



The Human Rights Implications of Internal Displacement in Nigeria

Mercy Oke-Chinda & Patricia Imade Gbobo

Abstract

Internal displacement is a recurring and widespread phenomenon in Nigeria, affecting most of the country's 36 states. Nigeria has experienced what can arguably be termed multi-layered waves of displacement, which may be small or large in scale. The Nigerian government is aware of its sovereign duties and responsibility to deliver rights and guarantees to which citizens are entitled. However, the IDP status gives rise to positive obligations on the part of the government to act beyond the extent to which it has previously. The country's massive displacement crisis poses enormous challenges to the Nigerian government, one of which is to provide protection and assistance to IDPs, who predominantly live in impoverished conditions and are prone to human rights abuses. While it is acknowledged that existing law provides some coverage for the internally displaced, there are significant areas where existing law falls short of providing adequate legal protection due to a number of gaps and grey areas. This paper unlocks an intellectual door of possibilities of effecting necessary changes to protect and assist IDPs in Nigeria. It achieves this by identifying areas where the law does not provide adequate protection due to inexplicit articulation or normative gaps.

Keywords: Internal displacement, Nigeria, Conflict, Human rights

INTRODUCTION

The escalation of violence in the northeast region of Nigeria occasioned by the Boko Haram insurgency and persistent instability has resulted in some of the highest levels of internal displacement since 2014.¹ Currently, Nigeria is estimated to host over 2 million IDPs.² According to the International Organisation for Migration (IOM) Displacement Tracking Matrix (DTM) report of 28 February 2021, 2,184,254 individuals were recorded as being displaced in Nigeria as a result of the Boko Haram insurgency.³ This figure is, arguably, an underestimation because there are still numerous displaced persons in the areas that are presently inaccessible.⁴ Given historical trends, the overall causes of internal displacement and forced migration in Nigeria are complex and overlapping, with a number of drivers contributing to their complexity.

¹ International Organisation for Migration, Displacement Tracking Matrix, 2021. Available at: <https://dtm.iom.int/nigeria> Last accessed 06/10/2021 The states affected more by the insurgency are the North-east states of Adamawa, Bauchi, Bornu, Gombe, Taraba and Yobe. Available at: <https://displacement.iom.int/reports/nigeria-%E2%80%94displacement-report-28-august-2019>. Last accessed 21/07/2023.

² United Nations Office of the High Commissioner for Refugees. Available at: <https://www.unhcr.org/uk/nigeria-emergency.html>. Last accessed 21/07/2023.

³ International Organisation for Migration, Displacement Tracking Matrix, 2021. Available at: <https://dtm.iom.int/nigeria> Last accessed 06/10/2021 The states affected more by the insurgency are the North-east states of Adamawa, Bauchi, Bornu, Gombe, Taraba and Yobe. Available at: <https://displacement.iom.int/reports/nigeria-%E2%80%94displacement-report-28-august-2019>. Last accessed 21/07/2023..

⁴ David Fisher, 'The Right to Humanitarian Assistance', in *Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges*, p.87. Available at: https://www.brookings.edu/wp-content/uploads/2016/06/0119_internal_displacement_complete.pdf Last accessed 11/12/2023..

The Causes and Dynamics of Internal Displacement in Nigeria

This paper begins by considering the major displacement drivers in Nigeria. By displacement drivers, I refer to the less visible social, political, environmental, economic and demographic conditions that lead people to uproot their lives. Sometimes, these drivers combine and overlap to heighten vulnerabilities and contribute to the pressures that trigger displacement. However, there is no consensus in migration studies regarding the underlying causes of displacement. Equally, there is a lack of agreement on the termination point of displacement. There are subsisting debates on the categorisation of the forms of displacement. The main issue is categorising the problem into forced or voluntary displacement. In the opinion of Susanne Schmeidl and Kaitlyn Hedditch, “strict binaries are no longer viable, as nearly all types of human mobility involve a certain degree of choice as well as compulsion”.⁵ They argue that sometimes the deciding factor(s) that ultimately trigger flight are “often up to interpretation and hinge significantly on politics and the willingness of certain actors to acknowledge the element of force, which comes with the right for protection and assistance”.⁶ According to Monsutti, mixed migration drivers could blur the boundary between what constitutes a particular type of migration.⁷ There are often multiple underlying pressure points that increase the likelihood of flight. Before flight, there comes “a tipping point, where abnormal movement patterns indicate the breakdown of normal coping strategies under severely stressed conditions”.⁸

Writers like Cohen and Deng⁹, Weiss, Korn¹⁰ and Mooney¹¹ have identified the end of the Cold War and the changing nature of warfare as major contributory factors to the growing and massive number of IDPs worldwide. The following are arguably the main characteristics of these new post-Cold War conflicts:

- i. they are internal rather than international;
- ii. they pit diverse groups of fighters, both state and insurgents, against each other
- iii. Civilians are the main targets of conflicts rather than collateral victims, either through terrorism, ethnic cleansing or being forced to stay amid conflicts as human shields.

These conflicts provoked massive displacement, both internally and externally.¹²

Notably, the increasing prevalence of internal displacement has also been attributed to economic, demographic and political drivers, a growing hostility towards migrants and refugees by receiving countries and an emphasis on in-country protection.¹³ The bottom line is that the displacement crises have many interwoven causes. Man-made factors cause some, while others are natural, disaster-induced, and others are not. Globally, however, the most common causes of the forced displacement of populations, whether internal or external, have been identified as armed conflicts and human rights violations.¹⁴ This holds for Nigeria, which ranks fifth on the scale of countries facing the challenge of internal displacement.¹⁵

Nigeria has the largest population and economy in Sub-Saharan Africa, but conflict, disasters, and development projects result in significant displacement each year.¹⁶ Internal displacement is a recurring

⁵ Susanne Schmeidl and Kaitlyn Hedditch. ‘Changing Patterns of Internal Displacement: The Art of Figure Skating’, G. Hugo, et al. (eds.), *Demography of Refugee and Forced Migration*, International Studies in Population 13. London/New York: Springer International Publishing, 2018.

