assistance of internally displaced persons in Nigeria. Although the Kampala Convention has not yet been domesticated in Nigeria, the provisions of the Convention are been used as a guide to manage the problem of internal displacement.

The Guiding Principles have been accepted as the principal instrument used to draft the national framework for the protection and assistance of internally displaced persons in Nigeria, by the key stakeholders; National Emergency Management Agency, National Human Rights Commission, National Commission for Refugees and other Stakeholders. It is used as the basic source of reference, and a guide for drafting the framework in a manner that is peculiar to the Nigerian situation. Displaced persons like any other person are meant to benefit from the legal protection of laws, both International and National.

In Nigeria, the acceptance and usage of these international instruments reflect a growing realization that internal displacement must be addressed at the national level, both as matter of legal obligation and national interest. However, the complexity of the international legal standards reflected in the Guiding Principles and the range of domestic legislative and policy

issues must be addressed to avoid obstacles to exercising national responsibility. The national authorities have realized that recognizing the rights of internally displaced persons and the primary responsibility to respect, protect and fulfill these rights are essential in addressing internal displacement and its devastating effects hence the quest for stronger collaboration among stakeholders.

4.6 Co-operating with the International Community in Developing Policy Guidelines, Systems and Procedures for Disaster Management in Nigeria

1. Nigeria is a signatory to the United Nations International Strategy for Disaster Reduction (ISDR), which was created in December 1999 as a successor to the secretariat of the International Decade for Natural Disaster Reduction with the aim of ensuring the implementation of the framework. National Emergency Management Agency has partnered with this body with the aim of confronting diverse emerging challenges in collaboration with the West African sub-regional member nations. The United Nations also assists Nigeria in incorporating disaster prevention and preparedness into their overall development plans. In an effort to raise awareness of the need for prevention and preparedness, the General Assembly declared the 1990s as the International Decade for Natural Disaster Reduction. The Decade's objective is to reduce loss of life, economic damage and social disruption caused by natural disasters. Major themes include assessing the risk of and vulnerability to such hazard; vulnerability and risk assessment; political commitments; and shared knowledge and technology transfer.

2. Nigeria is also signatory to the subsequent Hyogo Framework for Action (HFA)⁵² which provides a global strategic roadmap to Disaster Risk Reduction. The United Nations was tasked with adopting the framework supporting its implementation. This placed Disaster Prevention and Mitigation at the center stage of development discourse, provided for five priorities for action aimed at reducing risks and increasing resilience of communities. Signatory nations are expected to:

- i. Ensure that Disaster Risk Reduction is a national and local priority with a strong institutional basis for implementation.
- ii. Identify, assess and monitor disaster risks and enhance early warning mechanisms.
- iii. Use knowledge, innovation and education to build a culture of safety and resilience at all levels.
- iv. Reduce the underlying risk factors.
- v. Strengthen disaster preparedness for effective response at all levels.

The framework's overarching goal is to build resilience of nations and communities of nations and communities to disasters by achieving substantial reduction in disaster losses by 2015 in protecting lives and saving collective social, economic and environmental assets. In domesticating the Hyogo Framework of Action, Nigeria has taken several initiatives, which include; partnering with international and national bodies and creating policy frameworks that gives legitimate backing to the National Emergency Management Agency and the relevant Ministries, Departments and Agencies engaged in a more comprehensive disaster management operation.

⁵²The Hyogo Declaration and the Framework of Action 2000-2015 aimed at: 'Building Resilience of Nations and Communities to Disasters' was adopted by the world conference on disaster reduction held in Kobe, Japan in January 2005.

3. The United Nations Human Commissioner for Refugees (UNHCR) recently (JUNE, 2013) embarked on the Central Emergency Respond Fund Project for Distribution of Non Food Items (NFIs) to vulnerable displaced households in Nigeria. It was indicated in the report that some women and children who have not been identified by the authorizes probably due to where they are hiding (within host communities) do not benefit from the relief items distributed by the humanitarian authorities, hence they are subjected to various conditions; some have to sleep on bare floor, mothers can barely feed their children and others. Considering the vulnerability of displaced persons, a robust funding is particularly required for immediate intervention to provide Non Food Items to most of the vulnerable households, lack of which will expose them to more hazards. Therefore the efforts of this international project will go a long way in complimenting the efforts of the humanitarian Agencies in Nigeria.

4.6.1 Objectives of National Emergency Management Agency's collaboration with the International Community

The support of the international bodies is necessary in view of the disaster incidences resulting in large and growing numbers of displaced persons to enable them survive and possibly start a new life. For instance there is a critical need for provision of recreational vocations for the affected population for longer sustenance than what is provided for by the national authorities, such assistance will help keep their minds busy and active and have more dignifying living condition, they could learn one form of production or trade as a means of livelihood even while in the camps.

The objective of the Hyogo Framework of Action project particularly, is to ensure a healthy living condition for most vulnerable displaced families through the provision of basic Non-Food Items (NFIs). Following the impact of huge disasters such as the Boko Haram insurgency prevalent in the North-Eastern part of the country and the floods of 2012 which washed away the houses and personal belongings of the displaced population, the much needed assistance from the international community is always highly welcomed.

