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**FORMULATING LEGAL AND POLICY FRAMEWORKS FOR
THE PROTECTION OF INTERNALLY DISPLACED PERSONS
IN NIGERIA: A CASE STUDY OF INTERNAL CONFLICTS IN
JOS, PLATEAU STATE**



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UUM
Universiti Utara Malaysia

**DOCTOR OF PHILOSOPHY
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**A Thesis submitted to the Ghazali Shafie Graduate School of Government
in fulfilment of the requirements for the Doctor of Philosophy
Universiti Utara Malaysia**

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Abstrak

Penyesaran (*displacement*) yang dicetuskan oleh konflik dalaman telah menjadi suatu fenomena biasa di Nigeria. Fenomena ini berleluasa dan tidak mengenal sempadan sehingga memberikan impak yang besar ke seluruh Nigeria. Kajian ini menyelidik konflik dalaman yang berlaku di Jos, Plateau State, Nigeria yang melibatkan konflik etnik-agama dan politik seperti yang diketengahkan dalam kajian kes 1 dan kemusnahan yang disebabkan oleh letupan bom seperti yang dikupas dalam kajian kes II. Terdapat tiga tahap dalam struktur penyesaran, iaitu peringkat prapenyesaran, peringkat semasa penyesaran, dan peringkat pascapenyesaran. Kajian ini bertujuan menyelidik cara dan sebab penyesaran dalaman berlaku di kawasan yang dikaji dan meneliti undang-undang antarabangsa seperti undang-undang kemanusiaan, undang-undang hak asasi manusia dan undang-undang jenayah serta undang-undang domestik Nigeria, iaitu undang-undang perlembagaan, undang-undang tanah dan undang-undang jenayah yang mengawal isu penyesaran. Kajian turut membandingkan undang-undang dan amalan di dua buah kuasa asing, iaitu Sri Lanka dan Uganda yang berhadapan dengan cabaran yang sama seperti yang berlaku di Nigeria bagi tujuan memperoleh pengajaran. Dengan berpandukan objektif kajian serta persoalan kajian, kajian kualitatif ini yang juga berbentuk kajian sosio-perundangan telah mengupayakan strategi kajian kes untuk menyelidik isu dan masalah penyesaran di Nigeria. Kajian ini dilakukan berlandaskan sumber data primer, iaitu temu bual mendalam dengan mangsa penyesaran, penjawat awam dan pakar undang-undang, pemerhatian, dokumen rasmi serta disokong oleh sumber sekunder seperti artikel jurnal, surat khabar dan sumber internet. Kajian ini, antara lain, mendapati bahawa penyesaran dalaman di Nigeria berpunca daripada kelemahan perlembagaan Nigeria itu sendiri serta penafsiran berat sebelah dan salah tanggapan yang secara sewenang-wenangnya digunakan untuk menyemarakkan api pertelagahan antara penduduk asal dengan pendatang di kawasan kajian kes. Selain itu, kelemahan dalam kerangka perundangan turut menimbulkan konflik yang serius dan berpanjangan di Nigeria. Kajian ini mencadangkan agar penilaian semula dilakukan terhadap peruntukan perlembagaan Nigeria yang melibatkan isu hak-hak kerakyatan dan kelayakan, dan undang-undang antarabangsa dan domestik sedia ada bagi menangani isu penyesaran dalaman Nigeria. Penilaian semula ini perlu sebagai suatu pendekatan praktikal yang boleh menyelesaikan masalah yang dihadapi. Pertimbangan yang sewajarnya yang diberikan oleh kerajaan dan pemegang taruh yang lain terhadap cadangan yang melibatkan kerangka perundangan dan dasar boleh membantu menangani isu dan masalah penyesaran dalaman di Nigeria.

Kata kunci: Golongan yang tersesar dalaman, Konflik etnik-agama dan politik, Isu, Nigeria.

