

ENHANCING PROTECTION OF INTERNALLY DISPLACED PERSONS THROUGH DOMESTIC LAW AND POLICY¹

Abstract:

With the global crisis and conflicts, Africa as a continent has the largest number of IDPs in the world. Unfortunately, peoples have lost their life, exposed to different abuses; abandon their homes, property and their family in Nigeria due to Boko Haram insurgency, political instability, civil conflict, natural or economic predicaments and more also developmental projects. The problem of IDPs includes lack of basic amenities such access to portable water, good health care services, food, and shelter. As displaced persons did not cross an internationally recognised border, they are termed “internally displaced persons” (IDPs) not refugees. The paper will examine the legal framework on the rights of IDPs and the Kampala Convention 2009 of the African Union. The paper analyses the legal regime for the Protection and Assistance of the IDPs rights in regional conflicts. This paper examines the AU Kampala Convention 2009 and how the rights of the IDPs have been violated by the agents of states. The paper concludes with a recommendation that Legislation should be domesticated in the National laws and Constitution of Member States who have signed and ratified the AU Convention 2009. Despite the legal constraint of customary international law, international law can be interpreted to include the humanitarian services and aids be given to IDPs as a protection through the international human rights laws(IHRL) and international humanitarian laws(IHL) ratified by the Member States of the regional institution. The State must hold members of the armed groups criminally responsible for human rights abuses and violations of IHL.

Keywords: IDPs, Kampala Convention, International Humanitarian Law, International Human Rights Law, Legislation and Policy.

1. Introduction:

In a democratic process, States have the primary responsibility to prevent displacement, to protect and assist internally displaced persons (IDPs) under their jurisdiction and to provide enduring solutions to their problems of displaced persons. More than a decade to the present day, the series of conflicts and horror brought by Boko Haram insurgency in the Northeast Nigeria and other armed groups and as well as herdsmen induced conflicts have led to serious insecurity and economic problems in our society today. Many People and regions in the Northeast have been besieged with a barrage of suicide bombing, unprecedented attacks, food scarcity, kidnapping of young school girls mass killings of people, combatants and non-combatants and wanton destruction of property. The entire North Eastern States and some parts of the country were maimed and traumatized by violence conflicts, loss of property deprivation and sexual abuse, violation of human rights where there is no hope or future for the men, women and children are deprived of basic formal education including their family relatives. It is against this backdrop that the concomitant problems of displacement of persons whether within or across borders, have remained a grave humanitarian and global concern in recent time. There is a great potential for national committees and similar bodies on international humanitarian law to contribute to the institutional response required to address the specific needs and vulnerabilities of IDPs and migrants caught up in armed and non-armed conflicts. Thus, it is the responsibilities of the States to have a legal instrument that can effectively protects and provide the specific needs of IDPs who are vulnerable. It recommends that the ratification of Kampala convention 2009 should

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be a domestic law and policy framework for the protection and assistance of IDPs in the AU Member States and Nigeria in particular. Thus, failure by Member States within the regional institution to implement the convention through legislation after ratification shall be sanctioned by the AU Commission. This will serve as a protection for IDPs in Africa context under the IHL and IHRL and possible prosecution by those agencies who refuse to implement the policy and the State in question.

During armed conflict, violations of international humanitarian law (IHL) are a major cause of displacement. Without greater respect for IHL and more vigorous efforts to protect civilians during armed conflict and other violence's, global displacement figures will continue to grow. IDPs are among the most vulnerable of all civilians. However, States, which have the primary responsibility to protect and assist IDPs, often, lack the domestic normative and policy frameworks needed to respond to their specific needs and vulnerabilities. The issue of IDPs and that of people who move into neighbouring countries and beyond, also as a result of armed conflict or other situations of violence, may be linked, as people are driven from their homes by the same or similar circumstances. In some contexts, internal displacement may be a first step leading to further movement across international borders – particularly when no effective protection or durable solution to their needs are available for IDPs in their own country. Where there is a continuum between internal displacement and the movement of persons across international borders, the challenges posed by the two phenomena.

