

## EXPANDING THE FRONTIERS OF LEGAL PROTECTION OF REFUGEES AND INTERNALLY DISPLACED PERSONS IN NIGERIA

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### Abstract

Man right from creation has been a subject of violence and lives in violent situations. No wonder the book of Genesis 3: 14- 19 says that the Lord God cursed man after his fall. Over time man has witnessed different forms of calamities either from natural disasters or through armed conflicts. Armed conflicts may take the form of insurgency, civil war, cold war, internal disturbances among others. This armed conflict has become a serious threat to global peace and security in 21<sup>st</sup> century, in that, it constitutes the highest contributor to humanitarian crises in the form of rise in human casualties, internally displaced persons (IDPs), refugees, food insecurity and the spread of various diseases. Since the end of the cold war, there has been a proliferation of humanitarian crisis known as a complex emergency. Most countries of the world had one time or the other experienced one form of armed conflict or the other, as the case maybe. Armed conflicts in most cases, occur as a result of several indicators such as poverty, social inequality, poor governance, state fragility with its dire consequences on the entire system of the nation as well as the people. However, at all-time international organizations, regional and national governments never left stones unturned in promulgating and enacting conventions, laws, polices, regulations and guiding principles in addressing the causes and effects of refuge and displacement resulting from armed conflicts or natural disasters. Whether the conventions, laws and policies made in this regard have achieved its desired aim, is a different question altogether which will be dealt with in due course in this paper. This paper takes a look at legal protection of refugees and internally displaced persons during refuge and displacement period. The paper so considers the guaranteed rights of refugees as well as the IDPs in their host nation or state. The paper examines the causes and effects of displacement and refuge on the victims. It also examines the institutional bodies responsible for the provision of aids to the victims of displacement or refuge. It further considers the challenges militating against the displaced persons and refugees whether in camps or not. The paper finds that the laws of this has become obsolete in relation to the existing realities. It also finds that bad governance is usually the major cause of restiveness in people leading to armed conflict in a nation. The paper further finds a high and gross violation of the rights of IDPs and refugees. The paper as a matter of importance proffer well-reasoned recommendations.

### 1.1 INTRODUCTION

In the history of mankind, there has always been people fleeing their habitual place of residence and seeking refuge elsewhere due to one reason or the other ranging from armed conflict or natural or man-made disaster, forced eviction, to mention only but a few. However, it was only in the 20<sup>th</sup> century that displacement became an issue in the international level. Before, First World War (WW1), incidences of refuges were treated in accordance with national laws concerning aliens while the issue of internally displaced persons has little or no attention given to it<sup>1</sup>. There were no

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<sup>1</sup> Dieter Kugelmann, "Refugees" Max Planck Encyclopedia of Public International Law. <http://www>. Public-

rules of customary international law taking care of situation of refugees and internally displaced persons nor did bilateral or multilateral agreement exist to regulate their status. As a consequence of the peace treaties after WW1, huge number of people had to seek refuge in foreign countries. As such the League of Nations had to cope not only with the protection of minorities within states but also with complicated refugees' problems across borders. Initially the League of Nations thought that the refugees problem would be a temporally phenomenon. But within a short period of time the problem turned to serious and lasting character. Notably too, the displacement of people within national frontiers due to disasters or armed conflicts increased tremendously soon after the era of Cold War<sup>2</sup>.

Against this backdrop, the international human rights laws and humanitarian laws began to revolve to address the problem resulting from displacements and refugees. By law, the difference between international human rights laws and international humanitarian laws is that while the former applies in peace situation the latter applies during armed conflict period, though its applications sometimes do overlap and complement each other. In 1928 the first international instrument relevance to the legal status of refugees was developed within the framework of the League of Nations, the arrangement relating to the legal status of Russian and Armenian refugees. It was followed by the first legally binding treaty, the 1933 Convention Relating to the International Status of Refugees, which was limited in its application to the then existing refugees. The development continued upwards movements, in 1948 the Universal Declaration of Human Rights was adopted which provides for the rights of asylum. Based on preparation work under the auspices of the United Nations, especially with the United Nations Economic and Social Council (ECOSOC), the Refugees Convention was adopted on 28<sup>th</sup> July 1951 as a fundamental international legal instrument on refugees' management. The application of the Refugees Convention was then limited to the refuge problems known at the time of its adoption, its terms were later made applicable to all new refugee situations by the 1967 Refugee Protocol<sup>3</sup>. On the aspect of IDPs customary international law looks at it as the responsibility of national state as against international problem. This may explain the fact that there is no binding international instrument on IDPs rather the only document on this is the Guiding Principles issued in 1998 by Francis Deng to the 54<sup>th</sup> Session of the Human Right Commission which made provisions for the protections of the IDPs though not legally binding.

## **1.2 The Concept of Refugees and Internally Displaced Persons (IDPs).**

The dichotomy between refugees and internally displaced persons is a tiny one, on the basis that while the word refugee refers to an individual(s) who has crossed national boarder to any other country for fear of persecution, in the case of internally displaced persons the individual though has been displaced from his habitual residence but is still within the national border of his country. For easier understanding the two concepts will be examined separately.

### **a) Refugee**

Before, 1951 there was no universal definition of refugee anywhere. However, in 1951 the Convention Relating to the Status of Refugee was adopted by members' nations that signed up to it. Art 1A (2) of the convention defined a refugee as a person who "*owing to a well-founded*

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international law. Mht. accessed on 4<sup>th</sup> April 2017.

<sup>2</sup> Ibid.

<sup>3</sup> A. Grahl- Madsen, the Status of Refugees in International Law, Asylum, Entry and Sojourn (1972). Vol.

*fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or of 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 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*<sup>4</sup>.

The Protocol to the Refugee Convention extended the application of the refugee convention to the situation of new refugees, that is, persons who, while meeting the refugee convention definition, had become refugees as a result of events that took place after January 1951. This definition requires that the fear of persecution was the reason for fleeing the state and it also expects that the person crosses a border of his nation. The implication of the restrictive nature of the definition of refugee by the convention is that persons fleeing from natural disasters, civil wars and armed conflict do not fall into the scope of the refugees given in the Convention. This definition is solely for the purposes of the convention, in practice it is recognized for the purpose of humanitarian assistance on a worldwide basis. It can be seen as the core of a minimum standard definition for the status of a person as refugee<sup>5</sup>.

Consequently, the Organization of African Unity (OAU) now known as African Union adopted regional treaty in 1969 called Convention Governing the Specific Aspects of Refugee Problems in Africa. This convention as a matter of importance gave a wider definition to the term refugee. It defines refugee as; *“Any person compelled to leave his/her country owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality”*.

Also in 1984 the Cartagena Declaration was adopted by the Latin American governments. The Declaration defines refugee to mean, *“Persons who flee their countries because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order”*<sup>6</sup>.

Notably, the 1951 Convention did not define how states parties are to determine whether an individual meet the definition of a refugee. Therefore, the establishment of asylum proceedings and refugees status determinations are left to each state party to decide. This has resulted in disparities among states as government craft asylum laws based on their resources, national security concerns, and regional interests. The overall goal of the modern refugee regime is to provide protection to individuals forced to flee their homes because their countries are unwilling or unable to protect them.

However, in order to understand the definition of refugee there is need to highlight some case laws from different jurisdictions where refugee status has been subjected to judicial interpretation. For instance, individual states have interpreted the 1951 Convention requirement of a well-founded fear of persecution, to require asylum seekers to show that there is a reasonable possibility that

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<sup>4</sup> Convention Relating to the Status of Refugees 1951. <<https://www.en.m.wikipedia.org/wiki>>

<sup>5</sup> Ibid. n.4

<sup>6</sup> Ms. Kate Jastram and Marilyn Achiron, Refugee Protection: A Guide to International Refugees Law. [http://www.refugees' protection law. Com.](http://www.refugees'protectionlaw.com) accessed on 4<sup>th</sup> April, 2017.

they will suffer persecution if returned to their country of nationality or habitual residence. See *Matter of Mogharrabi*<sup>7</sup>. This criterion is considered to be both an objective and subjective standard. Although well-founded fear refers to a future threat of persecution, individuals who have faced persecution in the past are presumed to have a well-founded fear, is to be noted that the burden of proof lies on the individual claiming refugee status and not the host country<sup>8</sup>.

Persecution was not defined in the 1951 Convention or the 1961 Optional Protocol. In an attempt to provide guidance on what constitute persecution, the Council of Europe included a non-exhaustive list in the Qualification Directive of acts that could be considered, such as act of physical or mental violence, including act of sexual violence, legal, administrative, policy and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner, prosecution or punishment which is disproportionate or discriminating, denial of judicial redress resulting in inappropriate or discriminating punishment, prosecution or punishment for refugee to perform military service in a conflict situation, where performing military service would include crime or acts under the exclusion clauses as set out in the Refugee Convention, acts of a gender specific or child specific nature<sup>9</sup>.

It could be pointed out that the persecutory acts need not be committed by a state actor alone, that is to say, that persecutory acts committed by non-state actors may qualify under the Refugee Convention where the state is unwilling or unable to protect the individual claiming refugee status. On issue of political opinion as a ground for persecution of an individual claiming refugee status there are some debates within US as to whether neutrality may qualify as a political opinion for the purposes of obtaining refugee status. In *Bolanos Hernandez V. Immigration and Naturalization Service*<sup>10</sup>. Where former military member refused to join guerrillas because he wished to remain neutral which resulted to his undue punishment, it was held that such treatment amounted to persecution based on political opinion.

