

Legal and Institutional Frameworks for Protection of Internally Displaced Persons in Nigeria*

Abstract

Over the years, Internally Displaced Persons (IDPs) in Nigeria have faced a range of challenges. These challenges range from starvation to blatant human rights violations. Today, IDPs are amongst the most vulnerable populations in the country, and the need for addressing issues and challenges relating to their rights is inevitable. The Federal Government of Nigeria signed, ratified and deposited her instruments of the African Union (Kampala) Convention (which came into force on 6th December 2012) for the Protection and Assistance of IDPs. Despite being a signatory to the aforementioned convention, the absence of a specific internal law for IDP management is problematic to IDPs management agencies in Nigeria. The aim of this paper is to examine the legal and institutional frameworks for the protection of internally displaced persons in Nigeria

1. Introduction

The legal framework governing the rights of Internally Displaced Persons (IDPs) in Nigeria comprises a combination of international instruments, national policies, laws and institutions including global and domestic institutions regulating the rights of IDPs in Nigeria. These frameworks seek to guarantee the protection, and promotion of the rights of people who have been forcefully displaced inside their own nation as a result of conflicts, violence, natural disasters, or other reasons. This paper examines the legal frameworks on the rights of IDPs in Nigeria. It extensively discusses the international and national legal frameworks relating to IDPs in Nigeria making reference to some of the key provisions contained in the said framework where necessary. Lastly, the paper examines some institutional frameworks for managing the rights of IDPs in Nigeria.

2. International Frameworks

The international frameworks on the rights of IDPs in Nigeria are the various international instruments such as laws, treaties, conventions, principles and protocols relating to the rights of IDPs adopted or domesticated in Nigeria. This paper discusses the United Nations Guiding Principles on Internal Displacement, and African Union Convention for the Protection and Assistance of Internally Displaced Persons.

2.1 United Nations Guiding Principles on Internal Displacement

The Guiding Principles are a set of 30 principles or guidelines and/or standards developed in accordance with international law to address the needs of people who are internally displaced. Following its presentation to the UN General Assembly 1998, the Guiding Principles on Internal Displacement were created. The Principles was midwived under the leadership of a former Sudanese Diplomat Francis Mading Deng.¹ Internally Displaced Persons (IDPs) is

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¹ Relief Web, 'Report of the Representative of the Secretary-General on internally displaced persons, Mr. Francis M. Deng, pursuant to Commission on Human Rights resolution 2000/53'(UNCHR January 2001)

defined in the introduction to the Guiding Principles.² This comprehensive definition contained in the Guiding Principles is the first to be provided by any of the existing international instruments and is particularly significant because it outlines two separate but connected criteria, namely the involuntary and coercive nature of their movement and the fact that they stayed within the borders of their own states, in stark contrast to the objections raised against such definite prescription.³ It is crucial to note that the Guiding Principles' drafters, mindful of the concerns about non-acceptance, chose to define "IDPs" from the perspective of "victim" and "circumstances," that is, from a rights-based definition rather than the process of displacement (a need-based approach), in order to deftly avoid the potential fear of bestowing on them a specific legal status because it was believed that it would be discriminatory against other groups in need of protection. However, despite establishing a global standard, the Principles are not legally binding. This view is succinctly expressed in paragraph 3 of the introduction to the scope and purposes of the Principles, which notes that "they provide guidance" rather than placing legal obligations on states and non-state entities when dealing with internal displacement issues.⁴ As a result, the duties imposed on governments and non-state entities are merely optional guidelines. Due to the lack of negotiating, adopting, and ratifying requirements as they are in treaty legislation, relevant stakeholders are not required to abide by the Guiding Principles. Despite these limitations, a cursory look at its various sections revealed that even though they are presented in the Guiding Principles in a relatively soft law model, the underlying concepts were originally established in hard laws. For instance, the International Covenant on Civil and Political Rights and a number of other treaties addressing humanitarian issues also provide for the right not to be forcibly relocated, which is acknowledged in Principle 6 of the Universal Declaration of Human Rights.⁵ The Guiding Principles emphasize the idea of national responsibility. Principle 2 of Humanitarian assistance to IDPs residing within their territorial jurisdiction recognizes national responsibilities for IDPs. The word "primary" is carefully chosen to indicate the level of priority connected to this function and conveys the meaning that it is not a right but a duty and responsibility due, with IDPs stemming from human rights conventions and the notion of humanitarian responsibility of nations.⁶ Given that the activity of the international community is not prohibited, this rule is used in preference to the exclusive rights of nations.⁷ This principle is bolstered by Principle 3(a) of the Guiding Principles, which states that under certain circumstances, a state may accept assistance in order to fulfill its obligations. Further, the Guiding Principles forbid any kind of discrimination that goes beyond the confines set forth in current international normative instruments and is based on race, sex, language, age, religion, or belief.⁸ Most importantly, Principle 6(1) states that

