

Does the Kampala Convention Suffice? Imperatives for an Adequate Legal Protection of Internally Displaced Persons in Nigeria: Lessons from Other Jurisdictions

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Abstract

Finding a lasting solution for internal displacements in Nigeria through an adequate legal framework has been elusive and challenging, as it is a problem that has bedeviled the country since it was first experienced in the late '60s. Nigeria has witnessed large-scale displacements within national boundaries because of armed conflicts, communal violence, human rights violations, and other natural or man-made disasters, leaving vulnerable groups the greatest casualties. Domestication of the Kampala Convention has been advocated as a panacea for adequate protection and assistance of the internally displaced people, especially in Africa. This article, however, argues that while the Kampala Convention may be a panacea, there are imperatives drawn from the laws of other African countries and the UN guidelines on protection, which must form part of the normative framework of a good IDP law, even if the Kampala Convention is not domesticated. Using comparative analysis and doctrinal methods, this article explores the UN guidelines for the protection of IDPs and the IDP laws of other African countries and finds that there is a systemic normative imperative, consistent in the legal framework of these countries, gleaned from their unique experience of internal displacement. This paper, therefore, recommends that Nigeria draws from these findings to develop a viable IDP law for the protection of internally displaced persons in the country.

Keywords

Internal Displacement, Legal Framework, Institutional Framework, Protection

1. Introduction

The increase in internal displacements in Nigeria lately poses deep concerns, not

only for the huge number of people affected, but also due to the human tragedy and insecurity associated with it. (Ekpa & Dhalan, 2016) Africa generally faces grave humanitarian challenges due to the protracted displacement of tens of millions of Africans. The trend has shown a decline in external displacement (refugees) and an increase in internal displacement due to various reasons. (Maru, 2009) In Nigeria, for instance, displacements have occurred for various reasons, including natural disasters, climate change, armed conflicts, communal violence, and human rights violations. Most cases of displacement are triggered by conflicts or situations of violence in the country. (IDMC Document, 2018)

In recent times, the striking increase of the Boko haram insurgents,¹ sacking residents of the Northeastern part of the country, has caused huge internal displacements in the Northeast area. (Awhefeada, 2015) The farmer-herders conflicts in the Northcentral have also raised the number of displaced persons to an alarming stage. The government is responsible for protecting its citizens from displacement, as has been clearly stated even by international instruments, but this responsibility has been overwhelming for governments. The United Nations Guiding Principles,² provides that every human “shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence”.³ This is an advancement in the recognition of the right not to be displaced and the first pronouncement of such a right in any international instrument. It has since attained binding legal status in Africa. (Casalin, 2018)

Several laws and policies form the legal and institutional framework addressing internal displacement in Nigeria, yet not much has been achieved in this regard. (Anozie, 2024) The paper finds that the lack of adequate legislation on relevant issues and lax implementation of existing laws have had a negative impact and, therefore, have not addressed the internal displacements in Nigeria. It further argues that adequate protection can be drawn from the protective provisions of the Guiding Principles (GP) and essential pronouncements, which must form part of the normative framework for the adequate protection of IDPs. The paper illustrates while comparing the IDP laws of Kenya, Gambia, Niger, Somalia, and Uganda and recommends that apart from learning from the internal displacements experiences of these other countries, Nigeria takes from the content of their legal frameworks on internal displacements for adequate protection of the IDPs.

¹The full name of this sect is Jama'atu Ahlis Sunna Lidda'awati Wal-Jihad (JAL), but more commonly referred to as Boko Haram; it claims that it seeks the enthronement of an Islamic state in the North-Eastern part of the country.

²The Guiding Principles on Internal Displacement were formulated and presented to the UN Commission on Human Rights in 1998, to facilitate a better understanding and application of existing international law relevant to internally displaced persons and to stimulate enhanced international, regional, and national responses to the needs of the IDPs, as cited in Phil Orchard, “Protection of internally displaced persons: soft law as a norm-generating mechanism”, *Review of International Studies* (2010), 36, p. 293.

³UN Guiding Principle 6.

2. Legal and Institutional Framework Currently Protecting Internal Displacements in Nigeria

Armed conflict in recent times emerged with the Boko Haram insurgents and has displaced more than two million people since its inception in 2009. (Mbiyozo, 2017) Though structurally rooted in socio-cultural and religious differences, the Boko Haram insurgency has transformed over the years with allegiances to the Islamic State and demands for a caliphate, which threatens the democratic composition of Nigeria. (Adeola, 2019b) The situation has degenerated into bandits terrorizing different parts of the country and making different demands.⁴

Consequently, the IDPs suffer a lot of physical and emotional challenges due to their displacement situations. It is important to understand the vulnerability of this population to appreciate the call for their adequate protection. The vulnerabilities they suffer are in various forms. Some touch on homelessness and the absence of basic amenities, health, and food supplies. (Adeola, 2019b) There are also forms of gender-specific vulnerabilities, which include gender-based violence against women, early marriage and forced marriage for young girls, and issues of sexual, reproductive, or maternal health. These issues are heightened because of inadequate protection during internal displacement.