⁶ Susanne Schmeidl and Kaitlyn Hedditch, (n. 5) 190.

⁷ See Monsutti, A, ‘Afghan migratory strategies and the three solutions to the refugee problem’. *Refugee Survey Quarterly*, 2008, 27(1), 58–73 and de Haas, H (2010). The internal dynamics of migration processes: A theoretical inquiry. *Journal of Ethnic and Migration Studies*, 36 (10), 1587–1617.

⁸ IDMC/NRC. 2016 Global Report on Internal Displacement. Geneva: Internal Displacement Monitoring Centre, Norwegian Refugee Council, 44.

⁹ Roberta Cohen and Francis Deng, *Masses in Flight: The Global Crisis of Internal Displacement*. Washington D.C.: Brookings Institution Press, 1998, p. 17..

¹⁰ Thomas G. Weiss and David A. Korn. *International Displacement: Conceptualisation and its Consequences*. London: Routledge, 2006, 1..

¹¹ Erin Mooney, ‘The Concept of Internal Displacement and the Case for Internally Displaced Person as a Category of Concern’, *Refugee Survey Quarterly*, volume 24, Issue 3, 2005, pp. 9 – 26;

¹² Søren Jessen-Petersen, ‘Global Migration – Adapting to New Challenges’. *School of Advanced and International Studies Review of International Affairs*, vol. 37 no. 2, 2017, pp. 87–95 at 90.

¹³ Susanne Schmeidl and Kaitlyn Hedditch, (n.5) 177; S. Castles. International migration at a crossroads. *Citizenship Studies*, 2004. 18 (2), 190–207, at 190, 2014, p. 190.

¹⁴ IDMC, (n. 8).

¹⁵ Ibid.

¹⁶ Business Report, ‘These are the biggest economies in Africa – IMF’, 10 July 2018. Available at:

and widespread phenomenon in Nigeria, affecting most of the country's 36 states.¹⁷ Nigeria has experienced what can arguably be termed multi-layered waves of displacement, which may be small or large in scale.¹⁸ For instance, conflict between the Boko Haram terrorist group and the government forces and generalised violence between cattle herders and farmers have continued to lead to the large-scale displacement of persons in the country.

The phenomenon of internal displacement is not new to Nigeria. Internal displacement has characterised Nigerian national life in the past 60 years.¹⁹ As far back as 1967, the Nigerian civil war, which lasted for over three years, led to massive displacement. Due to conflicting figures, it is difficult to ascertain the number of people displaced during this period. Anecdotal sources have estimated that, during the war, over 2 million people were displaced within and beyond the borders.²⁰

Nigeria's return to civilian rule in 1999, after 20 years of military dictatorship, was greeted early with violent conflicts in the Niger Delta region. The primary source of violence in this region was between local militias, which formed during this period in response to long years of neglect and deprivation. Additionally, the insensitivity of successive governments (military and civilian) and the absence of corporate social responsibility on the part of transnational oil companies operating in the region contributed to the tipping point.²¹ Consequently, the area has experienced armed tensions for many years. The attempt by federal government troops to suppress the activities of the militant groups eventually led to the sacking of several communities. Consequently, thousands of displaced persons were left at the mercy of the state governments and other humanitarian agencies.²² For instance, in Bayelsa state, an estimated 60,000 persons were displaced as a result of the invasion of the Odi community and a clampdown by the military in response to protests by the people.²³

Environmental problems associated with oil production in the area have also been linked to increased population movement. One example of this was the non-violent civil protest by the Ogoni people of Rivers State in southern Nigeria over the harmful effect of oil exploration in the Niger Delta, which resulted in the sacking of 27 villages and the displacement of about 100,000 persons, along with the state execution of the protest leaders, notably including environmental activist and writer Ken Saro-Wiwa.²⁴ International oil companies' exploration of the Ogoni land has transformed it into a polluted wasteland with a poisoned atmosphere and widespread devastation caused by acid rain, oil spillages, and oil blowouts, leading to the relocation of the inhabitants to neighbouring states.²⁵

Apart from conflict, several natural disasters, including flooding, desertification and forced evictions, have triggered large-scale displacement in Nigeria. The most common is flooding, which occurs frequently in densely populated areas and informal settlements, especially in the lowlands and river basins. As of August 2019, the Nigeria Hydrological Services Agency reported that more than 100 local government areas in 33 of the 36 states of Nigeria have experienced severe flooding. The report further

<<https://www.iol.co.za/business-report/economy/these-are-the-biggest-economies-in-africa-imf-15929339>> Last accessed 21/07/2023.

¹⁷ Nigeria is a federal republic consisting of 36 states and a federal capital territory. Governmental powers are shared between the central government and the states.

¹⁸ M.T. Ladan, 'Overview of International and Regional Frameworks on International Displacement: A case study of Nigeria'. A paper presented at a 2-day multi-stakeholders conference on International Displacement in Nigeria. Organised by the Civil Society Legislative Advocacy Centre, Abuja in Collaboration with IDMC and the Norwegian Refugee Council, Geneva. Held on 21–23 November 2011, at Bolton White Hotels, Abuja, Nigeria, p.2.

