

## Internal Displacement in Nigeria: It's Impact on Women's Reproductive Health

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### ABSTRACT

In times of crisis, the ability to access good medical care is a determinant of whether the woman involved lives or dies. This paper examines the reproductive health implications arising from internal displacement in Nigeria and the laws that protect internally displaced persons. The doctrinal methodology of research was employed thus both primary and secondary sources of law relating to internal displaced persons were examined. It finds that in times of crisis, it is common place to see people flee their habitual places of residence to take up respite in temporary habitations, in order to avoid the effects of violations of their human rights. The impact of this displacement is mostly felt by women and children. The scale of internal displacement and the inevitable problems arising therefrom, in proportion to the nature of response from government have become an increasing cause for worry in contemporary times. More worrisome is the fact that the array of international legal instruments protecting internally displaced persons has not been domesticated in Nigeria, leaving a protection gap in that respect. It is therefore recommended that these Laws be domesticated and given effect in order to protect the lives and dignity of women caught up in armed conflict amongst others.

**KEY WORDS:** Internally Displaced Persons, Reproductive Health, Nigeria, Human Rights, Women.

### 1.Introduction

This paper discusses the challenges of women, due to internal displacement in Nigeria. Towards the end of 2015, an estimated 50 million IDPs were found across the countries of the world, including Nigeria. While the act of displacement itself is already a deprivation of human rights, the subsequent loss of access to homes, lands, livelihood, personal documentation, family members, can deleteriously affect the ability of the IDPs to assert and relish an entire range of fundamental rights.<sup>2</sup>For women and girls especially pregnant women, who may face life-threatening childbirth complications, as well as lactating women, caring for new-borns throughout the chaos, whether they live or die in a crisis often depends on their access to basic sexual and reproductive health services.<sup>3</sup> In Borno, Yobe and Adamawa, the three most affected states by the insurgency crisis, it is estimated that 53 per cent of internally displaced persons are women and girls, of whom about 1.73 million are of childbearing age, with 276, 000 pregnancies expected in 2017.<sup>4</sup>

In Nigeria, about one Nigerian woman dies every 10 minutes from pregnancy related conditions, deaths that could be prevented if women and girls have access to education and reproductive health services, including family planning. The risk of death is thus heightened in humanitarian crises that displace populations and

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<sup>2</sup> Erin Mooney, "The Concept of Internal Displacement and the case for Internally displaced Persons as a category of Concern, *Refugee Quarterly*, (2005), Vol. 24, No. 3, Pp9- 26

<sup>3</sup>BabatundeOsotimehin, the Executive Director of UNFPA, during his mission to northern Nigeria to advocate for the reproductive health and rights of women and girls

<sup>4</sup>*Ibid*

undermine community social support mechanisms, limiting access to health facilities and workers to take care of the special needs of women and girls.<sup>5</sup>

The need to access sexual and reproductive health care is a priority for many families, women and adolescent girls, but too often, their needs take a back seat to other urgent needs, like food and shelter, in the face of the pending crisis.

In view of the negative effects of internal displacement on victims, the United Nations has facilitated domestic responses to internal displacement through the humanitarian assistance provided by its specialized agencies and more importantly through the identification of the rules of international law that govern all states responses to displacement. These principles are a reflection of international human rights principles as well as international humanitarian law and restate a greater feature which guarantees rights of the displaced as prescribed by these bodies of law.

This paper is divided into five parts. Part 1 is the introduction to the discourse, Part 2 discusses the concept of Internal displacement and the circumstances leading to the condition, Part 3 discusses the impact of internal displacement on women's reproductive rights in Nigeria, Part 4 examines the institutional and legal framework addressing internal displacement as well as the shortcomings of these framework, Part 5 highlights recommendations on remedies for the negative impact of displacement on women's reproductive health and conclusion.

## 2. Conceptual Definitions

### 2.1 Internal Displacement

According to international definition, Internally Displaced persons (IDP), are persons or group of persons who have been forced or obligated to flee or leave their places of habitation, to avoid the effects of internal armed conflicts or situations of generalised violence, gross violations of human rights or natural/ human-made disasters. These are people who have not crossed an internationally recognised state border.<sup>6</sup> Thus where the displaced persons have crossed an international border, they are refugees. Internal displacement is characterised by the coercive or otherwise involuntary character of movement and such movement takes place within national borders.<sup>7</sup>

It is apparent that IDPs instantaneously become reliant on others for basic needs such as shelter, food and water. Their vulnerability is heightened at this time by their deprivation of healthcare, education, employment, economic activities and benefits in the areas of displacement. In view of the negative effects of internal displacement on victims, the United Nations has facilitated domestic responses to internal displacement through the humanitarian assistance provided by its specialized agencies and more importantly through the identification of the rules of international law that govern all states responses to displacement.<sup>8</sup> These principles are a reflection of international human rights principles as well as international humanitarian law and restate greater features which guarantee rights of the displaced as prescribed by these bodies of law. These guiding principles rest on two key tenets, namely;

1. Sovereignty entails not only the rights of each state to conduct its own affairs but also the primary duty and responsibility to provide protection and assistance without discrimination to its population, including internally displaced persons, in accordance with International Human Rights and Humanitarian Law.
2. While the displaced persons within their country remain entitled to the full protection of rights available to the population in general, displacement gives rise to peculiar vulnerabilities on the part of the victims.

