

IMPLEMENTATION AND ENFORCEMENT OF THE RIGHTS OF INTERNALLY DISPLACED PERSONS UNDER DOMESTIC AND REGIONAL FRAMEWORKS*

Abstract

Increase in the number of armed conflicts and natural disaster has led to an increase in the number of internally displaced persons (IDPs) in Nigeria. These IDPs are housed in temporary camps after which they are resettled back to their communities as the conflict or disaster abates. During their stay in camps, IDPs usually suffer from poor and unhealthy living conditions as well as series of violations to their rights as citizens and as IDPs. This research aims at examining the extent of protection available to IDPs under the relevant and efficacy of applicable legal instruments for this purpose in Nigeria. In achieving this aim, doctrinal research method is applied. The research observes that the rights peculiar to the IDPs by their circumstance is entrenched under the 1999 Constitution; however, these rights are not justiciable. It is also discovered that the Kampala Convention where IDPs rights are elaborately and comprehensively distilled cannot be enforced in Nigeria for want of domestication. It is therefore suggested that there is an urgent duty on the National Assembly to domesticate the Kampala Convention so as to pave way for better protection of IDPs.

Keywords: Internally Displaced Persons, Insurgency, Natural Disaster, Fundamental Rights, Justiciability.

1. Introduction

The ugly trend of displacing individuals from their homes and places of abode is a major humanitarian challenge which has adversely affected the very core of our existence and living, as it often leads to devastating effects. The world, African continent and Nigeria in particular on daily basis is faced with high level of insurgency, violence, banditry and other armed conflicts. The growing level of insurgency in Nigeria has resulted to a high level of internal displacement of persons (IDPs). Owing to IDPs peculiar situation of life which includes leaving their homes, they usually face various challenges. Some of the challenges faced by IDPs include issues of access to basic human needs vital and amenities for their survival. Aside the challenge of access to basic needs and amenities, the IDPs are usually faced with the problem of conflicting among themselves and their host communities, resulting from the competition for basic amenities and temporary shelters. IDPs are further exposed to different forms of human right abuses in the camps. Nigerian government however, seems to be overwhelmed by the surging number of IDPs and this indicates a looming danger for society and our future development.

The term 'right' is derived from the Latin word '*rectus*' which means, that to which a person has just and valid claim. This thing which a person has claim to, may be an object or the privilege of doing something or saying something.¹ 'Right' has been defined to mean something that is due to a person by just claim, legal guarantee, or moral principle.² This further asserts that rights are powers, privileges, or immunities secured to a person by law. In the same vein, the dictionary also defines rights as legally enforceable claim that another will do or will not do a given act.³ From the foregoing, rights are the innate capacity which every man, woman or group of persons have to control the actions or activities of others, with the assent or assistance of the state.⁴ The 1999 Constitution⁵ provides every citizen of Nigeria with the right to freedom of thought, conscience and religion,⁶ right to freedom of expression and press,⁷ right to peaceful assembly and association,⁸ right to freedom of movement,⁹ amongst others. These rights do not belong to a few persons or group of persons but to every citizen of Nigeria

2. Rights of Internally Displaced Persons in Nigeria

Right is defined as something that is due to a person by just claim, legal guarantee, or moral principle.¹⁰ The term 'human' has also been defined 'as pertaining to, characteristic of, or having the nature of mankind, moral and rational creatures'.¹¹ Therefore, the terms 'human' and 'rights' creates a concept which could be seen to mean rights which every person (human being) enjoy as humans, which rights may not be deprived in substance, as

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¹O. N. Ogbu, *Human Rights Law and Practice in Nigeria: An Introduction* (Enugu: CIDJAP Press, 1999), 1. See also HO Agarwal, *Human Rights*, (New Dehli: Universal Book Traders, 2002), 2.