Abstract

Displacement triggered by internal conflict is a common phenomenon in Nigeria. It is rampant without boundary and has impacted every part of the country. This study examines the occurrence of internal crises in Jos, Plateau State, Nigeria which consist of ethno-religious and political conflicts as case study I and bomb related violence as case study II respectively in the structure of three stages namely, pre-displacement, displacement and post-displacement. This study aims to probe into how and why internal displacement occurred in the research area and examines international law such as refugee law, humanitarian law, human rights law and criminal law as well as Nigerian domestic laws such as constitutional law, land law and criminal law governing internal displacement. This study also involves comparative study of law and practice in two foreign powers, namely Sri Lanka and Uganda which face the same challenges as experienced by Nigeria to acquire some insights. Being a socio-legal research and evidently qualitative in nature and guided by the research objectives and questions, the study adopts case study strategy in probing the issues and the problems. Primary data were gathered through in-depth interview with internally displaced persons, public officials and legal experts, observations, and official documents. Secondary data were collected through journal articles, newspapers and internet sources. This study finds among others, that the contradictions in the Nigerian Constitution, its biasness and erroneous interpretations have been arbitrarily used to provoke ethnic animosity between the natives and the settlers in the research area in addition to a number of loopholes identified in the legal frameworks relating to internally displaced persons in Nigeria. This study proposes a reassessment made to the both of the provisions of the Nigerian Constitution involving the rights of citizenship and entitlement as well as to the existing international and domestic law in addressing the internal displacement in Nigeria as a practical approach in looking for solutions of the problems faced. The government and other relevant stakeholders should consider these suggestions seriously so that the evolving legal and policy frameworks would be effective enough to address the issues and problems associated with the internal displacement in Nigeria.

Keywords: Internally displaced persons, Ethno-religious and political conflict, Issues, Nigeria.

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Declaration

I hereby declare that this thesis is based on my original work except for quotations and citations which have been aptly acknowledged. I also declare that it has not been previously or concurrently submitted for any other degrees at Universiti Utara Malaysia or other institutions.



Dedication

In Loving Memory of my Late Father Pa Joseph Amodu Ekpa whose uncommon passion for my education was abruptly severed by the cold hands of death in the early hours of 5th day of May 2010.



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List of Abbreviations

AG	Action Group
AI	Amnesty International
AU	African Union
ACHPR	African Commission for Human and Peoples' Rights
BBC	British Broadcasting Commission
CDPS	City Disaster Policy Committee
CDMC	City Disaster Management Committee
DDMC	District Disaster Management Committee
DDPC	District Disaster Policy Committee
GoSL	Government of Sri Lanka
GoU	Government of Uganda
HRW	Human Rights Watch
FHC	Federal High Court
IAC	International Armed Conflict
IACHR	Inter-American Court of Human Rights
IATC	Inter-Agency Technical Committee
IDPs	Internally Displaced Persons
ICC	International Criminal Court
ICD	International Crimes Division of the High Court of Uganda
ICGLR	International Convention for the Great Lakes Region
ICRC	International Committee of the Red Cross
IDMC	Internal Displacement Monitoring Centre
IOM	International Organization for Migration
IRIN	Integrated Regional Information Networks
IRRC	International Review of the Red Cross
JSC	Justice of the Supreme Court
LLRC	Lessons Learned and Reconciliation Commission
LOAC	Law of Armed Conflict
LRA	Lord's Resistance Army
LTTE	Liberation Tigers of Tamil Eelam
MPC	Ministerial Policy Committee

NCFRMI	National Commission for Refugees, Migrants and Internally Displaced Persons
NCNC	National Council of Nigeria and Cameroon
NECOC	National Emergency Coordination and Operation Centres
NEMA	National Emergency Management Agency
NFRRR	National Framework for Rehabilitation, Reconstruction and Reintegration
NHRC	National Human Rights Commission
NIAC	Non-International Armed Conflict
NPC	Northern Peoples' Congress
NRC	Norwegian Refugee Council
OAU	Organization of African Unity
UDHR	Universal Declaration of Human Rights
UMBC	United Middle Belt Congress
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UPDF	Ugandan Peoples' Defence Force
WFP	World Food Program
WHO	World Health Organization

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CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

All over the world people are forced to leave their homes due to incessant internal conflicts, generalized violence and gross violation of human rights has gradually become common challenges confronting international community.¹ These vulnerable persons of concern nevertheless lived within the borders of their own country.

With respect to Nigeria in particular, it is one of the countries in Africa severely shattered by recurring internal conflicts due to ethnic, religious and political rivalries. Nigeria is incidentally ranked 148 out of the Global Peace Index,² the third largest on list of countries with political armed violence in the Armed Conflicts Location and Event Database³ and also rated 16th in the Fund for Peace and Failed State Index.⁴

¹ Robert Cohen "The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting" *Global Governance* 10 (2004):459-480, http://www.brookings.edu/fb/projects/idp/articles/cohenr_20041001/.pdf (accessed on August, 10 2014); Ashiru M.O.A., "Caught Within Their Borders: The Global Crisis Faced by the International Community of Internally Displaced Persons", *Nigerian Current Law Review* (2007-2010):208–235.

