

THE STATUS OF REFUGEES AND INTERNALLY DISPLACED PERSONS IN INTERNATIONAL HUMANITARIAN LAW*

Abstract

Refugees and internally displaced persons seem to resemble each other and probably seem to have the same history and origin. But when the status of each of these terms is looked into, it will be seen or discovered that they are not the same and the same legal interpretation cannot be applied to them. The differences and the similarities coupled with their challenges constitute the focus of this paper.

Keywords: Refugees, internally displaced persons, Civilians, International Humanitarian Law.

1. Introduction

Safety is one of the greatest needs of human beings. Therefore, throughout the ages people have always sought safety from all sorts of natural and man-made dangers, within their immediate environment or by leaving their places of natural and habitual abode. In some instances, people have had to flee as a result of persecution, threat or discrimination on grounds of race, religion, gender, political affiliation, ethnicity *et cetera*. The nature of the threat or danger that necessitates an evacuation can therefore be from wars, insurrections, riots, or persecution from government on grounds of political differences. Persons who are displaced based on the reasons as stated above may find safety in a place within their own country as displaced persons, or in another country other than their original and habitual place of origin or habitation. A person who has been displaced from his place of residence to another part of the same country is referred to as an internally displaced person (IDP). Where on the other hand, where such displaced persons cross an international border into another State with new laws, new jurisdiction and new conditions of life, they cease to be IDPs and they are no longer living under the protection of their own original country as such they are referred to as refugees.

International Humanitarian Law (IHL) is the branch of international law dedicated to the regulation of means and methods of conducting armed conflicts and providing humane treatment for any person affected by armed conflict while ensuring the protection of personal and cultural properties during armed conflicts. Apart from protection for combatants and the civilian population generally, it offers a wide range of support and protection to displaced persons, (such as refugees and the IDPs) either while they are in their country of origin or even when they are refugees in other countries. Moreover, the IDPs and the refugees especially enjoy some further protection under allied international law fields such as the International Human Rights Law (IHRL) and the International Refugee Law. Such displaced persons are also entitled to protection under the national or domestic laws of their countries of origin or the nations hosting refugees.

In this paper, the goal is to examine the status and treatment of persons classified as refugees and the displaced persons under the International Humanitarian Law generally with particular reference to the protection and rights offered to the said classes of persons in diverse situations. As the principles of International Humanitarian Law (IHL), International Human Rights Law (IHRL) and International Refugee Law (IRL), and even the domestic laws of States, are all, at one point or the other, applicable to persons under discussion, references shall be made to the aforementioned legal regimes as may be necessary.

2. Who is a Refugee under International Law?

When a person flees across an international border from his own place of origin or habitation, as a result of persecution, violence or conflict, such a person may qualify as a refugee and be entitled to the protection and rights accorded to that class of persons. Such person must however qualify under the International Law to be so classified as a refugee. The specialized International Refugee Law arose as a result of the carnage of the 2nd World War, when there was a great refugee problem all over Europe.¹ The need for care and protection of the persons affected and fleeing in the aftermath of the War led to the coming into existence of the international law instrument on treatment of refugees, known as the Convention for the Protection of Refugees (the Geneva Convention) of 1951. The Geneva Convention, 1951, however defines and identifies the class of persons referred to as refugees, to be:

... any person who as a result of events occurring before 1 January 1951 and owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such

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¹ UNHCR, 'The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol' (UNHCR, Geneva, 2011) 3

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 it²

The defect in the definition of 'refugee' under the 1951 Convention was very manifest, in the sense that:

- i. It restricts the class of the refugees to anyone affected before the period of 1st January 1951, thus basically leaving unprotected persons who flee across international borders from their own country of origin or habitation after the said time unprotected;
- ii. It has not adequately addressed the issue of armed conflicts, as a cause of displacement.

The obvious defects led to the coming into force of an additional Protocol to the Geneva Convention in 1967. The Protocol removed the limitation date of 1st January 1951, as a qualification for the status of refugee.³

From the foregoing, the following critical observations can be made on the status of refugees.

1. The refugee is a person who has exited his country of nationality;
2. The reason for the exit is principally persecution of any kind and not restricted to armed conflicts;
3. There must be some inability or unwillingness on the part of the refugee to avail himself of the protection of his country of nationality; in essence a refugee no more enjoys the protection of his own country.⁴
4. The definition is wide as to accommodate even stateless persons who have fled their places of habitation.