According to the United Nations, protection of IDPs means protecting their human rights, from prevention of displacement to solutions to displacement.⁵ This means protecting against displacement during displacement and finding durable solutions to displacement, which could be through returns or other forms of integration. The primary responsibility to protect the vulnerable population, including IDPs, lies with the national government. This section, therefore, focuses on the domestic laws and institutional frameworks put in place by governments for the protection of IDPs.

Regarding domestic laws, the most important source of protection from displacement and its aftermath is the Constitution of the Federal Republic of Nigeria.⁶ The Constitution does not, however, specifically protect the IDPs as a specific group. It is an embodiment of all human rights standards applicable to all persons in Nigeria in a non-discriminatory manner. Although non-discrimination is provided for under the fundamental rights section of the Constitution, the claims for non-discrimination are in the context of derivative principles of state policy. This means that IDPs may not make claims to specific protection as a group of people within the context of non-discrimination that may be interpreted broadly by the judiciary to award them specific rights. (Adeola, 2019b)

Some norms address issues of protection for various categories of IDPs. The

⁴Bandits have taken over most of the North Central, kidnapping people and claiming ownership of lands in the area.

⁵Handbook on Protection of Internally Displaced Persons, a working manual created by UNCHR. <https://www.unhcr.org/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html>

⁶1999 Constitution of the Federal Republic of Nigeria. Cap 23.

Child Rights Act (CRA) 2003⁷ is one and recognizes internally displaced children as a category 'in need' for the protection of the government.⁸ Governments within the states of the federation are under obligation to protect and ensure their well-being.⁹ The Disability Act does not make such specific pronouncements for persons with disability among IDPs. There are no specific laws for the elderly¹⁰ and women internally displaced. However, IDPs are generally protected by domestic laws but do not prioritize IDPs among other vulnerable citizens.¹¹ The nonexistence of an IDP law makes it difficult for the IDPs to enjoy these basic rights because some scholars have argued that singling out IDPs as a specific group will only benefit the displaced and lead to discrimination against others, such as the nondisplaced poor. (Mooney, 2005) Making these considerable distinctions between the different categories of vulnerable people can only be achieved through a proper IDP law.

Under the institutional sphere, the absence of specific laws creates ambiguity on whose specific mandate it is to protect this population. The situation only generates gaps, duplications, conflicts, and confusion among institutions and makes it difficult for any of them to adequately carry out that responsibility as illustrated below-

The National Emergency Management Agency (NEMA) Act 1999 was established to coordinate and manage disaster issues in Nigeria.¹² However, NEMA does not have the specific responsibility in its mandate to address the issues of IDPs. Though the institution has significantly engaged in the protection of IDPs in the Northeast, its mandate does not specifically provide for IDPs, but to address the issues of all disaster victims in Nigeria, who, like the IDPs, became vulnerable because of their disaster. (Adeola, 2019b) Before NEMA was the National Commission for Refugees, Migrants and Internally Displaced Persons Act (1989) (NCFRMI), which was established to safeguard the interests and concerns of people who want to become refugees or political asylum in Nigeria. However, protecting IDPs was also not specifically mentioned in their mandate. The Ministry of Humanitarian Affairs, Disaster Management, and Social Development was established in Nigeria in 2019 to improve humanitarian policies and provide effective coordination for national and international participation.¹³ Generally, these institutions cannot adequately protect the IDPs, because they contain snippets of rights that could be

⁷Art.1 Child's Right Act (2003). <https://lawsfnigeria.placng.org/searchlaw.php?search=>

⁸Child Rights Act (n 20) art 171 (10) (a) (iii).

⁹Child Rights Act (n 20) art 171 (1) (a).

¹⁰There are only social insurance schemes, to which the Pension Commission is one of them. This scheme is limited to the working population, belonging to the formal section of the economy.

¹¹It should be generally noted that all the domestic laws of the Nigerian Federation protect IDPs and other citizens alike, including the protection of their human rights, health rights, and education rights among other rights.

¹²Art. 6 (1) National Emergency Management Agency (Establishment) NEMA Act. <https://lawsfnigeria.placng.org/view2.php?sn=294>

¹³Ministry of Humanitarian Affairs, Disaster Management, and Social Development Webpage. <https://www.fmhds.gov.ng/about-fmhds/>

claimed by the IDPs but were subject to limitations.