The strategic location of Nigeria within the West African Sub-region, its diverse and complex ethnic composition, population size and eco-climatic variations contribute to the complex natural and human induced emergency challenges. This makes it expedient for relevant arms of the United Nations to sustain and improve their partnership with Nigeria on principled and effective emergency preparedness, response, mitigation and disaster risk reduction.⁵³

Since 1999, when the National Emergency Management Agency (NEMA) was established, Nigeria's emergency system has undergone numerous changes. These include; better organizational structure, curriculum development in emergency management, increase in training emergency personnel, and more collaboration with other countries in the region in emergency management issues. However, this burgeoning system still has a long way to go and faces numerous challenges. For the agency to become more efficient and effective in its service delivery to the people, a lot of effort is required in building capacities of the important stakeholders; creating structured coordination systems to bring synergy in the overall effort by

⁵³ National Emergency Management Agency, Disaster Management is Everyone's Business. Published by Image Merchants Promotion Ltd. Suite 003, Chatti Plaza, Sapele Street, Garki, Abuja. 2013. Pg 95.

different stakeholders and international organizations, and creating advocacy forums to keep disaster management high on Government's agenda.⁵⁴

4.7 Disaster Profile of Nigeria

Nigeria has both diverse climate and terrain, ranging from the equatorial climate of the southern lowlands, through the tropical central hills and plateau, to the arid northern plains which mark the southernmost extent of the Sahara desert. The same diversity is reflected in the frequency and the variety of disasters the country faces. Being a disaster prone country, it has gone through as many as 94 reported disasters during 1980-2012 with 6.3 million people affected and 21,002 killed. The variety of disasters range from: extreme temperatures, drought, insect infestations and desertification, to severe floods, coastal erosion, epidemics and mass movements.⁵⁵

Droughts have been a regular phenomenon in Northern Nigeria, which stretches towards the Savannah and Sahel belts of the neighboring Republics of Niger and Chad. The 1983 drought affected more than 3 million people in the country. The 2012 drought in the Sahel also affects several thousand people in the northern States. The major areas that are typically impacted by severe drought are within the Sudan/Sahel belt causing majority of them to migrate to neighboring states.

The country has also faced as many as 35 flood events during the period of over 30 years (1980-2012) along its two main rivers, the Niger and the Benue and its tributaries which

⁵⁴ Femi A., After Mission Report: Assessment of National Emergency Management Agency (NEMA), Published by Internal Displacement Monitoring Centre, July 30, 2013, Page 17.

⁵⁵ Department of Statistics, Office of the World Food Programme, After Mission Report Assessment of the National Emergency Management Agency (NEMA) Published by WFP Abuja. 2013

converge and empty into one of the world's largest river deltas, the Niger Delta. In other regions, flash floods have also occurred after extreme rainfall. Floods in 2010 affected 1.5 m people. The major urban centers such as Lagos, Port Harcourt, Kano and Ibadan have experienced urban flooding frequently resulting in a high number of collapsed buildings. Above all, Nigeria has a huge flood prone coastline of around 853 km, with an estimated 25 million people (28% of Nigeria's population) living in this zone.⁵⁶

In south eastern Nigeria landslides are a frequently occurring phenomenon. Landslides and extreme gully erosion have had a substantial impact on infrastructure and livelihoods in parts of this region with Anambra State being the most affected. Due to almost 200 aging and silting dams with very little maintenance, the country has faced dam spillages. The most notable was the Goronyo dam spillage in 2010, which affected thousands of people in Sokoto and Kebbi States.

Based on the predictions of the World Bank Report on the impact of Climate Change in Nigeria⁵⁷, it underscored that the country is experiencing climate variability in the form of droughts, floods, shifts in rainy season onset and completion, and increasing rainfall intensity. The report also estimates that the temperature will rise by 1 to 2 degrees by 2050 thus leading to variable rainfall and unpredictable weather patterns. In case of this projected rise of temperature by 2050 and resultant changes in the weather patterns, the impacts could be very severe on the yields of the crops, reducing them almost four times. The extreme temperature will also have adverse affects on the livestock productivity in the northern parts of the country as the grazing lands will decline. It is also estimated in the report that a 1 in 100-year extreme event may now

⁵⁶ ibid

⁵⁷ Femi A., " *Toward Climate-Resilient Development in Nigeria*" A Report by World Bank, Published by World Food Programme (WFP) Dakar, September 30, 2013, Page 7 - 9.

approximately occur once in 10 years or even more frequently. According to the Nigerian Meteorological Service (NIMET), the massive floods of 2012 were a manifestation of this phenomenon.

National Emergency Management Agency, reported that the heavy rains between July-October 2012 led to the overflow of river discharge and was exacerbated by the over flow of irrigation reservoirs leading to catastrophic floods. This catastrophe affected over 2million people, killed about 363, left more than 5,851 injured and displaced hundreds of thousands of people. In some areas a 2m high water was recorded. The unprecedented floods affected 25 out of 36 states destroying 597,400 houses, hospitals, schools and roads. The total damages and losses based on the completed Post-Disaster Needs Assessment by the Federal Government of Nigeria with the technical collaboration of other United Nation Organizations amounts to N2.6 trillion, (US\$16.9 billion)⁵⁸.

Besides the natural disasters, human induced disasters have also been a common phenomenon in Nigeria. The Nigerian Civil War 1967-70 which left an estimated 100,000 military personnel and 3 million civilians dead, sectarian violence of 2009 and post electoral conflicts of 2011, are among the worst of these.⁵⁹

Nigeria has been facing ongoing complex emergency in shape of violent attacks by the insurgency group known as Boko Haram particularly in the three north eastern states; Yobe, Borno and Adawama. Boko Haram⁶⁰ sect has currently waged war against the State and is held responsible for thousands of deaths since 2009. Across the northern part of Nigeria and in its major cities, the group has carried out shootings and bombings of targets of churches,

⁵⁸ Report of the World Food Programme, Post Disaster Needs Assessment Report of Floods 2012-by FGN with technical support of United Nations organization, published by World Food Programme, 2013

⁵⁹ ibid

⁶⁰Boko Haram means "to forbid western education or anything western.