Thus in order to protect these IDPs, states are obligated to ensure special measures are in place for their protection and to provide assistance which corresponds with their vulnerabilities to ensure equality and respect to the IDPs.<sup>9</sup> The 1999 Constitution of Nigeria as amended contains rights of citizens which must be respected and protected- (Chapter 4). Internally displaced persons have been on the increase in recent times, which has elevated

<sup>5</sup>Babatunde Osotimehin, 'In crisis, Access to Reproductive Health Care Often Determines if Women and Girls Live or Die, says UNFPA Executive Director' <<https://nigeria.unfpa.org/en/news/crisis-access-reproductive-health-care-often-determines-if-women-and-girls-live-or-die-says>> Accessed 12 February, 2020.

<sup>6</sup>Office of the High Commissioner for Human Rights, "Internally Displaced People" <<http://www.unhcr.org>> Accessed 12 February, 2021

<sup>7</sup> Norwegian Refugee Council (NRC) "Nigeria: No End to Internal Displacement" (Geneva: IDMC Global Project. 2015)

<sup>8</sup> Guiding Principles on Internal Displacement, which was presented to the UN Commission on Human Rights in 1998

<sup>9</sup> Guiding Principles 1.1 and 4

it to a formidable issue of global concern.<sup>10</sup> The aggregate number of displaced persons is currently estimated at about 50 million worldwide, with the greater proportion being in Africa and Asia.<sup>11</sup> Displacement in Nigeria is more often the after effect of communal violence and internal armed conflicts.

While some conflicts appear to be caused by either religious or ethnic differences, benefits of a political, social and economic nature are usually behind the violence in countries where endemic poverty, low levels of education and a huge and alienated youth population abound.<sup>12</sup>

There are equally incidents of displacement which occur due to natural disasters. Nigeria has in the past experienced displacement resultant from natural disasters such as flooding or soil erosion or even oil pollution as seen in the Niger Delta region of Nigeria. However these seem to have been overtaken by the effects of recurrent internal conflicts and generalised violence since the end of military rule and the return of democracy in 1999. The systematic and overlapping patterns of inequality in the country have been described as the cause of conflict in Nigeria.<sup>13</sup> Thus the fluctuating and ever increasing number of internally displaced population in Nigeria.

The return of democracy and the competition for the new political opportunities has led to increased violence and local competition for resources has often been aggravated by “inter- elite” rivalries over privileges such as political and public service appointments, oversight of projects and admission into schools.<sup>14</sup> In addition, the specific tripodal ethnic structure, that is Hausa, Igbo and Yoruba being the main ethnic groups, are particularly unstable and always in conflict. The interplay between the major ethnic groups has been aggravated over time by systematic patterns of inequalities. In particular, the Niger-Delta region has been the centre of violence due to competing interests in land, oil and wealth of the nation. Following the economic decline of the 1990s, the region became vulnerable to ethnic polarization, with different groups resorting to different means to fight for their rights.<sup>15</sup> The activities of militants in the Niger-Delta region resulted in the displacement of several thousands.<sup>16</sup>

Subsequently, the North Eastern part of Nigeria became bedevilled by insurgency perpetrated by the Boko Haram terrorist group. They have over the past decade become the most dangerous insurgent group in Nigeria’s history. They have been known to wreak havoc in churches, mosques, schools, police stations and government owned as well as private owned facilities. The activities of these insurgents have constituted an increase in the number of displaced persons at an alarming rate. Considering that Nigeria is prone to natural disasters like flooding from the Lado dam in Cameroon as well as soil erosion, in areas of conflict which are also affected by these natural disasters, displacement of persons becomes complicated- as returning becomes difficult and even impossible in many cases.

Moving from their places of habitation, usually to IDP camps, increases their vulnerability more abuse and deprivation of their rights. Unlike refugees, they have not crossed into another country; hence their status does not attract the necessary protection enshrined in international law. Persons who have been forced to leave their homes, homesteads, towns, cities, farms and familiar terrains due to incidences of inclement weather, famine,

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<sup>10</sup>Magaji, Ladan *Introduction to International Human Rights and Humanitarian Laws* (Zaria: Ahmedu Bello University Press, 2015) p. 252.