In March 2022, the Federal Government of Nigeria launched the National Policy on Internally Displaced Persons (2021). The policy emphasizes the need and provides the legal framework to prevent arbitrary displacement, addresses the situations of displacements for various root causes, and sets out the role of government, humanitarian agencies, host communities, and armed groups.¹⁴ The policy adopts the human rights-based approach and its principles in protecting the IDPs to accommodate many international laws and protocols, including the Kampala Convention.¹⁵ However, one major shortfall of the policy is the difficulty of its implementation. Without an IDP law, implementing the policy becomes challenging because policies usually do not have the force of law, making them unenforceable. An IDP law will streamline the implementation and make it attainable and enforceable.

An empirical study carried out to determine the adequacy of protection of internally displaced women and children in Nigeria revealed that, despite the numerous laws purportedly protecting the IDPs in Nigeria, none adequately protects the rights of IDPs because duplication of the mandate has further eroded the authority given to the various institutions and has, in turn, created some friction and gap in service delivery. (Anozie, 2024) For instance, some of the laws are flawed because of limitations in their jurisdiction. Some are limited in operation, others are not easily enforceable, and on the part of the institutions, the duplication of mandates of some government institutions makes implementation difficult.¹⁶ Some other institutions do not have specific mandates for protecting the IDPs. This necessitated the call for a proper IDP law for the protection of these vulnerable people.

3. The UN Protection Guidelines as a Measure for the Protection of the Internally Displaced Persons in IDP Settlements in Nigeria

For a government to adequately protect, respect, and fulfill the needs of its internally displaced population, there are 12 indicators, according to the United Nations, that the government should observe. These 12 indicators or benchmarks should provide governments with effective responses to internal displacements so that the government can particularly protect the rights of its vulnerable popula-

¹⁴National Policy on Internally Displaced Persons (2021) at 20. Other positive characteristics of the policy include that it addresses the needs of the IDPs during displacement and ensures their rehabilitation, return, reintegration, and relocation after displacement. The policy contains positive developments toward the protection of IDPs. It factors the protection of the IDPs even during the different stages of internal displacement.

¹⁵Ibid.

¹⁶For instance, NEMA, NCFR, and the Ministry of Humanitarian Affairs in Nigeria had duplicating mandates regarding IDPs. The duplicating mandates also encouraged disaffection among the various government institutions and sometimes become counterproductive in service delivery to the IDPs. The duplicating mandates translate to ambiguity in responsibilities and affect service delivery. This ambiguity has resulted in the activities of some agencies not being felt, while others undertake more responsibilities than they should.

tion.¹⁷ These guidelines include:

Preventing displacement and minimizing its adverse effects; raising national awareness; collecting data on the number and condition of IDPs; supporting training on the rights of IDPs; creating a legal framework upholding the rights of IDPs; developing a national policy on internal displacement; designating an institutional focal point on IDPs; encouraging National Human Rights Institutions (NHRIs) to address internal displacement; ensuring that IDPs participate meaningfully in decision-making; supporting durable solutions; allocating adequate resources to address internal displacement; cooperating with the international community when national capacity is insufficient.¹⁸

Cognisant of the fact that in conflict situations, IDPs face the same risks as civilians who also need protection, this paper argues that the internal displacement situation creates increased and unique protection risks.¹⁹ Adequate protection of IDPs, therefore, requires a rights-based approach that entails a method disposed towards the full and equal enjoyment of rights, recognizing all individuals as rights-holders with legal entitlements to protection and assistance.²⁰ Unlike needs, rights create responsibilities to ensure the protection and well-being of individuals. The state and other authorities are duty-bearers responsible for respecting and protecting individuals' rights. These rights and responsibilities are firmly rooted in international law, particularly human rights, international humanitarian law, and, where relevant, refugee law.²¹

IDPs are entitled to enjoy their human rights equally and without discrimination under international and national law, as do other citizens in their country.²² The UN guidelines under the Global Protection Cluster²³ propose a measure of engagement between the government and its citizens to ensure that the obligation towards the citizen's enjoyment of their health rights is fulfilled. Individuals and communities are equal partners needing protection, so for protection efforts to be effective and sustainable, there is a need to recognize, support, and strengthen the protection capacities of individuals and communities, especially within IDP settlements.²⁴ Therefore, it becomes necessary that international humanitarian and human rights actors build or rebuild and strengthen

¹⁷Protecting Internally Displaced Persons: a UN Handbook for National Human Rights Institutions (2021) at 19.

¹⁸UN Handbook *ibid* at 19.

¹⁹First, the violent situation forces IDPs to leave and remain away from their homes. Their source of life essentials, such as food and medicine, are destroyed, and they suffer several rights violations (such as sexual abuse and reduced human dignity) and many other discomforts due to displacement. See Global Protection Cluster (GPC), *Handbook for the Protection of Internally Displaced Persons* (2010) at 10. See also note 13.

²⁰*Ibid*.

²¹Refugee law does not apply to protecting IDPs, although some refugee law principles are relevant by analogy. Cited in Global Protection Cluster (GPC) *op cit* note 32 at 10.

²²Global Protection Cluster (GPC) *op cit* note 32 at 20.