<<https://reliefweb.int/report/angola/report-representative-secretary-general-internally-displaced-persons-mr-francis-m-deng>> Accessed February 12, 2023

² Paragraph 2 of the Guiding Principles on Internal Displacement 1998

³ Ibid.

⁴ Ibid

⁵ Additional Protocol I and articles 4(3)(e) and 17 of Additional Protocol II respectively which are Binding on High Contracting Parties that signed and ratified and Article 49 and 147 of the Geneva Convention IV

⁶ Compilation and Analysis of Legal Norms, Part 1 E/CH.4/1996/52/Add, Section IV, para 359-389, <http://id.cdint.org/content/documents/Compilation_and_analysis_of_legal_norms.pdf> Accessed April 4, 2023

⁷ Under article 1 (3) of the UN Charter on Human and Peoples' Right

⁸ Principle 4 of Guiding Principles on Internal Displacement 1998

*"every human being enjoys an inherent right to be protected against arbitrary displacement from his habitual place of residence and extends the definition of arbitrary displacement to include ethnic cleansing, armed conflict, large-scale development projects, among others listed under paragraph 2 thereof, as well as commission of other criminal acts such as genocide, crimes against humanity, and war crimes."*⁹

It is pertinent to note that the provision against arbitrary displacement set forth in the Guiding Principles apply to all stages of displacement, creating a global standard for the treatment of IDPs that goes beyond the legal scope of any particular international treaties addressing human rights.¹⁰ The Guiding Principles in section five specifically addresses the acceptable standard for guaranteeing the return, reintegration, and resettlement of IDPs.¹¹ The said section specifically includes Principles 28 and 29 regarding the achievement of durable solutions that the trio of return, reintegration, and resettlement set out to achieve. Thus, the ultimate goal for IDPs is a durable solution, which can be attained when they have returned to the place of their residence easily or offered ultimate choice of place to reside in the country without fear of discrimination due to their situation. Regarding compensation for losses incurred as a result of internal displacement, paragraph 2 of Principles 29 imposes obligations on competent authorities (states) to provide the means of return, resettlement, and habilitation in coordination with pertinent humanitarian organizations,¹² and to support returnees (IDPs) in the recovery of properties and other belongings abandoned or lost as a result of displacement to the extent that it is possible or otherwise to grant them other relief.¹³ Due to the absence of definition in the Principles, the terms "just" and "adequate" are ill-defined, making their interpretation open to abuse unless the standards are clearly stated in the norm itself. Despite the high international standards established by the Guiding Principles, there are no provisions addressing internal or external mechanisms established as speak to ensure implementation and enforcement of the admirable lessons therein.¹⁴ The Principles' widespread acceptance alone does not guarantee their domestic implementation because they are frequently confused with the drawbacks of inadequate capacity to monitor compliance.¹⁵ However, it is needful to appraise the relevance of the Principles as it stands today. The Guiding Principles has gained international acceptance, standard and authority¹⁶ as United Nations' agencies and several states have regularly referred and relied on principles embedded in it through domestication into national laws.

⁹ Ibid, Principle 10

¹⁰ Catherine Phuong, *The International Protection of Internally Displaced Persons* (CUP, 2004) 56-65

¹¹ The Guiding Principles on Internal Displacement 1998

¹² Ibid, Principle 30

¹³ Ibid; Report of the Representative of the Secretary General, Mr Francis Deng, submitted pursuant to Commission on Human Rights resolution 1995/57, *Compilation and Analysis of Legal Norms*, E/CN.4/1996/52/Add.2 (1995), paras. 274, 269 and 284

¹⁴ Robert K. Goldman, "Internal Displacement, the Guiding Principles on Internal Displacement, the Principles Normative Status, and the Need for their Effective Domestic Implementation in Colombia" *ACDI Bogota* (2009) (2) 59 - 86 <<http://www.corteidh.or.cr/tablas/r25153.pdf>> Accessed May 5, 2023