<sup>11</sup> Norwegian Refugee Council (NRC) “Nigeria: No End to Internal Displacement” Geneva: IDMC Global Project. 2015)

<sup>12</sup>Guiding Principles 1.1 and 4

<sup>13</sup>Okpoh, Okpoh, “Inter-group Migrations, Conflicts and Displacement in Central Nigeria” in Falola T. and Okpoh O. (ed) *Population Movements, Conflicts and Displacement in Nigeria* (Ilorin: Unilorin Press 2008) p.11

<sup>14</sup>EsiagbaIrobi, “Resolving the Niger Delta Conflicition in Nigeria”, (2015) (3)( 1)*Peace Studies Journal*p.18

<sup>15</sup>*Ibid.*

<sup>16</sup>Intergrated Regional Information Network(IRIN) “Thousands still Homeless in Delta”<<http://www.internaldisplacement.org>> Accessed 12 February 2021

flood, earthquake and other natural disasters; but are trapped or displaced within the boundaries of their countries are often in more dire situations. These persons usually referred to as “Internally Displaced Persons” (IDPs) do not come under the protection or welfare of any internationally binding agreements. Apart from the 1998 UN Guiding principles on Internally Displaced Persons which is at best regarded as guiding and not binding and the recently adopted AU Kampala Convention, there is no internationally binding legal framework for the protection of IDPs. Unfortunately, most states have no municipal law to cater for their wellbeing.

In Nigeria, for example, this category of persons is left to the whims and caprices of a local regulatory agency; the National Emergency Monitoring Agency (NEMA). This agency more often than not is not proactive in the welfare of such persons.<sup>17</sup>

As at the end of 2014, of the global 38 million forcefully displaced by armed conflict and generalized violence, Nigeria accounted for at least one million. Previously between July and October 2012, National Emergency Management Agency (NEMA) estimated in a published report that a total of 7.7 million people were affected by the flood disaster across the federation. Out of the affected population, 2.1 million people were internally displaced (IDPs); 363 persons died and 18,282 people were treated for injuries they sustained during the flooding. As at January 2014, about 165, 000 people were displaced by both floods and conflict in IDP camps in Nigeria.<sup>18</sup> Since IDPs remain legally under the protection of national authorities of their locality, they are expected to enjoy the same rights as the rest of the population. The question that begs to answer, is whether these rights are indeed accorded them or even protected in the first place?

## 2.2 Reproductive Health

The Constitution of the World Health Organisation defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” In the context of reproductive rights, this definition was expounded by the Programme of Action developed at the International Conference on Population and Development (ICPD) and also at the International Conference on Women.<sup>19</sup> Thus reproductive health is defined as: “A state of complete physical, mental and social wellbeing, not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes.” The right to reproductive health implies that people have a satisfying and safe sex life and that they have the capacity to reproduce and the freedom to decide if, when and how to reproduce and how often to do so. Implicit in this last condition is the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of their choice, as well as other methods for regulation of fertility which are not against the law, and right of access to appropriate health care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chances of having a healthy infant.<sup>20</sup>

## 3. The Impact of Internal Displacement on Women’s Reproductive Rights in Nigeria

As earlier noted, in Borno, Yobe and Adamawa, the three most affected states by the insurgency crisis, it is estimated that 53 per cent of internally displaced persons are women and girls, of whom about 1.73 million are of childbearing age, with 276, 000 pregnancies expected in 2017.<sup>21</sup>

### 3.1 Inadequate Healthcare:

With respect to healthcare, it is unarguable that the situation is worsened by the fact that access to healthcare in Nigeria is generally constrained especially in the North Eastern parts of Nigeria. This constrain is also further complicated for the IDPs and their host communities as result of destruction of healthcare facilities and even death and injury of healthcare workers. Thus there is outbreak of diseases in these IDP camps; there is also the problem of lack of access to vaccines. For instance the number of cholera cases among the IDPs is monumental. Several illnesses are undiagnosed as there is lack of health checks.<sup>22</sup> Other factors like malnutrition

<sup>17</sup>Adeejat-Kubra and Kolawole, A. “Towards the Evolution of Legal and Institutional Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria” [2013] (6) (5) *OIDA International Journal of Sustainable Development*, pp. 141-154, 2013

<sup>18</sup>*Ibid*

<sup>19</sup>Held at Cairo in 1994

<sup>20</sup> Par 7.2 of ICPD Programme of Action

<sup>21</sup>Babatunde Osoimehin, the Executive Director of UNFPA, during his mission to northern Nigeria to advocate for the reproductive health and rights of women and girls.

<sup>22</sup>Erin Mooney, “The Concept of Internal Displacement and the case for Internally Displaced Person as a category of concern” *Refugee Survey Quarterly*, (24)(3) P. 9-26

continue to be on the increase as food distribution is irregular. One of the contributory factors to these unsavoury circumstances is the fact that there is no actual statistics of IDPs in Nigeria.<sup>23</sup>

### 3.2 Sexual Abuse:

The grave consequences of displacement on women cannot be overemphasised. One of the major consequences is sexual abuse of female IDPs.