²³Global Protection Cluster (GPC), *op cit* note 32 at 15-17.

²⁴Global Protection Cluster (GPC) *op cit* note 32 at 12.

the community's capacity to respond to its concerns and make decisions on how best to address these concerns. Being the primary duty bearer, the government should be driving the proposal because of the temporary nature of the assistance of humanitarian workers, their role as facilitators, and limitations in capacities, resources, and local knowledge.²⁵

It is also evident that conflict and displacement affect individuals differently depending on age, gender, ethnicity, social, religious, and other backgrounds.²⁶ The government needs to be proactive in its approach to protect vulnerable persons in this situation, such that inactions on the part of the government inadvertently put IDPs at more risk and increase discrimination and exclusion. A rights-based approach to protection also means that all policies, programmes, and activities are based on rights, as international law provides. It helps realize human rights; it seeks to strengthen rights holders' capacities to claim their rights; it also strengthens duty bearers' capacities to meet their obligations to respect, protect, and fulfill those rights.²⁷

According to the UN guidelines, in carrying out its primary duty of securing the citizens, the government needs to prevent insecurity and conflicts because they are the significant causes of displacement.²⁸ The guiding principles, in principle 3, encourage states to make domestic laws for the protection of IDPs in their countries.²⁹ The UN guidelines further suggest that using the guiding principles as a guide would benefit states.³⁰ The reason is that these principles reflect and are consistent with the provisions of international human rights and international humanitarian law, which are already recognized as part of the law of national jurisdiction and provide states with guidance concerning internal displacement.³¹ The responsibility of the state and its agencies to protect the IDPs in Nigeria begins with developing a domestic legal framework for this purpose.

4. Contextualising the Kampala Convention

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)³² is a transformation of the guiding principles into legally binding rules for managing internal displacement

²⁵Ibid.

²⁶Ibid.

²⁷Ibid at 11.

²⁸UN guiding principle 6 provides for protection against arbitrary displacement. Protection from arbitrary displacement means to prevent situations that will result in the displacement of people. The national government has to secure its territory, protect its citizens, and prevent conditions that will lead to arbitrary displacement.

²⁹Principle 3, Guiding Principles on Internal Displacement.

³⁰Global Protection Cluster op cit note 32 at 15-17.

³¹Global Protection Cluster op cit note 32 at 15-17.

³²African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). Adopted October 23, 2009, entered into force December 6, 2012.

<https://www.unhcr.org/4ae9bede9>

in Africa.³³ While the Convention builds on the guiding principles,³⁴ integrating international human rights and humanitarian law norms related to internal displacements, it also incorporates principles from African regional standards such as the African Charter on Human and Peoples' Rights. (Asplet & Bradley, 2013) The Convention further advances the normative standards on internal displacement in many vital areas, including prohibiting arbitrary displacement, addressing the responsibilities of international and regional organizations, addressing internal displacement linked to the effects of climate change, and addressing remedies for those affected by displacement.³⁵ It is the first context suited to binding international instruments and a reference point for protecting and assisting IDPs in Africa. (Adeola, 2019a)

The Kampala Convention has 23 articles apart from the preamble.³⁶ It gives an insight into the motivation for developing the Convention. The preamble presents the legislative intention of the Kampala Convention, recognizing the need for a binding instrument to manage internal displacement issues in Africa. (Maru, 2009) It also references the devastating impact of internal displacement on peace, security, environment, and development of countries as another substantial justification necessitating such a treaty. (Maru, 2009)

Article 1 (k) of the Convention defines Internally Displaced Persons 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 to avoid the effects of armed conflict, the situation is generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.*³⁷

The Convention also defines internal displacement as:

*The voluntary or forced movement, evacuation, or relocation of persons or groups of persons within internationally recognized state borders.*³⁸

From the above description, the Convention recognizes that states have the primary, but not the exclusive, responsibility of protecting and assisting the IDPs

³³“Managing Forced Displacement by Law in Africa: The Role of the New African Union IDPs Convention”, *Vanderbilt Journal of Transnational Law* (2011), 44, p. 40.

³⁴Global Report on Internal Displacement (GRID, 2023).

<https://api.internal-displacement.org/sites/default/files/publications/documents/IDMC-GRID-2024-Global-Report-on-Internal-Displacement.pdf>

³⁵Ibid.

³⁶Art 2 of the Convention provides an indication of its objectives as follows: (1) Promote and eliminate root causes of internal displacement as well as provide for durable solutions; (2) Establish a legal framework for preventing internal displacement, and protecting and assisting internally displaced persons in Africa; (3) Establish a legal framework for solidarity, cooperation, promotion of durable solutions and mutual support between states parties to combat displacement and address its consequences; (4) Provide for the obligations and responsibilities of State parties, with respect to the prevention of internal displacement and protection of, and assistance, to internally displaced persons; (5) Provide for the respective obligations, responsibilities and roles of armed groups, non-state actors and other relevant actors, including civil society organisations, with respect to the prevention of internal displacement and protection of, and assistance to, internally displaced person.