There is still a lack of consensus as to what constitutes a particular social group and whether classes of persons not included in the Refugee Convention who nonetheless face persecution, such as homosexuals, lesbians among other groups, fall within this category. In this case what qualifies as a particular social group depends on the circumstance of a particular case in different countries. For instance, in Europe, the Council of Europe has stated that persons may be considered to constitute a particular social group when they share a common immutable characteristic, that is, something innate to their being or so fundamental to their being that they cannot be expected to change it. They have a distinct identity within their country of nationality or habitual residence because they are perceived as being different by that society<sup>11</sup>. The view was followed in *Matter of Kasinga*<sup>12</sup> where the US Board of Immigration Appeals (BIA) held that young women who were members of the Tchamba-Kunsuntu tribe on Northern Togo who had not been subjected to female genital mutilation as practiced by that tribe and who opposed the practice

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<sup>7</sup> 19, I&N Dec. 439 {B. I. A. 1987}

<sup>8</sup> Asylum and the rights of refugees, International Justice Resource Center, [https://www. Asylum and refugees rights](https://www.Asylum and refugees rights). Accessed on 4<sup>th</sup> April, 2017.

<sup>9</sup> *Ibid.*

<sup>10</sup> 723 F2d 1431, 1432 {9<sup>th</sup> Cir. 1984}.

<sup>11</sup> Qualification Directive Art. 10(1) (d). see also *Matter of Acosta* 191 I & N Dec. 2011 {BIA 1985} U.S 1221 I & N Dec. 357 {BIA 1996}

constituted a particular social group. Also in *Benitez Ramos V. Holder*<sup>13</sup>, a case concerning a withholding of removal claim filed by an El Salvadoran national, the US Court of Appeals for the seventh circuit not only rejected the social visibility requirement formulated by the BIA, but also criticized the BIA for inconsistently applying its own criteria, pointing to the fact that the BIA itself did not always require social visibility when evaluating whether individuals could be said to be members of a particular social group. The court went further to state that a particular social group has been defined as a group of persons all of whom shall have a common immutable characteristic. Despite the court position in the above cases, it could still be said that the criteria for identifying a particular social group in the US are not yet clear. For instance in *Matter of Acosta* (supra) the BIA held that members of a taxi-driver cooperative in El Salvador did not constitute a social group because their membership was not immutable. More so, in *matter of C.A*<sup>14</sup> the BIA held that non-criminal, uncompensated informants in Colombia did not constitute a social group because they did not share a common immutable characteristic due to the fact that they were not a visible group, as the very nature of their work required them to work in secret.

For a person claiming refugee status to be qualified, the ground of his fleeing his country of nationality to seek refuge in the host country must be based on well-founded fear of persecution. In *A & Another V. Minister for Immigration & Ethnic Affairs*<sup>15</sup>, the High Court of Australia rejected the asylum claim of Chinese nationals who claimed to have a well-founded fear of persecution because they sought to have a second child despite Chinese's one child only policy. The asylum applicants claimed fear of being subjected to forced sterilization and argued they were members of a particular social group that consisted of "*those who having only one child do not accept the limitations placed on them or who are coerced or forced into being sterilized*". The court rejected this formation as too circular because it was not independent of the persecution feared.

The court decision with due respect is faulty as the issue of sterilization raised by the women should have been given adequate consideration as a valid ground for claiming refugee status. This is so, as the US Congress has even recognized forced sterilization as a valid ground of persecution in its legislation<sup>16</sup>. It is submitted that the scope of persecution is yet unexhausted as shown in available literatures this may account for the reason why more than 59.5 million people are currently fleeing their countries for persecution around the world due to their race, religion or nationality. To this extent a deliberate efforts is needed from the international community such UN, EU, AU etc. to nip the problem on the board<sup>17</sup>.

**b) Internally Displaced Persons (IDPs)**

The displacement of persons internally presents a serious global challenge far more than the refugee issues. There is roughly about 65 million IDPs in over 52 countries of the world.60 Per cent of new IDPs are fleeing armed conflicts in just five countries of Iraq, South Sudan, Syria, DRC and Nigeria and around three quarters of IDPs are women and children. Despite international

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<sup>13</sup> 21 I & N 357 {BIA 1996}.

<sup>14</sup> 589 F. 3d 426 {7<sup>th</sup> CIR. 2009}

<sup>15</sup> 23 I & N 951 {BIA 2006}

<sup>16</sup> 8 U S C. S. 1101 (a) (42).

<sup>17</sup> Medecins Sans Frontieres, "Refugees, internally displaced people". WWW. Refugees, internally displaced/ people. M C-A Accessed on April, 2017.

humanitarian law providing for the protection of civilians in armed conflicts, women and children are often deliberately targeted by belligerents as part of their strategy<sup>18</sup>. From the view point of customary international law IDPs remain the responsibility of the territorial state that is to say that the nationality state of the IDPs should have the primary duty to afford them protection before, during and after the cause of the displacement. However, in practice due to the severity of armed conflict the nationality state may be unable or unwilling to accord them any such protection. At the same time, state authorities are themselves often implicated in generating the displacements<sup>19</sup>.

Part of the problems posed by IDPs is on grounds of lack of a definition, undoubtedly, it does not help when it comes to apportioning responsibility to international bodies. In 1998, Francis Deng, the former special representative of the Secretary General on human rights issued a set of Guiding Principles on internal displacement to the 54<sup>th</sup> Session of the Human Rights Commission providing definition of IDPs, by the Guiding Principles, “*internally displaced persons are persons or groups of persons who have been forced or obliged 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*”.

There are two indicative elements for the identification of IDPs evident in the above definition. They are the coercive or otherwise involuntary character of fleeing away, that is, fleeing away caused by armed conflicts, violence, disasters and the likes and (b) the fact that such fleeing away takes place within national borders. The second element is the major distinguishing factor between IDPs and refugees<sup>20</sup>. It is significant that the guiding principles did not limit the scope of the definition of IDPs to the citizens of the nation only, which shows that foreigners may also qualify as IDPs. Reference to ‘homes or place of habitual residence’ indicates that their presence in the country concerned cannot be of just a passing nature but must have attained some nature of permanency.

Unlike refugees, IDPs remain citizens or habitual residents of their country and are entitled to protection and assistance on that basis alone. They can invoke protection under the rights listed in the Guiding Principles which are also contained in relevant international conventions because they are displaced and thus have specific needs, not because they are registered or formally recognized as IDPs. State therefore should not create a system whereby IDPs can enjoy their rights only after having been granted a legal status that could also be refused or revoked<sup>21</sup>. It could be noted that unlike laws governing refugee status, there is nothing like IDPs’ status that can be engaged only after it has been formally granted to an individual. Sometimes it is important to be able to identify who the displaced are. In some countries, individual registration serves the purpose of identifying IDPs. Registration of IDPs may be administratively useful or even necessary for a number of reasons. Such procedures can allow authorities to improve their response in providing protection, reliefs’ assistance as well as other humanitarian care services to the IDPs.

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<sup>18</sup> Ibid.

<sup>19</sup> Javail Rehman, *International Human Rights Law* 2<sup>nd</sup> Ed. (2010): 673

<sup>20</sup> Walter Kalin, *A Manual for Law and Policy Makers*, “Protecting Internally Displaced Persons.” <http://www.google.com>. Accessed on 4<sup>th</sup> April, 2017

<sup>21</sup> Ibid.

The registration of the IDPs should not be used as a means of discriminating against them in any form. Principle 1 of the Guiding Principles provides thus “*internally displaced persons shall enjoying full equality, the same rights and freedom under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced*” While, Principle 29 of the said Guiding Principle provides that “*internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced*”.

At a broader level, the principle of equal treatment is fundamental to the approach to displacement taken in the guiding principles. That approach is based on the observation that displacement consistently results in specific, severe vulnerabilities and harms for those affected, such as the loss of homes, livelihood and social networks. Therefore, in order to place IDPs back on even footing with the non-displaced population, the state should provide specific and targeted measures of assistance and protection of a nature and scope corresponding to the needs and vulnerabilities resulting from displacements<sup>22</sup>.

With regards to the inherently vulnerable groups among the IDPs, Principle 4 (1) (2) provides thus:

1 *These principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disabilities, property, birth or any other similar criteria”.*

2 *Certain internally displaced persons such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and treatment which takes into account their special needs”.*

Attention to the protection needs of inherently vulnerable groups should be an absolute priority in any internal displacement situation. The fact remains that groups with inherent vulnerabilities are likely to be present among any population of displaced persons. This group includes persons with disabilities, chronic diseases, HIV/AIDS, unaccompanied minors and women etc. Study has shown that children and women usually constitute the overwhelming majority of IDPs populations worldwide, but many among them also are consistently among the most vulnerable components of displaced populations. Women often face discrimination and are highly vulnerable to sexual violence and exploitation. Displaced children face immediate threats of sexual or economics exploitation and trafficking as well as the longer-term risk entailed in the interruption of their education and breakdown of social structures meant to protect them and foster their development. Persons with disabilities, chronic illness or HIV /AIDs, as well as pregnant or nursing women and the elderly, often have extra needs with respect to diet, water consumption, and medical treatment and may be too immobilized to move to safer place or to use collective cooking, washing or toilet facilities<sup>23</sup>. Fundamentally the state is expected as a matter of responsibility to take appropriate measure and steps to prevent internal displacement. However,

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<sup>22</sup> *Ibid.* n.22

<sup>23</sup> J. Ahmad, ‘Mapping displaced populations with reference to Social vulnerabilities for Post-disaster Public Health’ [27 November, 2017] <[https:// www. Geospatiahealth.net](https://www.Geospatiahealth.net)> accessed November 8, 2019

when displacement is unavoidable, steps should be taken in advance to mitigate its harmful effects according to Principle 5 of the Guiding Principles which provides that, “*All authorities and international actors shall respect and ensure the realization of their obligations under international law, including human right and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons*”. But when displacement eventually occurs in a state, it is the duty of that state to protect the displaced persons. It has been said that sovereignty entails not only the right of each state to conduct its own affairs but also the primary duty and responsibility to provide protection and assistance without discrimination to its nationalities, including the internally displaced persons, in accordance with international human rights and humanitarian law. So far, it has been seen that the Guiding Principles made far reaching provisions for the well-being of the eternally displaced persons; however its major challenge has been the non-binding nature of its provisions. States are therefore called to incorporate the provisions of the Guiding Principles into their national legislations to ensure effectiveness and justifiability.