² National Working Group on Armed Violence/Action on Armed Violence "The Violent Road: An Overview of Armed Violence in Nigeria" (2014):1-112, <http://www.aoav.org.uk> (accessed on August 10,2014;Vision of Humanities, Global Peace Index, Nigeria (2013), <http://www.visionofhumanities.org/#page/indexes/global-peace-index/2013/NGA/OVER> (accessed on August 10, 2014).

³ Armed Conflict Location & Event Dataset (ACLED), <http://www.acleddata.com> (accessed on August 10, 2014).

⁴ Fund for Peace. The Failed States Index (2013), <http://www.ffp.statesindex.org/rankings-013-sortable> (accessed on August 10, 2014).

Nigeria is located in West Africa and comprised of 36 states and Abuja as Federal Capital Territory. Nigeria has 774 Local Government Areas (LGAs) and it is structurally divided into six geo-political zones.⁵ Nigeria is the most populous black nation in the world with an estimated population of 174,507,539,⁶ ethnically fragmented into more than 250 ethnic groups and 500 dialects, with Hausa, Yoruba and Ibo ranking as dominant and most influential.⁷

Nigeria's characteristic ethnic and religious peculiarities⁸ has increasingly become a common denominator that triggers ethnic, religious and communal conflicts among the citizens on one hand and against government on the other hand.⁹ The population ratio of Nigeria also reflects this peculiarity with almost equally divided proportion of Muslims 50%, Christians 40%, and traditional religion 10%.¹⁰ Nigeria is also a member of the Commonwealth.¹¹

Human displacement due to internal conflicts over the years has consistently undermined Nigeria's developmental efforts for the past decades, more particularly

⁵ Sections 2, 3 and 5 Constitution of the Federal Republic of Nigeria 1999 (as amended in 2004) hereinafter called "Nigerian Constitution", [http://nigeria_law.org/Constitution of the Federal Republic of Nigeria.html](http://nigeria_law.org/Constitution%20of%20the%20Federal%20Republic%20of%20Nigeria.html) (accessed on November 6, 2014).

⁶ CIA Word Factbook (Washington DC: Central Intelligence Agency, July 2013). Nigeria is also a member of the N9 countries (Nine most populous countries in the world).

⁷ Sunday Okungbowa Uhumwuangho and Aluforo Epelle "Challenges and Solutions to Ethno-Religious Conflicts in Nigeria: Case Study of the Jos Crises" *Journal of Sustainable Development in Africa* Vol.13, No.5 (2011):109-124, <http://www.jsd-africa.com/.../PDF/Challengesand20%20Solutions%20to%20Et> (accessed on October 12, 2014).

⁸ Aderopoayodele Egbeleke "Rethinking the Boko Haram: Contending Perspectives among Nigerians in Diaspora and Youths" M.A. Research Paper, *International Institute of Social Studies*, Hague Netherlands, 2013):155, http://www.thesis.eur.nl/.../AEgbeleke_moodledata_temp_turnitintool_886076797...pdf (accessed on January 10, 2014).

⁹ Saheed Zakaree, S. and C.I.Egwaikhide "Impact of Social Crises on Economic Development: Theoretical Evidence from Nigeria", *American International Journal of Contemporary Research*, Vol.2, No.6 (2012), 177-179, <http://www.medwlljournals.com/abstract/?doi=ssscience.2012.36.43> (accessed on February 10, 2014).

¹⁰ Egbeleke.

¹¹ Joined on 1 October, 1960, [http://www.en.wikipedia.org/wiki/Member_states_of_the Commonwealths of Nations](http://www.en.wikipedia.org/wiki/Member_states_of_the_Commonwealths_of_Nations) (accessed on October 20, 2014).

since the return to civilian rule in 1999.¹² The causes of internal displacement in the country are complex and multi-dimensional in nature but includes, violent agitation for the control of revenue accruing from the oil rich resources,¹³ ethnic, religious and political animosity,¹⁴ bad governance, corruption and youth unemployment to mention but a few. The end of this unfortunate scenario has manifested itself in the significant rise in level of human rights violations, threatened livelihood and loss of lives and properties among others.¹⁵

The area of case study in this research is Jos, the capital city of Plateau State has been affected by recurring ethno-religious and political conflicts from the early 1990s to date and, further aggravated by recent bomb explosions and suicidal attacks in different parts of Jos city centre. Plateau State lies in the North central region with a total landmass of 26,899 square kilometres and a population of about 3.1 million

¹² Bagoni Alhaji Bukar "Nigeria Needs to Take Responsibility for Its IDPs", *Forced Migration Review* Vol. 40 (2011), 44 – 45, <http://www.fmreview.org/en/young-and-out-of-place/bukar.pdf> (accessed on March 20, 2013); see also Victor Egwemi "Boko Haram, Terrorism and Failing State Capacity in Nigeria: An Interrogation", *Africana* Vol.6, No.2 (2013), 84-87. http://www.Boko_Haram_Terrorism_and_Failing_State_Capacity_in_Nigeria-An_Interrogation-AFRICANA-Vol6-No2.pdf (accessed on October 13, 2014).