There have been reported cases of rape, sexual harassment, forced marriages, infant marriage, sexually transmitted diseases and uncontrolled birth, occasioning high infant and maternal mortality in these IDP camps.<sup>24</sup>

There has been a spate of rapes and sexual exploitations of women and girls facilitated by the conflicts. The insurgents' abuses on women and girls are numerous, namely: abduction, forced religious conversion, physical and psychological abuse, forced labour, forced suicide missions and forced marriage, rape, and other sexual abuses which have threatened women and girls in Northeast Nigeria.<sup>25</sup> Pregnant women constitute one in seven women. Only 20.7 per cent of the pregnant women sought antenatal care and of these, 27 per cent of the pregnancies ended as miscarriage and 10.8 per cent ended as stillbirth. The sexual history showed that about three-quarter of the respondents 455 (76.1 per cent) have had sex since being in the camps, while remaining one-quarter was either not sexually active or had not had sexual intercourse since being in the IDP Camps.<sup>26</sup>

Many women who are refugees or IDPs face unwanted, unplanned, and poorly spaced pregnancies, due to a lack of access to contraceptive services and supplies, overburdened providers with little time to educate or counsel clients, pressure from husbands or other family members to "rebuild" the population, and increases in rape and prostitution. Refugees are at higher risk than stable populations for sexually transmitted infections (STIs) and gender-based violence.

### 3.3 Human Trafficking:

There are also reported cases of women and children being trafficked from these camps. Children (male and female) are exposed to forceful conscription by insurgents as soldiers, suicide bombers, sex slaves and abrupt discontinuation of education.<sup>27</sup> In October 2016, a committee investigating allegations of trafficking and sexual abuses in Internally Displaced Persons (IDPs) camps found that the inability of women to provide food for their families makes them increasingly vulnerable to sexual exploitation in exchange for food or other assistance.<sup>28</sup> By December 2016, officials at Bakassi IDP camp in Maiduguri, Northeast Borno State disclosed that between June and December, some 3,213 pregnancies had been recorded resulting from sexual abuses.

Even the military camps carved out for IDPs is not immune as it has witnessed a preponderance of such sexual exploitations and abuses of women and girls. Women and girls in situations of conflict, such as the Northeast remain vulnerable and lack the capacity to provide basic needs of shelter, water and food for their family, hence, are susceptible to sexual exploitation. Ultimately, some have embarked on forced internal and international migration. This vulnerability of women and girls exposes them to "predators" who abuse their rights indiscriminately as they remain unprotected even from those who are meant to protect them.<sup>29</sup>

### 3.4 Reproductive Health Issues:

IDPs exhibit unique reproductive health challenges that bother on limited access to ante natal care services, and contraceptive services that invariably lead to poorer maternal and perinatal indices. The solutions to the health problems of IDPs lie first in tackling the root causes of wars and insurgency through a combination of

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<sup>23</sup>Erin Mooney (*n. 21*)

<sup>24</sup>KayodeOgundamisi, "Exploitation of Internally Displaced Persons in Nigeria" <<http://www.opinionnigeria.com>> Accessed 12 March, 2021.

<sup>25</sup>Adah Ogbe "The Travails of Women and Girls in Northern Nigeria: A Human Rights Issue" <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3599122](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3599122)> Accessed 23 June, 2021.

<sup>26</sup>Chukwuma, Muanya, "Addressing Reproductive Healthcare Challenges of IDPs" Report on paper presented by Prof. Innocent A. O. Ujah at the 2019 Prof. OkoronkwoKesanduOgan Memorial Lecture Series held at the University of Nigeria Nsukka (UNN), Enugu Campus <<https://guardian.ng/features/health/addressing-reproductive-healthcare-challenges-of-idps/>> Accessed 13 February, 2021.

<sup>27</sup>KayodeOgundamisi, "Exploitation of Internally Displaced Persons in Nigeria" <<http://www.opinionnigeria.com>> Accessed 12 March, 2021.

<sup>28</sup>Adah Ogbe "The Travails of Women and Girls in Northern Nigeria: A Human Rights Issue" <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3599122](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3599122)> Accessed 23 June, 2021.

<sup>29</sup>*ibid*

diplomacy, good governance, infrastructural development, employment and other political measures.<sup>30</sup> Research indicates that the availability of contraceptives has improved in stable refugee populations since the mid-1990s. Researchers know little about how the immediate aftermath of flight affects fertility preferences, but refugees' fertility desires appear to revert relatively quickly to what they were before flight.<sup>31</sup>

#### 4. Legal Framework

Having recognized that in Nigeria and elsewhere in the world, IDPs are amongst the most vulnerable populations, the Federal Government of Nigeria signed and approved the ratification of the African Union (Kampala Convention) for the Protection and Assistance of IDPs in Africa. Nigeria formally ratified the convention on 17 April 2012. Although, there are no national Laws protecting internally displaced persons in Nigeria, attempts are being made to make policies for the protection of these vulnerable persons.<sup>32</sup> The 1999 Constitution makes clear certain inalienable rights of citizens irrespective of their status. It however did not provide specifically for the protection of internally displaced persons. It also does not specifically reflect on non-discrimination under the fundamental rights section that is non-justiciable<sup>33</sup> but in the context of directive principles of state policy which cannot form the basis of an actionable claim<sup>34</sup>. The effect of this is that IDPs cannot make claim on the government for protection based on the constitution.