The OAU Convention gives an elaborate definition of the term 'Refugee'⁵ as follows:

The term 'Refugee' shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being 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 it⁶.

This definition is specially designed to take care of the prevailing situation in African when most African States just attained political independence from their colonial masters who unwillingly relinquished political power and in doing so did not correct the boundary irregularities created during the scramble for the land of Africa. At that point in time, the natural, ethnic and language differences of the African people were not put into contemplation and were subsequently not considered. These factors created boundary conflicts at independence for these States causing serious problems, strifes and even civil unrests and wars. These situations in turn made people to leave their country of habitual residence to other countries on well-founded fear for their lives and property. The major reason of leaving their country of habitual residence for another country is the well-founded fear for their lives and properties.

The term 'Refugees' 'shall also' apply to every person who, 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, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality'⁷.

The story of the four leprous men in Samaria in the Bible is instructive here where as a result of external aggression by the Syrians against Samaria⁸, to the extent that women were not only eating their children, but one of them had the guts to report the criminal act to the king himself in direct form of speech⁹, the lepers decided to move from Samaria to Syria¹⁰. The major reason of the lepers leaving their country of habitual residence for another country is the well-founded fear for their lives as a result hunger besieging the entire nation where they

² Art. 1 Geneva Convention 1951

³ See also the definition of refugee under the OAU 1969 Convention, Article 1.

⁴ Art 1, The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (UNHCR, Geneva, 2011) 3

⁵ Art. 1, Convention Governing the Specific Aspects of Refugees Problems in Africa 1969.

⁶ Article 1(1), Convention Governing the specific aspects of Refugee problems in Africa 1969.

⁷ Article 1(2), 1969 Convention governing the specific aspects of Refugee problems in Africa.

⁸ The Bible, II kings 6:24-25.

⁹ The Bible, II kings 6:26-29.

¹⁰ The Bible, II kings 7:5.

habitually reside. Besides, in their case, they were handicapped for the reason of being leprous. The lepers took that bold decision after considering all sides of their peculiar situation by saying:

... and they said one to another, why sit we here until we die? If we say we will enter into the city, then the famine is in the city, and we shall die there: and if we sit still here, we die also. Now therefore come, and let us fall unto the host of the Syrians: if they save us alive, we shall live; and if they kill us, we shall but die. And they rose up in the twilight, to go unto the camp of the Syrians: and when they were come to the uttermost part of the camp of Syria, behold, there was no man there¹¹.

The lepers lived and became rich and also were the vectors of the information leading to the fulfillment of the prophesy of Elisha and the deliverance of the nation of Samaria from the siege and aggression of the Syrians¹². It was further clarified that by the Convention itself that 'in case of a person who has several nationalities, the term 'a country of which he is a national' shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national¹³. In this case, if a person is a national of Nigeria and Britain, he shall not be deemed to be lacking in protection until he has exhausted the protection of both Nigeria and Britain before he can ask for the status of a refugee and the protection of a third country.

The Distinction between a Refugee and an Immigrant

A refugee is a person who (i) has fled his own country as a result of a well-founded fear of persecution; and (ii) he is no more under the protection of his home government or country. He is not only under the protection of the receiving State but also under the protection of the International Community through the application of the force of International Law. On the other hand, an immigrant is a person who has sought to live in a country other than his own not on account of any fear of persecution, but for some other reasons such as the economic enhancement of standard of living, or to study and work, et cetera.¹⁴ An immigrant continues to enjoy the protection of both his country of residence and his home country, even in the new country he has migrated to.¹⁵ The status of refugee will be denied to a person suspected of committing a crime in peace time or during armed conflict even outside the borders of the country where he seeks refuge¹⁶. Under the Geneva Convention, 1951 the refugee status is not a permanent one. It comes to an end upon the cessation of the persecution or any other cause that necessitated the refuge, in the first instance¹⁷. Thus, the refugee status comes to an end on the cessation of the persecution and the refugee voluntarily returned to his home country or he naturalizes as a citizen of his host country¹⁸. The challenges that a refugee has to deal with are so many, once he steps out of his own country of origin or habitation. Some of the problems will be highlighted for the purpose of identifying the legal and institutional measures that are in place for the protection and rehabilitation of refugees, as well providing for their rights and duties. Being displaced as a result of armed conflict or any other natural or man-made causes brings along with it the problem of separation of families into different places. In the aftermath of any flight from danger to safety, documents for identification, certificates and personal belongings will have been destroyed. Refugees are then at the mercy of vagaries of the weather, and open to abuse by even marauders. Thus, the needs of the refugees are security, food, integration at least in the meantime into their host countries, medicals, housing, and education for their children amongst others.