¹⁹ Okechukwu Ibeanu, 'Exiles in their own Home: Conflicts and Internal Population Displacement in Nigeria', *Journal of Refugee Studies*, Volume 12, No. 12, Issue 2, 1999, pp. 161–179, at 161. Available at: <https://doi.org/10.1093/jrs/12.2.161>. Last accessed 26/10/2023..

²⁰ Fatima Kyari Mohammed, 'The Causes and Consequence of Internal Displacement in Nigeria and Related Governance'. Working Paper, FG 8, April 2017, SW Berlin, p. 9.

²¹ Okoro Paul Mmahi, 'The Impact of Internal Displacement on Women and Children in Nigeria', *International Journal of Innovative Research and Advanced Studies*, vol. 3, Issue 8, July 2016, pp. 6–15 at 9.

²² Ufuoma, V. Awhefeada, 'Dynamics and Challenges of Internal Displacement in Nigeria: A Critical Look at the Law', *Nigeria Law Journal*, Vol. 18, 2015, p. 151.

²³ Internal Displacement Monitoring Centre (IDMC Report, 2009. Available at: <www.internal-displacement.org> Last accessed 21/07/2023.

²⁴ Bogumil Terminski, Oil-induced displacement and resettlement. Social problem and human rights issue, 1, p. 11. Available at: <https://www.files.ethz.ch/isn/156127/1c56976ceb4f8e825e294e5268469185.pdf>. Last accessed 21/07/2023..

²⁵ B.P. Thomas-Slayter, Southern Exposure. International Development and the Global South in the Twenty-First Century, Kumarian Press, Bloomfield, 2003, pp. 238.

stated that the flooding in the 100 local government areas displaced about 21,000 households.²⁶ The flooding is often attributed to two factors: heavy rainfall that overflows the watercourses and water being released from the dam reservoirs.

It is also essential to recognise displacement induced by development, involving projects such as the construction of dams, roads, highways, urban infrastructure, electrification projects and canals, and extractive-industry-related projects. While the law has been extensively used to support development projects, the overall effect on the public welfare has mainly been negative.²⁷

Conflict-induced displacement remains the major factor responsible for the burgeoning problem of internal displacement in Nigeria. The scale of the internal displacement provoked by conflict is concerning. The brutality of Boko Haram, which has occasioned mass abductions, sexual violence, indiscriminate killings, slavery and suicide bombings, has resulted in a rapid rise in the number of IDPs. All the common causes of displacement mentioned above are significant, but the thesis will focus on the most important driver, the activities of Boko Haram.

2.4.1 Current Trends and Causes of Displacement in Nigeria: Boko Haram Insurgency

The magnitude of population displacement in Nigeria has increased tremendously in the past 20 years. There have been increases in the contexts in which people are displaced and in the number of displaced people.²⁸ The largest proportion of conflict-induced displacements recorded in Nigeria is a result of the unrelenting attacks of the Boko Haram sect in the northeastern part of Nigeria and the government's counter-insurgency crusade. Since 2009, when the Boko Haram attacks began, over 3.3 million persons are recorded to have been displaced as a result of the fighting. Two million of these have not crossed borders and are living in internal displacement camps in Nigeria. The abduction, sexual slavery, forced recruitment, and other significant violations of human rights that characterise the Boko Haram conflict have affected large numbers of women, children and members of their families.²⁹ Although displacement is not new in Nigeria, the scale of displacement occasioned by the Boko Haram insurgency and government's countermeasures is unprecedented.

Boko Haram, also known as Jama'atu Ahlus-Sunnah Lidda'Awati Wal Jihad, is a non-state armed organisation that views Western education as detrimental and, hence, intends to destabilise Nigeria's current governmental structures by replacing it with its extremist interpretation of Islamic governance. The ideology of Boko Haram was founded on the principles of rejection of Western education, condemnation of secularism and Westernisation, and insistence on the incompatibility of Islam and democracy. Boko Haram has used fear as a weapon of war since commencing its current insurgency in 2009, perpetrating mass atrocities in the violation of human rights and international humanitarian law. The strategic goal of these attacks is to instil public distrust in the government by making people feel defenceless and unprotected.³⁰

Boko Haram's use of violent tactics initially put them in the category of sporadic attacks and violent disturbances, but that quickly altered as the group became more brutal and aggressive in its attacks, both in terms of intensity and geographic distribution. Boko Haram's actions swiftly became international, as the group committed attacks in neighbouring countries, including Chad, Cameroon and Niger. Boko Haram has also been labelled a terrorist organisation on a global scale. The US authorities classified it as a violent fundamentalist organisation with ties to al-Qaeda. On 13 November 2013, Executive Order (E.O.) 13324 designated it as a foreign terrorist organisation (FTO) and a specially designated global terrorist group.³¹

In the northern part of Nigeria, this group killed at least 425 people in bomb attacks and targeted executions in 2011. In August 2011, a suicide bomb attack on the United Nations building killed at least

²⁶ Available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/external_weekly_17_-_23_september_2019.pdf
<https://reliefweb.int/disaster/fl-2019-000093-nga>>. Last accessed 21/07/2021.

²⁷ Ufuoma, V. Awhefeada, (n. 22) 32.

²⁸ Okechukwu O. Ibeanu, (n. 19) 174.

²⁹ Eni Aloba and Synda Obaji, 'Internal Displacement in Nigeria and the Case for Human Rights Protection of Displaced Persons', *Journal of Law, Policy and Globalisation*, vol. 51, 2016, pp. 26–33 at 28

³⁰ James L. Regens, et al., 'Operational Dynamics of Boko Haram's Terrorist Campaign Following Leadership Succession', *Social Science Quarterly*, vol. 97, No. 1, March 2016.