### 1.3 A Case Study of Incidences of Displacements in Nigeria

The causes of displacement in Nigeria are multi-faceted, complex and overlapping just like any other multi-ethnic nations. For instance, in the middle Belt Region the tussle between the herdsmen and farmers has caused tensions resulting in significant levels of violence and displacement in the region.<sup>24</sup> In the Northwest States another conflict has emerged which is linked to banditry. Due to the violence nature of the conflict many have fled their homes for the safety, thereby becoming homeless in the State of refuge. In Nigeria, flood become a re-occurring decimal for some years now. It has been one of the major causes of displacement in the country year in, year out. Flooding displaces thousands of people every year<sup>25</sup>. Worst still is the emergence of militant Islamic group in the Northeast. It has caused a large numbers of displacement since its inception more than any other known causes of displacement in Nigeria. The body called Jama’tu Ahlis Sunna Lidda’awati jihad popularly known as Boko Haram reared its ugly head in Nigeria in 2002 in Maiduguri. The English interpretation of the term Boko Haram means western education is evil or sin. There is no doubt the term Boko Haram is of Hausa language origin. The ideal aim of Boko Haram group was to resist everything western which it understands as making nonsense of Islamic teachings and also enslaving Africans. It is on this that the group decided to root out any effort to westernize the north that is dominantly Muslims. The origin of the group has been traced to the Yan Tatsine violent outburst of lawlessness close to the beginning of early 1980s<sup>26</sup>. The aftermath of Yan Tatine riots was that some fanatical Islamic groups emerged and started gaining popularity in Borno State. One of those was Mohammed Yusuf, a school dropout who had undertaken religious studies in Niger and Chad before coming back to Nigeria and later established local Mosque and religious school in Maiduguri the capital of Borno State. At that point, Mohammed Yusuf assumed the leadership of one of the group known as Jama’atul Taydidi Islam before he left due to misunderstanding in respect of the group logistic and tactics. As time went on the disciples of Yasuf became known in Islam with a powerful name called the Jama’atul Alhul Sunnah Lidda Wati Jihad which by interpretation means people fervent to the spreading of Islam and Jihad as

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<sup>24</sup> Julius N. Aloh and Uwakwe, Fidelis C. ‘Environmental Impacts of Cattle Grazing and Movement on Foot in Nigeria: A Perspective’[2018] (7) (3) *Port Harcourt Law Journal* 142

<sup>25</sup> Internal Displacement Monitoring Center (IDMC) Nigeria, ‘Country’s Information’ [2019]<<https://www.internaldisplacement.org/nigeria>>accessed November 9, 2019.

<sup>26</sup>A.Adesoji, ‘The Boko Haram Uprising and Islamic Revivalism in Nigerian’ [2010] [2] *African Spectrum* 95.



fashioned out by Mohammed the prophet.<sup>27</sup> Due to sheered hatred for western education, Mohammed Yusuf castigated in clear terms some Islamic scholars of his day for mixing up Islamic teachings with western education. On the basis of this open criticism of Western education and its associated evil connotations, Mohammed Yusuf was able to attract many followers in his area of operation who joined his group to carry out public censure of western education. In 2004 some students in technical colleges in Damaturu and Maiduguri who had been brain washed by Yusuf, tore their educational certificates and left schools to join the teaching and lessons of Qur'an. It was against this backdrop that the group grew in both strength and popularity<sup>28</sup>. The origin of Boko Haram violence and attack is traceable to a misunderstanding in Borno State in 2009 between the followers of Yusuf and the police over the enforcement of a relatively minor motor-bike law that escalated to social unrest and eventually led to the burning down of police stations. At the period of the incident no fewer than 700 people were reportedly killed in clashes in Maiduguri, Bauchi and Potiskun. As a follow up to the unrest, the leader of the group Mohammad Yusuf allegedly died in the police custody<sup>29</sup>. The extra-judicial killing of Mohammed Yusuf marked a turning point in the radicalization of the activities and operations of the group as its members regrouped under a more dangerous and radical leader called Abubakar Shekau who was formerly Yusuf's deputy. Since his assumption of the leadership of the group they have carried out more violent attacks ranging from killings, conscription of under-aged youths into the group membership to suicide bombing across the Northeast and North Central of Nigeria. One of the most acclaimed onslaught of the group that attracted international outcry was the abduction of over 219 students of Government Secondary School girls in Chibok town of Borno State in April 2014. Before this incident it could be recalled that 25<sup>th</sup> December, 2011 the group bombed St. Theresa's Catholic Church Madalla, Niger State while about 48 persons died and over 200 worshipers were hospitalized. Also in January 6<sup>th</sup> the same 2011, the group attacked Mubi Ademawa State and killed 20 Igbo men and women. They further went on to issue three days ultimatum to southerners dominantly Christians to leave Northern part of the country<sup>30</sup>. Also in June, 2012 three more churches were bombed in Kaduna by Boko Haram group. The bombing attracted some reprisal attacks by Christians who have been enduring the violent activities of the group, as they took up arms against Muslims. As a result Christians blocked the Kaduna/Abuja road in search of Muslim passersby's and killed all they caught on the road. Another reprisal attacks that took place on 19<sup>th</sup> June, 2012 in Kaduna State saw the death of over 70 people while more than 130 persons were severally wounded. There was another attack launched by the Boko Haram group in Damatura the Yobe State capital sometimes in November 2011 that claimed more than 150 lives mostly "Christians and left thousands of persons homeless". The group also razed down many churches such as St. Mary's Catholic Church, All Saints Anglican Church, Cherubim and Seraphim Church among others in the attacks. There was serial of attacks by the group in the following towns, Michika Local Government Area, Kuborshosho, Kubi, Garta among others at different periods<sup>31</sup>. Research has it that over 100,000 Nigerians have lost their lives though Boko Haram attacks since

<sup>27</sup> *Ibid.*

<sup>28</sup> Danijibo N.D 'Wamic Fundamentalism and Sectarian Violence: The Maitatine and BokoHaram Crises in Northern Nigeria', [2012] <<http://www.fra.Nigeria.org>.accessed 28 August 2019>.

<sup>29</sup> Okoroafor C.U. and Ukpabi Monday.C 'Boko Haram Insurgency and National Security in Nigeria' [2 February 2018] <<https://www.ajol.info>>accessed 29 August 2019.

<sup>30</sup> Okoroafor C. U. and Ukpabi Monday C. (n.4)

<sup>31</sup> Inuwa Bawa, 'Boko Haram Tactics Similar to What Happened in Chad' Daily Sun (Lagos, 14 September 2014) 31

2009 while about 40 villages have been attacked in the Northeast States of Borno, Yobe and Adamawa including other states such as Kano, Abuja and others<sup>32</sup>.

As time went on, the insurgency escalated to become transnational issue as the attacks extended to neighbouring countries like Cameroon, Niger, and Chad among other nations. This expansion necessitated both bilateral and multilateral counter insurgency measures by the affected nations. In 2015 there was a cooperation agreement between Cameroon and Chad and between Nigeria and Chad resulting to robust joint military operations against the sect<sup>33</sup>. In the same year too there was regional coordination by the African Union that culminated to the formation of Multinational Joint Task Force to fight Boko Haram made up of armed forces from Benin, Cameroon, Chad, Niger and Nigeria with the major aim of defeating the sect even if it means wiping them out of the earth's surface<sup>34</sup>. Nigerian armed forces on the other part has launched several counter insurgency operations in the North East which resulted to the death of many members of the sect as well as unarmed civilians comprising women and children. For instance, in 2017, the Nigerian Air Force bombed an internally displaced person (IDPs) camp at Ram Borno State that resulted to the deaths of more than 100 civilians including humanitarian workers. Upon the admission of responsibility by both Air Force authority and the government for the bombing an investigation was conducted internally by Nigerian Air Force but no findings or indictments have been made public till date. The Nigerian armed forces had repeatedly engaged in retaliatory tactics against civilians believed to have harbored or associated with the Boko Haram group. It has also conducted mass arrests primarily of men and boys perceived to be of fighting age for suspected collaboration with or tacit support of the members of the sect. There has also been forced disappearances, torture and prolonged illegal detention in life-threatening conditions, in government detention facilities, harsh prison conditions, infringement on privacy rights of citizens and substantial interference with the rights of peaceful assembly and freedom of association<sup>35</sup>.

There had been several reports indicating that security agents committed arbitrarily and unlawful killings by engaging the sect members. In 2017 the army constituted a board of inquiry (BOI) to investigate allegation of failure to comply with the rules of engagement and human right violations committed by the army during its campaigns against the sect in the Northeast which at the end the board indicted the armed forces but failed to make the reports public till due to undeserved interest of the government<sup>36</sup>. Over 14.8 million people have been displaced due to Boko Haram insurgency and counter-insurgency in the Northeast<sup>37</sup>. Also, in the first half of 2019 about 142,000 new displacements were recorded, 140,000 people were displaced by conflict while 2,000 people were displaced by disasters<sup>38</sup>.

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<sup>32</sup> Oladayo Awojobi, 'The Socio-economic Implications of Boko Haram Insurgency in the North-East of Nigeria' [2014] [11] [1] *International Journal of Innovation and Scientific Research* 144.

<sup>33</sup> Okoh Alubo and Morgan Piwuna 'Observance of Human Rights and International Humanitarian Law by Nigerian Armed Forces in Internal Security Operations' [2015] [5] *International Journal of Humanities and Social Sciences* 141.

<sup>34</sup> *Ibid.*

<sup>35</sup> F. C. Onuoha, 'The Islamist Challenges: Nigeria's Boko Haram Crisis Explained' [2010] (2) *African Security Review* 54.

<sup>36</sup> *Ibid.*

<sup>37</sup> Lenshie Nsembe Edward and Henry B. Yenda 'Boko Haram Insurgency, Internally Displaced Persons and Humanitarian Response in Northeast Nigeria [2016] (4) (8) *the International Journal of Humanities and Social Studies*, 10.