²BA Garner (ed), *Black's Law Dictionary* (7th ed., USA: West Publishing Co.), p.1322, see also BA Garner (ed), *Black's Law Dictionary* (8th ed., USA: West Publishing Co.), 1347.

³ *Ibid.*

⁴CA Oputa, 'Human Rights in the Political and legal Culture of Nigeria', 2nd Idigbe Memorial lectures (Lagos, Nigeria Law publications Ltd, 1988), 38-39.

⁵The Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁶*Ibid* at Section 38.

⁷ Section 39.

⁸ Section 40.

⁹ Section 41.

¹⁰ BA Garner (n2).

¹¹ *Webster Encyclopaedic Unabridged Dictionary of the English Language* (New Jersey: Gramercy Book, 1994), 691.

rights are intrinsic or innate in every person and indispensable to their very existence. To Balogun,¹² human rights are those rights which all human beings enjoy by virtue of their humanity. This means that human rights are rights which every human being as long as he is alive, is entitled to the enjoyment of. On his own part, Eze,¹³ defines human rights as meaning certain demands which individuals or group of persons make on the society some of which are protected by law and have become part of the *lex lata*, while others remain aspirations to be attained in the future. Thus, while some human rights exist by virtue of certain legislations expected to be protected or enforced by the government of the land (civil and political rights), others remain mere aspiration (social, cultural and economic rights). Rights are provided for in various States by their Constitutions and other statutes which in most cases, provides for the method of enforcement and implementation.

In Nigeria, one basic domestic legal framework that made copious provisions for human rights of citizens of Nigeria is the Constitution of the Federal Republic of Nigeria, 1999 which in Chapter IV provides for Fundamental Rights of all Nigerians inclusive of IDPs. The rights entrenched under the 1999 Constitution falls under the general rights conferred on IDPs. This position had been highlighted by Obikaeze who noted that since IDPs remain legally under the protection of national authorities of their habitual residence, unlike refugees who have been deprived of the protection of their state (country) of origin, they are expected to enjoy the same rights as the rest (undisplaced) of the population.¹⁴ IDPs are entitled to the general rights of citizens as guaranteed under Chapter IV of the Constitution¹⁵ similar to the rights entrenched in the African Charter on human and Peoples Rights (Ratification and Enforcement) Act.¹⁶

3. Rights of Internally Displaced Persons under Regional Framework

The devastating and growing impact of internal displacement has increased the population of IDPs in Africa and the African Continent. As a panacea to this problem, in the Special Summit of the African Union held in Kampala, Uganda on the 22nd day of October, 2009, the African Union adopted the ‘African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (also known as the Kampala Convention)’ as a regional legal framework to combat the menace of internal displacement and to cater for the needs of IDPs. The States that ratified the Kampala Convention made it clear as part of the Preamble that they are ‘determined to adopt measures aimed at preventing and putting an end to the phenomenon of internal displacement by eradicating the root causes, especially persistent and recurrent conflicts as well as addressing displacement caused by natural disasters, which have a devastating impact on human life, peace, stability, security and development.’¹⁷ A perusal of the Kampala Convention reveals that unlike the general rights of IDPs under domestic law (the 1999 Constitution) and the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act of 1983), there are specific rights of IDPs provided for in the Kampala Convention. They include the right to be protected against arbitrary displacement,¹⁸ right to dignity of IDPs,¹⁹ IDPs right to non-discrimination,²⁰ IDPs right to equality and equal protection of the law,²¹ right of access to food, water, health care, shelter and other basic needs,²² right to protection and assistance without any form of discrimination,²³ right of access to relief materials,²⁴ right to peacefully request or seek protection and assistance from the relevant authorities,²⁵ right to live in satisfactory conditions of dignity,²⁶ right to freedom of movement of IDPs within and outside their area of residence,²⁷ right to personal liberty,²⁸ right to life,²⁹ right against gender or sexual violence and rape,³⁰ right to seek safety in another part of the state,³¹ right to be protected against forcible return to or resettlement in any place

¹²A Balogun, ‘Towards a viable language of Human Rights Activism in Nigeria’ *European Scientific Journal*, (2014) February Edn, 8(4).