In 2012 a draft national policy on IDPs was developed with the objective of strengthening 'institutional mechanisms and framework' for the purpose of realising 'the rights, dignity and wellbeing of vulnerable populations through the prevention of the root causes, mitigation of the impact and achievement of durable solutions to internal displacement in Nigeria'. While the draft policy accentuates the need to prevent arbitrary displacement, addresses situations of displacement due to various root causes, sets out the role of the government, humanitarian agencies, host communities and armed groups, it is yet to be adopted. It is also worthy of note that the policy accentuates the need for a 'legal framework for upholding the rights of internally-displaced persons including domestication and implementation of the Kampala Convention.'<sup>35</sup>

As a member of the international community, Nigeria is obligated to adopt the policy of United Nations and carry out her obligations imposed on them by any international treaty they ratify. In these international instruments, "States" are the duty bearers of protection and so it is incumbent on them to take all necessary actions to give effect to the rights contained in the instruments. They include: The United Nations Guiding Principles on Internal Displacement; ICGLR Protocol on the Protection and Assistance of IDPs; *Kampala Convention* and International Human Rights treaties.

##### 4.1. The United Nations Guiding Principles on Internal Displacement 1998<sup>36</sup>

This soft Law contains thirty principles that address every stage of displacement. It brings together in one document the main rules of international law, drawn from international human rights law and international humanitarian law, and, by analogy refugee law, <sup>37</sup>that are relevant to protection in situations of internal

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<sup>30</sup>*Ibid*

<sup>31</sup>*Adah Ogbe*(n. 27)

<sup>32</sup>See *Federal Republic of Nigeria National Policy on Internally Displaced Persons in Nigeria* (2012); MT Ladan 'Strategies for adopting the National Policy on IDPs and domesticating in Nigeria the African Union Convention for the Protection and Assistance of IDPs in Africa' Paper presented at the National Summit on IDPs in Nigeria, Abuja, Nigeria 19-20 August 2015; 'Nigeria: New National Policy on IDPs' *Daily Trust* 4 January 2019

<sup>33</sup>Section 14(1) (b) of the 1999 Constitution

<sup>34</sup>Section 6© of the 1999 constitution

<sup>35</sup>*Federal Republic of Nigeria National Policy on Internally Displaced Persons in Nigeria* (2012); MT Ladan 'Strategies for adopting the National Policy on IDPs and domesticating in Nigeria the African Union Convention for the Protection and Assistance of IDPs in Africa' Paper presented at the National Summit on IDPs in Nigeria, Abuja, Nigeria 19-20 August 2015.

<sup>36</sup>Prepared by the Representative of the UN Secretary-General on Internally Displaced Persons, at the request of the UN General Assembly and UN Commission on Human Rights, UN Doc. E/CN.4/1998/53/Add.2.

<sup>37</sup>Refugee law, which applies to persons fearing persecution who are displaced *outside* of their country, does not directly apply to IDPs. However, given its focus on issues arising during displacement, some of its principles are instructive by analogy, in particular that of *non-refoulement*, the core principle of international refugee law, which prohibits forcible return of refugees to a place where their lives or freedom would be at risk. In fact, this principle has its basis in human rights law, particularly the rights to freedom of movement, life, liberty, and protection against torture or cruel, inhuman

displacement. The Guiding Principles set out the rights of IDPs and the responsibilities of States and other authorities towards them. This duty extends to all agents of the State, including the military and the police, and all public authorities, whether at the national, regional or local level.

This responsibility has three dimensions: to **respect, protect** and **fulfill human rights**:

1. The **duty to respect** requires the State to ensure that all agents of the State act in compliance with human rights law and refrain from any act that might interfere with or impair the exercise of rights. As an example, the State must not restrain freedom of movement: people must be allowed to flee to safer areas within or outside the country and IDPs must be able to move freely in and out of camps and settlements.
2. The **duty to protect** obliges the State to take all necessary measures to prevent or put a stop to any violations of rights by third parties, including other individuals or groups. The State must also investigate, prosecute and punish violations of rights and ensure that victims/survivors have access to an adequate and effective remedy under domestic law. As an example, if the State is aware, or reasonably should have been aware, that women are being raped or that children are being recruited into a guerilla group, but does not take action to prevent and put a stop to such acts, it would have failed to fulfill its duty to protect.
3. The **duty to fulfill** requires the State to take all possible measures to ensure that individuals under its jurisdiction are able to exercise their human rights. This requires the State to put in place a legal and administrative framework that respects human rights and build national capacity to support the implementation of rights. As an example, ensuring the right to a fair trial requires that an effective judicial system be put in place and ensuring the right to freedom from torture requires that police and prison guards are adequately trained and supervised. In other words, to ensure the realization of rights, a State must often invest its resources.

With respect to reproductive health and rights, the principles provide that State is obliged to take steps “to the maximum of its available resources, with a view to achieving progressively the full realization” of such rights<sup>38</sup> It must:

at a minimum, ensure access to rights essential to survival, that is, food and water, basic health, medical services and sanitation; and request international assistance when State resources are insufficient.

Other salient principles of the UN are:

Principle 3(1) - “National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.”

Principle 24(1) - “All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.”

Principle 26 – “Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

The United Nations Guiding Principles on Internal Displacement was recognized in 2006 Pact on Security, stability and Development in the great Lakes Region of Africa and was endorsed by the Kampala convention. As such it is recognized and respected in Africa.