<sup>38</sup> *Ibid.*fn. 26

## 2.0 Causes of Displacement

Thousands are displaced every year through many causes ranging from armed conflict, disasters or environmental hazards, and sometimes, even large scale developmental projects can cause displacement of people. When faced with any of the above stated causes of displacement residents of such area or country may be left with no other option than to flee for their dear lives. In such situation the only important thing to people facing the problem is safety, any other thing to them, is secondary. In that condition, people are obliged to flee either by their own decisions or are directly forced to leave their homes by the government or its agency. For clarity purposes there will be need to discuss the causes of displacement one after the other.

**2.1 Armed Conflict Induced Displacement:** As pointed out earlier armed conflict whether international or non-international is the major cause of displacement world over. Sometimes, civilians having regards to dangers arising from the conduct of hostilities such as shelling and bombing usually flee from their country or habitual residence to another country or area just to avoid being killed or to run away from the place of hostility. In other cases people are forced to flee because they are threatened, subjected to extortion or forced recruitment or because they fear reprisals or collective punishment. In armed conflicts settings arbitrary displacement is most often a consequence of violations of international humanitarian laws, including disregard for the obligation to distinguish between civilians and combatants and the prohibition of directing attacks against civilian or indiscriminate attack and of spreading terror among the civilian population<sup>39</sup>. It is usually as a result of fear of terror and effect of war, lack of protection and assistance from the authority concerned when people feel they are defenseless without a guaranteed hope that make people utilize the option of fleeing from their habitual residence<sup>40</sup>.

**2.2 Bad Governance Induced Displacement:** Chronic poverty, corruption, abuses by the security forces and long standing impunity by the perpetrators of human right violation have combined together to create fertile ground for the emergence of displacement. When people are not sure of economic, social, educational and political security in their home countries due to bad governance they will have no other option than to flee the country or their habitual residence. This group qualifies as displaced people, because the poverty level they operate on makes it impossible for them to secure accommodation of any form and as a result will resolve to living in camps or under bridges with it associated consequences. In a situation where the government cannot even guarantee the security of lives and properties of it citizen, the possible solution will be to go in search of protection elsewhere. On the other hands too, bad governance, most times creates atmosphere of tension, especially when the masses begin to ask for their rights or entitlement from the governments and such a tense situation if not handled with care results to rioting and conflict which in most cases leads to displacement of thousands of people.<sup>41</sup>

**2.3 State Sponsored Forced Eviction:** Arbitrary displacement may arise in case of forced evacuation or when ordered to leave a certain area by the government not justified on ground of safety or military necessity, as well as when displacement justified on such ground continues

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<sup>39</sup> *Ibid*, fn. 18

<sup>40</sup> *Ibid*.fn.38

<sup>41</sup> BBC. News, 'Sudan Coup: Why Omar al-Bashir was Overthrown' [15 April, 2019] <<https://www.bbc.com/news/world-africa-4785249>.> accessed November 9, 2019

longer than require. There exist instances where government of a State orders evacuation of people from their habitual residence without making alternative place available for those evacuated. Development projects, especially larger scale projects often require relocation of affected population. Some relocation may not be justified for example where the project with a little modifications, could have been implemented with less severe consequence for affected people. In other cases, relocation is carried out in a manner that violates right to life, property and endangers the security of people. Due to the fact that no compensation is paid nor alternative site suitable for relocation given to the affected people. For example in Nigeria more than 2 million urban people, particularly swamp dwellers and other marginalized people have seen forcibly evicted from their home since the year 2000, most notably in Abuja, Lagos and Port-Harcourt. Such evictions were sanctioned by state governments and carried out in the name of security and urban renewal. They have however, taken place without adequate consultation, notice, compensation or offer of alternative accommodation leading to intra- urban displacement which leaves thousands of people homeless. They violate victims' right to adequate housing, constitute arbitrary displacement, denial of access to good health care, education and livelihood opportunity<sup>42</sup>.

2.4 **Natural Disasters.** Natural disasters are mishaps and events that occur naturally with or without human efforts. Natural disasters could be earthquake, flooding earth-slide, epidemic among others which cause terror on people leading to the fleeing away of the affected people in a state in most cases. For instance, flood may occur through man's action such as unstructured development pattern, as people sometimes erect a structure on water channel not minding its consequence. While in some other cases, flooding may result from excessive rain-fall making the river to overflow its banks. Once any of these natural disasters occurs in any country the usual consequence is the destructions of lives and properties culminating in displacement of the people living within that area. Also an outbreak of epidemic can evidently lead to displacement of people. For example, during the outbreak of Ebola disease many people were actually left their habitual residence to another place entirely for fear of contacting the virus<sup>43</sup>.

### 3.0 **Legal Frameworks for the Protection of Refugees and IDPs**

Under this section legal frameworks that provide for the protection of the refugees and IDPs as well as their rights will be highlighted for better understanding of this discourse. Those legal frameworks include but not limited to the following:

#### 3.1 **Convention Relating to the Status of Refugees 1951**

The Convention Relating to the Status of Refugees is the foundation of international refugee law, the Convention defines the term refugee and sets minimum standard for the treatment of person who are found to qualify for refugee status. Due to the fact that the Convention was adopted in the wake of World War II, its definition of refugee focuses on persons who are outside their country of origin and are refugees as a result of events occurring in Europe or elsewhere before 1<sup>st</sup> January 1951. But as new refugee crises emerged during the late 1950s and early 1960s, it become necessary to widen the application and scope of the Convention. As a result, a Protocol to the Convention

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<sup>42</sup> Tunde Agbola and A. M Jinadu, 'Forced Eviction and Forced Relocation in Nigeria: the Experience of those Evicted from Maroko in 1990' [1997] (9) (2) *Environment and Urbanization* 271.

<sup>43</sup> Out A, et al. 'An Account of the Ebola Virus Disease Outbreak in Nigeria: Implications and Lessons learnt' [2017] <<https://googleweblight.com/i?>> accessed November 10, 2019

was adopted in 1967. Interestingly the Convention and its Protocol covered three main subjects which are:

- i. The basic refugee definition, along with terms for cessation of and exclusion from refugee status.
- ii. The legal status of refugee in the country of asylum, their rights and obligations, including the right to be protected against forcible return or refoulement to territory where their lives or freedom would be threatened.
- iii. State obligation which include cooperating with UNHCR in the exercise of its function and facilitating its duty of supervising the application of the Convention and its Protocol. Just as every other international treaties or instruments this Convention is binding only on the country that has ratified same. The implication of this is that a refugee cannot claim any right or privilege under the Convention from the state that has not ratified it. The Convention excludes the application of reciprocity on the basis that refugees do not enjoy the protection of their home country.

**3.2 Organization of American States (OAS);** It could be noted that Latin America has long tradition of asylum seekers. As a result the Treaty on International Penal Law came into force in 1889. While the OAS treaty series No. 34 of 1967 was the first regional instrument to deal with asylum related issues. Within the OAS, two legal instruments are concerned with refugees, the Convention on Diplomatic Asylum and the Convention on Territorial Asylum. The idea of refugees in those instruments is very close to that laid down in the Refugees Convention. In 1980s the outbreaks of civil strife in Central America resulted in mass exoduses of nearly a million people, posing serious economic and social problems on the countries towards which this massive flow was directed. In 1984, the host countries adopted the Cartagena Declaration on Refugees which laid down the legal foundations for the treatment of Central American refugees, including the principle of non-refoulement, the importance of integrating refugees and undertaking efforts to eradicate the cause of the refugees' problem. The definition of refugees in the Cartagena Declaration on Refugees is similar to that of OAU Convention governing the specific aspect of refugees problem in African by encompassing persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflict, massive violation of human right or other circumstance which have seriously disturbed public order. Unfortunately, the Cartagena Declaration on Refugees is not binding on all states. It is, however applied in practice by a number of Latin American States and in some cases has incorporated it into domestic laws.

**3.3 The 1969 OAU Convention Governing the Specific Aspects of Refugees Problem in African.** The conflict that accompanied the end of the colonial era in African led to a succession of large-scale refugees movements. This population displacement prompted the draft and adoption of this Convention in 1969, the Convention is recognized as legally binding regional instrument on refugees' issues. One of the most important aspect of the convention is its definition of a refugee. Though the OAU Convention follows the refugees definition found in the 1951 Convention but it included a more objectively based consideration to wit; *“any person compelled to leave his/her country because of external aggression occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality”*. The definition implies that people fleeing civil disturbances, widespread violence and war are entitled to claim the status of refugee in states that are parties to this Convention, regardless of whether

they have a well- founded fear of persecution. Apart from the broad refugees' definition, the Convention regulates the issues of asylum. It also contains important provisions on voluntary repatriation and on prohibition of subversive activities by refugees.

**3.4 Council of Europe (COE).** Council of Europe, being the major umbrella body for European States, has adopted several legal instruments on refugees' related problems. Among the most important are the 1959 European Agreement for the Abolition of Visas for Refugees, the 1967 Resolution on Asylum to Persons in Danger of Persecution, the 1980s European Agreement on Transfer of Responsibility for Refugees, the 1981 Recommendation to Member States on the Protection of Persons Satisfying the Criteria in the Geneva Convention who are not formally recognized. European Convention on Extradition and Social Security which also contains provision on refugees. Taking into account the status of ratification of each binding agreement, the work of the COE has not led to a coherent set of refugee's law. Nevertheless, it has contributed to the improvement and consolidation of the protection of refugees in Europe. Still on Europe, the Charter of Fundamental Rights of the European Union in Article 18 grants a right to asylum with due respect to the Refugees Convention, the Charter provide precise and detailed rules applicable to refuge and asylum seekers.

**3.5 UN. Guiding Principles on Internally Displace Persons:** These guiding principles address the specific needs of internally displaced persons (IDPs) worldwide. It identifies rights and guarantees relevance to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or refolement and reintegration. As discussed earlier the Guiding Principles gave all-encompassing definition of IDPs. Secondly though the principles are not legally binding on states as it has no force of law but it reflects and consistent with international humanitarian law. It provides guidance to;

- i. The representative of the secretary- General on internally displace person in carrying out his mandates;
- ii. States when faced with the phenomena of internal displacement.
- iii. All other authorities, groups and persons in their relations with internally displaced persons,
- iv. Intergovernmental and non-governmental organizations when addressing internal displacement.