¹⁵ Shedrack Ekpa, 'Formulating Legal and Policy Frameworks for the Protection of Internally Displaced Persons in Nigeria: A Case Study of Internal Conflicts on Jos, Plateau State' (PhD. Dissertation, University of Malaysia, 2016)

¹⁶ Babalola Abegunde & Omotoyin TJ, 'Humanitarian Law and Internal Displacement in Nigeria: An Urgent Need for a Legal Framework' *International Journal of Law and Legal Jurisprudence Studies* (2020)(4)(3)

2.2 African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention)

African Union Convention for the Protection and Assistance of Internally Displaced Persons known as the Kampala Convention is the first international regional agreement on the protection and assistance of IDPs created under the aegis of the African Union. This convention only applies to African Union member states who have adopted and ratified it.¹⁷

The definition of IDPs provided in this Convention¹⁸ aligns perfectly with that in the Guiding Principles.¹⁹ The definition, like the Guiding Principles, is more of a description than a clear-cut declaration of the identity of a specific class of people in need. This is due to the fact that it does not grant IDPs a unique legal status but rather strengthens the existing IDP-specific protection and support systems inside African States.²⁰ Internal displacement is defined by the Kampala Convention, just like its predecessor, the Guiding Principles, as “involuntary or forced movement, evacuation, or relocation of persons or groups of persons within internationally recognized state border.”²¹ Similar to the previous definition, this one emphasizes that the migration is coerced and involuntary and takes place on state territory.

This convention’s status as the first to be legally binding has been widely lauded.²² As a result of earlier deliberations on this subject, treaties are by their very nature legally binding on the states parties to them, which is why the legal character of this convention has been widely celebrated. To further substantiate this point, articles 16 and 17 requires signing, ratification, and/or accession by state parties. In order to comply with this obligation, Nigeria signed, ratified, and deposited her instrument of ratification, making its provisions applicable to IDPs on Nigerian territory legally. This Convention expressly states that it is the obligation of the national government to protect and assist IDPs. This position stems from the Convention’s preamble, which is cited in the Guiding Principles,²³ and states that:

States Parties shall have the primary responsibility and commitment to respect, protect and fulfil the rights to which internally displaced persons are entitled, without discrimination of any kind. Unlike other legal frameworks on IDP protection, this Convention is categorical regarding the function of non-state actors who are also duty bearers by stipulating that these obligations are to be shared by humanitarian organizations²⁴ and the African Union.²⁵ In addition, one of the key innovations introduced by this Convention is its provision for the prohibition and prevention of arbitrary displacement. For instance, Article 4 explicitly and explicitly affirms the right not to be arbitrarily displaced in more detail than any other internal displacement-

¹⁷ Ibid

¹⁸ Article 1(1) of African Union Convention for the Protection and Assistance of Internally Displaced Persons

¹⁹ UN Guiding Principles on Internal Displacement paragraph 2.

²⁰ Allehone Mulugeta Abebe, ‘The African Union Convention on Internally Displaced Persons: Its Codification Background, Scope and Enforcement Challenges’ *Refugee Survey Quarterly* (2010)(29)(3)47; Flavia Zorzi Giustiniani, ‘New Hopes and Challenges for the Protection of IDPs in Africa: The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa’ *Journal of International Law and Policy* (2011), (39)(2)48 available at <<http://www.djilp.org/wp-content/uploads/2011/08/05ZorziGiustiniani.pdf>> Accessed January 9, 2023

²¹ Article 1(1) of Kampala Convention.

²² International Refugee Rights Initiative (IRRI), “Comparison of the Kampala Convention and the IDP Protocol of the Great Lakes Pact” A Briefing Note by the International Refugee Rights (January 2014)