¹³OC Eze, *Human Rights in Africa: Some Selected Problems* (Lagos: Nigerian Institute of International Affairs & Macmillian Nigeria Publishers Ltd, 1984).2.

¹⁴Obikaeze Chibuike, ‘The Nigerian-State and Management of Internally Displaced Persons (IDPs) from 2012-2016’, *African Journal of Politics & Society*, published 2016, 7. Also available at <www.academix.ng/documents/papers/14840404297936.pdf> accessed 30 July, 2022.

¹⁵ Sections 33 to 44 of the 1999 Constitution of the Federal Republic of Nigeria (as Amended).

¹⁶ Cap A9, Laws of the Federation of Nigeria, 2004

¹⁷ Preamble to the Kampala Convention.

¹⁸ Article 4 (4) of the Kampala Convention.

¹⁹*Ibid* at Article 3 (1) (c), Article 7 (5) (f), Article 9 (1) (c).

²⁰ Article 3 (1) (d), Article 9 (1) (a) of the Kampala Convention.

²¹*Ibid* at Article 3 (1) (d).

²² Article 3 (1) (j), Article 7 (5) (c), Article 9 (2) (b).

²³ Article 5 (1) and (6).

²⁴ Article 5 (7).

²⁵ Article 5 (9).

²⁶ Article 7 (5) (c).

²⁷ Article 7 (5) (d), Article 9 (2) (f).

²⁸ Article 7 (5) (f), Article 9 (1) (c).

²⁹ Article 9 (1) (c).

³⁰ Article 9 (1) (d).

³¹ Article 9 (2) (e).

where the IDPs life, safety, liberty and/or health will be at risk,³² right to voluntary return, local integration or relocation to where is safe for the IDPs,³³ right to damages for the IDPs country's failure to protect and provide assistance to them in the event of natural disaster.³⁴

The Kampala convention was put in place as a result of Africans having recognized the inherent rights of internally displaced persons provided for in international human rights and humanitarian law and as set out in the 1998 United Nations Guiding Principles on Internal Displacement, which are recognized as important international framework for the protection of internally displaced persons.³⁵ However, irrespective of the lofty intents and wordings of any treaty, it must be subjected to principles of international law. One of which principle is that a sovereign State(s) cannot be legally bound to adhere to the tenets or principles enunciated in an international agreement (treaty) which the State has not given its express or implied consent through ratification and domestication.³⁶ According to Awhefeada,³⁷ when dealing with treaties, the concept of domestication entails the entire processes by which all State parties or members to the said treaty accomplish or succeed in their aim of incorporating the treaty (whether multilateral or bilateral) to their domestic law. Thus, where a country fails to domesticate a treaty, it does not necessarily carry with it any legal implication at the municipal level. Article 3 (2) (a) of the Kampala Convention, provides for the general obligation of State Parties towards the protection and assistance of IDPs, their welfare and general state of affairs. However, the provision does not mandate State Parties to automatically enforce the provisions of the Convention without more; the Convention recognizes and respects the principles of adoption, ratification and domestication and as such, the Kampala Convention may not have any force of law in Nigeria unless it is domesticated which is yet to be done. This is the reason the provisions of the Conventions are not been enforced in Nigeria till date despite the presence of section 12 (1) and (2) of the 1999 Constitution which empowers the National Assembly to invoke the force of law into any legislation through a majority vote of members of the House of Representatives and Senate.³⁸