The guiding principles are divided into five different sections, Section I made general provisions on displacement, Section II of the principles provides for protection from displacement. Section III relates to protection during displacement. While section IV deals on humanitarian assistance for the victims of displacement and Section V provides for return, refolement and reintegration of IDPs into society after the period of displacement.

**4.0 Institutional Bodies that Superintendent Humanitarian Aids During Displacement.** Humanitarian assistance in the form of provision of relief materials such as food, clothing, water, medical services as well as other social goods and services are usually made available to the victims of displacement whether internally or externally by some international and national agencies including nongovernmental organizations just to cushion the adverse effects of displacement on the victims during and after the period. Those agencies also ensure that the human rights of the victims (displaced) are not unnecessarily violated by either the government or private

individuals who may want to take advantage of the situation. In a situation where displacement is an off-shoot of armed conflict the agencies encourage parties to the armed conflict to respect and observe their obligations under international humanitarian laws. Some of the institutional agencies include the following:

4.1 **United Nations High Commissioner for Refugees (UNHCR).**<sup>44</sup> In the aftermath of World War 1 the United Nations General Assembly created the office of the United Nations High Commissioner for Refugees. UNHCR is mandated by the UN to protect refugees and help them find solution to their plights. As the problem of displacement has grown in complexity over the past half century, this agency has also grown to meet the challenges. The office founded in 1950, has expanded from relatively small, to specialized agency with an envisioned three-year lifespan to an organization of over 4,000 staff with offices in over 120 countries and an annual budget of US \$1 billion. In addition to offering legal protection, UNHCR now also provide material reliefs in major emergencies either directly or through partner agencies. In its first fifty years, UNHCR has protected and assisted more than 50 million people and its work has earned two Nobel peace prizes. At the international level, UNHCR promotes international refugee agreement and monitors government compliance with international refugee laws. UNHCR staff promotes refugee law among all people who are involved in refugees' protections, including border guards, journalists, NGOs, lawyers, Judges and government officials. While at the field level, UNHCR staff work to protect refugees through wide variety of attitudes including responding to emergencies, relocating refugee's camps away from border area to improve safety, ensuring that refugee women have a say in food distributions and other social services, reuniting separated family members; providing information to refugees on condition in their homes country so that they can make informed decision about return, visiting detention centers and giving advice to government on draft refugee's laws, policies and practices. Over the years, the UN General Assembly has expanded UNHCR's responsibilities to include protecting various groups of people who are not covered by the Refugees Convention and its Protocol. Some of these people are known as "mandate" refugees, others are returnees, stateless persons and, in some situation, internally displaced persons. Though other agencies play some other important roles in handling the plights of the refugees, UNHCR acts as a super agency to others<sup>45</sup>.

#### 4.2 **The International Committee of the Red Cross.**

In every case of displacement where people are exposed to violence related to armed conflicts or natural disasters, the ICRC would consider it as its duty to be actually involved in accordance with its mandate and capacities and to the extent that the relevant authorities or the security conditions allow. This involvement may well go beyond the zones where active hostilities take place, for the ICRC to address protection problems affecting the displaced and indeed any other civilians in whatever part of the country they may be in. The ICPC's criterion for involvement is that of being present and active primarily in specific situations. As a neutral intermediary in the event of armed conflict or unrest, the ICRC seeks to bring protection and assistance to the victims of international and non-international armed conflict or internal disturbances and tensions. In these situations, it seeks to give priority to those in most urgent need,

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<sup>44</sup> UN Refugee Agency, 'UNHCR-Working Together to Build Better Futures for People Forced to flee' <<https://www.impactpool.org/organizations/unhcr-united-nations-high-commissioner-for-refugees> &hl=en-NG> accessed November 11, 2019.

<sup>45</sup> *Ibid.*

in accordance with the principle of impartiality. In this respect the ICRC considers internally displaced persons to be first and foremost civilians, who as such is protected by international humanitarian law. Considering the precarious situations of physically weaker persons among the displaced such as children, the elderly or pregnant women, who constitute one of the main categories of the displaced that in many cases are also in the most life threatening situations often are primary target group of ICRC activities<sup>46</sup>. In a 2006 policy statement the ICRC stated; “the ICRC overall objective is to alleviate the suffering of people who are caught in armed conflict and other situation of violence. To that end, the organization strives to provide effective assistance and protection for such persons, be they displaced or not, while taking into consideration the action of other humanitarian organizations. On the basis of its long experience in different parts of the world, the ICRC has defined an operational approach towards the civilian population as a whole, that is designed to meet the most urgent humanitarian needs of both displaced persons and local or host communities<sup>47</sup>.

**4.3 World Health Organization (WHO).** It was created by UN in 1946 with the principal mandate of international cooperation in the interests of human health. WHO has the task of seeking to eliminate epidemics, endemics and other illnesses and improve housing and hospitals. All these objectives are linked to the improvement and promotion of displaced persons. It is widely recognized that conflicts, instability, food insecurity, poverty and deprivation provide fertile ground for the spread of HIV/AIDS and other diseases. It is also recognized that these are the conditions in which most refugees in the world are forced to live with. Refugee situations are conducive to force, high risk sexual behaviour and sexual abuse. Women and children are also exposed to a greater risk of violence including rape, young people in camp may start sexual activity early and engage in reckless practices, such as unprotected sex, multiple sex partners and the exchange of sex for gifts from other males. Among adults refugees, commercial sex, alcoholic abuse and the poor social status of women are among the major causes of the spread of HIV in refugees and IDPs’ camps<sup>48</sup>.

As a result in 1996 WHO in corroboration with other agencies issued guidelines for HIV intervention in emergency settings, designed to enable governments for cooperating agencies to adopt measures to prevent the spread of HIV/AIDS and other diseases in emergencies and to care for those affected by the diseases. WHO usually addresses the issue of HIV/AIDS and other diseases during the earliest stages of displacement. It is also a notorious fact that epidemics are not uncommon in camps housing the displaced persons due to unhygienic nature of the camps which most times leads to the death of many displaced persons and refugees. In a situation of outbreak of epidemic WHO has always been very active in tackling the problem by rendering medical services to the displaced in the camps.

Apart from the issue of health WHO also addresses the issues of environment and supply of portable water. The problem of the supply of drinking water is a crucial issue of concern to WHO

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<sup>46</sup> Vladimir Melnik ‘What is the ICRC’s Role in Developing and Ensuring Respect for IHL?’ [14 August, 2017] <<https://blogs.icrc.org/ilot/2017/08/14/what-is-the-icrc-s-role-in-developing-and-ensuring-respect-for-ihl/>> accessed November 11, 2019.

<sup>47</sup> *Ibid.*

<sup>48</sup> Jean-Marc Giboux, ‘the Right to Health for Everyone, no Matter Where People Live or Travel’ <<https://www.who.int/life-course/news/commentaries/world-refugee-day/en/&hl=en-NG>> accessed November 11, 2019.



and it requires a favourable environmental context. WHO has established a community water supply unit especially around IDPs camps to monitor and report on progress in improving health in the sector. It has also drafted guidelines for drinking water quality. WHO also has food safety program concerned with protecting human health from unsafe or potentially unsafe food through the prevention of health hazard associated with chemical contamination and addictive. The prevention of environmental health hazard provides support to member states especially those experiencing displacement in the development of national programs for control of environmental health hazards and monitors environmental quality and human exposure<sup>49</sup>.

#### 4.4 United Nations International Children Emergency Fund (UNICEF)

The UN-International Children's Emergency Fund was established by the General Assembly on 11 December, 1946 to provide emergency relief assistance in the form of food, medicine, clothing and education to the children of post-war Europe and China. In 1950, the General Assembly extended the life of the fund for three years, changing its mandate to emphasize health and nutrition programs of long-range benefit to children of developing countries. While 1953 it was further decided that UNICEF should continue its work as a permanent arm of United Nations system, as such its mandate expand to include providing reliefs assistance to the displaced from Syria to Yemen and Iraq, from South Sudan to Nigeria, children are under direct attack, their homes, schools and communities in ruin, their hopes and futures hanging in the balance. Almost one in four of the world children lives in a country affected by conflict or disaster. In country after country, war, natural disaster and climate change are driving even more children from their homes, exposing them to violence, diseases and exploitation.

Against this backdrop, the UNICEF's humanitarian action for children sets out the agency's 2017 appeal fund, totally \$3.3 billion with the aim to provide children with access to safe water, nutrition education, health and protection in 48 countries across the globe. It has been noted that malnutrition is a silent threat to millions of children especially among the displaced. The damage it does can be irreversible, robbing children of their mental and physical potential. One of the priorities of UNICEF in 2017 is to provide over 19 million people with access to safe water, reaching 9.2 million children with formal and informal basic education. Immunize 8.3 million children against measles, provide psychological support to over 2 million children with severe acute malnutrition. It is no longer news that UNICEF<sup>50</sup> has taken part in providing humanitarian assistance to nations that had in the past experience one form of displacement or the other. It takes the responsibilities of establishing schools in refugees or IDPs camps in countries going through displacement, so that children within school ages would not be disadvantaged in any means or by the situation on the ground. It also encourages the displaced in camps to promote hygienic existence or living to avoid contraction of unnecessary diseases, among other humanitarian services.

UNICEF collaborates closely with other specialized agencies including the International Labour Organization (ILO), Food and Agricultural Organization (FAO), the United Nations Education Scientific and Cultural Organization (UNESCO) and World Health Organization (WHO) just to

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<sup>49</sup> *Ibid.*fn.49

<sup>50</sup> UNICEF, 'Refugee and Migrant Crisis in Europe: Humanitarian Situation Report' [30 June, 2019]<<https://reliefweb.int/report/greece/unicef-refugee-and-migrant-crisis-europe-humanitarian-situation-report-32-april-jun&hl=en-Ng>> accessed November 11, 2019.

mention a few. It also works with the funding agencies and programs of the UN-system to exchange information, discuss policies of cooperation affecting the situation of children especially the displaced and explore potential program collaboration<sup>51</sup>.