Government buildings and public gatherings. Since 2009, the Nigerian government has struggled to deal with this problem. In a bid to combat the group a state of emergency was declared in Yobe, Borno and Adawama states in May 2013, launching a massive military operation to counter the Boko Haram-led militancy. Since then there have been accounts of huge numbers of civilian casualties, thousands fleeing the region, and a deepening humanitarian crisis. Furthermore, thousands of Borno State residents are said to have fled to neighboring States, some even as far as into Niger and Cameroon.⁶¹ A great deal of uncertainty remains around what could be a momentous step forward for the country. But what is certain is that the longer the current situation continues, the higher the number of internally displaced persons and refugees to contend with.⁶²

⁶¹ United Nation Humanitarian Commission for refugees (UNHCR) Report, Published by Kowasi Press Ltd. Abuja, May 2014. The UNHCR reported also that it had registered 6000 Nigerian Refugees in Niger, and in response, the Borno State Government pleaded with the refugees to return home, saying that the government was making 'necessary arrangements to ensure their safety' and announced distribution of 25,000 metric tons of corn and millet from Nigeria's grain reserves.

⁶² *ibid*

4.8 Data on the Disaster Incidences in Nigeria and National Response to the Plight of IDPs

Empirical data on disaster incidences in Nigeria with respect to internal displacements, deaths, injuries, loss of property and means of livelihood of the affected population across the country over the last five (5) years (2009 - 2014)⁶³ are presented in Table 1. This information is provided as the basis for assessment of the national response to disasters, as well as the plight of IDPs upon which the government can be challenged to be more effective.

Table 1: Disaster events in Nigeria and National Response to the plight of IDPs

S/N	Disaster/ Location	Impact	Relief Interventions	Assessment
1.	Landslide; Abia-Asaga Ohaifa LGA, Ebonyi-Ivo, Ishieli, Ezza-North and Ohazara February-March 2009	5,240 persons affected, Large hectares of farmlands and houses destroyed	Relief materials of N8,640,000	-No early warning was given -No proactive measures, - temporary shelter was however provided.
2.	Major Fire outbreak; Kebbi- Bunza and Suru LGAs, Gombe-Kaltungo and Kula lau LGAs, Niger-Minna, Kaduna- Soba and Igabi LGAs, Kwara-Ilorin West, Irepodun, Ilorin East and Edu, Plateau-Jenta Apata ward of Jos North. Bauchi (Alkaleri/Kirfi Federal Constituency. Kofi (Kabba-Bunu and Olamaboro LGAs). Year, 2010	Over 10,000 IDPs, many severely injured, few deaths, 76 Farmlands affected, 197 houses and 52 shops destroyed, and other buildings and properties were destroyed.	Relief Material of over N20,527,550 were provided	-Slow response by the first responders (Fire Service) - poor collaborative efforts by stakeholders.
3.	Thunder/Windstorm; Enugu;Uzo-Uwani Gombe-Malala, Burari	180,000 people were displaced in the various states	Relief materials of about N34,744,900 were distributed to	-No weather forecast/prediction -Poor enlightenment

⁶³ NEMA Newsletter, A Publication of the National Emergency Management Agency. Vol. 6 No.8, August, 2014

	Ward, Dukku and Wuro-Dullo village of Akko, Delta;Ndokwa/Ukwuani, Anambra-Ukwulu, Umudioka, Abba, Dunokofia and Njikoka LGAs, Ogun;Yewa South. Zamfara(Talata-Mafara, Tsafe and Zurmi) Kebbi - Argungu, Jigawa (Dusten Gumel, Roni Gwara LGAA) Nov. - Dec. 2010	and LGAs, several families were affected, 815 houses destroyed, out of which 265 had their roofs blown out, properties worth millions were lost and destroyed.	the IDPs. 265	of rural dwellers on such kinds of disasters -No preventive measures in place - Relief interventions sometimes do not cover everyone affected
4.	Gully Erosion/ocean Surge; Abia (Aba North/South and Isiawa) Imo(Owerri west, Ideato North and South, Orulu and Orsu. Bayelsa Koluama I and II communities, Southern-Ijaw LGA March, 2010	Many were affected (number unspecified) Houses and properties destroyed	Relief provided was estimated to have cost N24,974,160.00	Lack of sensitization and follow up action by the State Government through SEMA caused increased lack of awareness by members of the community living in such disaster prone areas -In this case, warnings were given by NEMA after the initial breakout which helped a lot in reducing the impact of subsequent occurrence
5.	Post-Presidential Election violence Kaduna, Kano May-June, 2010	200 deaths, 40,000 injured, 75,000 person displaced, 55,000 recorded in camps. ⁶⁴	Relief materials of about N19,390,000 Schools and other government buildings were used as temporary shelters for the displaced persons	-Panels were set up by the Government to Inquire as to the causes but reports have not been provided. -Temporary camps were set up by the NEMA Zonal Office in conjunction with