4. Need for the Nigeria Government to Domesticate the Kampala Convention

The Kampala Convention is aimed at addressing the menace of internal displacement caused by armed conflict, natural disasters and large-scale development projects in Africa. However, Nigeria is yet to domesticate the provision of the Kampala Convention. This essay advocates for the National Assembly to domesticate the Kampala Convention. One reason for this advocacy is that domestication of the Kampala Convention will ensure adequate protection of IDPs in Nigeria as its provision applies specifically to the IDPs unlike the provisions of the 1999 Constitution which provides for the general rights of citizens. Domestication of the Convention will pave way for its application towards protection of IDPs in Nigeria without hindrances or limitations. Also, some rights of the IDPs under the Convention are more encompassing and direct towards the needs of the IDPs unlike the provisions of the Constitution. Secondly, domestication of the Kampala Convention will be a step forward in finding durable and lasting solutions to the causes of displacement and its effects on IDPs in Nigeria. In affirmation of this position, the ECOWAS has been enjoined to call on all member States to not only adopt and ratify the Convention, but to also take further steps in domesticating and implementing the Kampala Convention so as to solve the root problem of displacement in their respective jurisdictions.³⁹ Also, any State's decision to domesticate the Kampala Convention is a mark of national responsibility on the part of the state, because same gives a signal that the government or the state recognizes the problem of internal displacement and has a positive view on how to resolve same.

Furthermore, domestication of the Kampala Convention will ensure its application towards solving cases of violations of the rights of IDPs before courts of law in Nigeria as violators of these rights cannot be held accountable currently for the abuse or violation of such specific rights of IDPs, save the general rights that are clearly spelt out in the 1999 Constitution. It is also imperative that the Kampala Convention should be domesticated because aside the protection of IDPs who are displaced as a result of war, armed conflicts and insurgency amongst other crisis, the Convention establishes state responsibility for the protection and assistance of internally displaced persons, whose displacement is the result of natural or man-made disasters, including climate change.

³² *Ibid.*

³³ Article 11 (1).

³⁴ Article 12 (3).

³⁵ Preamble to the Kampala Convention.

³⁶ Article 11 of the 1969 Vienna Convention on the Law of Treaties; North Sea Continental shelf case ICJ Reports, 1969, 3.

³⁷ UV Awhefeada, 'Domestic Application of Treaties in Nigeria since 1914: Issues and Options', *University of Uyo Law Journal*, 2014, Published by Faculty of Law, University of Uyo, ISSN: 1119-3573, 271.

³⁸ See the case of *Abacha v. Fawehinmi* (2001) WRN Vol. 51, 165-166.

³⁹ Report on 'ECOWAS Holds In-Country Engagement Workshop on the Domestication and Implementation of the African Union (AU) Kampala Convention for the Protection and Assistance of Internally Displaced Persons (IDPs) in Africa.' Available at: <www.ecowas.int/ecowas-holds-in-country-engagement-workshop-on-the-domestication-and-implementation-of-the-african-union-au-kampala-convention-for-the-protection-and-assistance-of-internally-displaced-persons-id/> accessed 20 November, 2021.

5. Implementation and Enforcement of Rights of Internally Displaced Persons in Nigeria

The implementation and enforcement of IDPs rights in Nigeria stems from the operations of the Constitution of the Federal Republic of Nigeria,⁴⁰ the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act⁴¹ and the Fundamental Rights Enforcement Rules, 2009. However, the Constitution, particularly the provisions of Chapter IV on fundamental rights and the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act provides for general rights which every citizen in Nigeria are entitled to; which is not specifically tailored to cater for the specific needs of IDPs in Nigeria. On the other hand, a glance at the Kampala Convention will reveal that unlike the general rights of IDPs under the domestic framework (the Constitution of the Federal Republic of Nigeria, and the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act), there are specific rights of IDPs provided for in the Kampala Convention.