**4.5 Non-Governmental Organizations (NGOs).** NGOs have traditionally avoided overt involvement in protection activities, though the work has typically been seen as the preserve of specially mandated agencies such as UNHCR and ICRC. However, when these agencies are absent or over-extended gaps in the protection regime they emerge particularly for displaced and other war affected people. NGOs are now focusing on new roles in protection at field level and looking for practical approaches to improving the safety and security of refugees and the displaced persons. NGOs have facilitated stronger protection at field level through alliances with UNHCR. During late 1990s, for instance NGOs and UNHCR undertook a Joint Project Action for the Rights of Child which detailed the protection needs of children. NGOs have also undertaken a pilot protection project with ICRC in Pakistan to screen candidates at risk, and therefore in need of resettlement. ICRC works with Local NGOs to identify those lacking assistance or prospects or repatriation. In this way the local NGOs in alliance with other agencies could distinguish those refugees most in need of protection and resettlement assistance from a much larger group, thereby lightening the burden of other agencies<sup>52</sup>.

NGOs provide protection through education and training. The availability of primary and secondary school education tends to reduce the number of children conscripted into the military, for example when women are trained in income-generation skills which reduces their dependence on relief, it helps to reduce their vulnerability to abuse. They have less need to trade sex for food or other assistance.

Establishing strategic partnership is among the most effective means by which NGOs broaden their protection roles in the field, gain access to target population and increase the resources available for more explicit protection activities<sup>53</sup>.

#### **4.6 Donor organizations.**

These bodies include governmental, national, formal and informal organizations that provide humanitarian assistance and protection to the victims of displacement. In 2003, representatives of four donor organizations that is, the Danish and Dutch Ministries of Foreign Affairs, (DDMFF), the Swedish International Development Cooperation Agency (SIDA) and European Commission of Humanitarian Office (ECHO) agreed to undertake a collaborative evaluation process focusing on the theme of support to internally displaced persons (IPDs). The objective of the process was to draw out key system wide lessons and thereby improve the provision of humanitarian and protection to displaced persons in the future. An informal grouping, “the IDP Evaluation Group” was formed to steer the process. By the autumn of 2003 the initial grouping had expanded to also include representatives of the US Agency for International Development (USAID), the UK

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<sup>51</sup> *Ibid*.fn.51.

<sup>52</sup> Susan F. Martin and Elizabeth Moller ‘NGOs and Practical Protection in Humanitarian Crisis’ <[https://www.NGOS/practical/protection/HPN\\_mht](https://www.NGOS/practical/protection/HPN_mht)> accessed November 11, 2019.

<sup>53</sup> *Ibid*.

Department for International Development (DFID), and Development Cooperation Ireland (DCI) among others<sup>54</sup>.

The approach adopted for planning and managing this collaborative exercise has been deliberately light and informal. Despite some weaknesses this collaborative approach has proved popular with all the participating agencies. The model has the following positive attributes, it encourages a broader perspective beyond the programming of a single donor. It is very much in alignment with the good humanitarian donorship initiative that aims to increase the accountability and consistency of donors within the functioning of the wider humanitarian system.

These donor agencies had one time or the other provided humanitarian assistance by making reliefs materials available for the displaced persons in the following countries Angola, Somalia, Indonesia, Kosovo, Afghanistan, DRC, Colombia, Liberia, Eritrea, Sudan among others. The provision of relief materials by donor agencies aims at ensuring and promoting the welfares of the victims of displacement.

At the fields stage the donor agencies usually partner with other institutional bodies such as Red Cross Society, United Nations High Commissioner for Refugees, and United Nations High Commissioner for Human Right among other host, to ensure smooth provision and distribution of relief items to the actual deserving persons. This collaborative efforts help to eliminate diversion of relief materials by people who would ordinarily want to take undue advantage of precarious situation of the displacement<sup>55</sup>.

## **5.0 The Refugees and IDPs' Entitled Rights.**

Just like every other human beings, refugees and IDPs have some rights and privileges which are provided for in various national, regional and international legal frameworks. These frameworks range from Conventions, Treaties, Legislations, Policies, Principles or Guidelines. It could be noted that while some of the frameworks are legally binding, some are not. It therefore follows that the violation of the provisions of legally binding legislation attracts punishment or at least a redress in the court of law. As pointed out earlier, the issue of refugee status is governed basically by international laws while that of IDPs is majorly managed by national laws. Generally the rights and privileges of refugees and IDPs include:

**5.1 Right of non-refoulement:** the right of non-refoulement could be seen as one of the major and most important right of refugees. The right of refoulement simply implies that refugees should not be returned or force back to their state of origin by host states. Article 33 of Refugee Convention prohibit a host state from sending refugees back to their home country where their lives will be put in danger, the right not to be returned or expelled to a situation which would threaten one's life or freedom is of crucial importance. The principle of non-refoulement finds further expression in Article 3 (1) United Nation Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which provide that "*no state party shall expel, return or extradite a person to another state where there are reasonable grounds for believing*

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<sup>54</sup> John Borton, Margie Buchanan Smith and Ralf Otto, 'Support to Internally Displaced Persons, Learning from Evaluations' <<https://www.support-to-internally-displaced-person-learning-from-evaluation.html>> accessed November 11, 2019

<sup>55</sup> *ibid.*

*that he would be in danger of being subjected to torture*". The principle of non-refoulement laid down in Article 33 of Refugees Convention applied to refugees within the meaning of Article 1 of the Convention. The physical presence of refugees, gives rise to an obligation for the state of refuge to grant effective protection to person falling under its de facto jurisdiction. It has also be argued in some quarters that the provisions of Article 33 could be extended to asylum seeker, this view is held by the member states of European Union. However, in other quarters, the right to non-refoulement has been viewed as confrontation to the almighty principle of sovereignty of the state recognized in customary international law. Owing to the fact that by the principle of sovereignty, states are free to accept or reject foreign nationals and to decide its own affairs. But, there is hardly any principle of law without an exception. Therefore there are situations where the right of non-refoulement will not avail refugees as they could be returned back by the host state<sup>56</sup>. For instance, where the presence of a refugee constitute danger to the national security of the host state. Secondly, where a refugee has committed war crimes or crimes against humanity they could be sent back or extradited or even prosecuted and punished if found guilty. Thirdly, where it is for the interest and welfare of the refugees to be returned back to their state of origin. For instance, where the refuge or host state is experiencing civil war or armed conflict to the extent that the refugees could be killed in the course of the war. Fourthly, where refugees are adjudged to be member of a terrorist group.

The European Court of Human Rights (ECHR) has strengthened the protection of aliens from torture or inhuman or degrading treatment or punishment. It is well established by ECHR that expulsion or any kind of removal by a state party may engage the responsibility of that state. If substantial grounds have been shown for believing that the person in question, if expelled, would face a real risk of being subjected to treatment contrary to Article 3, in the receiving State. The principle was considered in the case of *Cruz Varas V. Sweden*<sup>57</sup> and *Chahal V. UK*<sup>58</sup>.

In *M.S.S.V. Belgium and Greece (GC)*<sup>59</sup>, it was held that the Belgian government had violated an Asylum seeker from Afghanistan's right under Article 3 of the European Convention on Human Rights by returning the applicant to Greece, the country he had initially transited through, to adjudicate his asylum claim because it was common knowledge that the Greek government lacked adequate asylum procedures, thus placing the applicant at risk of being returned to Afghanistan where his life or freedom would be in danger.

Also in *ACOMMHRP, Institute for Human Rights and Development in Africa on behalf of Sierra Leonean in Guinea V. Guinea*<sup>60</sup>, the African commission on Human and Peoples Rights (ACHPR) found that a proclamation by then President Lasana Conte made over national radio stating that the Sierra Leonean refugees should be arrested, searched and confined to refugees' camps resulted in widespread violence and discrimination against Sierra Leonean refugees to such a serious degree that many were effectively forced to repatriate to Sierra Leonean despite the ongoing civil war. The ACHPR held that the treatment of Sierra Leonean refugees violated the principle of non-

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<sup>56</sup> Atle Grahl-Madsen, 'the Status of Refugees in International Law [1968] (62) (1) *American Journal of International Law* 231.

<sup>57</sup> [1991] ECHR. 26.

<sup>58</sup> [1996]23 EHRR 413.

<sup>59</sup> [2011] App NO. 30696/09 ECHR

<sup>60</sup> Communication NO. 249/02, 36<sup>th</sup> Ordinary Session, December 2004.

refoulement. Further, the same line of decision was followed in the case of ACOMMHPR, Organization Mondiale Contre la Torture, Association Internationale des Jurist Democratic Commission Internationale des jurists, Union interafricaine des droits de l'Homme V. Rwanda<sup>61</sup>, where it was held that the expulsion of Burundi refugees living in Rwanda without opportunity to contest their removal violated their rights under the African Charter.

In *A.B.V Refugee Appeals Tribunal & Ors*<sup>62</sup>, the Irish High Court granted leave to apply for judicial review where Refugees Appeal Tribunal had failed to conduct an adequate assessment of whether a former Taliban Commander had personally participated in war crimes and crime against humanity. The court adopted the standard articulated in joined case of *Brundes Republic Deutschland V. B. & D*<sup>63</sup>, that where there is a permissive presumption that any person who occupied a high position within a terrorist organization participated in the activities articulated in Article 17 of the 1951 Convention, authorities must nonetheless conduct an assessment to determine the role the individual personally played in carrying out such acts<sup>64</sup>.