³¹ United States Department of State, Executive Order 13324, Bureau of Counterterrorism, 13 November 2013. Available at: <https://www.state.gov/executive-order-13324/>. Last accessed 26/10/2023.

24 people and injured over 100 others. Since July 2014, the organisation has occupied and controlled more than 20 towns in Adamawa, Borno and Yobe States, killing thousands of civilians in those areas and bomb strikes across the country.³²

Boko Haram has also carried out some attacks explicitly targeting women, with reports of the group raiding communities and abducting women and girls.³³ However, the 2014 abduction of 276 schoolgirls in the southern Borno town of Chibok drew international attention to the targeted suffering of women in Nigeria and Boko Haram's weaponisation of women in its operations. Boko Haram, for example, abducted 110 schoolgirls aged 11 to 19 from the Government Girls' Science and Technical College in Dapchi, Yobe State, on 19 February 2018. Boko Haram has used rape for a variety of purposes, including torture, subjugation of local communities, victim humiliation, and local community dominance. Around 1,000 women and girls rescued from Boko Haram in Boboshe village testified to being used as sex slaves. Women are targeted to force them to become pregnant and bear children who will become future jihadists for the group. On 28 April 2015, Nigerian forces rescued 293 women and girls from Boko Haram, and according to UN Secretary-General Ban Ki-spokesman, moon's Stephane Dujaric, “[a] large number of girls and women rescued from Boko Haram [were] found to be pregnant”.³⁴

Since the commencement of terrorism and insurgency in Nigeria, the government has devised several counter-terrorism methods to combat Boko Haram's actions. The first is the employment of overwhelming military force against insurgent organisations, with over 8,000 troops deployed to the affected areas of northern Nigeria. For example, on 21 April 2013, the Nigerian army invaded and killed residents of the Baga hamlet in Borno State. In the aftermath of an attack, the Nigerian military executed nearly 200 civilians suspected of being Boko Haram militants in a single operation. The federal government dispatched a specially trained anti-terrorism combat force to terrorist hotspots to quell Boko Haram's activities.³⁵ Also, there was a proclamation of a state of emergency in the three north-east states of Adamawa, Borno and Yobe, which are most affected by the insurgency, but the inability to identify intended targets and protect civilians has increased fatalities in northern Nigeria.

The Nigerian government has also enacted laws to fight the scourge of terrorism in Nigeria. In 2011, the Terrorism (Prevention) Act was passed into law, which was amended in 2013 by the Terrorism (Prevention) (Amendment) Act.³⁶ Before this, some Nigerian statutes such as the Criminal Code Act, the Penal Code Act, the Economic and Financial Crimes Commission (Establishment) Act 2004, the Public Order Act, the Explosives Act, the Firearms Act, and the Extradition Act, among other laws, provide some legal framework criminalising certain activities arising from terrorists acts. The enactment of the Anti-terrorism Act, although hailed because of the upsurge of the activities of the Boko Harm, has been criticised for some of the provisions contravening the Constitution of the Federal Republic of Nigeria. It has been argued that enforcing the TPA (Amendment) Act will lead to human rights violations, and some of its provisions contradict the Constitution.³⁷

For instance, section 28(4) of the Act states that where an individual arrested under the Act is granted bail within the 90 days detention period specified, “the person may, on the approval of the Head of the relevant law enforcement agency, be placed under a house arrest and shall – (a) be monitored by its officers; (b) have no access to phones or communication gadgets; and (c) speak only to his counsel

³² Human Rights Watch, ‘Nigeria: Boko Haram Attacks indefensible’. November 8, 2011. Available at: <https://www.hrw.org/news/2011/11/08/nigeria-boko-haram-attacks-indefensible>. Last accessed 29/06/2023.

³³ United Nations Office for the Coordination of Humanitarian Affairs, ‘About OCHA Nigeria’, 12 July 2021. Available at: <https://www.unocha.org/nigeria/about-ocha-nigeria> Last accessed 26/10/2021. UK Home Office, ‘Country Policy and Information Note. Nigeria: Islamist Extremist Groups in Northeast Nigeria, July 2021, p. 39. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003788/NGA_-_Islamist_extremist_groups_in_North_East_Nigeria_-_CPIN_-_v3.0_FINAL_Gov_UK_.pdf. Last accessed 26/10/2023.

³⁴ UN Population Fund, ‘Hundreds Freed from Boko Haram Require Medical Care, Counselling’. Available at: <https://www.unfpa.org/news/hundreds-freed-boko-haram-require-medical-care-counselling>. Last accessed 26/10/2023.

³⁵ Solomon Adebayo Adedire, et al., ‘Combating Terrorism and Insurgency in Nigeria: An International Collaborations Against Boko Haram’, *Foundation University Journal Management and Social Sciences*. 5(1) Special Edition (2016) 67–74 at 70. Available at: <https://core.ac.uk/download/pdf/162155808.pdf>. Last accessed 26/10/2023.