²³ Principles 3 of UN Guiding Principles on Internal Displacement 1998

²⁴ Article 6 of Kampala Convention

²⁵ Ibid, Article 8

related existing norm.²⁶ The Convention specifically prohibits the arbitrary displacement of individuals whose existence is based on land, and it further states that such acts may constitute international crimes.²⁷ Like the Guiding Principles, the Convention recognizes that development projects may result in arbitrary displacement.²⁸ Unfortunately, the Convention did not specifically state the kind and goals of the projects it was intended to support, unlike the Guiding Principles.²⁹ It is the writer's submission that the term "project" as employed in this Convention is excessively broad, and as a result, its interpretation is open to the discretion of those assigned responsibility. Regarding the question of necessity of such projects, the Convention also neglected to apply the Guiding Principles' term "...compelling and overriding public interests" to restrain the excesses of both state actors and non-state actors. The Convention provides comprehensive provisions that address the issue of durable solutions in the forms of return, reintegration, and rehabilitation as well as the provision of adequate and effective remedies for internally displaced persons (IDPs). States who have ratified the Convention are obligated to offer these options and remedies. IDPs have the right to make an appropriate decision on which of these alternatives is best for their individual situation, according to Article 11 of this Convention.³⁰ Additionally, national authorities are urged to establish procedures for resolving the problems that led to the displacement, with a focus on restoring land where it has been determined that IDPs' ability to support themselves and feel a connection to the property.³¹ Regarding the awarding of compensation, this Convention stipulates that IDPs are given effective remedies³², but it omits to specify what is meant by "effective remedies" with regard to IDPs. This omission makes this clause open to many practical interpretations. States parties are further urged to set up procedures that would facilitate the issue of compensation for damages resulting from relocation.³³ In the context of displacement brought on by natural disasters, the clause holding states parties responsible for paying compensation to IDPs in cases where displacement happens as a result of their failure to avoid it is particularly significant.³⁴ The aforementioned provisions are groundbreaking because they advance the doctrine of vicarious liability in relation to states parties to the Convention, which further advances sovereignty, which entails responsibility to protect IDPs, by setting realistic standards regarding durable solutions and reparations beyond those outlined in the Guiding Principles.³⁵ Unlike the Guiding Principles, which lack a mechanism for monitoring and compliance, article 14 of this Convention establishes a monitoring body called the "Conference of States Parties" to oversee and review the implementation of this treaty in cooperation with other significant regional mechanisms like the Special Rapporteur and African Court of Human and Peoples' Rights. Nevertheless, a right of intervention, in article 8(1) of

²⁶ Article 4 (4) (ah) of Kampala Convention

²⁷Article 4(5) and (6) of Kampala Convention.

²⁸ Ibid, Article 10

²⁹Principle 9(c) of the Guiding Principles

³⁰Ibid, Article 11(3)

³¹Ibid, Article 11(5)

³²Ibid., Article 12(1).

³³Ibid, Article 12(2)

³⁴Ibid., Article 12(3)

³⁵ Ibid

this Convention and intended to provide the “Conference of States Parties” legal efficacy, has never been used in relation to internal disputes in Africa.³⁶

3. National Legal Frameworks

The National Frameworks relating to the rights of IDPs in Nigeria are the Nigerian legislations which contains various provisions on the rights of IDPs in Nigeria. The national legal frameworks relating to the rights of IDPs in Nigeria includes the Constitution, National Policy on Internally Displaced Persons in Nigeria and other domestic laws which safeguard the rights of IDPs in Nigeria.

3.1 The Constitution of the Federal Republic of Nigeria 1999 (as amended)

One of the domestic legal frameworks relating to the rights of IDPs in Nigeria is the Constitution of the Federal Republic of Nigeria 1999 (as amended). Although, the Nigerian constitution which came into force in 1999 is the basic law, the Constitution does not make any specific references to term "IDPs"³⁷. However, due to their status as citizens who reside within their own state's boundaries, IDPs are also entitled to certain constitutionally given rights. In accordance with the fundamental duty of government that, citizens, including IDPs, are to be protected and assisted in the enjoyment of their unalienable rights, it is the responsibility of the Nigerian government as a whole to ensure that these rights are respected to the effect that³⁸: *It shall be the duty and responsibility of all organs of government, and of all authorities and persons exercising legislative, executive and judicial powers to conform to, observe and apply the provisions of this Chapter of this Constitution.* The provisions of the Constitution make all the guarantees, responsibilities, and obligations it establishes binding on all Nigerian authorities and individuals. The Constitution is the ultimate source of all other laws and institutions pertaining to the protection of internally displaced persons. In other words, the 1999 Constitution (as modified) is a bulwark for the duty of the government to address the human rights requirements of the IDPs. The Federal Executive has the authority to execute and maintain this Constitution under section 5(1)(b) of the 1999 constitution (as amended), which includes ensuring the protection of IDPs' human rights, notably those outlined in Chapter IV³⁹. This requirement led to the creation and Presidency adoption of the National Policy on Internally Displaced Persons (IDPs) in Nigeria in 2012. It establishes the administrative framework for both the federal government of Nigeria and the states, and all authorities and individuals inside the nation are required to abide by its requirements. The constitution outlines citizens' rights as the right to life, human dignity, personal liberty, privacy, and family life as well as the freedoms of religion, expression, assembly, association, and movement. It also states that the state is required to ensure the promotion of the security and welfare of all citizens. The constitution also states that the state is prohibited from discriminating against anyone and that it is the responsibility of the state to ensure that all citizens are treated equally.⁴⁰ The aforementioned is reasonable given the fact that the constitution provides under section 14 (2) that the primary goal of government should be provision of security and welfare for the people