¹³ Iwebunor Okwechime "Environmental Conflict and Internal Migration in the Niger Delta of Nigeria" (paper presented at the ESF-UniBi-Zif Research Conference on "Tracing Social Inequalities in Environmental-Induced Migration, Centre for interdisciplinary Research, Bielefeld, Germany, 1-13 December 2012), 1-30, http://www.uni-bielefeld.de/tdrc/ag_comcad/downloads/WP_119.pdf (accessed on October 19, 2014).

¹⁴ Ogbozor and Quintiliani, part 1-2; see also Jana Krause "A Deadly Ethno-Religious Conflict in Jos, Plateau State, Nigeria" *Working Paper*, Geneva Declaration Secretariat, Switzerland (2011). http://www.genevadeclaration.org_GD_WP_Jos_deadly_circle_adobe_reader. Accessed on October 20, 2014; See also Femi Omotosho "Settlers and Indigenes Phenomenon in Nigerian Federalism: An Assessment of Jos, Plateau State", *Journal of Regional Development*, <http://www.files.journalofregionaldevelopment.webnode.cz/200000025.../Osomoto> (accessed on October 12, 2014).

¹⁵ N. Diram "Legal Framework for Protection of Internally-Displaced Persons in Nigeria: A Case Study of Jos Crisis", *Journal of Public and International Law*, Ahmadu Bello University Zaria, Vol.1, No.3 (2009):45-53. See also Nancy Annan "Violent Conflicts and Civil Strife in West Africa: Causes, Challenges and Prospects" *Stability: International Journal of Security and Development*, 3(1), (2014):3, 5, DOI: <http://dx.doc.org/10.5334/sta> (accessed on January 29, 2014).

people.¹⁶ Jos is a miniature Nigeria because it is ethnically and religiously fragmented as well.

In a closely related context is internal displacement occasioned by the ongoing internal armed conflicts orchestrated by the devastating onslaught of Boko Haram insurgency in the Northern part of the country and the spiralling effects to other parts of the country.¹⁷

1.2 Definition of Operational Terminologies

Some keywords that are used in this study are defined under this sub topic. The essence is to ascertain their true meanings and thus limit the context of their application in the course of this research.

The following headings will be covered under this sub-topic namely:

- 1) Internally Displaced Persons (IDPs);
- 2) Internal Conflicts; and,
- 3) Internal Displacement.

1.2.1 Internally Displaced Persons (IDPs)

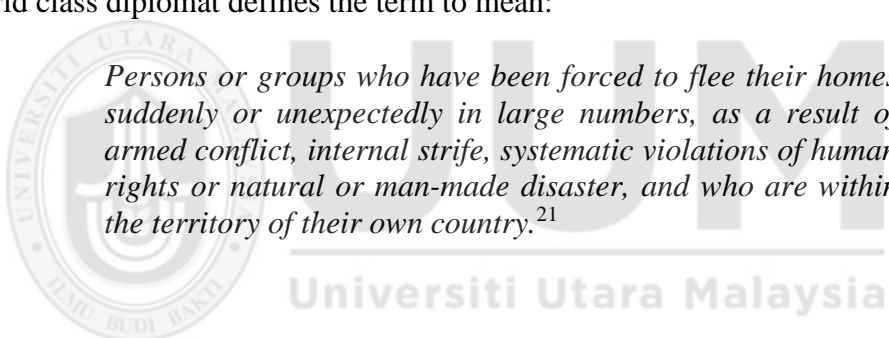
The term ‘internal’ on one hand is used to denote that which exist within the enclave or territory of a country. While ‘displaced persons’ on the other hand is a term that refers to any person or persons who has been forcefully uprooted from his habitual place of residence to another part of the country due to problems which may be man-made or foisted by nature.

¹⁶ National Population Commission, 2006 Census Figures, www.nigeriapopulation.org.ng (accessed on June 12, 2014).

¹⁷ Egwemi, 84.