³⁶ Terrorism (Prevention) (Amendment) Act, 2013. Laws of the Federation of Nigeria. Available at: http://placng.org/lawsofnigeria/laws/terrorism_bill.pdf Last accessed 02/07/2023

³⁷ Olayinka Ajala and Eghosa O. Ekhatior ‘Anti-Terrorism Laws and Protection of Human Rights in Nigeria: A Needless Conundrum?’ 2017 1(1) UNIPORT Law Review 101-112.

until the conclusion of the investigation.” Ajala and Ekhaton have argued that a house arrest without a valid court order or in defiance of an existing court is illegal and undermines the authority of the courts in the country.³⁸

Secondly, the TPA (Amendment) Act 2013 provides for its extra-territorial application. This is against the provision of section 36(9) of the Constitution, which provides that an individual who a court or tribunal has tried and either convicted or acquitted shall not be tried again for that offence or criminal offence having the same ingredients. Also, the provision of the death penalty in section 1 of the TPA has been criticised as it runs contrary to the prevailing view that the death penalty should be abolished. The vast majority of those displaced by Boko Haram seek refuge in host communities. This may include staying in family or friend’s homes, paying for temporary housing, or seeking refuge in makeshift camp-like settings such as schools, sports centres, churches, mosques, and university campuses. When none of these options are available, they may be forced to take refuge in abandoned buildings, city streets, or the outskirts of villages. Makeshift camps are frequently woefully inadequate, quickly becoming unsustainable due to overcrowding.³⁹ Most of these camps are not necessarily sanctioned or supported by the government. Some IDPs dwell in churches, mosques, town halls, abandoned and unfinished structures and other makeshift camps, which are highly inadequate and inappropriate for housing the displaced population. Many of these IDPs make do with improvised arrangements by gathering grass and sticks linked together on the ground in a circle shape and using a stick frame to provide makeshift accommodation. Unfortunately, even those in the government camps are not living in better conditions. For instance, the Bakassi IDP camp, one of Borno’s largest, is an unfinished housing complex of the Borno State government that was turned into an IDP camp in 2015 without the appropriate services, such as light, water, or passable roads.⁴⁰

Although it is underreported, violence against women, girls and children, including sexual violence, exposure to trafficking and other forms of gender-based violence, are standard features in these camps and quasi-camps. Women are often forced into survival sex in exchange for food, movement and items to meet their basic needs. At the same time, some vulnerable households have resorted to early marriage and child labour.⁴¹ The lack of organised management in many new camps and informal settlements makes abuses easier to perpetrate and more difficult for researchers and the state to monitor. Existing structural inequalities and discriminatory practices, as we shall see in the next section, make the IDPs more susceptible to further vulnerabilities and human rights violations and even the refoulement of those displaced by armed conflict. In this uncertain and volatile context, Nigeria’s IDPs are in urgent need of protection and assistance, the provision of which will require the concerted engagement of both the national authorities and the international community. Regrettably, proper attention is not paid to the protection and assistance of this population, even though they are citizens entitled to certain rights. The government’s lacklustre response places women and girls displaced by conflict at risk of sexual violence without protection and assistance. It is this concern that drives this research.

2.4.2 Human Rights Violations in Displacement Camps

The Nigerian government is aware of its sovereign duties and responsibility to deliver rights and guarantees to which citizens are entitled. However, the IDP status gives rise to positive obligations on the part of the government to act beyond the extent to which it has previously. The country’s massive displacement crisis, as outlined above, poses enormous challenges to the Nigerian government, one of which is to provide protection and assistance to IDPs, who predominantly live in impoverished conditions and are prone to human rights abuses.

By its very nature, displacement generally exposes victims to further human rights violations.⁴² Once displaced, people are prone to multiple displacements –uprooted from their homes, family support networks and community. Furthermore, IDPs are cut off from their land and livelihoods, which makes

³⁸ Ibid p. 110

³⁹ IDMC interview with OCHA, October 2014.

⁴⁰Shittu Raji, et al., ‘North-eastern Nigeria: Assessing the response capacity of National Emergency Management Agency to the plights of internally displaced persons’, Heliyon, 9 June 2021. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8215212/>. Last accessed 16/09/2023.

⁴¹ Available at: <<https://www.unocha.org/nigeria/about-ocha-nigeria>>. Last accessed 21/07/2023.

⁴² Mooney, (n. 11) 82.

them even more vulnerable. Forced population movements resulting in mass exodus, as witnessed in the northeastern part of Nigeria, constitute, by their very nature, violations of international human rights and humanitarian law. Many of these do not manage to escape the violent trigger events that caused their displacement and remain caught in areas under armed attack or the direct control of Boko Haram. Those who manage to escape the hostilities may encounter other hostile environments of a different sort. A case in point is where they are suspected of association with Boko Haram and targeted, stigmatised and discriminated against on that basis. IDPs may be discriminated against just for being from another region of the country, and the local population may then be unwilling or unable to share local resources. Their freedom of movement may also be restricted, or their children may not be offered places in local schools,⁴³ either because of stigma or because they do not have the required documents and identification, which they may have lost during the flight. In many cases, IDPs are deprived of food, adequate shelter, medical care, access to education and opportunities for income generation.

Most displaced populations, even when marginalised, do not have responsible authorities to turn to. Due to this lack of protection, they become the most disadvantaged members of the population and become plagued with poverty and exposed to other vulnerabilities.⁴⁴ Conversely, an argument can be made in favour of the Nigerian government's actions if one considers the government's efforts to alleviate IDPs' plight by providing camps as meeting its sovereign obligation to assist citizens in need.⁴⁵ However, despite the provision of displacement camps, IDPs continue to face severe socio-economic, health, security and environmental challenges that necessitate urgent attention.⁴⁶ The National Emergency Management Agency (NEMA), in collaboration with relevant stakeholders, attends to some needs of the IDPs. Still, the rapidly increasing population of displaced persons has dwarfed the efforts made by the government. Notwithstanding efforts towards providing camps, living conditions have been described as 'unpleasant', with facilities overstretched.⁴⁷ In Bornu State, at least 600,000 persons live in congested camps and informal settlements.⁴⁸ To make the situation worse, most of the displacement camps in the area face a high risk of flooding, aggravated by a lack of proper drainage. The sanitary conditions in these camps are poor, as there is, in most cases, no proper waste management and electricity. Eric Batonon, the Norwegian Refugee Council Country Director, noted during his visit to Nigeria in 2019 that:

All the camps have too few restrooms, and some have none. Sickness spreads through faeces, fluids, fingers, flies and food. This explains the regularity of hygiene-based epidemics in camps.