⁶⁴ Chinua A. www.worldpress.org 2011

				the State Emergency Management Agency's. However, no permanent provisions were put in place for the resettlement of the victims after the dissolution of camps
6.	Bongo Oil Spillage; Delta and Rivers; Coastal/river line communities, Bayelsa; several communities of Olugborbiri in Southern Ijaw and Odioma Kingdom (Brass LGA) August, 2011.	40,000 barrels of crude oil spilled into the Atlantic Ocean from the Shell oil fields and impacted gravely on the neighbouring communities with respect to Farmlands, economic trees, drinking water and fishing. UN report into spills in Ogoniland found that the region could take 30 years to recovered ⁶⁵ .	Relief materials of about N15,486,980 were provided.	-In adequate security to check vandalization of oil pipelines. -Inadequate inspection routines to monitor problem prone areas by the relevant authority- Nigerian Oil Spill Detection and Response Agency (NOSDRA) -untimely intervention. -recovery period is slow and complicated.
7.	Flood disaster; Cross River-(Agwaguna, Baise-LGAs), Rivers;Mini-Ndai, Rumuolueni (Obio/Akpor)LGAs, Ebonyi(Ivo, Isheielu, Ezza North and Ohazar LGAs)Kofi (Ankpa, Olamaboro, Kabba-Bunu, Yagba West) Bayelsa (Kolo community) Ekiti(Ayedun) Delta	1.5 million people affected, most of whom were displaced. -Houses and Properties worth millions were destroyed	-Temporary shelter was provided for the homeless -Search and rescue activities were conducted by NEMA to guarantee the safety and survival of as many victims as possible. -Weather forecast was provided by Nigerian Meteorological Agency (NIMET) ⁶⁶	-The flood overwhelmed the capacity of the local and state government, thus they had to rely on the Federal Government to come to their rescue Preparations for the flood by the stakeholders were insufficient. Reports had to be made and damage assessments

⁶⁵ Ibid

⁶⁶ Nigerian Meteorological Agency (NIMET) Act (Established) 2003

	<p>(Torugbene community) Bayelsa (Otuke community) Kofi (Ejule, Owolowo, Akpagidigbo in Ofu LGAs), Niger(Baban Rami, Kontagora. Ogun-Owode-Otta. Akwa-Ibom-Uyo, Osun, Ondo(Ese-Odo</p> <p>From August, 2012</p>			<p>conducted before relief interventions were made, by which time the people were almost giving up hope and finding other means of survival.</p> <p>After the incidence most of the affected persons were unable to regain their means of livelihood. The building materials provided were barely sufficient for those who had no other source of assistance to rebuild their homes.</p>
8.	<p>Communal clashes; Taraba- Sarkin-Kudu of Ibi, Gassoi, Bali and Kurmi Gombe-Bam-Bam. Nasarawa;Keana LGA, Kaduna;Kachia LGA, FCT-Abuja (Paokore Community, Gwagwalada Area council, Plateau(Shendam, Guni and Katumai communities of Bassa LGAs, Delta(Ibrede, Ndokwa West LGA. Delta Ibrede, Benue (Gwer East and West) 2012</p>	<p>Over 500,000 Internally Displaced Persons in various states.</p>	<p>Camps were provided and relief materials were delivered at strategic locations</p>	<p>Most of the affected populations went to neighboring villages or communities on their own in search of safety, instead of waiting for or relying on government to act. However, others remained in the camps for a few weeks before returning to their communities.</p> <p>-Lack of effective preventive or control measures by the varrious State Emergency Management Agencies</p>
9.	<p>Insurgencies; Kaduna-Marwa and Bandon villages of Kaura and Lere Local LGAs,</p>	<p>Over 250 lives lost, over 300,000 IDPs, many injured, lost of</p>	<p>Relief materials of about N290,000,000</p>	<p>-Healthcare service were provided for the injured victims who were attacked</p>

	Yobe, Jigawa- Kakai of Birniwa LGA, Zamfara-Maru and Zurmi LGAs, Katsina-Faskari and Sabuwa LGAs, Borno; Damboa and Borno South Senetorial Districts. Yobe-Gujba, Gombe, Taraba, Bauchi February-March, 2013- 14.	trade and other means of livelihoods (farming, trading)		Camps were provided to ensure the safety Organized Camps for the IDPs -Victims fled their houses to neighboring communities/states, some were found wondering hopelessly by the roadside, and motor parks until they were picked up by the authorities and taken to camps for safety. ⁶⁷
10.	Boko Haram attacks; Adamawa; Michika, Madagali, Maiha and Shuwa LGAs, Borno-Gashigar, Zangeri, Bama, Kasheri, Abbaram and Alau LGAs. Plateau; Jos township, Yobe. 2013- 2015	Close to 1,500,000 persons were affected, most of whom were displaced and spread across the country. Large number living with host communities, some stayed in government established camps while others remained unaccounted for. Properties, schools and houses, and some villages were completely destroyed.	Relief materials of about N750,000,000	Temporary camps were set by NEMA and the State Government in primary schools and NYSC camps -Efforts were also made by other stakeholders Nigerian Red Cross Society, NGOs and international Organizations. -Victims were greatly traumatized due to their great loss No durable solutions provided by Government ⁶⁸

⁶⁷ Interview responded to by Alh. Mohammed Kanar- Zonal Coordinator for the North-East NEMA office. Thursday 21 August, 2014. Page6

⁶⁸ ibid

The majority of the current displaced population was displaced in 2014 (75,3%) . The displaced persons were mostly from Borno with (80,22%), Adamawa (7.55%) and Yobe (6.70%). 92% of the displaced population live with host families in other communities, while 8% live in camps. The vast majority of the internally displaced persons identified in the Northeast have been displaced because of the insurgency (95%). A smaller number was forced to leave their place of origin because of communal clashes (5%).