³⁷Article 1 (k) of the Kampala Convention.

³⁸Article 1 (l) Kampala Convention.

within their borders. The Convention, therefore, does not recognize IDPs as being a legal status *per se* but recognizes an IDP as having independent rights to receive protection and assistance from their states or other actors as appropriate.³⁹ In other words, being an IDP is a situation that motivates specific legal concerns on human rights, international humanitarian, and international criminal law.⁴⁰ The absence of this specific legal pronouncement on IDPs in Nigeria technically absolves the government of their specific responsibilities towards the IDPs. States have the responsibility to protect the rights of the IDPs within their borders, and when they cannot provide adequate protection and assistance, they cooperate with international organizations, humanitarian agencies, and civil societies to get access to support the IDPs in the country.⁴¹ This is already the situation in Maiduguri, Bornu State, where some international communities are providing humanitarian assistance through primary healthcare provisions.

The Kampala Convention emphasises the general obligation of states to prevent situations that may cause displacement, such as 'political, social, cultural and economic exclusion and marginalisation.'⁴² Conflict is at the top of the list of causes of displacement in Africa. Over the last two decades, Nigeria has witnessed a significant number of conflicts, ranging from the Niger Delta conflict to the Boko Haram insurgency and the Herdsmen-Farmers conflict. (Adelakun, 2021) These conflicts have led to significant loss of lives, destruction of properties, displacement of persons, and increased poverty, among others.

Humanitarian services are challenging for states, especially when those displaced in this context have not crossed state boundaries but are within the country because it brings to the fore the issue of sovereignty. The Kampala Convention interprets sovereignty as a positive obligation, requiring states to be responsible for the protection and the general welfare of citizens and those under the state's jurisdiction. (Dieng, 2017) The principle of sovereignty thus reiterates a State's obligation toward its citizens, and it is significant because it means that States cannot abandon their primary responsibility towards their citizens while hiding under the veil of sovereignty and non-interference in internal matters from the international community. (Dieng, 2017) The Convention thus accentuates the obligations relating to protection and assistance, including cooperation among states in the protection of IDPs and the facilitation of access to humanitarian assistance,⁴³ While acknowledging the balance and respect for sovereignty with international humanitarian imperatives. The underlying goal of the Kampala Convention is to address the challenges of internal displacement in Africa and potentially serve as a

³⁹Asplet & Bradley op cit note 48 at 397. Legal status in this context refers to the status held by refugees, which ascribes certain rights, privileges, protections, and obligations to them, but which IDPs do not enjoy because they have not crossed state borders.

⁴⁰Ibid.

⁴¹Art. 5, 6, and 7 of the Kampala Convention.

⁴²Article 3 (b) of the Kampala Convention.

⁴³Article 3 (1) (j) of the Kampala Convention.

reference point for other regions with large-scale internal displacement.⁴⁴

The major challenge in implementing the Kampala Convention in Nigeria is the fact that it has not been domesticated. Nigeria is a dualist country in terms of international treaties.⁴⁵ This means that treaties become legally binding within the country when the National Assembly (the federal Parliament) takes a further step to domesticate such an instrument. Once treaties are domesticated, they automatically enjoy the same legal force as other Acts enacted by Parliament, and no hierarchical distinction may be made between them and other such Acts.⁴⁶ Beyond the issue of domestication is the challenge of political will to domesticate due to corruption and mismanagement of humanitarian funds. It is important to note that because of the absence of an IDP law, no institution is responsible for funding the IDPs. The humanitarian funds from the government are irregular and usually not enough. Therefore, there are funding constraints and a lack of awareness, which has been allowed because there will be a demand for better accountability if the Convention is domesticated. Again, the complex nature of internal displacement in Nigeria requires a careful adoption of the wording of the Convention to ensure that the Convention is worded to protect all internally displaced persons' rights perfectly, considering the diversity of the African region and Nigeria particularly. Nevertheless, the Kampala Convention remains a very good source for IDP law and serves as a guide for governments to produce proper IDP law. It also allows the government the opportunity to adjust the wording to suit the context of their situation and assert the state's sovereignty.

5. Guidelines for Effective Protection of IDPs through Comparative Analysis of Practices Around Africa

Even though the Kampala Convention emerged not just to protect and assist the IDPs, it was to support the regional efforts in Africa to achieve peace, security, and development. (Beyani, 2020) The international community received the drafting, signing, and eventual ratification of the Kampala Convention with great expectations, assurance, and commendations. The Kampala Convention and the UN Guiding Principles, however, established some fundamental imperatives and cardinal steps that states must take to ensure effective national responsibility towards internal displacements.⁴⁷ Countries that have developed policies and laws for the effective protection of IDPs in their states have also leveraged these guidelines and have produced very comprehensive and effective protection norms for IDPs in their countries.