Oxford Advanced Learners Dictionary¹⁸ defines the word ‘internal’ as “connected with the inside of something” or “coming from within a thing itself rather than from outside”. On the other hand, the word ‘internal’ according to Macmillan English Dictionary means “existing or happening within a country, not between different countries”.¹⁹ While displaced persons means “someone who has been forced to leave their own country to live somewhere else, for example because of a war in their own country”.²⁰

Former UN Secretary General Boutros B. Ghali is the first person to make an official attempt at ascribing meaning to the term ‘internally displaced persons’. The erudite world class diplomat defines the term to mean:



*Persons or groups who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disaster, and who are within the territory of their own country.*²¹

This definition mirrors two basic essentials namely, the main causes of displacement and its distinct feature, that is, the drive is coerced or involuntary and that the people affected have not crossed into the territory of another state. This characterization drew from the broad perspectives of the causes of displacement in the African and Latin American’s definition of refugees which is far beyond the prescription under

¹⁸ Albert Sydney Hornsby (ed.), *Oxford Advanced Learner’s Dictionary*, 7th Edition (Oxford: Oxford University Press, 2005), 780-781.

¹⁹ Macmillan English Dictionary for Advanced Learners, Special Edition for UUM, (Malaysia: Macmillan Publishers, 2007):92.

²⁰ Ibid., 424.

²¹ United Nations Commission on Human Rights: on *Analytical Report of the Secretary-General on IDPs*, UN Doc. E/CN.4/1992/23 (14 February 1992), Para. 17.

the UN Refugees Convention (1951) in that the definition of IDPs incorporate victims of displacement caused by natural and human made disasters.²²

However, this first ever erudite definition is flawed for being problematic as it unwittingly incorporated the temporal condition (...suddenly or unexpectedly ...) and numerical condition (...in large numbers...). These conditions exclude a number of persons who would have otherwise qualified as internally displaced persons for reasons that their movement was spontaneous (Burma, Iragi, Ethiopia etc.) and the fact that it involves a single individual or few persons as witnessed in Columbia respectively.²³

It was the foregoing stern criticisms that led to the revision of the definition and subsequent development of an acceptable definition later in the Guiding Principles. The internationally accepted definition of internally displaced persons is provided in the Guiding Principles as:

*Persons who have been forced or obliged to flee or to leave their homes or places of habitual residence in particular as a result of, or in order to avoid the effects of armed conflict, situations of generalized violence violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.*²⁴

²² Erin D. Mooney, "The Concept of Internal Displacement and the Case for IDPs as a Category of Concern", *Refugee Survey Quarterly* Vol. 24, Issue 3 (2005):10.

²³ Ibid., 11, Cohen & Deng, 17; Adamsu Alemayehu, *The African Internal Displacement Problem and the Responses of African Union: An Examination of the Essential Features of the AU IDPs Convention* LL.M/Ph.D Thesis, Addis Ababa University, (2010):15-17, <http://www.etd.aau.edu.et/dspace/bistream/.../2136/1/Admasu%20Alemayehu.pdf> (accessed on July 10, 2013).

²⁴ United Nations Guiding Principles on Internal Displacement (1998) E/CN.4/1998/53/Add.2, paragraph 2 (hereinafter referred to as "Guiding Principles").

The above definition is also characterized by two distinct elements, namely; that the movement is involuntary and the fact that it is within the territory of their own state also appeared in the Kampala Convention²⁵ and the Great Lakes IDPs Protocol.²⁶

By virtue of the international acceptance of the definition as offered in the Guiding Principles and its restatement in other subsequent instruments,²⁷ this research adopts this definition in the course of this research more so that it encompasses all the necessary elements that distinguishes IDPs from other vulnerable groups such as refugees and migrants.

In contrast to IDPs are refugees who as a result of similar or different causes have forcefully moved out of their own country to another country as a result of problems they are exposed to in their home country. Literally speaking, Oxford Advanced Learners Dictionary defines the term 'refugee' as "a person who has been forced to leave their country or home because there is a war or for some political, religious or social reasons".²⁸ On the other hand, Macmillan English Dictionary defines 'refugee' "as someone who leaves their own country especially during a war or other threatening event".²⁹ Unlike IDPs, refugees are often referred to as externally

²⁵ Article 1(k) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009) entered in force on 6 December 2012 (hereinafter called "Kampala Convention").

²⁶ Article 1(4) and(5) of the Protocol for the protection and Assistance of Internally Displaced Persons in the Great Lake Region 2006 entered into force on 21 June 2008.