A cursory look at the rights of IDPs in the Kampala Convention reveals that the rights provided therein are economic, social and cultural rights such as right of access to food, water, health care, shelter and other basic needs,⁴² right of access to relief materials,⁴³ right to peacefully request or seek protection and assistance from the relevant authorities,⁴⁴ right to live in satisfactory conditions of dignity,⁴⁵ right to seek safety in another part of the state,⁴⁶ right to be protected against forcible return to or resettlement in any place where the IDPs life, safety, liberty and/or health will be at risk,⁴⁷ right to voluntary return, local integration or relocation to where is safe for the IDPs,⁴⁸ right to damages for the IDPs country's failure to protect and provide assistance to them in the event of natural disaster.⁴⁹ Looking at the legal framework in Nigeria, these rights are provided for in Chapter II of the 1999 Constitution from sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 under the Fundamental Objectives and Directive Principles of the State Policy of the economic, social and cultural rights. These rights are also referred to as Policy Directives Rights which are non-justiciable as affirmed in the provision of section 6 (6) (c) of the 1999 Constitution which provides that:

the judicial powers vested in accordance with the foregoing provisions of this section; ... (c) Shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the fundamental Objectives and Directive Principles of State Policy set out in chapter II of this Constitution.

It has been posited that section 6 (6) (c) of the Constitution is an aberration as same is against the tenet of the provisions of section 6 (6) (a) (b) and also, runs contrary to public policy with regards to the fundamental policy that intends to create economic rights that are meant to cater for the needs of Nigerians.⁵⁰ Furthermore, the section acts as a limitation to the adjudicatory powers of the Courts which extend to any matter and give sanctions where necessary to all persons or between government, or authority and persons in Nigeria for the determination of any question as to civil rights and obligation of that person. By the standard laid down in the 1999 Constitution with regards to human rights, majority of the rights provided for in the Kampala Convention are economic, social and cultural rights; though with the aim to cater for the specific needs of IDPs in nations that are signatories to the Convention. This is commendable and germane for the purpose of protection, implementation and enforcement of the rights of IDPs in the region. These rights are however not enforceable for want of domestication in Nigeria. Notwithstanding the non-justiciable nature of these rights, it has been argued that the fact that economic, social and cultural rights are interconnected and interdependent on a broad range of civil and political rights which have gained ascendance in the Nigerian legal regime is a vital reason to tow this line. For instance, one cannot be said to have the right to life if he does not have access to food.⁵¹ Furthermore, this position is strengthened by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act⁵² which provides thus:

Convinced that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights...

⁴⁰1999 (as amended).

⁴¹Cap A9, Laws of the Federation of Nigeria, 2004.

⁴² Article 3 (1) (j), Article 7 (5) (c), Article 9 (2) (b) of the Kampala Convention.

⁴³ Article 5 (7).

⁴⁴ Article 5 (9).

⁴⁵ Article 7 (5) (c).

⁴⁶ Article 9 (2) (e).

⁴⁷*Ibid.*

⁴⁸ Article 11 (1).

⁴⁹ Article 12 (3).

⁵⁰OVC Ikpeze, 'Non-Justiciability of Chapter II of the Nigerian Constitution as an Impediment to Economic Rights and Development', *Developing Country Studies*, (2015), Vol.5, No.18, 50.

⁵¹ ON Ogbu, *Human Rights Law and Practice in Nigeria: An Introduction* (Enugu: CIDJAP Press, 1999), .20.

⁵²Preamble to the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria, 2004.