³⁶ Emmanuel Agherario ‘Internally Displaced Persons In Nigeria: Issues, Problems & Solutions’ The Nigerian Lawyers (September, 2021) available at <<https://thenigerialawyer.com/internally-displaced-persons-in-nigeria-issues-problems-solutions/>> Accessed November, 2022

³⁷ CFRN 1999 (as amended)

³⁸ Ibid.

³⁹ Ibid

⁴⁰ Ibid

and these goals shall be the government's top priorities. Further, the Nigerian constitution contain several provisions that forbid discrimination on the basis of race, ethnicity, gender, national origin, and political affiliation among other things⁴¹. Thus, the Nigerian constitution is the main source of protection against arbitrary treatment in Nigeria. Also, chapter four of the constitution dealing with fundamental rights on the other hand provides more specific fundamental guarantee against discrimination when it provides that:

*A citizen of Nigeria of a particular community, ethnic group or place of origin or sex, religion or political opinion shall not by reasons only that he is such a person be subjected to any disabilities, restrictions, privileges or advantages which are not so accorded to citizens of other community, ethnic group or place of origin or sex, religion or political opinion.*⁴²

Moreover, section 42(2) more explicitly and precise on the issue provided that no citizen of Nigeria shall be subjected to any disability or deprivation solely due to the circumstances of his birth. However, as pleasing as these provisions are, their actual implementation and eventual enforcement are constrained by dishonest sections in the constitution that grant the right with one hand while taking it with the other. For instance, numerous courts have found, in accordance with section 6(6)(c) of the Constitution, that the highly praised protections enshrined in chapter two are not subject to litigation.⁴³ As aptly illustrated in *Attorney General of Ondo State v. Attorney General of Federation*,⁴⁴ the Court held that though putting an end to corrupt practices is part of fundamental objectives as stipulated, it is only when these provisions (sections 13 and 14 in particular) are upgraded into law by proper legislative process that displeased citizens, including IDPs, can press for their enforcement.

Similar considerations also apply when evaluating the legal enforceability of Section 42(1)(a) and (b), which is rendered practically irrelevant by Subsection 3 of said Section, which states that "nothing in subsection 1 of this Section shall invalidate any law by reason only that the law imposes any restrictions..." in the appointment of any persons into any office in the states or as a member of the police forces and armed forces, etc. Strictly speaking, the Nigerian constitution, does not offer durable solutions for IDPs. However, there are a number of laws that acknowledge the importance of providing compensation to victims in cases similar to internal displacement caused by violations of citizens' rights. For instance, Section 44 provides for the payment of compensation in relation to the forced purchase of moveable property. In accordance with the Constitution, Section 46 grants legal remedies to complaints against the loss of property.⁴⁵ It is important to note that while internal displacement does not result in citizenship loss, IDPs have the right to fully exercise the aforementioned rights even when they are displaced within their own country. As Nigerian citizens, IDPs are entitled to protection under national laws and regulations in Nigeria. Chapter IV of the Federal Republic of Nigeria's Constitution outlines citizens' fundamental rights.⁴⁶ In other words, IDPs have a legal right to life, human dignity, freedom from torture and other cruel or inhumane treatment, as well as the

⁴¹ Ibid

⁴² Ibid s 42(1) (a) and (b)

⁴³ *Bishop Anthony Okogie v Attorney General of Lagos State (1981) 2 NCLR 337*

⁴⁴ (2002) 9 NWLR Pt.722 at 222.

⁴⁵ CFRN, 1999 (as amended), S.46(1)

⁴⁶ CFRN, 1999 (as amended)

right to personal liberty.⁴⁷ In addition, the right to freedom of movement is another thing that all Nigerian citizens are entitled to.⁴⁸ This is crucial because it gives the Nigerian government a clear obligation to treat everyone equally. According to the constitution, ensuring that all citizens have equal rights, opportunity, and dignity is also a top priority of the government. This implies that all Nigerian citizens, including IDPs, are subject to government responsibility for their physical security. Additionally, Nigeria is a signatory to a number of international agreements that grant its inhabitants rights and liberties.