2. What is IDP?

Internally displaced persons has been defined by the Kampala Convention 2009 as “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 generalized violence, violations of human rights or natural or human- made disasters, and who have not crossed an internationally recognised border”.² While the UN Guiding Principles on IDPs described it as “persons or group 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 disasters, and who have not crossed an internationally recognised State border”. From the above concepts and definitions of IDPs, it is clear that they are citizens of a State who are resident in their own State but displaced from their original inhabitant or places of abode. States and government owe it a duty to provide protection and assistance to IDPs without discrimination of any kind because they are vulnerable

3. Causes of Internal Displacement

The causes of international displacement vary from place to place. In Nigeria, internal displacement includes conflicts, violence, natural and manmade disasters, human rights violations. The Boko Haram insurgency which is a religious conflict, political conflicts also contributed to the displacement. In some situations, displacement may be caused by armed conflicts and non-armed groups who want to evade the area or territory for occupation. Environmental pollutions and developmental projects³ such as erosions, flooding, oil spillage and clashes or disputes between herdsmen and farmers in their farms can lead to displacement.⁴ Ladan opined that elections and post-election results lead to conflicts and the rate of displacement over the year's increases when a preferred candidate loses or was not declared the winner. The National Emergency

² Article 1 (K) of Kampala Convention 2009 on Protection and Assistance of Internally Displaced Persons in Africa.

³ Article 10, Kampala Convention 2009

⁴ Alobe, and Obaji, ‘ Internal Displacement in Nigeria and the Case for human Rights Protection of Displaced persons’, 2016, 26, *Journal of Law, Policy and Globalisation*, 51.

Management Agency (NEMA) in their report confirmed that about 65,000 persons were internally displaced due to post election conflict in States like Kano, Kaduna, Bauchi⁵ in Nigeria.

4. Internally Displaced Persons (IDPs) and Refugees Dichotomy

Certainly, IDPs are the victims of armed conflicts and non international armed conflicts which make them vulnerable, discrimination and persecution within their territorial borders. In legal terms, the fact that these victims have not crossed any international border makes them status less. They do not have any legal status or enjoy the same rights as refugees, since the Refugee Convention 1951 gives status to refugees and defines it as 'being outside their state of nationality or habitual residence'. The Refugee Convention defines the term, Refugee as applying to any person who,

.... as a result of events occurring before 1st January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being made outside the country of his former habitual residence as a result of such events, is unable or owing to such fear, is unwilling to return to it....⁶

From the above definition of crossing an international border, Andrew Shacknove argues:

....alienage is an unnecessary condition for establishing refugee status. Itis a sub-set of a border category: the physical access of the international community to the unprotected person. The refugee need not necessarily cross an international frontier to gain such access. Thus, I shall argue that refugees are, in essence, persons whose basic needs are unprotected by their country of origin, who have no remaining resource than to seek international restitution of their needs, and who are so situated that their international assistance is possible.⁷

It is often impossible and counterproductive to care only for the refugees, while ignoring their compatriots who are also internally displaced for the same reasons. It is my argument that there should no discrimination between displaced persons and refugees under humanitarian law arrangement. The Guiding Principles on Internal Displacement defines IDPs as: '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 generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.'⁸

The involuntary nature of their departure and the fact that they remain in their own country are the two main elements determining who is an IDP. The mortality rate or statistics of death that occur at IDPs camp are high. The majority of IDPs are mainly women and children who are at risk of abuse of their basic rights. A crucial requirement to be considered a 'refugee' is crossing an international border. Persons forcibly displaced from their homes that cannot or choose not to cross a border, therefore, are not considered refugees even if they share many of the same circumstances and challenges as those who are. In addition, as the definition in the Convention on the Status of Refugees highlights, refugees are forcibly displaced as a result of persecution. Such persecution may be associated, for example, with ethnic or religious conflict. While IDPs may flee for the same reasons, they, in contrast may also be displaced as a result of generalized violence or natural or human-made disasters and even development projects and election violence. Unlike refugees,

⁵ Management of Internally Displaced Persons in Africa, www.afrevio.net. Accessed (accessed 2018-05-20).

⁶ Article 1 (A) (2), Convention Relating to the Status of Refugees of 1951.

⁷ Shacknove, A, 'Who is a Refugee?' 95 *Ethnics* 274, 277(1985)

⁸ See Introduction: Scope and Purpose of the Guiding Principles on Internally Displaced Persons (1998) Para. 2.

IDPs do not need to undergo any process to determine their legal status as an internally displaced person. The term ‘internally displaced person’ is descriptive, reflecting the fact of their displacement and that they have not crossed an international border but then a threat to peace in a particular state constitutes a threat to international peace and security. This is because it is from being internally displaced that one or a group of people might be forced to cross an international boundary to become a refugee or refugees.