#### 4.2. ICGLR Protocol on the Protection and Assistance of IDPs

The ICGLR Protocol is the first binding multilateral instrument in the world dedicated to the implementation of the internationally recognised Guiding Principles on Internal Displacement. The Protocol was adopted for the region of the great lakes, as a part of the pact on Security, Stability and Development in the Great Lakes Region by the Heads of State and Government of eleven member states.<sup>39</sup> It was adopted on 15 December 2006, under the auspices of the International Conference on the Great Lakes Region (ICGLR). All member states have ratified the Pact, of which the IDP Protocol is a part. It is aimed at ensuring the adoption and

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and degrading treatment. On these grounds, IDPs similarly have the right to be protected against forcible return or resettlement to a place where their life, safety, liberty and/or health would be at risk.

<sup>38</sup>ICESCR, Article 2(1). For further discussion see e.g. General Comments of the Committee on Social, Economic and Cultural Rights No. 12(1999) on the right to adequate food (E/C.12/1999/5) and No. 14(2000) on the right to the highest attainable standard of health (E/C.12/2000/4).

<sup>39</sup> The ICGLR member states are Angola, Burundi, Central African Republic (CAR), Democratic Republic of Congo (DRC), Kenya, Republic of Congo, Rwanda, South Sudan, Sudan, Uganda, Tanzania, Zambia. South Sudan formally applied for membership of ICGLR on 08.09.2012 during the 3rd Extraordinary Summit of ICGLR Heads of State.

implementation by member state, the United Nations Guiding Principles on Internal Displacement by providing legal basis for domestication of the guiding principles into national legislation by member states.<sup>40</sup>

The Protocol, like most international human rights treaties places the primary duty and responsibility for providing protection and humanitarian assistance to internally displaced persons within their territory or jurisdiction without discrimination of any kind, on States.<sup>41</sup>

Although the Protocol recognizes the role of other stake holders like the international community, humanitarian organizations and the African Union,<sup>42</sup> to ensure respect, protection and fulfillment of the rights to which internally displaced persons are entitled, without discrimination of any kind, it focuses almost exclusively on member states as far as responsibility to protect is concerned, particularly in Article 3, “Responsibility to Protect Internally Displaced Persons”.<sup>43</sup> where Governments of Member States “lack the capacity to protect and assist internally displaced persons, such Governments shall accept and respect the obligation of the organs of the international community to provide protection and assistance to internally displaced persons.”<sup>44</sup>

Recall, that the impact on internal displacement of the reproductive health of women is enormous, thus the preamble to the protocol is not oblivious of the impacts and strives to address root causes of internal displacement. the Convention also expresses determination to “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..” It expresses determination to ensure that internally displaced persons are provided with an appropriate legal framework to ensure their adequate protection and assistance as well as with durable solutions.

Similarly, in its Preamble, the IDP Protocol expresses deep concern about the continuing magnitude of the phenomenon of internal displacement and recognizes the necessity “to eliminate the root causes”. Member States are committed “to prevent and eliminate root causes of displacement”<sup>45</sup> They are to “undertake[s] to prevent arbitrary displacement and to eliminate the causes.”<sup>46</sup> Furthermore the Protocol<sup>47</sup> aims to ensure legal protection by member states of the physical safety and material needs of internally displaced persons in accordance with the Guiding Principles in Article 2(2).

From the foregoing, it is worthy of note that, laudable as this protocol may seem, it places a huge responsibility on the States to bring about protection of internally displaced persons. One wonders what happens when States are unwilling or lack the political will to enforce these rights.

### **4.3. Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)**

The Kampala Convention was adopted by the African Union (AU) Heads of State Special Summit in Kampala, Uganda, on 23 October 2009. It is the first independent legally binding regional instrument in the world to impose on States the obligation to protect and assist IDPs. The Convention entered into force on 6 December 2012, after having been ratified by 15 African countries.<sup>48</sup> Its main objectives are: promotion and strengthening of regional & national measures to eliminate root causes; establishment of legal framework for prevention; establishment of legal framework for cooperation & mutual support provision of obligations & responsibilities of States; provision of obligations, responsibilities & role of armed groups, non-state actors and other relevant actors

The Kampala Convention share similar features with the ICGLR Protocol on the Protection and Assistance of IDPs: Both reflect a common vision and parallel purpose- protect IDPs; Both treaties have a similar definition of internally displaced persons as “persons or groups of persons who have been forced or obliged to

<sup>40</sup>Article 2(3) and Article 6, ICGLR Protocol on the Protection and Assistance of IDPs 2006

<sup>41</sup>IDP Protocol, Article 3 (3) and 4,

<sup>42</sup>Preamble to the IDP Protocol

<sup>43</sup>Article 4, “Scope of Protection” as well as in Articles 5 and 6. It is clear that the Protocol underlines the protection function of member states, who bear the primary responsibility for internally displaced persons.

<sup>44</sup>Article 3(10))

<sup>45</sup>Article 2, of the IDP Protocol

<sup>46</sup>Article 3 of the Protocol

<sup>47</sup>Article 2(2), of the Protocol

<sup>48</sup> Those 15 ratifications were: Benin, Burkina Faso, Central African Republic, Chad, Gabon, Gambia, Guinea-Bissau, Lesotho, Nigeria, Niger, Sierra Leone, Swaziland, Togo, Uganda and Zambia.