3. Legal and Institutional Framework for Protecting the Refugees

The following legal regimes or international instruments afford protection for refugees:

1. The International Refugee Law especially the 1951 Convention and the Additional Protocol of 1967 as well as the Mandate of the United Nations High Commissioner for Refugees. Also, there are regional Conventions/Declarations in force that apply to Africa (OAU Convention Governing the specific aspects of Refugee problems in Africa, 1969.) and in Latin America (Cartagena Declaration on Refugees, 1984) in Latin America.¹⁹

¹¹ The Bible, II kings 7:3-5.

¹² The Bible, II kings 7:1-20.

¹³ Article 1(3), 1969 Convention governing the specific aspects of Refugee problems in Africa.

¹⁴ UNHCR, *Ibid*

¹⁵ *ibid*

¹⁶ *Ibid*,

¹⁷ *ibid*

¹⁸ UNHCR, 2011 'The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol' (UNHCR, Geneva,) 3

¹⁹ It is of note that the contents of the OAU Convention 1969 are very similar to the 1951 Geneva Convention (as amended by the 1967 Protocol), in the definition of the status of refugee and the rights and duties of refugees.

2. International Humanitarian Law: such as the fourth Geneva Convention.
3. The International Human Rights Law: for instance the UN Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR, 1966)²⁰ and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1969)²¹
4. The National laws/Domestic Laws of the host states

At institutional level, two international organizations feature in the protection and caring for refugees. Firstly, the International Committee of the Red Cross, (ICRC) a private international organization, that provides care and protection for the refugees. Also, there is the office of United Nations High Commissioner for Refugees (UNCHR) a public international organization under the UN with a mandate to care for refugees, and seeing to the operation of the 1951 Geneva Convention and its Protocol.

Rights and Duties of Refugees²²

A refugee enjoys the following rights under the aforesaid regimes of international and domestic laws. It is observed that all the rights referred to under the 1951 Geneva Convention Relating to the Status of Refugees are in most cases available under the international instruments on IHL, and IHRL and even substantially in the bill of rights that have been domesticated in most contracting states to the IHRL and IHL international instruments²³.

The right against refoulment or forceful repatriation²⁴

Once a refugee has stepped into the territory of a State other than his own, then the 1951 Geneva Convention protects him against compulsory or forceful repatriation to the country he fled from. Such forceful repatriation is known as *refoulment*. Even where the State of refuge (where refugee has fled to) is a non-contracting party to the Convention and the Protocol, that country will be bound by Customary International Law, which as well prohibits *refoulment* or repatriation of any refugee provided the Refugee operates within the Law. Similarly, the right against *refoulment* is equally provided for under the IHL instruments.

Right to freedom of movement²⁵

Right to freedom of movement is a fundamental right under both the municipal and International Law.

c. Right to education²⁶

d. Right to issuance of travel documents as well as documents for identification²⁷

e. Right to housing²⁸

f. Right to work²⁹

g. Right to freedom of religion³⁰

h. Right absolving punishment for illegal entry into the territory of a contracting state³¹

The refugee is under an obligation to conform to the laws and regulations of the host state and to measures put in place for the maintenance of public order.³² This obligation includes a restriction on political activities of the refugee.³³

²⁰Which entered into force on 23rd March 1976

²¹ Entered into force on 3rd Jan 1976

²² See also, UNHCR, 'The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol' (UNHCR, Geneva, 2011) 3-4

²³ For instance, most of the rights discussed hereunder are available under the fundamental rights provisions in Nigeria's 1999 Constitution, and the UN Human Right Covenants on Civil and Political Rights and on Social, Economic and Cultural Rights.