There were 10,000 cases of cholera last year in displacement camps in Bornu.⁴⁹

The living conditions of IDPs in Abuja, the nation's capital, have been compared to 'slavery' by Jonathan Hembe.⁵⁰ The question that arises from the above issues is whether the Nigerian government is simply incapable or lacks the will to address the challenges of IDPs in the country entirely.

The Boko Haram conflict has had a severely crippling effect on the local economies and increased the vulnerability of rural populations. Displaced rural communities were forced to abandon their livestock

⁴³ Office of the High Commissioner for Human Rights, 'Chapter XI: Monitoring and Protection the Human Rights of Returnees and Internally Displaced Persons', Professional Training Series, No. 7, Available at: <<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwipy-qv8oPzAhWQz4UKHStSDH0QFnoECAQQAQ&url=https%3A%2F%2Fwww.ohchr.org%2Fdocuments%2Fpublications%2Ftraining7introen.pdf&usq=AOvVaw2UpChFxCgMAlZVZUKUFxa>>.

⁴⁴ Dan Kuwali, Dan Kuwali, 'From Durable Solutions to Holistic Solutions: Prevention of Displacement in Africa'. 6 African Journal of Legal Studies (2013) 265–285, at 275.

⁴⁵ Shittu Raji, et al., 'North-eastern Nigeria: assessing the response of National Emergency Management Agency to the Plight of Internally Displaced Persons', Heliyon, vol. 7(6), June 2021, p. 5. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8215212/>. Last accessed 26/10/2023..

⁴⁶ Chinwe R. Nwanna and Ugochi Oparaoha Namchi, 'The Role of Social Workers in Ameliorating the Plight of Internally Displaced Persons (IDPs) in Nigeria', Nigerian Journal of Social Psychology, volume 1, No. 1, 2018, p. 71.

⁴⁷ Romola Adeola, 'Boko Haram-induced Displacement: A Critique of Nigeria's Implementation of the African Union Internally Displaced Persons Convention', Comparative and International Law Journal of Southern Africa, vol. 50, No. 1, 2017, 41–55 at 47.

⁴⁸ IDMC, 'North-East Nigeria: A Massive Internal Displacement Crisis: A Photo Essay on Conflict-and-Disaster-Induced Displacement Crisis Unfolding in Nigeria', December 2019. Available at: <<https://www.internal-displacement.org/features/nigeria-internal-displacement-crisis-conflict-floods>>. Last accessed 21/07/2023.

⁴⁹ Norwegian Refugee Council Country Director, Eric Batonon. IDMC, *ibid*.

⁵⁰ Jonathan Hembe, 'We're Living Like Slaves in Abuja – IDPs' *Today* (Nigeria, 1 March 2016). See also: Romola Adeola, *ibid*.

and farms, which in turn has significantly increased food insecurity levels in those parts of the country affected by the conflict. Communities that hitherto were considered wealthy in land and livestock ownership and completely independent became impoverished.⁵¹ Income-earning opportunities became limited, as most people in these rural communities are farmers or farmhands who do not have alternative skills to earn a decent living elsewhere, as they are left with no access to land or cash.

The problem of violence against women in displacement camps in Nigeria appears to continue to rise unabated despite the recent attention that has been drawn to it.⁵² Sexual violence against women is prohibited under the Nigerian legal corpus. Still, the reality is that, too often, it is covered up or tacitly condoned by the officials and the victims.⁵³ Many of the rape cases in Nigeria are not reported by victims because there is little confidence in the police to investigate cases.⁵⁴ There appears to be only a superficial understanding and acceptance of gender equality, generally speaking, in Nigeria, and so the cultural patterns harmful to women persist.⁵⁵

Then again, the reality for women who are internally displaced does not correspond with what is contained in the extant laws.⁵⁶ Even in ostensibly safe spaces, these people in flight are not immune from the risk of sexual violence. The UN Special Rapporteur on the Human Rights of Internally Displaced Persons, Chaloka Beyani, indicated this in his end-of-mission statement after he visited Nigeria from 23 to 26 August 2016, in which he stated that:

Camps should offer protection for those in need, yet I am alarmed to learn that many are, in fact, the settings for violence, exploitation and abuse of the most vulnerable. The situation of women and girls in IDP camps and conflict-affected areas is of particular concern and requires urgent action. I was informed of allegations of rape, sexual and gender-based violence, widespread incidence of survival sex and organised and survival prostitution. Women and girls reportedly face coercion into providing sexual favours to obtain their food rations for themselves and their children or to move outside of camps.⁵⁷

Human Rights Watch, also in October 2016,⁵⁸ reported that 66% of 400 IDPs in Adamawa, Borno and Yobe states said that camp officials sexually abused the displaced women.

Displacement renders the victims homeless, thereby making them more vulnerable to attack and all kinds of abuse. All sorts of violence and sexual abuse have been identified as expected outcomes of protracted displacement in IDP camps. The prolonged situation in Nigeria, with the continuation and escalation of Boko Haram's activities for over a decade, validates this. Moreover, it is common for displaced women and girls to be already traumatised before flight by the extreme levels of violence they will have experienced and witnessed.⁵⁹ A safe space is the most critical means for people to survive these conflicts, but it becomes increasingly scarce as localised violence dominates "the most intimate theatres of life".⁶⁰ It is without a doubt that the impact of displacement on rates of violence against

⁵¹ Sarah Kenyon, 'Conflict and Crisis Induced Displacement' *The Oxford Handbook of Refugee and Forced Migration Studies*, (Eds. Elena Fiddian-Qasbiyeh, et al.), June 2014, p.10.