²⁷ Such as Great Lakes IDP Protocol (2006) and Kampala Convention (2009).

²⁸ Oxford Advanced Learners Dictionary, 1224.

²⁹ Macmillan English Dictionary, 1246.

displaced persons (EDPs) and are under settled international legal framework³⁰ and institution.³¹

IDPs is also different from migrant workers for reasons that unlike IDPs, migrants are under settled international legal order and the causes of their plight are virtually dissimilar. A migrant worker is defined as “a person who is not to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”³² They are not in another country as a result of persecution in their home state.

This research adopts the technical definition of IDPs³³ which differentiate IDPs from refugees and migrants insofar as this research is concerned as it is legally authoritative and adopted by most states.

1.2.2 Internal Conflict

In ordinary parlance the term ‘internal conflict’ means crisis, disturbance or uprising occurring within a particular geographical entity usually a state. Internal conflict is not defined in the existing normative framework³⁴ or regional instruments applicable

³⁰ United Nations Convention on the Status of Refugees 1951, <http://www.unhcr.org/3b66C2> (accessed on January 15, 2013) hereinafter called “UN Refugee Convention”. This Convention provides an internationally binding framework for the protection of refugees unlike IDPs.

³¹ See Statutes of the Office of the United Nations High Commissioner for Refugees, Annex to UN General Assembly Resolution 428(V) of 14 December 1950 which creates UNHCR as the foremost refugee institution (hereinafter called “UNHCR Statute”).

³² Article 2(1) of the UN Convention on the Protection of All Migrant Workers and Members of their Families adopted by General Assembly Resolution 45/158 of 18 December 1990. It is yet to come into force.

³³ See article 1(A) 2 of the UN Refugee Convention.

³⁴ UN Guiding Principles.

to internal displacement in Nigeria.³⁵ However, there are a number of scholarly definitions which are apt for adoption in this research.

Uhunmwuagbo and Epelle posit that conflict signifies:

*Clash, contention, confrontation, battle, struggle, controversy or quarrel. Conflict may be either violent or non-violent. It also denotes an employment of illegal method of physical coercion for personal or group ends.*³⁶

Similarly, Sampson is also of the view that where conflict is based on symbolic values such as religion and languages, it is likely to be called ethno-religious conflict³⁷ in agreement with Uhunmwuagbo and Epelle.³⁸

Oxford Advanced Learner's Dictionary defines the term 'conflict' from two perspectives. First and foremost, that it connotes "a situation in which people, groups or countries are involved in a serious disagreement or argument. Second, as "a violent situation or period of fighting between two countries".³⁹

As far this research is concerned, the definition offered by Uhunmwuagbo and Epelle is adopted because it is all encompassing and more so that the internal conflicts sought to be investigated in this research focuses on conflicts that are not only violent in nature but also illegal.

³⁵ Kampala Convention and the Great Lakes IDP Protocol.

³⁶ Uhunmwuagbo and Epelle, 113.

³⁷ Isaac Terwase Sampson, "Religious Violence in Nigeria: Causal Diagnosis and Strategic Recommendations to the State and Religious Communities", *African Journal of Conflict Resolution* (2012):107-112, <http://www.ajol.info/index/ajcr/article/ViewFile/78703/69042> (accessed on 18 October 2014).

³⁸ Uhunmwuagbo and Epelle.

³⁹ Oxford Advanced Learner's Dictionary, 305.

1.2.3 Internal Displacement

This is a phrase coined to describe the nature of movement brought about by impact of internal conflicts, generalized violence and gross human rights violations orchestrated against people in the geographical enclave of their own country.

Internal displacement is described in proper context by the Kampala Convention⁴⁰ to mean “the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized State borders”.⁴¹ This description is adopted in this study for reasons that it conveys the meaning and context of this research and the fact that it is authoritative.

1.3 Problem Statement

Ascertaining causes of internal displacement in Nigeria is a herculean task. This difficulty stems from countless factors. First and foremost, the probable causes are closely knitted and devoid of water tight distinction. Secondly, there is a treacherous inter-mix of issues of ethnicity, religion and politics in view of Nigeria’s heterogeneous peculiarity.⁴² Thirdly, intolerance and enmity based on ethnic, religious and political considerations are common occurrences in Nigeria.⁴³ Fourthly, the fact that ethnic lineage dictates pattern of religious affiliation as well as political

⁴⁰ Same as African Union Convention for the Protection and Assistance of Internally Displaced Persons.

⁴¹ Article 1(l) of Kampala Convention.