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 border.”<sup>49</sup>This definition is taken directly from the *UN Guiding Principles on Internal Displacement*.<sup>50</sup>

Just like the IDP Protocol, the Kampala Convention builds on international humanitarian law and international human rights law, as well as the UN Guiding Principles on Internal Displacement<sup>51</sup>.

While the IDPs protocol focuses primarily on States, The Convention is arranged mainly in terms of obligations relating to not just states parties, but international and humanitarian organisations and the African Union, while categorically. Although, in the Preamble it mentions that states parties have the “primary responsibility and commitment to respect, protect and fulfill the rights to which internally displaced persons are entitled, without discrimination of any kind, they both hold government responsible for access to humanitarian aids by IDPs. In particular, Article 3 (6) of the Kampala Convention commits states parties to “ensure assistance to internally displaced persons by meeting their basic needs as well as allowing and facilitating rapid and unimpeded access by humanitarian organizations and personnel”<sup>52</sup>

Apart from the guarantees in humanitarian assistance to IDPs, the Kampala Protocol goes further to ensure that States monitor and evaluate the effectiveness and impact of humanitarian assistance<sup>53</sup>. According to the Kampala Convention, states parties shall assess or facilitate the assessment of the needs and vulnerabilities of internally displaced persons and of host communities in cooperation with international organisations or agencies; the states parties shall cooperate with each other upon the request of the concerned state party or the Conference of States Parties in protecting and assisting internally displaced persons<sup>54</sup>; they shall respect the mandates of Article 2(2); and states parties shall respect the mandates of the African Union and the United Nations, as well as the roles of international humanitarian organisations in providing protection and assistance to internally displaced persons, in accordance with international law.<sup>55</sup>

The protection afforded to IDPs in the Kampala convention is so imperative that in case of inadequate resources to respond to a particular disaster, States are to cooperate in seeking the assistance of international organisations and humanitarian agencies, civil society organisations and other relevant actors. Such organisations may offer their services to all those in need.<sup>56</sup> Similar to the IDP Protocol, the Kampala convention also provides for the mandate to eliminate root causes of internal displacement, providing durable solutions to situations of internally displaced persons by establishing an appropriate legal framework for their protection and assistance.<sup>57</sup> The Convention also expresses determination to “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..” It expresses determination to

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<sup>49</sup>See the Kampala Convention Article 1k and the IDP Protocol, Article 1(4).

<sup>50</sup>However, the IDP Protocol is distinct in that, in a separate but adjacent definitional clause, it includes those who have been displaced by large scale development – “Internally Displaced Persons also means 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 large scale development projects...” (Article 1(5))

<sup>51</sup>Walter Kalin, “Preface to the Second Edition of the Annotations to the UN Guiding Principles on Internal Displacement,” Brookings Institution, 2008.

<sup>52</sup>Kampala Convention. Article 3 (j).

<sup>53</sup>*Ibid.* (Article 9(2)(m))

<sup>54</sup>*Ibid.* (Article 5(5))

<sup>55</sup>*Ibid.* (Article 3(3)).

<sup>56</sup>*Ibid.* Article 5(6). States parties shall:

- take necessary steps to effectively organise, relief action that is humanitarian, and impartial in character, and to guarantee security. States parties shall allow rapid and unimpeded passage of all relief consignments, equipment and personnel to internally displaced persons
- enable and facilitate the role of local and international organizations and humanitarian agencies, civil society organisations and other relevant actors, to provide protection and assistance to internally displaced persons.
- have the right to prescribe the technical arrangements under which such passage is permitted (Article 5(7));
- uphold and ensure respect for the humanitarian principles of humanity, neutrality, impartiality and independence of humanitarian actors (Article 5(8)); and
- put in place measures for monitoring and evaluating the effectiveness and impact of the humanitarian assistance delivered to internally displaced persons in accordance with relevant practice, including the Sphere Standards (Article 9(2)(m)).

<sup>57</sup> Preamble to the Kampala Convention

ensure that internally displaced persons are provided with an appropriate legal framework to ensure their adequate protection and assistance as well as with durable solutions.

The Kampala Convention contains the right to protection from arbitrary displacement. In Article 3(a), states parties commit “to refrain from, prohibit and prevent arbitrary displacement of populations”, Article 4(4)(a) of the Kampala Convention extends the scope of prohibition to “practices aimed at/ or resulting in altering the ethnic, religious or racial composition of the affected population”

and qualified situations of armed conflict, large scale development projects and disasters. Article 4(4) (a) to (h) actually defines a broad scope of categories of displacement that the Convention covers.