3.2 National Policy for Internally Displaced Persons in Nigeria 2012

This policy was developed by the Nigerian government in response to internal displacement issues and to adequately solve issues relating to the rights of IDPs in Nigeria. The Policy begins by restating the fundamental rights that all citizens have under the 1999 Constitution while simultaneously acknowledging the unique vulnerability of women and children and providing them with extra protections. It went further to include the criteria for national and international humanitarian agencies to deliver humanitarian assistance, it also includes protections against displacement.⁴⁹ The policy employs a definition of internally displaced persons (IDPs) that is quite broad and includes any form of human-induced displacement, including those caused by natural disasters, violence, or other violations of human rights.⁵⁰ The policy in chapter three acknowledges a number of rights for internally displaced people (IDPs), which are divided into general and special rights in order to guarantee that their human rights are upheld even when they are subject to relocation. While the general rights pertain displaced persons and include the right to protection from displacement⁵¹, the right of every displaced person to protection and aid both during and after displacement,⁵² and the rights of IDPs to voluntarily return, local integration, and relocation.⁵³ The specific rights, on the other hand, are protections that are given to specific groups of people that require extra care. The rights include those of internally displaced women⁵⁴, internally displaced children⁵⁵, and those with disabilities,⁵⁶ and the elderly who are internally displaced.⁵⁷ IDPs are subject to certain obligations under the policy as well. They must be law abiding and bear full responsibility for any crimes committed in accordance with both international and local law. Additionally, they must adhere to collective settlement rules and regulations⁵⁸ as well as the culture and standards of the host communities.⁵⁹ The major flaw and or loophole with the policy, is that despite her lovely provisions, the policy has only remained a policy and not a statute.⁶⁰ As a result, Nigeria needs a specific legislation to protect internally displaced people, or chapter 4 of the constitution needs to be amended to provide specific rights for their protection. The phrase "every person shall have a right to be protected

⁴⁷ Ibid art. 33, 34 and 35.

⁴⁸ Ibid art. 41.

⁴⁹ National Policy on Internally Displaced Persons in Nigeria 2012

⁵⁰ Ibid Ch. 2.1

⁵¹ ibid Ch. 3.1.2

⁵² Ibid, Ch. 3.1.3

⁵³ Ibid Ch. 3.1.8

⁵⁴ Ibid Ch. 3.1.5

⁵⁵ Ibid. 3.1.4

⁵⁶ Ibid 3.1.6

⁵⁷ Ibid 3.1.7

⁵⁸ Ibid Ch. 3.2(e)

⁵⁹ Ibid Ch. 3.2(d)

⁶⁰ A. Jimoh, 'UN urges Nigeria to pass IDP Policy into Law' *Daily Trust* (February, 2017) <<https://dailytrust.com/un-urges-nigeria-to-pass-idp-policy-into-law/>> Accessed May 7 2023

and assisted in situations of internal displacement" could be used to describe such a clause or rights. The judiciary could advance clarification on what protection and aid implies in the various situations of internal displacement. The Kampala Convention, which Nigeria has ratified, and the United Nations Guiding Principles on Internal Displacement should be cited by the judiciary in order to provide explanation.⁶¹

4. Institutional Frameworks

In Nigeria, the institutional frameworks for internally displaced persons (IDPs) involve various government agencies, international organizations, and non-governmental organizations (NGOs) working together to address the needs and protect the rights of IDPs. The institutional Frameworks includes National Commission for Refugees, Migrants and Internally Displaced, National Emergency Management Agency Act, National Human Rights Commission Act 1995 and other Domestic Laws in Nigeria.

4.1 National Commission for Refugees, Migrants and Internally Displaced

The National Commission for Refugees, Migrants and Internally Displaced was established pursuant to National Commission for Refugees (Establishment) Act 1989 now revised as Cap N21 Laws of the Federation of Nigeria 2004 (hereinafter called "NCFRMI Act"). Following the approval of the OAU/AU Refugees Convention, this Act established a national institution on refuge protection in 1989⁶² with the primary purpose of providing protection and aid for refugees.⁶³ For the purposes of legal protection and aid by the commission, the phrase "internally displaced persons (IDPs)" is not defined nor used in this Act. However, in 2002, the commission's mandate was suggested to include a new class of vulnerable people, including migrants and internally displaced people. However, in 2002, the commission's mandate was proposed to include a new class of vulnerable people, including migrants and internally displaced people, in response to presidential directions.⁶⁴