²⁴ *Ibid* Art 31

²⁵ Art 26, The 1951 Convention Relating to the Status of Refugees

²⁶ *Ibid*, Art. 21

²⁷ *Ibid*, Art 27 - 28

²⁸ *Ibid*, Art. 21

²⁹ *Ibid*, Articles 17 -19

³⁰ *Ibid*, Article 3

³¹ *Ibid*, Art. 3

³² *Ibid* Art 2

³³ Weis, P: *The Refugee Convention, 1951 the Travaux Preparations Analysed with a Commentary*.

4. The Internally Displaced Persons (IDPs)

Displaced persons otherwise known as internally displaced persons (IDPs) are a class of persons that have been dislodged from their homes, as a result of violence, armed conflicts or natural or man-made disasters. They are differentiated from the refugees only in the fact that while refugees (who are also displaced persons) have left their countries of origin or habitation, by crossing an internationally recognized border, the IDPs, though displaced are still within the confines of their country of origin or habitation. Explicitly the term 'IDPs' has been defined as

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border³⁴

From the foregoing definition the following characteristics of the IDPs can be deduced

1. The IDPs have deserted or left their homes or places of habitual residence.
2. The uprooting may have resulted from effects of armed conflict, generalized violence, violations of human rights, natural or man-made disaster.
3. They have not crossed any internationally recognized borders.

It is concomitant with the foregoing characteristics of the status of IDP that having continued to be within the territorial boundary of their home state, the principle of sovereignty applies and therefore render such IDPs to be under the primary responsibility of their home states. This situation perhaps explains why the international law has been in dearth of a single universal treaty or international instrument that specifically applies to the state and conditions of the IDP, with binding effect.³⁵ The enormous challenge posed by IDPs is reflected in the fact that as at the end of 2020 a total number of 55 million persons were classified as IDPs all over the world³⁶. Most of the IDPs were from African and Asian countries, including Nigeria³⁷. When compared to refugees it will appear that the IDPs are susceptible to more problems and unprotected. For instance, there is absence of a world-wide binding legal instrument dedicated solely to the cause of protection of the IDPs. This contrasts sharply with what applies to refugees in respect of who there is an internationally binding Covenant of 1951 and other regional instruments. Moreover, the IDPs do not have any public organization of international status that solely cares for their interest, in contrast to the refugees who have institutional backing of the office of the United Nations High Commissioner for refugees (UNHCR). The UNCHR was created by the United Nations with a clear mandate to see to the provision of assistance and protection of refugees all over the world.

The dearth of international instruments and special institutional framework on IDPs can be traced to the claim of States to sovereignty and the principle of non-intervention in internal affairs of States. The IDPs as earlier noted are persons within the territories of their States of origin, and are technically subject to the municipal or domestic laws of those States. The drawback however comes in where for instance the displacement was caused by an internal conflict between the government side and a non-state armed group - if the non-state group lacks the will to accord protection to the IDPs. What will be the fate of such IDPs in such situation? It may even be that a state actor (in the heat of passion of an armed conflict) takes actions that may put the IDPs in the harm's way, probably due to discrimination by that government against a class of its own nationals. In such instances, should there not be a regime of international law that will be fully and explicitly dedicated to the IDPs? It is arguable that the extant IHL Conventions and Customary international law as well as the Rome Statute establishing the International Criminal Court should be enough to take care of rogue State or non-State actors, that abuse or commit crimes against the IDPs. However, such argument can be countered that the more binding international instruments there are the better, especially if any of such binding instruments will specifically deal with the IDPs.³⁸

³⁴ Article 1 of the Kampala Convention; this was adopted from the definition of IDP in the introduction to the guiding principles on internal displacement of 1998

³⁵ Brookings Institution, *Protecting Internally Displaced Persons 2008- A Manual for Law and Policy Makers* (University of Bern) 1 *et seq.*

³⁶ Global Report on Internal Displacement 2021 (GRID 2021). Available at <https://reliefweb.int/report/world> accessed on 15th December 2022.

³⁷ Nigeria has the third highest number of internally displaced persons (IDPs) in Africa. In 2020, it counted 2.7 million internally displaced people. Available at <https://www.satista.com/statistics> accessed on 15th December 2022.