The point to be taken out is the fact that despite the non-justiciability of Chapter II of the 1999 Constitution, the government of Nigeria has the duty to enforce socio-economic rights in Nigeria. Addressing this issue, particularly in interpreting section 6 (6) (c) of the 1999 Constitution, Niki Tobi JSC in the case of *Federal Republic of Nigeria v Aneche & 3 Ors*,⁵³ stated that section 6 (6) (c) of the Constitution is neither total nor sacrosanct as the section provides a leeway using the words 'except as otherwise provided by this Constitution'. Furthermore, in the case of *Attorney-General, Ondo State v. Attorney-General, Federation of Nigeria*⁵⁴ the Supreme Court held that 'it is well established as per S. 6 (6)(c) of the Constitution that rights under the Fundamental Objective and Directive Principles of State Policy are not justiciable except as otherwise provided in the Constitution.' The above position of the Supreme Court entails that where the 1999 Constitution makes a provision which by implication makes provisions of Chapter II, *albeit* non-justiciable to be justiciable, the Court has no other option than to pronounce same as justiciable. Again, despite the provision of section 6 (6) (c) of the 1999 Constitution, Item 60 of the Exclusive Legislative List in the 1999 Constitution empowered the Nigerian National Assembly to promote and enforce the observance of the Fundamental Objectives and Directive Principles of the State Policy contained in the 1999 Constitution.⁵⁵ This appears to have informed the Supreme Court's decision in the case of *Attorney-General, Ondo State v. Attorney-General, Federation of Nigeria*⁵⁶ where it was held that the National Assembly is competent to make laws to curb corruption by virtue of section 15 (5) of 1999 Constitution.⁵⁷ In line with the above decision of the apex Court, it is submitted that it was in the enforcement of section 15 of the 1999 Constitution that the Economic and Financial Crimes Commission (Establishment etc) Act of 2004 was enacted and enforced by our Courts.

Furthermore, Section 16 (2) of the 1999 Constitution provides thus:

The State shall direct its policy towards ensuring; (a) The promotion of a planned and balanced economic development. (b) That the material resources of the nation are harnessed and distributed as best as possible to serve the common good; (c) That the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group and (d) That suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and prisons and unemployment sick benefits and welfare of the disabled are provided for all citizens....

Section 17 on the other hand provides for the Social Objectives or order of the nation which are aptly stated in section 17 (1) of the 1999 Constitution. To achieve these social objectives, the government is expected to direct its policy towards ensuring that all citizens without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;⁵⁸ safety and welfare of persons in employment must be safeguarded among others. By way of analogy, the economic and social rights as highlighted in section 16 and 17 of the 1999 Constitution with our earlier explanation on the interdependence of economic, social and cultural rights with civil and political rights could be seen to be well incorporated into Chapter IV of the Constitution. For instance, the right to life; right to dignity of human person and independence of the judiciary or fair hearing as well as the abolition of discrimination in section 42 of the 1999 Constitution can be linked to the content of sections 16 and 17 of the Constitution. Thus, one could say that the above referred sections in Chapter IV in this regard complements sections 16 and 17 of the 1999 Constitution which are ordinarily not justiciable but now justiciable and enforced under the provisions of Chapter IV of the 1999 Constitution.

Furthermore, Item 60 of the Exclusive Legislative List in the 1999 Constitution empowered the Nigerian National Assembly to promote and enforce the observance of the Fundamental Objectives and Directive Principles in the 1999 Constitution. With clue from the foregoing, it is strongly argued in this research that the National Assembly should domesticate the Kampala Convention in line with section 12 of the 1999 Constitution of the Federal Republic of Nigeria. To make the Articles of the Kampala Convention which is similar to the provisions of Chapter

⁵³ (2004) ALL NLR 203.

⁵⁴ (2002) 9 NWLR (pt 772) 222, (2002) 6 S.C (pt. 1) 1. See also *Okogie v A.G. Lagos State* (1981) NCLR 2187.

⁵⁵F Falana, 'Justiciability of Chapter Two of 1999 Constitution (as amended): Need for the Nigerian judicial system to be more proactive', *Vanguard Online News*. Available at: <[https://www.google.com/amp/s/www.vanguardngr.com/2022/03/justiciability-of-chapter-two-of-1999-constitution-as-amended-need-for-the-nigerian-judicial-system-to-be-more-proactive/amp/](https://www.google.com/amp/s/www.vanguardngr.com/2022/03/justiciability-of-chapter-two-of-1999-constitution-as-amended-need-for-the-nigerian-judicial-system-to-be-more-proactive/)> accessed 10 July, 2022. See the case of *Attorney-General, Ondo State v. Attorney-General, Federation of Nigeria* (2002) 9 NWLR (pt 772) 222, (2002) 6 S.C (pt. 1) 1.