Given the similarities in the humanitarian challenges faced by both refugees and IDPs, it is appropriate to argue that this commission is the only known institution in respect of IDPs related matters as far as Nigeria is concerned. This is due to the excessive delay in the amendment of the law and the absence of any dedicated agency for IDPs. Thus, the NCFRMI Act's enacting clause expressly assigns this commission the duty to lead and coordinate a national action plan for the protection and assistance of refugees, asylum seekers, migrants, and IDPs who are now being proposed to the commission as persons of concern. This duty is implied by the commission's mandate being extended, which is stated in the act's very words.⁶⁵

4.2 National Emergency Management Agency Act

National Emergency Management Agency (NEMA) was created by the aforementioned Act.⁶⁶ The Act makes no explicit definition of IDPs. It is undeniable, nonetheless, that given the nature of its duties as Nigeria's primary one-stop organization for providing humanitarian aid to

⁶¹ R. Adeola, Nigeria's constitution holds the key to protecting internally displaced people, <<https://theconversation.com/nigerias-constitution-holds-the-key-to-protecting-internally-displaced-people-60971>> Accessed 14 June 2021

⁶² National Commission for Refugees (Establishment) Act 1989 now revised as Cap N21 LFN 2004

⁶³ OAU/AU Convention Governing Specific Aspects of Refugee Problems in Africa 1969.

⁶⁴The extended mandate to cover migrants and IDPs is yet to be passed into law and thus it is not yet included in Cap N21 LFN 2004 (NCFRMI Act).

⁶⁵The Enacting Clause of Decree No 52 of 1989

⁶⁶ National Emergency Management Agency (Establishment) Act 1999 now Cap N34 LFN 2004

victims of disaster regardless of their causes, it is pertinent to the protection of internally displaced people.⁶⁷ In showing that the scope of operations of NEMA is pertinent to IDPs' protection and assistance, section 6 of the Act is insightful as it provides that: *For the purpose of paragraphs (e), (f), (j), (k) and (m) of subsection (1) of this section natural or other disasters include any disaster arising from any crises, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country.*⁶⁸ It is interesting to note that, in light of the previous discussion of "disasters arising from crises," "the provisions of the Act are wide enough to cover situations of internal displacement caused by conflicts, natural and man-made factors." For instance, the Agency has been able to act in a number of ways to help IDPs in need of shelter and material assistance during the ongoing internal armed conflicts in Nigeria's North East.⁶⁹ In accordance with section 6 of the NEMA Act, which outlines its statutory duties, this organization is given national responsibility for providing aid to disaster victims, which by extension includes IDPs. These duties include, among other things, formulating policies for managing all emergencies and disasters, coordinating research and planning, and keeping an eye on organizations and data collection related to such activities.⁷⁰ The NEMA Act does not contain any safeguards to stop discrimination or other types of arbitrary treatment of disaster victims, including internally displaced persons (IDPs), as is the case under international and regional frameworks and in some domestic regimes. However, its main responsibility, which comprises educating and informing the public about ways to avert disasters generally,⁷¹ is comparable to a proactive preventive plan meant to avoid forcible relocating of residents.

4.3 National Human Rights Commission Act 1995

The commission was founded in 1995⁷² as the primary organization for the compliance and enforcement of Nigerians' human rights laws.⁷³ This Act makes no specific mention of IDPs who are vulnerable to severe human rights violations as a result of being uprooted from their homes.⁷⁴ However, drawing from its statutory functions of the commission namely, enforcement of the provision of the constitution insofar as it relates to issues of human rights as enshrined in chapter four of Nigerian Constitution (1999) and all other international and regional human rights' treaties in which Nigeria is a signatory; monitoring and investigation of human rights violations; rendering of assistance with to victims in their quest for appropriate remedy; carrying out of research on human rights issues and formulation of policies on human rights and other ancillary functions. All Nigerians, including IDPs, are eligible to use these services because of their human nature. In the case of IDPs in particular, it is beyond a shadow of a doubt that they are most vulnerable to gross human rights violations as a result of their forced or involuntary relocation from their usual place of abode to another part of the country. In discharging these responsibilities, the Commission has the authority to conduct an inquiry

⁶⁷ Ibid., Section 6(1).

⁶⁸ Ibid, s. 6(2).