It has been argued that the equal treatment of refugees and IDPs can come about if their factual situations can be compared. There is no basis of comparing them in international law. Equally, because internationally recognised borders demarcate areas of territorial sovereignty so that the fact of crossing the borders becomes the crucial dividing line, and thus justifies the intervention of international community.

5. Protection of IDPs under International Legal Instruments

Presently the number of IDPs has continued to be on the increase in the 21st century, with severe humanitarian concern, social and economic costs. Under IHL, there are various provisions that protect and prevent displacement of civilians when they are displaced. These are contained mainly in the Fourth Geneva Convention of 1949, Protocols I and II of 1977 additional to the Geneva Conventions (Additional Protocols I and II), and rules of customary IHL. However, IHL expressly prohibits parties to armed conflict from displacing civilians in both international and non-international armed conflicts, violence conflicts, unless the security of the civilians involved or imperative military⁹ personnel will be brought to checkmate and reduce casualties as the need arises. IDPs are also protected by various legal instruments of law, such as human rights law and domestic law. There is no universal instrument that specifically addresses the plight of IDPs, but in 1998 the United Nations (UN) General Assembly and the UN Commission on Human Rights adopted a resolution taking note of the UN Guiding Principles on Internal Displacement.¹⁰ It is the responsibility of State and Government to take into consideration the IDPs information needs among us by providing adequate funding, shelters, foods, proper health care and security. It is their primary responsibility for protecting and assisting IDPs under their control.

Protection of Internally Displaced Persons and the UN Role in Promoting IDPs Rights

The act of internal displacement itself is a violation of human rights of the people affected. The loss of access to homes, lands, livelihoods, personal documentation, family members and relatives, and social networks amounts to violation of an entire range of fundamental rights of internally displaced persons which need to be protected.¹¹ It is important to state that IDPs requires access to good health care, education, employment, economic activities, and electoral politics participation in their area of displacement.¹² The IDPs are vulnerable to economic, sexual harassments and exploitations. In recent times, the Human Rights Watch reported Nigeria’s extensive human rights abuses in some IDPs camps set up for victims of Boko Haram insurgency and other non international armed conflicts.(NIACs) in the North-East.¹³ This human rights agency stated about 43 cases on sexual abuses, exploitation, harassment and gender base violence.¹⁴ The worst situation is the law enforcement agencies (soldiers and vigilante groups) who are supposed to be providing security including camp officials are the one alleged of these gross misconduct and act of

⁹See Fourth Geneva Convention 1949, Article 49 and Additional Protocol II, Article 17.

¹⁰ United Nations, Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add. 2, 11 February 1998; available at: <https://daccess-ods.un.org/TMP/86040.1801764965.html>.

¹¹ Babatunde and Omidoyin, 20 (1), 2017, 137.

¹² Aloba and Obaji, ‘Internal Displacement in Nigeria and the Case for Human Rights Protection of Displaced Persons’, 2016, 51, *Journal of Law, Policy and Globalisation*, 26; see also *The Nigeria Law Journal*, 20 (1), 2017, 137.

¹³Soniyi, ‘Buhari Orders Probe of Sexual Abuse in IDP Camps’, *This Day Newspaper*, November 1, 2016, www.thisdaylive.com accessed (2018-04-23).

¹⁴ Ibid.

indiscipline.¹⁵ Mooney¹⁶ identified some of the general principles that are likely to increase the need for the protection of IDPs as follows: IDPs may be in transit from one place to another, may be in hiding, may be forced toward unhealthy or uncongenial environments, or face other circumstances that make them particularly vulnerable. The social organisation of displaced communities may have been destroyed or damaged by the act of physical displacement; family groups may be separated or disrupted; women may be forced to assume non-traditional duties or role or face particular vulnerabilities. Internally displaced populations, and especially groups like children, the elderly, or pregnant women, may experience profound psychosocial distress related to displacement. Removal from source of income and livelihood may add to physical and psychosocial vulnerability for displaced persons. Schooling for children and adults may be disrupted. Internal displacement to areas which local inhabitants are of different groups or unreceptive may increase hazard to internally displaced communities. Also IDPs may face language barriers during displacement. The condition of internal displacement may raise the suspicions of or lead to abuse by armed combatants or other actors to conflict. IDPs may lack identity documents essential to receiving benefits or legal recognition; in some cases, fearing persecution, displaced people have sometimes got rid of such documents. The issues that will arise from this principles identified by Mooney above is whether they are workable in Nigeria depends on time. The challenges faced by IDPs in Nigeria are enormous to understand the rights of IDPs as provided under the UN Guiding Principles on Internal Displacement and the Kampala Convention on the Protection and Assistance of IDPs in Africa. Some these rights are right to life, freedom of movement, dignity of human person, personal liberty, right to private and family life, and so on.¹⁷ IDPs are human beings, and they enjoy the same human rights protections that are provided by the international human rights conventions and customary law. However, in armed conflict situations, they equally enjoy the same rights as other civilians to the various protections provided by international humanitarian law.