⁴² A.O Omotosho, “Religious Violence in Nigeria – The Causes and Solutions: An Islamic Perspectives”, *Swedish Missiological Theme*, (2003):15-31, <http://www.unilorin.edu.ng/.../Religious%20Violence%20in%20Nigeria-pdf> (accessed on January 15, 2015); Joshua Segun and Jegede Ajibade Ebenezer, “Ethnicization of Violent Conflicts in Jos”, *Global Journal of Human Social Science: Political Science*, Vol. 13, Issue 7 (2013):36-42, <https://globaljournals.org/.../5-Ethnicisation-of-...> (accessed on August 12, 2014).

⁴³ Adam Higazi, “Jos Crisis: A Recurrent Nigerian Tragedy” *Discussion Paper*, No. 2, Freidrich Ebert Stiftung, Abuja January (2011): 1-34; Jana Krause, 14.

participation in Nigeria.⁴⁴ Finally, other factors considered too remote such as corruption and bad governance, youth unemployment, insecurity and poverty are often implicated as likely causes of internal displacement in Nigeria.⁴⁵

It is apt to add that identifying the cause of internal conflict is part of search for an enduring solution that guarantees legal protection for IDPs in Nigeria in general and in Jos in particular. Unfortunately no recent studies have been conducted for the purposes of in-depth examination of the causes of internal displacement in Nigeria using real life context revealed through in-depth case study as in the instant research.

The duplicity in the provisions of Nigerian Constitution on issue of discrimination and the attendant practical interpretations accorded to them is also problematic. The Constitution⁴⁶ as the ‘grundnorm’⁴⁷ made extensive provisions against discrimination of citizens⁴⁸ which invariably include IDPs on one hand and also provides for its derogation on the other hand.⁴⁹

These phrases “federal character”, “place of origin”, and “ethnic or other sectional groups” in section 14(3) and (4) of the Constitution is intended to convey a principle of minority-group inclusion in the scheme of affairs of the country when it comes to

⁴⁴ Omotosho, Fawole and Bello; Diram,

⁴⁵ Chris Kwaja, “Nigeria’s Pernicious Drivers of Ethno-Religious Conflicts”, *Africa Security Brief* No.14 (2011):5.

⁴⁶ Chapter II of both 1979 (defunct) and 1999 Nigerian Constitutions which spells out the fundamental objectives and directive principles of state policies.

⁴⁷ As vividly described by Hans Kelsen, “Pure Theory of Law, Its Methods and Fundamental Concepts”, *Law Quarterly Review*, Vol. 50, (1934):474 extensively analyzed in Edwin W. Patterson, “Hans Kelsen and His Pure Theory of Law”, *California Law Review*, Vol. 40, Issue 1, (1952), 4-12, <http://scholarship.law.berkeley.edu/californialawreview/vol40/iss1/2> (accessed on April 1, 2015).

⁴⁸ Sections 14(3), 14(4) in chapter III and 42(1), 42 (2) in chapter IV of Nigerian Constitution.

⁴⁹ Ibid. Sections 6 (6) (c) and 42(3).

appointment of persons into key government positions at the federal level⁵⁰ are nowhere defined in the Constitution in order to limit their practical interpretations and application. The foregoing have provoked disagreements among ethnic groups in Nigeria bothering on the vexed issue of the dichotomy between who is an “indigene” or “settler” (which are not also defined in the Constitution) in relation to the rights and privileges that the status holder stands to enjoy.⁵¹

The duplicitous nature of the provisions of the Constitution on the issue of discrimination and the absence of clear cut definition of these contentious phrases in the Constitution is itself deceitful. These unfortunate flaws has led to ease with which extraneous and derogatory interpretations is accorded to the provisions of the Constitution.⁵² This development do not foster inclusiveness amongst the diverse/multi-ethnic and religious interests in Nigeria as attested to by the number of divergent opinions against its continued retention in the constitution.⁵³

The challenges faced by IDPs in Nigeria are enormous and complex. First and foremost, several agencies are involved in the protection and assistance of IDPs without any lead, coherence and direction as interventions are carried out on *ad-hoc* basis.⁵⁴ In addition camps of permanent nature for IDPs in Nigeria to cater for

⁵⁰ Ibid sections 147(1) (3) and 153(1) (c). See also Philip Ostien, “Jonah Jang and the Jasawa: Ethno Religious Conflict in Jos, Nigeria” *Muslim-Christian Relations in Africa*, August (2009):1-42, www.sharia-in-africa.net/pages/publications.php (accessed on April 1, 2015).

⁵¹ Ogbozor and Quintiliani, Part 2.