The demographic profile of the displaced population presented in this report is the result of a large sample survey conducted. After extrapolation of the 1,385,298 displaced Persons, the results of the survey show that 52% of the displaced populations are; female and 48% are male. Children of less than 18 constitute 56% of the displaced population and more than half of them are 5 years old or younger.

In order to respond to the needs for accurate and up-to-date data regarding the displaced population in Northeast Nigeria, the International Organization for Migration (IOM) began, in close collaboration with the National Emergency Management Agency (NEMA), the Displacement Tracking Matrix (DTM) program. The Disaster Tracking Matrix program consists in supporting the Nigerian Authorities and the humanitarian partners on the ground to undertake Internally Displaced Persons assessments in a unified and systematized manner with the objective of establishing a comprehensive profile of the Internally Displaced population and advising the humanitarian responders.

Based on the general assessment of the needs of internally displaced persons, 56% mentioned food as their primary need while 12% mentioned shelter and 7% mentioned employment. Regarding the assistance received, 47% of the registered displaced persons declared that they

received food, 19% Non Food Items and 5% shelter material. However, 9% of the registered displaced persons declared not to have received any considerable assistance.

The data captured during the registration exercise highlighted that 82% of the registered displaced persons expressed the desire to return to their places of origin. For 71% of them, security is the main condition to return while 23% put the improvement of the economic situation in their area of origin as the main factor for their return. 18% of displaced persons declared that they were not willing to return home. Among them, 46% want to stay in their places of displacement, 20% are planning to rent a house and 12% would like to move to another host family. Regarding conditions in the areas of return, 40% of registered displaced persons declared that their houses were totally burned or destroyed, whereas 26% declared that their homes were partially burned or damaged and 21% did not know the status of their houses.

Demography and reports of displaced persons in camps;

- i. The predominant majority of individuals in camps are females (61%). Almost half of the total number of individuals residing in sites are children under 17 years old (46%).
- ii. The sites assessed during this exercise have been classified in three categories:
 - a. Camps: open-air settlements, usually made-up of tents, where the displaced persons find accommodation;
 - b. Collective centers: pre-existing buildings and structures used for collective and communal settlements of the displaced population;
 - c. Transitional center: centers which provide short term/temporary accommodation for the displaced population.

- iii. The majority of sites are categorized as collective centers (35 sites), while a few sites are classified as camps and 1 site as a transitional center. More than half of sites were recorded as spontaneous settlement, while the other half was classified as planned settlements.
- iv. Shelter; the most common types of shelter identified during the site assessments are schools (21 sites) and government buildings (6 sites). The other types of shelter include community centers (9 sites), self-made tents (6 sites). 4% of individuals live in tents, while 29% in Government building and 60% reside in schools.
- v. In 20 sites residents reported that there is a need for shelter repair materials. Individuals in 21 sites reported blankets as the most needed type of Non-Food Item. At 11 sites, mosquito nets are the most needed type of Non-Food Items.⁶⁹

The two major disasters; flood and Insurgency attacks were managed by the Government through relief interventions conducted by two committees set up by President Goodluck Jonathan to conduct assessment of the extent of the damage and need analysis for relief interventions to support the displaced persons. They are;-

- i) The Presidential committee on Flood Victims; Chaired by Alh. Aliko Dangote in 2012. This committee worked through the Central Emergency Response Fund (CERF)⁷⁰ to develop strategies in order to support the sever humanitarian challenges. The strategy was sector based with key actors which include; the National Emergency Management

⁶⁹ Displacement Highlights, Displacement Tracking Matrix | DTM Round IV Report by International Organization Migration (IOM) NIGERIA, June 2015 <http://nigeria.iom.int/dtm>. The program is funded by the United States Agency for International Development (USAID) and the European Commission's Humanitarian Aid and Civil Protection department (ECHO).

⁷⁰ The Central Emergency Response Fund (CERF) is a Humanitarian Fund established by United Nations General Assembly to enable timely and reliable assistance to those affected by disasters.

Agency, Ministry of Health, Ministry of Agriculture and Security. The United Nations applied for and received US\$ 6.5 Million to support the victims of the 2012 flood. Utilization of the grant was for six months, the Fund is however replenished through contributions from Government, Private Sectors, Foundations and Individuals.⁷¹

- ii) The Presidential Committee for Terror Victims Chaired by Lt. General Theophilus Danjuma known as the Boko Haram Support Fund Committee.⁷² The Committee worked with a team from the National Emergency Management Agency to assess the magnitude of damage incurred and to conduct needs assessment which forms the basis upon which funds are released for the relief interventions.

Setting up ad-hoc Committees with regards to the internally displaced persons is generally seen as a sign of concern by the government and a desire to respond quickly to their needs. Their engagement is however temporary and is basically focused on relief interventions; hence it does not address the complex issues of internal displacement; durable solutions (restoring livelihoods, houses and employment, long term safety and security, and other provisions in line with the Kampala Convention⁷³ and the Guiding Principles.⁷⁴

⁷¹ Dauoda T., (Resident Coordinator of Abuja) Report on the progress on the utilization of CERF Grant for 2012 flood victims to the presidential Committee on Flood Relief and Rehabilitation. Published by; the National Emergency Management Agency (NEMA) June 15, 2012.

⁷² The committee was inaugurated by the President on 16th July, 2014

⁷³ Art. 11 The African Union Convention for Protection and Assistance of Internally Displaced Persons in Africa, 2009.