The Guiding Principles on Internal Displacement¹⁸ restate in explicit terms the rights of internally displaced persons that are implicit in the more general guarantees of existing international human rights and humanitarian law relevant to the internally displaced. The Principles identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.¹⁹ International humanitarian organizations and other appropriate actors have the right to offer protection of and assistance to the internally displaced where their state is unwilling or unable to. Consent to such an offer should not be arbitrarily withheld by the state, and all authorities concerned should grant and facilitate the free passage of humanitarian assistance and facilitate unimpeded access to the internally displaced.²⁰ IDPs have the right to benefit from equality without discrimination, the same rights and freedom under international and national law as done to other persons in their country. The States have a responsibility to ensure the full and equal entitlement of human rights of all individuals on their territory or under their jurisdiction. It is of note to state that States responsibility to IDPs is to protect and fulfil human rights at all times, including during armed conflict and disasters.

International Conventions and International Humanitarian Law

¹⁵ Sexual Abuse: 100 Female Police Officers for Brono IDP Campus, www.punchng.com accessed on (2018-04-230).

¹⁶ Mooney, 'The Concept of Internally Displacement and the Case of Internally Displace Persons as a Category of Concern', 2005, 24(3) *Refugee Survey Quarterly*, 12

¹⁷ Aloba, and Obaji, 'Internal Displacement in Nigeria and the Case for Human Rights Protection of Displaced Persons', 2016, 51, *Journal of Law, Policy and Globalisation*, 26; see also *The Nigeria Law Journal*, 20 (1), 2017, 139.

¹⁸ Guiding Principles on Internal Displacement, 1998.

¹⁹ *Ibid*, Guiding Principle 3 (1).

²⁰ *Ibid*, Guiding Principle 25.

There is no universal instrument specifically addressing the plight of IDPs. But in 1998, the UN General Assembly and the UN Commission on Human Rights took note of the Guiding Principles on Internal displacement. While these Guiding Principles do not constitute a binding punishment, they have received large support from the international community. However, IDPs are protected by international human rights law and in times of armed conflict by international humanitarian law (IHL). IHL provides human rights guarantees for all persons and IDPs are not excluded from such protection. Accordingly, the idea of creating norms aimed at exclusive protection for IDPs is widely opposed and its protagonists approach the same with great caution²¹. On the other hand, there are also political and humanitarian reasons for not privileging IDPs as a sub-set of human rights victims. The International Convention of the Red Cross (ICRC) generally points out that possible discrimination may arise against other human rights victims, and the UNHCR holds the view that the institution of asylum may be undermired and over-emphasised. Those supporting international legal protection for IDPs are often too ready to state the identification and definition of IDPs are not designed to confer them with privileged status similar to the refugees', under international law; rather it is merely to ensure that their specific needs are essentially addressed adequately²². It is important to state that, States obligations depends on the international instruments to which it is a party and ratified by law. In 2009, AU as a regional institution adopted the Kampala Convention²³ on IDPs. It is also an important step towards the protection and assistance of IDPs in one of the continent's most affected by displacement. Several regional institutions such as Organisation of American States (OAS) and European Union (EU) have encouraged their Member States to develop national policies to address the problems and rights of IDPs. I am of the view that regional institutions should let their members States be accountable and proactive in domestication of these conventions they have signed. Thus, States are bound by the rules of customary international law and have an obligation under regional agreements to domestic it as a national legislation. Once a State has signed and ratified a convention, the implication is that it is binding on them under IHL and IHRL when apply in the contexts of IDPs.