⁴⁴Dieng, op cit note 61 at 263-282.

⁴⁵S.12 (1999) Constitution of the Federal Republic of Nigeria. This section provides that no treaty between the Federation and any other country shall have the force of law except to the extent to which such treaty has been enacted into law by the National Assembly

⁴⁶Abacha v Fawehinmi, (2000) 6 NWLR [pt 660] 228.

⁴⁷Handbook on Protection of Internally Displaced Persons, a working manual created by UNCHR. <https://www.unhcr.org/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html>, p. 10.

This article uses the IDP laws of these countries and their internal displacement experience to postulate the benefits of a good IDP law. Uganda, for instance, was one of the earliest African countries to make an IDP law. Following the 1986 political movement to end years of dictatorship, Uganda was thrown into a civil conflict, which, in the case of North Uganda, lasted 20 years and led to an internal displacement crisis of inconceivable dimensions. (Santner, 2013) The IDP camps were overcrowded with between 10,000 and 75,000 inhabitants and generally created a lot of social and human rights problems. (Santner, 2013: p. 92) The Ugandan IDP policy of August 2004 was built on constitutional provisions for the protection of citizens, regional human rights policies, and the UN Guiding Principles on Internal Displacement. (Santner, 2013: p. 95) Uganda also borrowed from its unique experience of internal displacement and made a comprehensive framework for dealing with internal displacement caused by conflict and natural disasters. It has additional programs and plans designed to address specific aspects, including IDP Return, Resettlement, and Reintegration. (Santner, 2013) Although the policy, by its virtue, was soft law and could not be easily enforced, it was criticized for not being comprehensive enough. The Kampala Convention, entering into force on December 06, 2012, was expected to push the process of further elaboration of norms in Uganda and speed up support for socio-economic re-establishment of returned IDPs and property rights protection.⁴⁸ The entire process, therefore, created a legitimate awareness of what the IDP laws should address.

Kenya's internal displacement issues are caused by political crises, natural disasters, conflicts over natural resources, and conflicts over land between ethnic groups and pastoralists, with the worst incident of internal displacement happening during the disputed presidential elections of December 2007. An estimated 670,000 people fled their homes, and around 1300 were killed. (Dirikgil & Efstathopoulos, 2024) Kenya established the Kenya National Commission on Human Rights (KNCHR) through the Kenya National Commission on Human Rights Act in 2002 as an initial step to address the issues of internal displacement. (Dirikgil & Efstathopoulos, 2024: p. 1647) Kenya proceeded to adopt the Great Lakes Protocol on IDPs and the UN Guiding Principles on IDPs and enacted national legislation to domesticate the GPID into their national legal systems. This step projected Kenya as an exemplary state in IDP protection.⁴⁹

Somalia is another African country with a chronic internal displacement. This is because of over two decades of conflict, violence, human rights violations, and natural disasters. (Mohamoud et al., 2017) An estimated 1.1 million internally displaced people (IDPs) live in vulnerable conditions, facing a range of risks that raise serious concerns over their protection. (Mohamoud et al., 2017) The IDPs continue to suffer with little or no protection, yet the humanitarian support to the country remains high. As communities get displaced, their vulnerability to loss of protection increases, due to the disintegration of the clan and family units. The

⁴⁸Friedarike, op cit note 69 at 115.

⁴⁹Dirikgil and Charalampos op cit note 74 at 1647.

clan and family unit systems are the primary sources of protection in Somalia because of weak or absent state institutions. (Mohamoud et al., 2017)

After analysing its internal displacement situation, Somalia came up with its IDP Policy that addressed its unique internal displacement problems. The Policy created a special agency to handle IDPs; the Policy ensured community stakeholder engagement in planning protection programmes⁵⁰; and it improved and expanded the capacity of the formal justice sector so that IDPs can easily access justice and legal services. The Policy also ensured the documentation of IDPs, strengthened the Human Rights Commission, and assigned roles to civil society and international communities for better service delivery.⁵¹ These countries have practically addressed their IDP situation through these laws and policies and the political will to address the IDP situation in their countries.

Following the assessment of these IDP laws and policies, the preliminary sections of a good IDP law or policy to address internal displacement must emphasise the purpose of the law and should state that the law is for the prevention, protection, and assistance of IDPs within a particular territory.⁵² The laws of Niger⁵³ and Kenya⁵⁴ Captures this essential norm. The Governments of Zambia and Somalia also captured these purposes in the preliminary part of their IDP policies. The Uganda Policy on internal displacement, though quite comprehensive, was silent on the preventive measures to be taken, but captured the protection and assistance of IDPs very well in the preamble.⁵⁵

It is also important that the framework for the protection of IDPs should emphasise the sources from which they draw protection for IDPs. This is well articulated with the Kenya and Niger Laws. While Kenya clearly states that it drew from the Great Lakes Protocol on the Great Lakes Protection and Assistance of the Internally Displaced Persons and UN Guiding Principles on Internally Displaced Persons,⁵⁶ Niger states that it draws from the 1998 UN Guiding Principles on Internal Displacement, the Kampala Convention, and Niger's 2010 Constitution.⁵⁷ The Uganda IDP Policy also clearly states the plethora of instruments from where it draws its protection norms, which include the African Human and Peo-

⁵⁰Somalia IDP Guidelines, Chapters 4.4 and 4.5.