⁵² Jennifer Ugwas, 'Sexual Abuse Thrives in Nigeria's IDP Camps with no Recourse for Victims'. OCHA Services, 28 May 2021. Available at: <https://reliefweb.int/report/nigeria/sexual-abuse-thrives-nigeria-s-idp-camps-no-recourse-victims>. Last accessed 26/10/2023.

⁵³ United Nations, *Violence Against Women Fact Sheet*. Available at: <<https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>> Last accessed 11/12/2023.

⁵⁴ Nigeria to investigate alleged abuse of refugee camps (2015). Available at: <http://www.bbc.com/news/world-africa-31386340>. Last accessed 28/09/2023.

⁵⁵ Godiya Allanana Makama, 'Patriarchy and Gender Inequality in Nigeria: The Way Forward', *European Scientific Journal*, June 2013 edition, volume 9, No. 17, p. 115–144 at 116.

⁵⁶ Hilary Charlesworth, 'Rights, Regulation and Ritualising: Assessing the United Nations Human Rights Council'. Lecture delivered at the Albany Law school as a visiting Professor.

⁵⁷ Office of the United Nations High Commission on Human Rights, *End of Mission Statement by the United Nations Special Rapporteur on the human rights of internally displaced persons, Mr Chaloka Beyani, on his visit to Nigeria, 23 to 26 August 2016*. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20427&LangID=E>. Last accessed 06/10/2023.

⁵⁸ *Ibid*.

⁵⁹ Martina Schmidt & Nera Kravic & Ulrike Ehlert, 'Adjustment to trauma exposure in refugee, displaced, and non-displaced Bosnian women'. *Arch Womens Ment Health* (2008) 11:269–276 at pp. 269 and 270. Available at: <https://link.springer.com/content/pdf/10.1007/s00737-008-0018-5.pdf>.

⁶⁰ Janie L. Leatherman, *Sexual Violence in Armed Conflict*. Cambridge: Polity Press, 2011, p. 8.

women and girls is severe. While men and boys may also be affected, research⁶¹ indicates that women and girls are predominantly affected. Although these vices also occur outside the camps, there is an increased risk during conflict and subsequent displacement. According to the World Health Organisation:

The general breakdown in law and order, which occurs during conflict and displacement, increases all forms of violence. The tensions of conflict and the frustration, powerlessness and loss of traditional male roles associated with displacement may be manifested in an increased incidence of violence against women.⁶²

Unfortunately, NEMA is ill-prepared, and so does not have any provision for the protection of displaced women from sexual violence. Furthermore, it does not have any provision for supporting victims of sexual and other physical violence or ways of allowing victims to seek justice. The powers and functions of NEMA are not specifically tailored to meet the needs of IDPs; instead, they revolve around activities geared towards disaster management. The involvement of the Agency with IDPs is only premised on the provision of its enabling legislation, the National Emergency Management Agency Act, which empowers it to “[f]ormulate policy on all activities relating to the disaster management in Nigeria and co-ordinates the plans and programmes for efficient and effective response to disasters at the national level”.⁶³

Human rights violations are experienced in all phases of internal displacement. They are at the root of the causes of displacement and also characterise the conditions of material deprivations and physical insecurity in which the IDPs often find themselves. Displacement is indicative of various forms of ‘insecurity’: on the one hand, a lack of state protection against violent attacks by the Boko Haram terrorist group and, on the other hand, hunger, economic hardship and threats to groups in particular need of protection, such as women.

Internal displacement, which has placed thousands of Nigerians in precarious and tragic situations, continues to be a significant concern in the country. Fresh instances of internal displacement continue to occur in Nigeria as a result of unresolved causes of displacement. Nigeria’s government has made some attempts to quell insurgency and other forms of violence. Since the uprising of Boko Haram began in Nigeria, the government has implemented a variety of strategies aimed at containing its activities, including the use of brute military force, the acquisition of more sophisticated military hardware and the deployment of troops to affected areas in the north-eastern part of the country. Sadly, the operations of soldiers in these areas also result in the death of civilians who are not members of the Boko Haram terrorist group. According to Adedire, “the absence of a specific military code of justice to identify intended targets and protect civilians has further increased the number of casualties in northern Nigeria”.⁶⁴

The persistent occurrence of violent conflict leading to the displacement of thousands in Nigeria indicates that the government’s strategy to contain violence has to be reviewed. A legitimate concern raised by Nigeria’s IDP situation is the best way to protect and assist this rapidly growing population of displaced persons. A subset of this concern is the normative framework for evaluating protection and assistance. The desperate situation of the internally displaced raises an excellent need for international or regional law that would serve as a yardstick for the government to follow in meeting the needs of IDPs.

In 2003, the National Commission for Refugees advocated creating a national internal displacement policy. A Presidential Committee was formed to draft a National Policy to improve the prevention of internal displacement and recommend best practices for managing internally displaced people,

⁶¹ Amy G Lewis, ‘Gender-Based Violence among Refugee and Internally Displaced Women in Africa’, (2006) 20, *Geo Immigr LJ*, 269–291 at 270.

⁶² World Health Organisation, ‘Violence Against Women in Situations of Armed Conflict and Displacement’, Available at: <https://www.who.int/gender/violence/v7.pdf>. Last Accessed 16/09/2023.