⁷⁴ The United Nations Guiding Principles on Internal Displacement. 1998
www.brookings.edu/project/idp/gp_page.aspx

4.9 Judicial Mechanisms used in handling matters in relation to internal displacement; resettlement, housing, compensation, reconciliation in African States

There seems to be an agreement among the Regional communities that judicial mechanisms are too cumbersome to address housing and property claims in a timely manner and that dedicated administrative mechanisms are more effective at mass property claim processing. Administrative mechanisms tend to process claims faster; have more procedural flexibility; and decrease evidential burdens for claimants. However, context and capacity should determine whether these administrative mechanisms need to be constructed at the national or local level⁷⁵.

In Kosovo Case, Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) had exclusive jurisdiction over property claims; they applied restitution and compensation regulations that were set by the United Nations Special Representative of the Secretary General in Kosovo. This is because their national laws were not compliant with the international standards; they were discriminatory and therefore repealed. Thus these Ad hoc commissions were set up.⁷⁶

Peace agreements in Mozambique, Guatemala, the Great lakes Pacts and a few others, provided for the establishment of legal mechanisms specifically designated to adjudicate property claims which should also contain provisions to eliminate discrimination against women in access to land and housing.⁷⁷ The Court of Appeal in the case of Timothy v. Oforika declared

⁷⁵ Handbook on Housing and Property Restitution for Refugees and Displaced Persons, Food and Agriculture Organization of the United Nation, 2007, p.88, <http://ftp.fao.org/docrep/fao/010/a1131e00>

⁷⁶ Caryln M., International Displacement; Is Prevention through accountability possible? 'American University Law Review 49, No.1, Published by American University Press. 2009, pages 243 - 288

⁷⁷ General Peace Agreement for Mozambique Protocol 111. October 4, 1992. Guatemala Agreement on Resettlement of population groups uprooted by the Armed conflict. June 17, 1994, Pact on Security, Stability and Development in the Great Lakes Region, 2006.

that Orafite native law and custom which does not allow women to deal in land is not only unconstitutional but also repugnant to natural justice, equity and good conscience.⁷⁸

In Bosnia, the Dayton Peace Accords created a quasi-international body, the Commission for Real Property claims (CRPC) to resolve restitution and compensation claims, but they lacked the local investigative capacity necessary to address over 200,000 claims it received. As a result the restitution process was decentralized to ad hoc local administrative bodies monitored by international actors.⁷⁹

Justice C.V Nwokorie of the Federal Court of Benin City of Nigeria in *Jonah Gbemre v. Shell PDC Ltd and Others*⁸⁰, granted leave to the applicant to institute these proceedings in a representative capacity for himself and for each and every member of the Iweherekan Community in Delta State of Nigeria and to apply for an order enforcing or securing the enforcement of their fundamental human rights as provided in the relevant sections of the 1999 Constitution of Nigeria and reinforced by other provisions of the African Charter on Human and Peoples' Rights.⁸¹

This literature on property restitution indicates that there are no completely satisfactory models or cases, but there is consensus on successful steps to be taken to rehabilitate the internally displaced persons upon their return. However, whether through peace agreements or National laws or setting up tribunals, it should compliment domestic legal framework.

⁷⁸ (2008) ALL FWLR 1370 at 1381

⁷⁹ Caryln M., *International Displacement; Is Prevention through accountability possible?* 'American University Law Review 49, No.1, Published by American University Press. 2009, pages 243 - 288

⁸⁰ (2005) Suit No. FHC/B/CS/53/05

⁸¹ Cap A9 Vol. LFN 2004.

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1 Summary

This work is divided into five chapters summarized below;

It begins with a general introduction on the problem of internal displacement, plights of the Internally Displaced Persons (IDPs) and the background of the National Emergency Management Agency (NEMA) which is the focal Agency established by the Federal Government to provide relief materials and rehabilitation to victims of disasters. The statement of the problem is focused on analyzing the challenges of the Agency vis-a-vis the need to provide comprehensive protection and assistance for the Internally Displaced Persons. The aim of the study is to proffer solutions to adequately address the plights of the displaced persons, as well as durable solutions after the crises ends.

Conceptual clarifications of key terms were provided as used in the research work. More light was shed on the tragic situation of internally displaced persons who are forced to flee their homes, communities and even states, to other parts of the country in search for safety with little or nothing to support them. Displaced persons are categorized into various groups based on various categories such as gender and age which determines their level of vulnerability and special needs for purposes of relief interventions. Causes of displacement, natural factors and human induced displacement are also discussed.

A review of the National Emergency Management Agency Act, Policies, and Systems and how effective they are in addressing the plight of Internally Displaced Persons in Nigeria. It

identifies the gaps in the National Emergency Management Agency Act which when addressed would empower the Agency legally, financially and more adequately to be better equipped to address the problem of Internally Displaced Persons. It also discusses the roles of other stakeholders which are very important in achieving the desired goal based on collective efforts.

The work further discusses the International Covenants, Policies and Instruments which are directly or indirectly relevant or applicable in the protection and assistance of displaced persons when adequately implemented by the authorities. These laws include International Human Rights Law and Humanitarian Law and the Constitution of the Federal Republic of Nigeria, 1999, these laws may be implemented in cases of conflict induced displacement where there is abuse of human rights provisions. The other two key Instruments discussed are the United Nations Guiding Principles on Internal Displacement¹ and The African Union Convention (The Kampala Convention) on Internally Displaced Persons² Further provides an empirical data in a table form used to analyze disaster incidences, the number of displacement which occurred as a result of the disaster, the interventions made by the Government and an assessment of the activities.