³⁸ See Bugnion F, 2004 'Refugees, Internally Displaced Persons, and International Humanitarian Law' [25](5) *Fordham International law journal*; 1395-1420 at 1410

The United Nations seeking to ameliorate the conditions of the IDPs appointed a Representative for IDPs. The first ever Representative, Dr. Deng who was appointed in 1992 was instrumental to the formulation of a non-binding but well respected Guidelines Principles on Internal Displacement (1998). A major principle in the guideline is that of state sovereignty with responsibility. The principle is simply to weigh on the members of the international community that the responsibility for the protection of all persons including the IDPs within a state territory goes with or attaches to the claim to state sovereignty.³⁹ The Guidelines have now subsumed the applicable rules of the IHL and IHRL.

Some of the rights and principles under the Guidelines are as follows:

1. The principles which are consistent with IHRL and IHL are meant to provide guidelines to the Representatives of the Secretary General in the execution of his mandate, the States with internal displacement, all other authorities, groups *et cetera* in their dealings with IDPs, Intergovernmental and Non-governmental bodies.
2. IDPs shall enjoy same rights and freedom under International Law and domestic law as much as any other person in their country without any discrimination.⁴⁰
3. The principles are without prejudice to the right of the IDPs to seek asylum.⁴¹
4. National authorities are under a primary duty to provide protection and humanitarian assistance to IDPs⁴²
5. Prohibition of any form of discrimination in the application of the guidelines⁴³
6. Protection from arbitrary displacement, on grounds apartheid, ethnic cleansing, religious grounds or in situation of armed conflicts, unless on grounds of removal of civilians on grounds of security or imperative military demands.⁴⁴
7. Prohibition of attacks and violence against the IDPs in the forms of genocide, murder, summary execution, abduction, etc.⁴⁵
8. Prohibition of violence on IDPs who do not, or are no longer participating in conflicts⁴⁶
9. Right to dignity, physical and mental and moral integrity⁴⁷
10. Right to liberty,⁴⁸ freedom of movement⁴⁹
11. Prohibition of forced recruitment of children⁵⁰
12. Right to know fate of missing relatives, respect of family life, adequate standard of living, medical care⁵¹
13. Right to return, resettlement and reintegration⁵²

5. Applicable Legal Regime to the IDPs

As earlier indicated unlike the case with the refugees there is no single international treaty of binding nature that applies strictly or precisely to the IDPs. Also, at institutional level there is the absence of an international institution or organization dedicated or mandated for the protection of the IDPs.⁵³ This is contrast with the position of the refugees, who are protected by the Geneva Conventions of 1949 and the International Convention on Refugees of 1951. The IDPs are protected by a regime of laws especially the International Humanitarian Law, as follows:

Protection under national law

Being within the territorial compass of their home states the IDPs are in theory entitled to the protection offered by their national or domestic law. Thus, such IDPs should be entitled to the rights guaranteed in the

³⁹ Principle 3 of the Guidelines; see also Brookings Institution, 2008 *Protecting Internally Displaced Persons- A Manual for Law and Policy Makers* (University of Bern).

⁴⁰ Principle 1 of the Guidelines

⁴¹ Ibid, Principle 2(2)

⁴² Ibid, Principle 3

⁴³ Ibid, Principle 4

⁴⁴ Ibid, Principles 5 & 6

⁴⁵ Ibid, Principle 10

⁴⁶ Ibid, Principle 10(2)

⁴⁷ Ibid, Principle 11

⁴⁸ Ibid, Principle 12

⁴⁹ Ibid, Principle 14

⁵⁰ Ibid, Principle 13

⁵¹ Ibid, Principle 16-19

⁵² Ibid, Principles 28-30

⁵³ Brookings Institution, *ibid* footnote 29

constitutions of the home countries and also be protected from assault, rape and deprivations under the extant criminal statutes applicable in such countries. However, by the nature of the armed conflicts that necessitated a displacement in the first place, the government may not be in control of the areas of the displacement or even possess the political will to ensure that the IDPs enjoy the protection of law.

Protection under the international human rights law

The IDPs are entitled to the rights guaranteed under the UN Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1969). The UNDHR provides for the protection of human rights of everyone within the boundaries of the state signatories. And specifically, the ICPPR and ICESCR vest in the citizens of the covenanting States the political, and human rights and economic and social rights as well. The said rights are expected to be accorded to the IDPs as well. Thus, the IDPs should be granted shelter, medicine and even right to documentation. They should enjoy other rights contained in the above instruments such as the right against torture; right to personal safety; right to food, shelter; right to accommodation; prohibition of cruel inhuman treatment, etc.