⁶⁹ Michael Olugbode, "Two New Camps Established in Maiduguri" This Day Newspaper Live (22 January, 2015)

⁷⁰ NEMA Act 1999 now Cap N34 LFN 2004 S. 6 (1) (a)(n) o

⁷¹ Ibid S. 6(1)(e)

⁷² By virtue of National Human Rights Commission (Establishment) Act 1995 now Cap N46 Laws of the Federation of Nigeria 2004 as amended in 2010 (hereinafter called "NHRC Act").

⁷³ Nnamani S.O., 'Institutional Frameworks for the Protection of Human Rights in Nigeria: An Appraisal' *Journal of Law and Jurisprudence* (Nnamdi Azikiwe University 2011) (6)

⁷⁴ Section 19 of NHRC Act.

and bring the proper legal action, whether criminal or civil, in response to any of its findings⁷⁵. It has the authority to give victims of human rights breaches rewards and compensation, and the same are upholdable in court.⁷⁶ As previously noted, the NHRC Act is not fundamentally an IDP framework, in contrast to the Guiding Principles and the Kampala Convention, and as a result, there are no particular provisions that address the issues of repatriation, resettlement, and rehabilitation of IDPs who have been victims of human rights violations. However, there is a somewhat relevant clause in the Act that states that the commission must support victims in their quest for compensation and remedies that are appropriate for the severity of their suffering.⁷⁷ This stands out in light of the Act's further guarantee that any claims or remedies brought by the Commission against any individual or institution will be upheld by a court.⁷⁸

4.4 Other Domestic Laws

Land law and criminal law in Nigeria do not define or make any mention of internally displaced persons (IDPs). However, it is undeniable that given the circumstances surrounding internal displacement in Nigeria, IDPs may be sufficient as either a landowner whose title may be affected by acts of internal violence or as a victim of various crimes committed during armed conflicts. In such a scenario, the Land Use Act⁷⁹ and Abandonment of Properties Act⁸⁰ provisions may be used to provide compensation to landowners who may qualify as IDPs. In a same vein, the provisions of the Criminal Code,⁸¹ Penal Code,⁸² Terrorism Prevention Amendment Act 2013⁸³, and Administration of Criminal Justice Act 2015⁸⁴ will be used as the foundation to ensure that those responsible for crimes involving displacement in Nigeria are held accountable. In Nigerian land law, there are just a few references to paying compensation⁸⁵ when a right of occupation is revoked due to paramount public.⁸⁶ In a related context, the Administration of Criminal Justice Act states that criminal courts may mandate the payment of compensation to victims in addition to convicting and sentencing those who commit acts of violence, provided that the money can be recovered through a civil lawsuit.⁸⁷ The above mentioned provisions have a narrow scope of application, and they only apply where the reasons for internal displacement are related to land disputes or when they have led to crimes that are punishable by domestic penal laws, as was highlighted above..

5. Conclusion

The Legal Frameworks for internal displacement in Nigeria are those frameworks such as laws, conventions, policies applicable in Nigeria and institutions responsible for the protection for the protection of the rights of the rights of IDPs in Nigeria. A cursory look at the at the various

⁷⁵ Ibid, s.6.

⁷⁶ Ibid, s. 22.

⁷⁷ Section 6 (c) of NHRC Act.

⁷⁸ Ibid., Section 22(1) and (2)

⁷⁹ Cap L1 LFN 2004

⁸⁰ Cap A1 LFN 2004

⁸¹ Cap C38 LFN 2004

⁸² Cap P3 LFN 2004

⁸³ This Act prohibits and punishes terrorism and terrorism related offences connected thereto. In Nigeria similar provisions can be found in the Economic and Financial Crimes Commission (Establishment) Act 2004.

⁸⁴ Administration of Criminal Justice Act 2015

⁸⁵ Land Use Act 1978 now revised as Cap L1 Laws of the Federation of Nigeria 2004

⁸⁶ Ibid., s 28(2)(a) or (c) and 29(1).

⁸⁷S.319 of ACJA 2015

frameworks reveals the facts that IDPs are entitled to certain rights and protections under the various frameworks such as the Guiding Principles, the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention), the Constitution and the National Policy on Internal Displacement in Nigeria. Also institutional frameworks such as the National Commission for Refugees, Migrants and Internally Displaced, the National Emergency Management Agency Act and the National Human Rights Commission are also responsible for the assistance and the protection of IDPs in Nigeria. However, despite how lovely it's provisions are, they are not enforceable as there is no specific framework on the rights of IDPs in Nigeria.