5.2 Observations

In the light of these above, the following observations have been made:

1. Gaps in the existing system: One of the enabling factors for any organization to function effectively is the existence of a comprehensive Law governing its activities. Some gaps have been identified in the National Emergency Management Agency Act which is

¹The Guiding Principles on Internal Displacement. 1998 www.brookings.edu/project/idp/gp_page.aspx.

² The African Union Convention for Protection and Assistance of Internally Displaced Persons in Africa, 2009.

affecting the Agency's capacity to function effectively. For instance, the Act is silent with regards to internal displacement and the provision of durable solutions for internally displaced persons which is the final phase. The Agency also has a limited scope of interpretation of some its mandates, for instance, the Agency being the coordinating body should be able to chair rehabilitation efforts of all Federal Government partners and stakeholders, their role as a coordinating Agency should not only be restricted to camp coordination and management activities. There are also no enforcements strategies in place by the Agency compelling stakeholders or even individuals to comply with disaster management laws and policies for efficient and effective response to disasters especially in flood or aircraft incidents.

2. It is also worrisome that the country ratified the African Union "Kampala Convention" on the Protection and Assistance Internally Displaced Persons in Africa, in May, 2012 and made a draft National Policy on the Protection and Assistance of Internally Displaced Persons in Nigeria to incorporate its provisions, neither of which have been adopted. Apparently the increasing number of displaced persons both natural and man-made induced displacement informed the humanitarian actors to consider putting together the policy which was tabled for consideration in 2007, but it was not adopted. The draft was revised thrice between 2009 and 2011 it however remained a draft yet to be adopted. It was further revised by a team of consultants and Multi-Stakeholders Forum between 30 May and August 2012. This revised draft is also awaiting adoption by the federal government.³ Three years on, however, the National Assembly and the Federal

³ Official reason unknown to this author, but believed by many analysts to be a slow process in adopting it. The Government was not influenced by the recommendations and resolutions of the 1st Regional Conference on internal displacement in West Africa, held between April 26 - 29, 2006 in Abuja, and hosted by the Federal Government of Nigeria in collaboration with the Economic Community of West African States (ECOWAS), the

Executive Council are yet to adopt the policy, or a domestic law to implement the Kampala Convention. The absence of such framework as a means of clearly defining roles and responsibilities has, and will continue to hamper humanitarian and development efforts to mitigate the effects of internal displacement. They are very essential to a holistic approach to providing for durable solutions, and in preparing for and preventing future displacement.⁴

3. The use of spontaneous approach instead and Ad-hoc committees rather than legal institutions to address the problems of internal displacement undermines the capacity of the National Emergency Management Agency in carry out its mandates. Setting up committees during major disasters such as the flood in 2012, the violent attacks by insurgents in 2014 majorly to raise funds and carry out relief interventions more often than not, create duplication of efforts by the agency and in other cases creates confusion for the affected population. These committees are usually set up for a limited period of time after which they are dissolved. This leaves the victims with a bigger problem of who to run to for continued assistance or who to hold accountable in cases where their needs where not adequately met particularly in cases where the agency was not funded with regards to the incident. This practice to a large extent lacks accountability and transparency and has led to more complications at the end of the day.
4. There is also the problem of poor synergy among the humanitarian agencies and stakeholders in disaster management. As the saying goes ‘the baby that belongs to all,

Office of the UN Secretary-General on Human Rights of IDPs and the Brookings Institution - University of Bern Project on Internal Displacement. One of the recommendations of the conference was that ECOWAS Member States should undertake measures to address the root causes of internal displacement including developing laws and policies on IDPs consistent with States' obligations under International Human Rights and Humanitarian Laws.

⁴ Olagunju .O., Field Research Documenting the Challenges Faced by the Nigerian Government and Ngo's In Addressing the Problems of Internally Displaced Persons (IDP'S), Published by University of Ibadan, Ibadan, October, 2006, Page 35.

belongs to no one'. This unhealthy rivalry and competition for who should be doing what only results in uncoordinated and isolated efforts rather than the desired progress that should have been achieved by collective efforts towards one primary goal. There is also poor responsiveness of some State Government towards disaster management and humanitarian activities. Some States are yet to comply with their obligation of establishing State Emergency Management Agencies (SEMAs) as first responders to disaster incidences in the state. This to a large extent creates additional pressure on the Federal Agency which is ideally meant to compliment the efforts of first responders and the State where it exceeds their capacity to handle.

5. The loss of civil rights or abuse of human rights is one of the fundamental issues of displacement. The condition which some of the displaced persons are put in as a result of the hideous acts by perpetrators of these violent attacks and other forms of disasters, contravenes the fundamental human rights to life, dignity, liberty, freedom of movement and security of those affected. There are also issues of discrimination, false imprisonment, missing persons in the course of displacement,⁵ which are not adequately addressed by the government. This is also in contravention of the duty provided in the Guiding Principle (s)⁶ to the effect that all authorities and international actors shall respect and ensure respect for their obligation under international law including Human Rights Law and Humanitarian Law in all circumstances so as to prevent and avoid conditions that might lead to displacement.

⁵ Deng F., "The guiding principles on internal displacement". E/CN.4/1998/53/Add.I, United Nations. New York: http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html. Retrieved October 23, 2012.