6. The Rights of Internally Displaced Persons.

The UN Guiding Principles has made it mandatory for the protection of the human rights of IDPs. It is a moral and legal obligation of States to protect and assist IDPs. The AU through the Kampala Convention²⁴ has also made it an obligation for the Member States to protect the rights of IDPs in their respective countries. For example, In Kenya, it is a right and duty for the State government to provide clean and adequate water for the IDPs where the High Court in *Sylvia Endere v Karen Roses Ltd*²⁵ held that access to clean water is a fundamental right to IDPs. It is also important to note that Kenya was a signatory to the UN instrument on Economic, Social and Cultural Rights which states that availability, quality and accessibility of the drinking water is a measure to ascertain the provision of right of access to water,²⁶ there were serious concern on the quality of water provided at the IDP camps and the government of Kenya responded by providing enough and quality water for the IDPs. The Great Lakes region using the Guiding Principles of UN on IDPs and the AU has created a legal framework on the rights not to displace as part of the domestic legal system.²⁷ In Kenya, the internal displacement law places a duty on the States to protect every human being against arbitrary displacement.²⁸ There is the need to be more protective and make sure it is implemented for

²¹ Ojoh, 'Refugee Scourge as a Threat to International Peace and Security', Unpublished Research Masters Degree in Humanitarian and Refugee Studies (MHRS), University of Lagos 2003:74.

²²Ibid.

²³African Union Convention for the protection and assistance of Internally Displaced persons in Africa. Adopted by the Special Summit of the Union held in Kampala on 22 October, 2009.

²⁴Ibid

²⁵1 Kenya Law Report (E & I)701

²⁶ UDHR 1948, ICESCR 1976, Article 11 and S.70 of the Constitution of Republic of Kenya, 1963.

²⁷ Adeola, 'The rights not to be arbitrarily displaced under the UNGPs on Internal Displacement', 2016, 16 (1) *African Human Rights Law Journal*.

²⁸ Prevention, Protection and Assistance of Internally Displaced Persons and Affected Communities Act 56 (2012)

effective protection mechanism for the rights of IDPs. The African Charter on Human and Peoples Rights 1981 provides the basic principles applicable to all individuals, including IDPs. At the sub-regional level, there are instruments like the Great Lakes Protocol on the protection and assistance to internally displaced persons and Model Law 2006 and the Protocol on the property rights of returning persons 2006, which are legally binding on those States that have ratified them. It is on this basis, we are suggesting to the States to prosecute and make it criminally liable on the armed group who violates the rights of IDPs in their respective country during conflicts.

7. Domestication of IDPs Law and Policy

The government has the sole responsibility for providing protection and assistance to the IDPs without discriminations. It is the duty of the States to develop a national legal instrument for internal displacement as a vehicle to fulfil their sovereignty. It is more than six years now that the Kampala Convention came into being but only 25 Member States of AU who have signed and ratified the Kampala Convention 2009. Member States are under obligation to domesticate this instrument into their National Legislation to become their legal system. The treaty made it mandatory, for Member States that ratifies to develop a legal framework. In Zambia, the government was one of the countries to sign, ratify and implement the convention. This they did by giving the issue of internal displacement directly to the office of the Vice President. The Zambia government has in 2013 issued a cabinet Memo on the guidelines on compensation and resettlement of international displacement due to development projects. It also includes protection from and during displacement and the role of international community in accordance with AU principles. The Uganda Law and Policy on IDPs is more comprehensive because it dedicated a whole chapter to institutional arrangement, roles and responsibilities to the government. It also identifies the lead agency for the protection and assistance of IDPs as the NHRI (National Human Rights Institute) and incorporates all other key Ministries into various advisory bodies or duties. Furthermore, its policy provides a useful tool on how to monitor and effectively control IDPs. The NHRI of Uganda human rights Commission is saddled with responsibility for monitoring the protection of IDPs human rights violations and duties. It is a quasi independent agency established to monitor the effective and efficient implementation of the laws and policy of internal displacement in a state that cares for the humanitarian services of its citizens. It is important to state that AU through its Commission and organs should ensure that Member states who have signed and ratify the treaty by introducing and implementing laws and policies aimed to protecting the rights of IDPs in the continent. Also it is the obligation of the states to respect the IHL and IHRL. This can also be achieved during the sessions of AU General Assembly meeting to ask the State party to provide concrete evidence on the laws and policies in their respective government before the AU commission. The Angolan Norms on the Resettlement of the Internally Displaced Population²⁹ provides for the resettlement of the IDPs as a policy. It is the obligation of States in international law to protect and assist IDPs. This is done by IHRL in times of armed conflict and IHL to protect IDPs. Thus, developing a national legislation that is domicile in the member States of AU on international displacement is essentially a duty of sovereignty and State responsibility to the entire citizens in a democratic process.