<https://www.refworld.org/policy/strategy/natlegbod/2019/en/122553>

⁵¹Mohamoud et al., op cit note 77. See also Somalia IDP Guidelines, Chapter 1, 1.5.

<https://www.refworld.org/policy/strategy/natlegbod/2019/en/122553>

⁵²Principle 5 and 6 of the UN Guiding principle; Article 3 (1) and 5 of the Kampala Convention.

⁵³Section 6, 7 and 9 Niger: Law No 2018-74 of 10 December 2018 relating to the Protection and Assistance of Internally Displaced Persons (Niger IDP Law).

<https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/implementingLaws.xsp?document-id=01DB4310DFA646B2C12584AE004E441C&action=0>

⁵⁴Section 5, 6, 7, 8 Kenya IDP Law: The Prevention, Protection, and Assistance to Internally Displaced Persons and Affected Communities Act 56 of 2012.

⁵⁵The Republic of Uganda, Office of the Prime Minister, Department of Disaster Preparedness and Refugees: The National Policy for Internally Displaced Persons (2004).

https://www.brookings.edu/wp-content/uploads/2016/07/Uganda_IDPpolicy_2004.pdf

⁵⁶Kenya IDP Law.

⁵⁷Niger IDP Law.

ples' Rights 1981 and the UN Guiding Principles, among others.⁵⁸ The Somalia IDP Guidelines also state that its sources of protection norms come from several instruments, including the Somali National Constitution, the African Human and Peoples Rights, the UN Guiding Principles on Internal Displacements, and others.⁵⁹ Gambia states its sources in its introductory paragraph as the international human rights law, international humanitarian laws, and the Kampala Convention.⁶⁰ The significance of these regulating sources is to ensure that there is a reference point for the purpose of interpretation. (Adeola, 2019b)

It is important to state in an IDP law the responsibility of the government towards the protection of its displaced population. It is pertinent to note the importance of creating institutional bodies with specific obligations. In Nigeria, there are currently institutions like NEMA⁶¹, NCFRMI⁶², and the Ministry of Humanitarian Affairs, Disaster Management, and Social Development, all dealing with disaster management and humanitarian issues. Nevertheless, having a specific institution for this purpose allows a comprehensive approach to institutional protection. It is also important to emphasise the role of the National Human Rights Commission, particularly in monitoring abuses. The Niger IDP law indicates this accentuating the role of the National Human Rights Commission in monitoring human rights abuses according to the law.⁶³ This Commission also resonates with the Uganda IDP Policy as it gives prominence to the duties of the national human rights body.⁶⁴ The policy also creates very robust institutional bodies with specific obligations towards the protection of IDPs. Both Niger and Kenya IDP laws criminalise arbitrary displacement.⁶⁵

It is pertinent to note the drivers of internal displacement in a state and specifically incorporate the same in a legal framework for the protection of IDPs. In doing this, it is equally important to raise awareness of the causes of internal displacements and the necessary steps to be taken to mitigate such when it happens. The definition section of both Niger and Kenya IDP laws recognize these drivers and pronounce protection against such.⁶⁶ Zambia particularly recognizes development as a major driver of internal displacement and makes mitigating pronouncements on it.⁶⁷ In raising awareness, Kenya IDP Law provides for the government to raise awareness as part of the education syllabus for county governments, cities, and urban areas.⁶⁸ The Niger IDP Law also provides that the state is to develop programs that would raise awareness about the causes and consequences of inter-

⁵⁸Chapter 1, Uganda IDP Policy.

⁵⁹Somalia IDP Guidelines, Chapter 1, 1.5.

⁶⁰Gambia Guidelines on IDPs.

⁶¹National Emergency Management Agency Act (1999).

⁶²National Commission for Refugees, Migrants and Internally Displaced Persons Act (2022).

⁶³Niger IDP law (art 15).

⁶⁴Chapter 2.2.3 Uganda IDP Policy.

⁶⁵Niger IDP law (art 31); Kenya IDP law (art 23).

⁶⁶Niger IDP law (art 2 (1)); Kenya IDP law (art 5 (2)).

⁶⁷Zambia IDP Guidelines (Guideline 4 and 18).