⁵⁶*Attorney-General, Ondo State v. Attorney-General, Federation of Nigeria* (2002) 9 NWLR (pt 772) 222, (2002) 6 S.C (pt. 1) 1.

⁵⁷ (2002) 9 NWLR (pt 772) 222, (2002) 6 S.C (pt. 1) 1.

⁵⁸ Section 17 (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

IV of the 1999 Constitution justiciable, the National Assembly has the duty to make further legislations out of them to better protect and cater for the needs of IDPs.

6. Enforcement Procedures of the Rights of Internally Displaced Persons in Nigeria

Chapter IV of the 1999 Constitution provides for Fundamental Human Rights of every Nigerian inclusive of IDPs. The fundamental rights of IDPs in Nigeria, aside being provided for in Chapter IV of the 1999 Constitution are equally provided for under the African Charter on Human and Peoples' Rights (Application and Enforcement) Act.⁵⁹ With regards to the enforcement of these citizens' rights (including the IDPs), the law is trite that the enforcement machinery or legal mechanism as it were, for fundamental right is stated in Section 46 (1) and (2) of the 1999 Constitution, which provides that any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.

Pursuant to the above provision, the High Court has jurisdiction to hear and determine any application on the enforcement of fundamental human rights of Nigerian citizens including IDPs. And by the above provision, the court is further empowered to make such orders, issue such writs and give such direction as it may consider appropriate for the purpose of enforcing, implementing, protecting and/or securing the enforcement of any of such fundamental human rights of IDPs. In giving credence to the above position, the Court of Appeal in the case *Rumugu Air and Space (Nig.) Ltd v. FAAN & Anor*⁶⁰ per Obaseki-Adejumo, J.C.A. stated that:

The enforcement of fundamental rights under which the Appellant purportedly brought its action at the Court below is provided for in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria. Section 46 of the Constitution provides: 1. Any person who alleges any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.

The above position of the law was further affirmed by the Supreme Court in the case of *Diamond Bank v. Opara & Ors*⁶¹ where it was held that any person who alleges that any of the Fundamental Rights provided for in the Constitution or African Charter on Human and Peoples Rights (Ratification and Enforcement) Act and to which he is entitled, has been, is being, or is likely to be infringed, may apply to the Court in the State where the infringement occurs or likely to occur, for redress. In line with the above, particularly the provision of Section 46 (3) of the 1999 Constitution, the Chief Justice of Nigeria is empowered to make Rules with respect to the Practice and Procedure of the High Court for the purpose of the enforcement of fundamental rights of every Nigerian (including IDPs). Thus, the law has given power to certain set of persons to institute action to enforce either their rights or for others, and these set of persons as allowed by the Rules are anyone acting in his own interest-individual, anyone acting on behalf of another person, anyone acting as a member of, or in the interest of a group or class of persons, anyone acting in the public interest, association acting in the interest of its members or other individuals or group, and Human Rights activists, advocates or groups as well as any non- government organization who may institute Human Rights application on behalf of any potential applicant.⁶²

By the above analysis, any IDP can institute an action in court for the enforcement of his or her rights. Similarly, IDPs as well can act on behalf of another IDP and institute an action for the enforcement of the rights of the person so represented. Or any individual (IDP or otherwise) can as well act as a member of, or in the interest of a group or class of persons by instituting an action in the interest of the former for the enforcement of their rights. The sad reality however is that even in the face of flagrant abuse of the fundamental rights of IDPs, they are financially not capable to institute litigations to enforce their rights. Except lawyers will pick such cases up as *pro-bono* cases, IDPs rights will continue to suffer abuses unabated.