It was also held in *R (on the application of) ABC (a minor) (Afghanistan) V. Secretary of State for the Home Dept.*<sup>65</sup>, that in determining whether there is material before the Home Secretary that justifies a serious belief that the individual who claims protection has committed a serious crime, the Home Secretary is required to look at all the circumstances of the case including the law of England and the law of the country where the crime is said to have occurred, the individual factual matrix of the alleged crime including any potential defenses, the age and circumstance of the applicant and the likely punishment if found guilty. To be considered a serious crime, there must be a high degree of culpability on the part of the alleged offender. In this case the Home Secretary erred in finding there was serious grounds for believing the applicant had committed a particularly serious crime when she had found that the applicant, a minor from Afghanistan had likely committed the alleged crime unintentionally and failed to consider his age and circumstances.

As noted earlier, persons found to be members or tourist organization are not entitle to the right of non-refoulement which implies that they could be returned to their state. In matter of *SK*<sup>66</sup>, the U. S. Board of Immigration Appeals (BIA) held that a Burmese national who had provided approximately 700 dollars to the Chin National Front, which was at the time considered a Tier III terrorist organization under U. S. law was inadmissible on the grounds that she had provided material support to a terrorist organization. It was irrelevant that the US Government supported the National Democratic League, an ally of the Chin National Front and that it fought against the Burmese Government, to which the U.S was opposed. In the wake of controversy following the broad application of the material support bar to refugees and asylum seekers the US Government has subsequently applied a discretionary waiver to several organizations.

**5.2 Right to Freedom of Movement:** This right is key important to refugees and IDPs within their host state or community. There is no doubt that several international instruments

<sup>61</sup> Communication NO.27/87-46/90-46/91-99/93 20<sup>th</sup> Ordinary Session October 1996.

<sup>62</sup> [2017] 1 ELCA 4

<sup>63</sup> [2010] ECR 1000

<sup>64</sup> W. Kalin 'Refugees and Civil Wars: Only a Matter of Interpretation?' [1991] (3) *IJRL* 453.

<sup>65</sup> [2011] EWHC 2937 (Admin) (UK)

<sup>66</sup> 23 I&N Dec. 936 [BIA 2006]

provided for right to freedom of movement. Article 26 of the 1951 Convention provides that states shall afford refugees the right to choose their place of residence within the territory and to move freely within the state. Meanwhile, Art. 28 obliges states parties to issue refugees travel documents permitting them to travel outside the state “unless compelling reasons of national security or public order otherwise requires” see also Art. 12 of the International Convention on Civil and Political Right.

At regional level refugees’ right to freedom of movement is recognized in every state. For instance Art. 12 of African Charter and Human and People Rights and Art. 22 of American Convention on Human Right. It could be pointed out that restraining people’s movement for their own safety cannot be said to constitute a breach of the right to freedom of movement of the refugees or IDPs<sup>67</sup>.

**5.3 Right to Liberty and Security of the Person:** Right to liberty and security of the person is important in the context of how refugees and asylum seekers are treated within the intended state of refuge. The national laws of several states provide for the detention of asylum seekers at one point or another during the adjudication of their claims. The detention of asylum seekers is a contentious issue because of the conditions found in the detention facilities of several states. This is particularly an issue in Greece a state overwhelmed by the number of asylum seekers, whose Greece as a port of entry as they try to access other European states. In order to clarify which state has responsibilities for a particular asylum applicant, the Council of Europe issued Council Regulation ECNO. 343 2003 of 18 February 2003 establishing the criteria and mechanisms for determining the member state responsible for examining an asylum application lodged in one of the members states by a third party state national commonly referred to as Dublin Regulation<sup>68</sup>.

Under the Dublin Regulation the state through which the third state national first entered Europe is generally considered the state responsible for adjudicating that national’s asylum claim. As a result, many of those asylum seekers are returned to Greece to have their claims adjudicated. Human rights organizations have reported on unsanitary and over-crowded conditions in Greek detention centres. In number of cases including *MSS V. Belgium and Greece (GC)* (supra) the ECHR held that the conditions in the Greek detention centers violates individuals’ rights to humane treatment and dignity under the European Convention on Human Rights<sup>69</sup>.

Generally other international human rights instruments also provided for the right of liberty and security of persons as well as prohibition of arbitrary detentions and unfair trials. See Article 9 of International Covenant on Civil and Political Rights etc. Therefore, the refugees and IDPs have the right to the liberty and security of their persons during the period of the refuge or displacement and any act to the contrary amounts to the violation of their rights.

**5.4 Right to Family Life:** A family is seen as the basic unit of society and is entitled to protection by society and the state. Every person comes from one family or the other including the

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<sup>67</sup> UNHCR, ‘Asylum in the European Union: A Study of the Implementation of the Qualification Directive’ <<https://www.asylum/rightofRefugeesinInternationalJustice>> accessed November 9, 2019.

<sup>68</sup> UNHCR, Handbook on Procedures and Criterion for Determining Refugee Status under 1951 Convention and 1967 Protocol Relating to the Status of Refugees <<https://www.unitednationsfactsandfiguresonrefugees>> accessed November 9, 2019.

<sup>69</sup> *Ibid.*

refugees and IDPS, hence their entitlement to enjoy family right or even to form new families during the period of their refuge or displacement. The implication of this is that both refugees and IDPS have the right to get married in camps and become husbands and wives insofar as the parties consented to the marriage.

For instance Article 10 of International Covenant on Economic, Social and Cultural Rights deals with the important nature of promoting and protecting family, the article treats family as “the natural and fundamental group or unit of society. The article notes the value of family in the education and upbringing of children. See also article 23 of the International Covenant on Civil and Political Rights.

In respect of this right, a number of countries provide for the granting of derivation status to dependent relatives. Therefore, where an individual is granted asylum, his or her dependent relatives will also receive protection through him. It is important to note that once the individual’s refugee status is terminated, the status of dependent relative is terminated as well<sup>70</sup>.

The definition of a dependent relative varies by the cultural notions of family prevalent in the state party. In the UK dependents are defined as the spouse, civil partner, unmarried or same sex partner, or minor child accompanying the applicant while in Kenya, dependent relatives include the brother or sister of an applicant under the age of eighteen or any dependent such as grandparents, grandchild or ward living in the same household with the refugee. Section 1 and 2 Refugees Act of Kenya 2014.

**5.5 Right of Return:** In post conflict situation, that is a period when normalcy must have set in a state previously undergoing crises of any form (armed conflict or disaster), there has been an emphasis in the international community to seek to return the refugees and IDPs to the pre-war status quo. Though opinions are gradually changing because violent conflict destroys political, economic and social; structure. If pre-war structures led to the conflict in the first place, or prevented its early resolution. IDPs and refugees right of return can represent one of the most complex aspects of this issue<sup>71</sup>.

In most cases, force is applied by the international community and humanitarian organizations to ensure that displaced people are able to return to their areas of origin and as well re-possess their property. The UN principles for Housing and Property Restitution for Refugees and IDPs, otherwise known as the Pinheiro Principles, provides guidance on the management of the technical and legal aspects of housing, land and property restitution. Restitution rights are of key important to IDPs and refugees around the world, and important to try preventing aggressors benefiting from conflict. However, without a clear understanding of each local context, full restitution rights can be unworkable and fail to protect the people it is designed to protect for the following reasons, refugees and IDPs<sup>72</sup>:

- a. May never have had property, for instance in Afghanistan
- b. Cannot access what property they have as was the case in countries like Sudan, South

<sup>70</sup> Refugees Act of Kenya s.20 (1) CAP 173 2014

<sup>71</sup> Vincent M. ‘IDPS’s Rights and Status, Forced Migration Review’ [1 August, 2000]  
<<https://www.fmreview.org/idps-rights-and-status-forced-migration>> accessed November 9, 2019.

<sup>72</sup> *Ibid.*

- Africa etc.
- c. Ownership is unclear as families have expanded or split and division of land becomes an issue.
  - d. Death of owner may leave dependents without clear claim to the land.
  - e. people settled on the land know it is not theirs but have nowhere also to go as was the situation in Rwanda, Colombia etc. and
  - f. Have competing claims with others, including the state and its foreign or local business partners.

It has been stressed the need for humanitarian organization to develop a greater expertise in these issues, and to use experts who have a knowledge in both humanitarian and property issues and so provide better advice to state actors seeking to resolve these issues. Call has also be made on humanitarian agencies to develop an awareness of sustainable reintegration as part of their emphasis on returning IDPs and refugees home<sup>73</sup>.

**5.6 Other Rights:** The 1951 Convention guarantees other rights to refugees, such other rights include right to education, access to justice, right to gainful employment, as well as other fundamental freedoms, privileges similarly enshrined in international and regional human rights treaties. Notably, IDPs are entitled to vote and be voted for, even while the displacement subsist. Being citizens of the country and there is law disqualifying them from participating in election. All that the electoral body in the country should do is to designate IDPs' camps polling units for the purposes of election, then ensure that those who are qualified to vote are registered before the election to enable them vote. Then, on the Election Day the law enforcement agents are to ensure adequate security throughout the camps for free and fair election to take place. However, this right to vote and be voted for in election may not be available to refugees due to the fact that they may not be the citizens of the country they have taken refuge, as such are not entitled to vote or to be voted for. In their enjoyment of some rights such as access to court of justice, refugees are to be afforded the same treatment as nationals<sup>74</sup>. Also other rights such as wage-earning employment and property rights, refugees are to be afforded the same treatment as foreign nationals<sup>75</sup>. Under Article 13 of the 1951 Convention the refugees are to be afforded the same right to own both moveable and immovable property as foreign nationals.

Despite these rights guaranteed by the 1951 Convention and other human rights instruments, refugees in many states do not enjoy full or equal legal protection of fundamental privileges and rights with the nationals of their host state. For instance country like Ethiopia made reservation to articles 17 and 22 of the Convention thereby treating the rights provided therein as mere recommendations and not obligatory. Secondly, although not a party to the 1951 Convention, Lebanon is host to a large population of refugees, predominately Palestinians restrictive labour and property laws in the country prevent Palestinians from practicing professions requiring syndicate membership such as law, medicine and engineering and from registering property<sup>76</sup>.