3. Protection of IDPs under the IHL

Although the Four Geneva Conventions of 1949 (at the foundation of the modern IHL) do not specifically refer to the IDPs they are however of important application to the case of IDPs, since most IDPs will fall under the category of non-combatants. International humanitarian law applies in the circumstances of any international or non-international armed conflict.⁵⁴ Consequently, such persons are offered the protection from being killed or armed in as much as they are not directly participating in the war effort as combatants. The Conventions had anticipated the establishment of neutralized zones. The following forms of protection are granted to IDPS under the 4 Geneva Conventions and the Additional Protocols. All the rights enjoyed below are as a result of the principle of discrimination and non-combatant immunity:⁵⁵ protection from displacement, except where necessary militarily⁵⁶; right to voluntary return to their homes; right to dignity and humane treatment. Specifically, Article 3 common to the Geneva Conventions states thus:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.
To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:
 - (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel, treatment and torture;
 - (b) Taking of hostages;
 - (c) Outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
- (2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

⁵⁴ICRC, 2022 'Legal protection of internally displaced persons' <<https://www.icrc.org/en/doc/resources/documents/misc/5dhd82.htm>> viewed on 1st Nov.

⁵⁵ Rufus O Olaoluwa 2019 *The Principles of Jus ad Bellum and Jus in Bello* in Funminiyi Adeleke (ed) 'Reflections on Dynamics of the Law' (Faculty of law LASU): 487-488

⁵⁶ICRC, 2022 Legal Protection of Internally Displaced Persons <<https://www.icrc.org/en/doc/resources/documents/misc/5dhd82.htm>> viewed on 1st Nov.

6. Conclusion

The treatment of refugees and displaced persons occupies a pride of place in international law. As far back as the 19th Century the plight of non-combatants in wars had spurred up the establishment of the ICRC and the coming into existence of International Humanitarian Law solely dedicated to the cause of vulnerable victims and regulation of armed conflicts and amelioration of the effects of such wars and conflicts on non-combatants even where they cannot be prevented. The scourge of the 1st and 2nd World Wars had created the urgency in the international community to inaugurate institutions and legal framework for the protection of human rights. The civilians who are displaced as a result of armed conflicts, persecution or other natural or man-made causes necessarily come within the protection of both the IHL, and the IHRL, even as IDPs within their own countries. If such displaced persons cross any internationally recognized border to another State, they will enjoy in addition to the rights enjoyed under the IHL and IHRL the rights conferred by Refugee law. A major component of the International Refugee Law is the Geneva Covenant of 1951 and the Additional Protocol of 1967. But it will appear that the IDPs are not adequately protected, despite the Guidelines made by the UN Representative for IDPs. It is suggested that it might be necessary to make a binding international instrument in respect of the IDPs.

Furthermore, the call for the establishment of safe zones in areas of conflict for IDPs made by an Organization the Asian-African Legal Consultative Organization (AALICO) should be given a consideration, by the appropriate authorities.⁵⁷ IDPs are mostly regulated by the legal provisions within a sovereign State. The sovereign State is independent of foreign influence and control. This fact of independence and power of State jurisdiction compound the issue of international regulations. Despite this challenge the international community should device a means of influence over States and come out with an International Instrument that will regulate the problem of IDPs. This method worked for the regulation of human rights in most States when the Universal Declaration of Human Rights was proposed for adoption by States in 1948. It was almost unanimously adopted culminating later to the adoption of two prominent international instruments - the International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966). It is therefore suggested that an International Convention on the Rights of IDPs be developed and adopted by all States. Such will serve as a direction to States to direct adequate attention to the rights of IDPs. For the Refugees, States are implored to ratify and domesticate the international instruments on Refugees and also comply with such legal provisions by enacting local laws based on the International legal regulations.

⁵⁷ Gastorn K, 2019 'Internally Displaced Persons and International Humanitarian Law: The Viability of Establishment of Safety Zones' – An address of the Secretary General of AALICO at the 5th Commonwealth Red Cross and Red Crescent Conference on IHL, Rwanda 10-14 June.