⁶³ Section 6 (1) (a), National Emergency Management (Establishment, etc.) Act, 1999, Act No. 12 of 23 March 1999. Available at: <<https://www.ifrc.org/docs/idrl/679EN.pdf>>. Last accessed 21/07/2023.

⁶⁴ Solomon Adebayo, et al., ‘Combating Terrorism and Insurgency in Nigeria: An International Collaborations Against Boko Haram’. *Fountain University Journal of Management and Social Sciences*: 5(1) Special Edition, (2016), 67–74, at 70. Available at: <https://core.ac.uk/download/pdf/162155808.pdf>. Last accessed 06/10/2023.

including protecting their human rights and the need to alleviate their suffering once they have been displaced. The Federal National Policy on IDP was finally approved by the Federal Executive Council (FEC) on 1 September 2021. The process of developing and adopting the policy commenced in 2001. Within this period, the initial draft of the policy has undergone several reviews to reflect new realities and emerging trends in the humanitarian space in Nigeria. Hopefully, this policy should provide a framework for national responsibility towards protecting and assisting internally displaced persons in Nigeria.⁶⁵

The policy outlines the duties and responsibilities of the federal, state, local governments, other civil society stakeholders and national and international actors. It also educates individuals about their rights and obligations before, during, and after displacement. The protracted absence of a legal and institutional framework in Nigeria for dealing with internal displacement and its victims created a severe problem in terms of response and management, with the government resorting to temporary and unsustainable measures. The result is that IDPs are made to suffer deprivations and severe violations of their human rights.

2.5 CONCLUSION

This paper has conceptualised the notion of IDPs to give context to the research and identify the gaps and tensions in the discourse on IDP protection and assistance. In addition, this work provides a springboard for the subsequent discussion and responses to the itemised research questions. Beyond definitional issues are the exploration of the debate as to the appropriateness of recognising the IDPs as a category of concern and the highlight of the points of convergence and divergence of refugeehood and internal displacement. This is achieved alongside a wide range of predominant debates on the advantages and disadvantages of subsuming the refugee and IDP systems under one instrument. This argument is premised primarily on fairness compared to others in similar situations, especially those who stay behind and are likely to face greater danger than those who manage to flee.⁶⁶

With the increased visibility of the crisis of internal displacement and the absence of an international legal instrument or a straightforward institutional approach to deal with IDPs, it is evident that the debate on the forms of protection for IDPs remains necessary. The absence of an international legal instrument protecting IDPs or a dedicated institution like the UNHCR has been adjudged to put IDPs in a precarious position in terms of protection and assistance. Owing to the acknowledgement that the situation has gone beyond the perfunctory acceptance of the existence of an IDP crisis, the utmost concern is now placed on the best ways to address the IDP impasse and provide adequate protection and assistance for this vulnerable population. Their acute need for help should maintain that they are also rights holders as citizens of their states. A dominant view, as expressed by Eni Aloba and Synda Obaji, is that IDPs do not need substitute or surrogate protection. Instead, as citizens, although vulnerable, they are entitled to all applicable human rights and humanitarian rights, including those that are mainly and significantly important to them, such as the rights to life, movement, and association.⁶⁷ In light of these arguments, the debate should transcend the discussion on the suitability of subsuming IDP protection under refugee law. More attention ought to be paid to the available laws and institutions for the safety and assistance of IDPs. Ultimately, the quest should be to create a practical framework for the protection and assistance of IDPs within and outside displacement camps. Greater focus should be placed on the problematic enforcement issue as a way of showing genuine commitment to addressing the causes and drivers of displacement.

The high number of IDPs in Nigeria and the increase in the incidence of sexual violence in IDP camps have prompted this study's endeavour to find the most effective ways to address the needs of the affected populations. Various legal considerations are brought to the fore as a range of human rights are violated throughout a person's displacement. It follows that since all phases of displacement raise human rights concerns, a human rights approach will ensure the holistic protection of IDPs,

⁶⁵ Kehinde Akintola, 'Nigeria Rolls out National Policy on IDPs. Humanitarian Open House', *Nigerian Tribune*, March 22, 2022. Available at: <https://tribuneonline.ng/nigeria-rolls-out-national-policy-on-idps-humanitarian-open-house/>. Last accessed 29/06/2023.

⁶⁶ Catherine Phuong. *The International Protection of Internally Displaced Persons*. Cambridge: Cambridge University Press, 2004, 27.

⁶⁷ Eni Aloba and Synda Obaji, (n. 29) 30.

regardless of how long an individual has been an IDP, and aim to prevent them from becoming IDPs at all. It is critical to draw attention to the protection of the human rights of the internally displaced because the unabated increase in incidents of sexual violence in IDP camps in Nigeria, despite being prohibited under the Nigerian legal corpus, is indicative of a failure to uphold human rights. The analysis above suggests that the scale and presence of IDPs in the country and the attendant human rights violations show an absence of effective mechanisms. Based on this paper's findings, it is held that the dire situation of IDPs in Nigeria calls for urgent steps to be taken for their protection and assistance. There is a need to adopt effective and creative ways to promote, support and reinforce the exercise of national responsibility for addressing internal displacement. Also, considering that most of the drivers are within the realm of political control, the situation can be mitigated through better laws, policies and good governance.

This research aims to unlock an intellectual door of possibilities of effecting necessary changes for the protection and assistance of IDPs in Nigeria, particularly by addressing the problem of sexual violence against women. It intends to achieve this by identifying areas where the law does not provide adequate protection due to inexplicit articulation or normative gaps. While it is acknowledged that existing law provides some coverage for the internally displaced, there are significant areas where existing law falls short of providing adequate legal protection due to a number of gaps and grey areas.