⁶ *ibid*

5.3 Recommendations

However, the proposed recommendations to these observations are as follows;

1. There is an urgent need to review the National Emergency Management Agency Act to adequately address the problem of internal displacement especially with regards to providing durable solutions for internally displaced persons and to be in tune with recent trends of disasters. The Agency could generally adopt a broader outlook and interpretation of some of its legal mandates particularly in its operational capacity. For instance, section 6 (1) (i) with regards to providing not just relief for victims of disasters but very importantly- rehabilitation, the Agency could expand this to practically include harnessing of the necessary resources and man-power to be charge of a well coordinated national effort in providing durable solutions. Also, section 6 (1) © and (g) with regards to monitoring the state of preparedness of all organizations and agencies and coordination, the Agency could consider a firmer level of enforcement measures. Under section 6 (1) (f) with regards to disaster curtailment activities, the agency could better empower its Search and Rescue department by obtaining more sophisticated equipment and facilities needed to prevent and minimize the effects of disasters such as sensor machines to detect pending disasters such as timed bombs, surveillance cameras, intensive mobile clinics for disaster victims in remote areas with restricted access to hospitals and proper health facilities, it can also explore the provisions on technical aid from international and strategic partners to achieve more.
2. The Stakeholders must take the necessary steps to ensure the adoption of the National Policy Framework on the Protection and Assistance on Internally displaced persons in

Nigeria. This national policy framework is necessary to promote the implementation and enforcement of the responsibilities therein. The endorsement of the national policy by the Federal Government will serve as an indication of political will to adequately address the sufferings and helplessness of the displaced population and an acceptance of its responsibility provided under the United Nations Guiding Principle on Internal Displacement which states that the protection and assistance of internally displaced persons, lies primarily with national authorities mandated to protect and care for them.⁷ Policy makers should also be adamant in achieving their goals and continue to encourage and adopt concepts and practices that promote social development, equity, economic growth and environmental quality to minimize the impact of hazards, reduce vulnerability and enhance coping and adaptive capacity. The draft on the National Policy on the Protection and assistance of internally displaced persons should be given a more serious attention and made to see the light of day without any more unnecessary delays as this is the number one key towards addressing the existing problems and controversy on the legal authorities and the roles of these authorities in the protection and assistance of internally displaced persons.

3. The National Emergency Management Agency Act mandates the Agency to provide relief and rehabilitation of disaster victims hence the practice of setting up committee to carry out relief interventions only brings about the problem of duplication of efforts. The government should channel resources and efforts to better empower the Agency to carry out its responsibilities. People usually have more confidence in the Government and in the institution established with the key mandate of providing relief to the affected

⁷Golwa, G., Peace and Security as Imperatives for National Development, Published by Institute for Peace and Conflict Resolution, Abuja, 2013, Page 3.

population and who is accountable at the end of the day not only to the government but the people as well. Well meaning Nigerians are indeed encouraged to assist and compliment the activities and efforts of humanitarian agencies by engaging in emergency relief operations, but it should not be done with a view to gaining undue political advantage or for selfish interest.

4. It is the responsibility of the National Emergency Management Agency as a coordinating body to foster synergy among stakeholders, State government and non state actors. The Agency should device enforcement strategies, especially through the full implementation of its existing policies such as the National Disaster Management Framework (NDMF) and other plans and programmes, and monitor the activities of other government establishment and State Emergency Management Agencies to ensure adequate compliance with the law. The challenges faced by displaced persons calls for serious commitment and a collective effort, not isolated activities of different stakeholders with each one trying to take the glory. It is very important to have a unified front so as to ensure effective and timely response to disasters and interventions.
5. Prevention is paramount, but is probably the most difficult measure to take by government. Yet the best prevention against displacement is ensuring the respect for the fundamental human rights of civilians and populations in all situations and circumstances consistent with government constitutional and treaty obligations; this will to a large extent reduce the threats to the security and welfare of the citizens. This approach accords with constitutional obligations imposed on all levels of government as articulated by chapter two of the Nigerian Constitution⁸ which provides for the security and welfare of the people as the primary purpose of government, and to ensure the progressive

⁸ Section 14(2)(b), Constitution of the Federal Republic of Nigeria, 1999.

realization of fundamental, foreign policy and environmental objectives and directive principles of state policy for the common good of all citizens.⁹

In conclusion, for Nigeria to meet the desired expectations in the control and management of disasters and emergencies, the legal institutions and National legal frameworks in relation to disaster management should be coherent, transparent, implementable and enforceable. We cannot afford to continue relying on the “Adhoc committee” systems of looking into, and managing disasters through unconventional means when they occur. The protection and assistance of internally displaced persons requires multi-sectoral and multi-dimensional approach; it is not a task for one Institution due to its complex nature. The standard management model for assistance and protection in situations of internal displacement, rather than a single agency approach, is one that involves government officials, United Nations agencies, international organizations, Civil Society Organizations and Non-Governmental Organizations. The protection role of other actors, including international agencies and Non-Governmental Organizations, involves reinforcing national responsibility and supporting, not substituting, and must be recognized and accepted as a necessary aspect in the protection responsibilities of competent authorities.

It is important to enhance the operational capacity of national and international humanitarian responders and support existing states, local and community coping mechanisms. All agencies providing humanitarian assistance to internally displaced persons have a responsibility to consider how the design and implementation of their assistance activities might best contribute to promoting protection of the internally displaced. Efforts must be intensified

⁹ Ladan M.T., Introduction to ECOWAS Community Law and Practice: Integration, Migration, Human Right, Peace and Security in West Africa, ABU Press, Zaria, 2010, page 80.

most especially in the aspect of proffering durable solutions in a pro-active manner rather than a re-active manner. The National Emergency Management Agency needs to prepare standard protocols based on International best practices in order to change the face of disaster management completely from what it is today, to what it should be, and based on International standards.

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