7. Who Can Internally Displaced Persons Enforce their Rights Against?

This research has established that in line with the relevant provisions of the law; IDPs like other Nigerians citizen have certain basic inalienable rights which can be enforced in a court of law. And as touching on the enforcement of the rights of IDPs and other citizens of Nigeria, the law is trite that the enforcement machinery for said rights is provided for in Chapter IV of the 1999 Constitution particularly in Section 46 (1) of the 1999 Constitution stated above as well as provision of Order 2 Rule 1 of the Fundamental Right (Enforcement Procedure) Rules, 2009 which states that:

⁵⁹ Cap A9, Laws of the Federation of Nigeria, 2004.

⁶⁰(2016) LPELR-41506(CA) (. 22-23, Paras. A-A).

⁶¹(2018) LPELR-43907(SC), pp.30 to 33, paragraphs C to B.

⁶²CM Gamzhi, 'Challenges of Enforcement of Fundamental Human Rights under the Constitution of the Federal Republic of Nigeria, 1999', Being a Long Essay Submitted in Partial Fulfillment of Requirement for the Award of the Post Graduate Diploma in (Legislative Drafting) (PGDLD) in the Nigerian Institute of Advance Legal Studies (NIALS), University of Lagos Campus, Akoka, Lagos. October, 2010.

Any person who alleges that any of the Fundamental Rights provided for in the Constitution or African Charter on Human and Peoples Rights (Ratification and Enforcement) Act and to which he is entitled, has been, is being, or is likely to be infringed, may apply to the Court in the State for redress....

Similarly, it suffices to say that the class of persons that can institute an action for the enforcement of rights of IDPs extends beyond just the IDP concerned to other individuals and organizations who may wish to institute such action on behalf of the IDP concerned. In light of the above, the person(s) or organizations the IDP like every other citizen in Nigeria can enforce their rights against are person(s), institutions, agencies or organizations that have infringed on the said rights of the IDP. That is, the persons, agencies or institutions that IDPs can enforce their rights against are violators of the rights of IDPs. Commenting on the violation of the rights of IDPs, particularly, the rights of women who are violated by the military, police and other government officials who ordinarily are charged with protecting them, the Federal Government of Nigeria has been urged to be proactive in the protection of the rights of IDPs at the IDP camps.⁶³ Condemning the actions of the military, the Nigerian police and other camp officials in restraining, attacking and abusing IDPs, a researcher at Human Rights Watch noted that:

It is bad enough that these women and girls are not getting much-needed support for the horrific trauma they suffered at the hands of Boko Haram... It is disgraceful and outrageous that people who should protect these women and girls are attacking and abusing them.⁶⁴

The situation in Maiduguri has led to IDPs being more vulnerable to further attacks because in those camps in Maiduguri where there are irregular food supply to the camps, lack of clothing, medical care and other necessities and most of all where the movement of IDPs are severely restricted in the IDP camps it compounds the vulnerability of these victims to rape and sexual exploitation by these camp officials, police, military men, members of the vigilante groups in the camps and other residents of Maiduguri.

7. Conclusion

The above analysis has brought to the fore the point earlier made that the person(s) who IDPs like every other citizen in Nigeria can enforce their rights against are person(s), institutions, agencies or organizations that have violated or abused their rights. Thus, these persons/institutions may range from the Federal Government, State Governments, police officers posted to IDP camps, military officers. Others are IDP camp officials, other camp security outfits like the vigilante groups in the camps, individuals and residents of host communities, host communities' leaders as well as other IDPs in the camp that have violated the rights of the concerned IDP.

⁶³A Ari, *The Guardian Newspaper*, 'Check Human Rights violations at IDP camps, NGO tells government'. Available at: <<https://guardian.ng/features/health/check-human-rights-violations-at-idp-camps-ngo-tells-government/>> accessed 23 November, 2021.

⁶⁴*Ibid.*