⁶⁸Kenya IDP Law (art 17, 18, 19, 20).

nal displacements.⁶⁹ Uganda's IDP Policy also provides for advocacy and public information, though it is more for information on the plight of IDPs.⁷⁰

A durable solution is a cardinal provision in an IDP law or policy. It should address issues such as voluntary return, reintegration, and resettlement.⁷¹ The IDPs should participate fully in this. Kenya IDP Law accentuates the need for the state to safeguard IDP rights and have them participate in matters concerning them, like "make informed and voluntary decisions on whether to return, locally integrate or resettle elsewhere in the country".⁷² The Niger IDP law also provides that IDPs should participate in research, planning, and implementation of proposed durable solutions. In addition, will be provided with the necessary information that will enable them to make informed decisions.⁷³ The Somalia IDP Guideline is quite detailed in providing durable solutions that are in agreement with the above requirements. It reiterates that special protection ends when IDPs have either voluntarily returned, reintegrated, or resettled.⁷⁴ Return as a durable solution in the Nigerian situation may not be viable sometimes. However, the government can leverage the constitutional right of the Nigerian citizens, which allows every Nigerian citizen to settle in any part of the country,⁷⁵ to encourage integration for the IDPs.

In such a normative IDP law, it is important to accentuate the necessity for multi-sectoral coordination aimed at protecting and assisting IDPs.⁷⁶ The essence of having a multi-sectoral coordinative effort is to ensure that various government organs are involved in the process. (Adeola, 2019b) This will create operative synergy between the national and international players for a better outcome with respect to the protection of the IDPs. The Somalia IDP Guideline took it a step further by acknowledging the role of displacement-affected communities in forming the multi-sectoral synergy between the national players, the NGOs, and the international players.⁷⁷ It is important in such a normative framework to address the issue of funding, especially for the various institutional bodies that will be involved in effectively ensuring adequate protection for these persons. Such provision should state the source of such funds and how it will be administered.⁷⁸

These essential provisions discussed above may not be directly provided for in the Kampala Convention. However, these are provisions that could improve the adoption of the Convention for a good IDP law.

⁶⁹Niger IDP Law (art 5).

⁷⁰The Republic of Uganda, Office of the Prime Minister, Department of Disaster Preparedness and Refugees: The National Policy for Internally Displaced Persons (2004), Uganda IDP Policy.

⁷¹Kenya IDP Law (art 9); Niger IDP Law (art 23); Uganda IDP Policy also provides for this in Chapter 3, 3.4; Zambia IDP Guideline (Guidelines 25, 26, and 27).

⁷²Kenya IDP Law (art 9 (1) and (4)).

⁷³Niger IDP Law (art 23 (3) and (4)).

⁷⁴Somalia IDP Guideline (s. 3.2).

⁷⁵S. 41 of the 1999 Constitution of the Federal Republic of Nigeria.

⁷⁶Kenya IDP Law (art (12); Niger IDP Law art 26 (1); Zambia IDP Guideline (Guideline 24); Uganda IDP Policy (Chapter 4).

⁷⁷Somalia IDP Guidelines (art 4.3).

⁷⁸Kenya IDP Law (art 14, 15, and 16); Niger IDP Law (art 27, 28, and 29); Uganda IDP Law (Chapter 4.2); Somalia IDP Guideline (Chapter 5).

6. Conclusion and Recommendations

The adequate protection of Internally displaced persons has been a huge challenge in Nigeria. More worrisome is the fact that every year, more people are displaced without an effective response to the challenge. Over the years, various pieces of literature have identified the driving forces of displacement in Nigeria. However, the issue remains the lack of a committed legal framework to intentionally address the issues of internal displacements. It has become increasingly relevant to seek lasting solutions to the challenge through adequate legal and institutional frameworks.

Since the advent of the Kampala Convention, there has been increased recognition of the need to protect IDPs through a law in line with the Kampala Convention, which Nigeria has both signed and ratified. But this has not been realized yet. Drawing from the legal protection offered in Kenya and Niger through their IDP laws, and the well-articulated IDP policies and guidelines of Uganda, Somalia, and Zambia, this article finds that there are key imperatives that Nigeria must consider in developing a normative framework for the protection and assistance of IDPs. These countries have carefully identified the drivers of internal displacement in their countries and have legislated or made policies based on that. Nigeria has also identified some of its drivers of internal displacements but needs to commit to addressing the issues of displacements. This can only be achieved through creating adequate legal and institutional imperatives that will intentionally address the driving forces of displacements.

Although the Kampala Convention plays a vital role in making a viable IDP law, it does not have to be domesticated for an IDP law to achieve this success. However, it can be a guide in developing an effective normative framework for the protection and assistance of IDPs in Nigeria. With the assistance of the Kampala Convention, specific vulnerabilities concerning gender, for instance, can be properly addressed, because these are vulnerabilities that are well addressed in the Kampala Convention.⁷⁹ Nigeria can infuse more appropriate expressions that will adequately address gender-specific vulnerabilities in this light.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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⁷⁹Article 9 Kampala Convention.

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