**6.0 Adverse Impacts of Displacement on IDPs and Refugees:** The impacts of displacement on the IDPs and refugees either overtly or covertly has a tremendous negative effect on them and

<sup>73</sup> Ibid. fn.72

<sup>74</sup> Art. 16 of the Convention Relating to the Status of Refugees 1951.

<sup>75</sup> Ibid. Art. 17

<sup>76</sup> Human Rights Watch, World Report (Lebanon:2014)



it is inimical to their development. The adverse impacts includes but not limited to the following:

- a. **Insecurity:** The most vulnerable groups of victims of displacement which are women and girls have been reported raped on several occasions in their camps of refuge. These rapes committed on daily basis in IDPs camp is as a result of insecurity in those camps. Youths also indulge in hard drugs, smoking and other criminal activities. Lives and property are usually not secured as the victims stay mixed with both good and bad in open camps.
- b. **Trauma and Bitterness:** The refugees and IDPs are traumatized and frustrated because of the situation they find themselves. Most of them live in bitterness due to painful separation from their family members and love ones. It could also be as a result of the loss they suffered through the displacement.
- c. **Hunger and Starvation:** One of the challenges faced by the refugees and IDP is hunger and starvation as a result of shortage in relief materials supplied to them at camps by either international donor agencies or non-governmental bodies. In most cases relief materials provided for the IDPs by the government are either diverted or misappropriated by those under whose care it was entrusted to administer to the IDPs. There is a saying that a hungry man does not listen to good discussion and this may be the reason why the IDPs usually protest and demonstrate ceaselessly in their camps.
- d. **Acute Malnutrition:** Due to shortage in supply of relief materials to the refugees and IDPs camps, most of them suffer from acute malnutrition which leads to various diseases and deaths in their camps. This malnutrition is also as a result of lack of balanced diet in IDPs camps<sup>77</sup>.
- e. **Sexually Transmitted Diseases:** This is also another challenge that the refugees and IDPs are facing, they have unprotected sex which might result from rape or mutual sex and leads to all kinds of STDs, in the form of HIV/AIDs, gonorrhoea, syphilis etc. These diseases in most cases result to the death of the victim due to lack of adequate medical facilities and attention in camps.
- f. **Lack of Education:** In most camps there are little or no educational facilities. Therefore the refugees and IDPs face the problem of educating their children or family members as they are always in transit or move from one camp to another as the situation requires. Even when educational institutions exist in camps, there could also be problem of lack of qualified teachers as we have them in regular schools to teach children in camps.
- g. **Shelter/Accommodation Crises**<sup>78</sup>:As have been noticed over the years, the most common shelter used by refugees and IDPs are school halls, tents, churches, mosques, town hall, abandoned and uncompleted buildings which may not be enough to accommodate the whole IDPs and even when there are enough of such shelters to accommodate them same are usually uninhabitable for human beings to live in. The ugly aspect of all this is that the concerned authorities in some cases fail to provide accommodation for the IDPs and refugees and even when it does they are usually inadequate to carry the number involved.
- h. **Problem of Waste Management and Electricity:** In IDPs camps there is often no proper waste management as there is usually no body charged with the responsibility to regulate disposal of waste in the camps and this unsustainable waste management method poses challenges

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<sup>77</sup> Grace W. Akuto 'Challenges of Internally Displaced Persons (IDPs) in Nigeria: Implications for Counselling and the Role of Key Stakeholders' [2017] (5) (2) *International Journal of Innovative Psychology and Social Development* 21.

<sup>78</sup>*Ibid.*

on the environment. Beyond that it also has adverse health impacts on the victims as that could lead to the spread of various kinds of endemic disease in the camps. Also those in the camps usually experience total blackout due to lack of electricity supply in camps. This also affect the well-being and fulfillments of people in camps to the extent that any of them who has a skill in a venture that requires electricity may not be able to carry out such skill at the camp.

**7.0 Recommendation:** Given the generality of the discourse, this paper recommend the following way-forward to manage the problems associated with displacements. The recommendations are as follows:

**1. Establishment of Schools in Camps:** Government is to establish institutions of learning in various camps during displacement to enable children of school age who are in camp to continue their education. Such institution of learning should be well funded by the government in terms of providing learning materials as well as qualified teachers in addition, IDPs and refugees should be exposed to entrepreneur skills while in the camps so as to enable them be meaningful to themselves and the society at the end of the displacement. Counselling and guidance should be made a major part of the school system which will be patterned towards character building and good behavioral lifestyle. They should be taught to avoid crimes as well as the consequences of crimes.

2. **Legislations:** There is need for an international legislation that will regulate the status, rights and treatment of IDP in camps during and after displacement. Such law may be patterned in line with the Refugees' Convention of 1951 which is the principal law on refugees as at today, such law to be enacted should stipulate the obligations and duties of state parties to it, as well as rights and privileges of the IDPs to avoid violation by hosting or refuge state. It should also create offences and punishment for the avoidance of doubt. In order to avoid the common problem of international law, such law should lay down in clear terms enforcement mechanism and it must be legally binding on the state parties signing up to the law. It is important that such law lay down the evacuation process of the IDPs from their homestead to safe area during the period of displacement in a manner that they will not be harmed.

3. **Construction of Shelters:** Experience has shown that most IDPs and refugee's camps are nothing to write home about as some of the camps are constructed with tents while some are dilapidated and abandoned school buildings or town halls. It should be the responsibility of the Government to ensure that befitting houses are built before or during the time of displacement or refuge taking, to ensure the well-being of the victims. There is no doubt that befitting shelters if constructed in camps will not only make them feel as human beings but will also reduce the rates of vices such as sexual assaults, thief among others, in camps. For instance, individuals in camps can easily secure their lives and property by making an effective uses of their houses and locking same up when necessary to avoid thieves making away with their valuables in the camps.

4. **Proper Waste Management System:** One of the major causes of health challenges in the camps is myriad of diseases resulting from improper management of waste. At times these diseases or endemics are contiguous in nature and usually leads to the death of many, especially when there are not medically managed well. Therefore, government and international agencies whose responsibilities is to take care of IDPs and refugees in the camps should do well to establish waste dumping centers around the camps. The users should be encouraged and educated on proper ways of packaging waste before disposal. In addition, government agency charged with the responsibility of waste collection should visit every camp on daily basis to collect waste deposited in the collection centers to avoid overflows. Which might lead to littering the whole camp. Still on

this, proper and good toileting system should be constructed to avoid people defecating around the camps as doing so may also impose health challenges to the IDPs.

5. **Criminalizing Refoulement of Refugees by A State:** Although by the relevant legal instruments protecting the refugees, they have the right not be forcefully evicted out of state of refuge or host state. But the question is if they are forcefully evicted what will happen, that is, what can the international community do to the state that evicted them? It is obvious that the international community will not do much to punish the perpetrator(s) due to lack of the enforcement mechanism of international law particularly as it relates to punishing a sovereign state. Therefore there is need to make forceful ejection of refugees a war crime or crime against humanity punishable with life imprisonment since there exist a possibility that the refugees might be killed in their home country if they are forcefully ejected back to their home country by the refuge state. Secondly, the proposed new international law on IDPs should also make it a serious offence for a host community to forcefully return the IDPs to their community of residence before the cessation of the displacement.

6. **Availability of Relief Materials:** The victims of displacement or refugees do not engage in any form of business during the period of crisis as such their sustenance usually comes through relief materials or humanitarian aids made available to them by philanthropists. Most times it comes from special agencies, world donors, wealthy nations, non-governmental organization or/and individuals. There is need for honesty on the part of individuals responsible for the distributions of the donated relief materials in ensuring that those actually entitled to benefit from the material get it and not the other way around. In fact, as a matter of importance, countries may on their own, create a special funds to be known as displacement funds. And the sole use of the funds will be to take care of the victims of displacement or refugees in the country. It could also be made part of the government annual budget to be administered by designated body.

7. **Good Governance:** the reason why many nations are undergoing one crisis problem to the other, is due to bad governance. A situation whereby the collective wealth of the nation is in the hands-off very few but powerful individuals that determine who lives and who dies in the nation. The nation's wealth is highly mismanaged with impunity, without any remorse. No transparency and accountability in governance process. In a nation like this there is bound to be all manners of unrests and disturbances leading to displacement of some members of the nation. To avoid this, governments should try as much as possible to be accountable to those that elected them and to ensure that institution of good governance is established in a nation. This will go a long way to reduce the rate of insurgence that causes displacement especially now that people in any nation are becoming wiser and politically aware of their rights and obligations

## 8.0 Recommendation/Conclusion:

In conclusion, the challenges of IDPs and refugees remain a serious pressing issue in the world. While some significant displacement crises have subsided due to the cessation of hostilities or causes and tens of thousands of them have been able to return to their original place of residence, that is, country of origin or community of residence. Though they are back to their homes millions of the returnees remain in a precarious situations as a result of losses encountered by them during the period. Crises being part of man's existence, more new situations leading to displacement continue to occur. A great deal therefore remain to be done to address IDPs and refugees' protection and needs, to find durable solutions to their plights and to prevent further displacement from taking place<sup>79</sup>.

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<sup>79</sup> Ibid. fn. 78

This study, has shown that assisting the IDPs and refugees by giving them shelter and basic needs such a food, clothes, water among other things will help them. However, apart from these basic needs, they need to be counseled and equipped with skills to overcome both the emotional and physical trauma that is usually associated with such dehumanizing experiences. This then requires double intervention of international organizations, agencies, governments, nongovernmental bodies, civil societies, donor as well-meaning individuals.

Also the government of every nation should address the root causes and challenges of displaced persons and internal conflicts by taking appropriate measures with respect to the resolution of conflicts, the promotion of peace and reconciliation and respect for human rights. In doing this there is need for good governance to be in place to avoid situations where the citizens will feel oppressed and cheated by the government that supposed to protect and provide for them. This situation is common in developing countries and they have the high number of IDPs and refugees resulting from bad government.