#### **4.3.1. Responsibility of States and Non State Actors**

Unlike most human rights instruments, the Kampala Convention places obligation on both States and non-state Actors including armed groups, civil society organizations, Multinational companies, private Military and security companies to prevent internal displacement and render protection, and assistance to, internally displaced persons.” Furthermore, states parties are to ensure the accountability of non-state actors involved in the exploration and exploitation of economic and natural resources leading to displacement.<sup>58</sup>

#### **4.3.2. Gender Specific treaty on Protection of Women IDPs**

Although the above instruments afford protection to IDPs in general, irrespective of their sex, drawing strength from the host of international human rights treaties<sup>59</sup> and international humanitarian law treaties. However, there are specific issues that are peculiar to women in conflict or who are internally displaced, which must be addressed. This section is dedicated for that purpose:

#### **4.4. Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women (2003)**

Article 11 affords protection caught up in armed conflicts. According to article 11:

States Parties shall undertake to protect women who have fled war or internal conflict to seek asylum country in another country (asylum seekers) against all forms of violence; Perpetrators of such acts shall be judged as perpetrators of genocide or war crimes or crimes against humanity and shall be punished.

Their person shall not be violated in any way; for example beating them, firing at them, coercing them into forced sexual relations or handing them over to other persons for sexual purposes are all strictly prohibited. With respect to “reproductive health rights” article 14 provides that States parties shall take all appropriate measures to provide health services to women in hospitals and health centers. These hospitals and health centers should not be far from their villages or places of residence and the cost should be affordable. This means that the State should make an effort to build hospitals and health centers near each village and neighborhood and the cost of care should be low. (b) Provides that states should establish and strengthen pre-natal, delivery and post natal health and nutritional services for women during pregnancy and while they are breastfeeding.

### **5. Recommendations:**

In the light of the above discourse, it is recommended that Nigeria should adopt a binding National legal framework for the protection of IDPs particularly women IDPs giving effect to the principles of the United Nations Guiding Principles on Internal Displacement, the ICGLR Protocol on the Protection Assistance of IDP, the *Kampala* Convention and International Human Rights treaties and the Protocol on African Charter on Human and Peoples Right on women. This is imperative because the primary responsibility of protecting IDPs lies on States.

Furthermore, efforts should be made to address root causes of displacement as mandated in the international treaties discussed above, bearing in mind, its enormous negative impact on the reproductive health of women. Moreso, there is the need ensure the actualization of these rights through the provision of urgent and comprehensive reproductive health care services to IDPs, by increased collaborative effort between Non-Governmental Organisations (NGOs), other international organisations, and the government. More field staff with

<sup>58</sup>Articles 3(h) and (i).of the Kampala Convention

<sup>59</sup>Universal Declaration on Human Rights 1945, International Covenant on Civil and Political Rights 1966, International Covenant on Economic Social and Cultural Rights 1966

expertise in reproductive and sexual health should be engaged for feasible strategies to start and keep reproductive health services in place.

More so, An intra-communication system within the IDP camps should be in place to establish some order in the camps, particularly in the provision of reproductive healthcare services. There should also be established, a set of priority reproductive health interventions in the initial, emergency phase of a refugee crisis must be provided while a more comprehensive package of services are put in place once the situation stabilizes. The Minimum Initial Service Package (MISP), for the reduction of death and ill health related to reproductive health should be used.

The Provision of well-equipped Primary health care centers at each camp with requisite categories of staff to reduce the time to get to the healthcare facilities in times of emergencies while granting more decision making power to women to make decisions about their reproductive health; The Provision of well-equipped Primary health care centres at each camp with requisite categories of staff to reduce the time to get to the healthcare facilities in times of emergencies while granting more decision making power to women to make decisions about their reproductive health.

Additionally, effective training and retraining programme for skilled birth attendants should be part of the emergency preparedness to contain reproductive health challenges of the IDPs, while sensitizing women on the need to abstain from harmful health practices that affect their reproductive lives. The Nigerian Government must dedicate more resources to the problems of IDPs rather than waiting for the international community and donor Agencies. This approach will encompass sustainable reintegration (in the place of origin of IDPs) where feasible, sustainable local integration (in the place of refuge) and sustainable integration (in other parts of the country) which high level of political commitment at all levels

## **5.1. Conclusion**

This paper has discussed the challenges of women, arising from internal displacement in Nigeria. Their vulnerability is heightened at such times, coupled with the deprivation of healthcare, education, employment, economic activities and benefits during the period of displacement. It is important to recall that ratification is only the first step on the road to realization of rights. In order for protections found at the international level to become effective on the ground, states must ensure that international standards relating to the protection of IDPs are integrated into national laws and policies as there is none, adopted formally in Nigeria as a binding instrument at the moment. It is hoped that Nigeria will take a cue from Niger, Kenya, and South Sudan. These countries have incorporated the UN guiding principles into their national law providing a national framework for the protection of IDPs in their respective countries.

In view of the negative effects of internal displacement on victims, it is of utmost importance that the Nigerian government adopt a binding National legal framework for the protection of IDPs particularly women IDPs, thereby giving effect to the principles of the United Nations Guiding Principles on Internal Displacement, the ICGLR Protocol on the Protection Assistance of IDPs as well as the Kampala Convention and International Human Rights treaties and the Protocol on African Charter on Human and Peoples Right on women. This is imperative because the primary responsibility of protecting IDPs lies on States.