8. Challenges of AU Kampala Convention

The AU Kampala Convention 2009 is a right step for the protection and assistance of IDPs in Africa and the globe at large. It is a precedent for future measures in other regions or States within the AU institution to deal with internal displacement problems. The significant problem the AU is having is to get more Member States to sign and ratify the convention. Till date out of 53 member States only 25 members have signed the agreement. It is a challenge therefore for the AU through its Commission to get up and involve Member States to effectively implement and possible domesticate it into national legislation. However, the AU has now produced a Model Law³⁰ which the States may choose different titles for their legislation depending on their practices. It is often said than done to share information on internal displacement within the AU membership to the human rights commission³¹. This is due to the fact that no sovereign state will like to

Articles 3 (b) & 6(1).

²⁹Decree Number 1/01 of Angola (2001) available at http://www.brookings.edu/tp/-Projects/idp/Angolapre-policy_doc_Eng.PDF.

³⁰ The legislation shall be cited as 'Protection of and Assistance to Internally Displaced Person Act adopted on 12 April 2018. accessed on(2018-05-21).

³¹See Article 8(3) Kampala Convention 2009.

expose member States on their lack of obligation and responsibility to its citizens and IDPs per se. The issue of governance problems among Head of States and Government in the AU is another factor affecting the efficient and effective implementation of the treaty. It is our opinion that Member States should create a policy or designate a Commission called IDPs Department for the implement of the IDPs problems, protection and assistance where stakeholders, multinationals and corporate bodies should contribute funds and be part of the management team to ensure that the finances and resources of the commission are proactively utilized for the IDPs not only constitutive legislation in line with the treaty. The Kampala Convention should be amended to allow or include individuals to bring claim or institute an action against the States which failed to compile with the provisions of the agreement. In doing so, an additional Protocol could be added to redeem this lacuna in drafting the convention. In view of these above, if it is provided by the Member States, it will strengthen capability building and enhance confident on the regional institution and best practices in the world as a standard for IDPs to compliment refugees' status.

9. Analysing Rights available to IDPs under International Legal Protection

The Guiding Principles are not legally binding to State actors in themselves, but they contain numerous rules that are part of existing international law and therefore legally binding. Moreover, the Guiding Principles have received strong support from the international community, and have been incorporated in the internal legal systems of various States actors. The African Union as a regional institution in their Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)³² is the first legally binding international instrument for protecting and assisting IDPs. Given the scale of the problem in Africa, the Kampala Convention is a significant and necessary reaffirmation of the rights of IDPs. It details the obligations of Member States, non-State armed groups and international organizations in connection with preventing displacement and protecting and assisting IDPs.

10. Conclusion

Internal displacement of individuals has been a great threat to peace and security in Nigeria and Africa at large. To enhance the legal regime and policy of IDPs, researchers have adopted and incorporated the Kampala Convention and Guiding Principles of UN into the National Legislation. There is the need for the AU Commission to advocate through the Head of States and Governments of Members State or States parties to implement and monitor its policies on IDPs through the creation of a Commission or Departments solely responsible for the human rights violation of IDPs in their States. The law should also pay attention to the individual having a legal right to prosecute or bring an action for claims against State party or Government who failed in their obligations and responsibility to the protection and assistance of the IDPs, through a specific legal framework that incorporates penalty or fine to be paid so that the actors and decision making policies should be mindful of their deeds. People have been displaced due to conflicts around the globe. One of the germane recommendations of this paper is that there should be an international regime to safeguard and protect the interest of IDPs under IHL. However, International Law did not categorical state the rights of IDPs to humanitarian assistance except in situations of international armed conflict.³³ Secondly, the international community should look at the ways of addressing the IDPs and given them equal status with the refugees because they have same problems. Thirdly, the rights of IDPs to human rights protection can be effectively achieved if the international community are involved than leaving it to sovereignty of States to restrain international humanitarian assistance and efforts. Finally, there should be an inter-agency cooperation and partnership for an effective institutional framework for the protection of the internally displaced.

³² African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, Kampala, 2009: <http://www.internal-displacement.org/assets/publications/Tools-and-Frameworks/200910-training-KC-AUConvention-on-IDPs-Eng.pdf>. The Great Lakes Pact is another regional instrument that addresses the issue of internal displacement. For more information, see: International Conference on the Great Lakes Region (ICGLR) Protocol on the Protection and Assistance to Internally Displaced Persons, Nairobi, 2006: <http://www.refworld.org/pdfid/52384fe44.pdf>

³³ W. Kalin, Guiding Principles on Internal Displacement: Annotations, (2008)38, American Society of International law and Bookings Institutions, 111-124.