⁵² Ibid.

⁵³ Ostein,5; T.A. Babawale, “Federal Character Commission : A Evaluation”, *Nigerian Law Guru*, Department of Jurisprudence and Private Law, Obafemi Awolowo University Ile-Ife –Nigeria available at www.nigerianlawguru.com/articles/constitutional%20Law/FEDERAL%20CHA.pdf (accessed on April 1, 2015); David Esene Gberevbie and Jide Ibieta, “Federal Character Principle and Administrative Effectiveness in the Nigerian Public Service: Challenges and Prospects for Sustainable Development 1999-2012”, *Journal of Sustainable Development in Africa* Vol. 15, No.6, (2013): 46-61.

⁵⁴ Two government institutions without formal mandates for IDPs protection exists side by side in Nigeria. They are National Emergency Management Agency (NEMA) and National Commission for

accommodation needs of victims of internal displacement are not readily available⁵⁵ as victims are accommodated within public facilities such as schools and worship centres awaiting the cessation of hostilities that prompt their movement.⁵⁶ These arrangement truncates school calendar and also makes IDPs to be perpetually displaced in cases where conflicts have turned out to be incessant.⁵⁷ Make shifts camps where they are provided are porous making IDPs fleeing to safety to be prone to enforced military recruitment,⁵⁸ sexual and gender based violence⁵⁹ and forced marriages by insurgents⁶⁰ which are usually associated with internal conflicts.

Furthermore, accurate and reliable data on IDPs is indispensable in the search for legal protection of IDPs in Nigeria. Accurate data provides viable template for profiling of IDPs for the purpose of planning and policy decisions.⁶¹ In Nigeria today, government has not thought it is wise to conduct profiling of IDPs as available figures which are not always aggregated based on demographic indices such as sex, age and tribes are mere estimate and guess work.⁶² Adding to the foregoing complex

Refugees, Migrants and Internally Displaced Persons (NCFRMI) in Nigeria. More recently NEMA and PEMA- Plateau Emergency Management Agency were engaged in similar war of supremacy even when the later had no legal power to take care of emergency on the Plateau.

⁵⁵ Oduwale and Fadeyi infra note 222 at 5.

⁵⁶ Michael Olugbode “Two new IDPs camps established in Maiduguri” This Day Live, 22 January 2015.

⁵⁷ Watchlist “Who Will Care for Us: Grave Violations against Children in the North Eastern Nigeria”, September (2014):24, http://www.watchlist.org/wordpress/WP_content/.../2111_watchlist_Nigeria_LR.pdf (accessed on 13 October 2014); Jacob Zenu and Elizabeth Pearson “Women, Gender and the Evolving Tactics of Boko Haram”, *Journal of Terrorism Research*, Vol. 5, Issue 1 (2014), <http://www.ojs.st-andrews.ac.uk/index.php/jtr/article/view/828/707> (accessed on October 13, 2014). Note also that international humanitarian laws also frowns at forcible recruitment of children, see article 77 of the Additional Protocol 1 to the Fourth Geneva Convention to mention but a few.

⁵⁸ Ibid.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Internal Displacement Monitoring Centre “Guidance on Profiling Internally Displaced Persons” (2008):6-10, <http://www.docs.unocha.org/.../Documents/Guidance%20on%20Profiling%20> (accessed on August 10, 2014).

⁶² For the first time National Commission for Refugee gave the total number of persons displaced by conflicts and violence to be 3.3 million. See also Internal Displacement Monitoring Centre (IDMC)/ Global Overview “Internal Displacement in Sub-Saharan Africa- Figures and Causes” (2014):18.

web of challenges is problem of implementation and enforcement of international law relevant to situation of internal displacement in Nigeria. This challenge stems from the fact that international law which are in the nature of a treaty has no automatic application in Nigeria unless there are domesticated in accordance with the provisions of the constitution.⁶³ The legislative procedure involved with respect to carrying out this important task is extremely cumbersome⁶⁴ but not insurmountable. IDPs in Nigeria are thus precluded from taking advantage of the strengthened protection engendered in international conventions relevant to situation of internal displacement owing to the fact that rules and principles contained which have not be domesticated are not enforceable before Nigerian courts.⁶⁵

Compensation of victims of internal displacement in Nigeria is also a bulging problem. Several persons were killed amidst massive destruction of real and personal properties during successive internal conflicts in Nigeria. Assuaging their pains through prompt and adequate compensation is quite important in addressing their plights. Beyond the general prescription on the provision of basic needs for victim of disasters⁶⁶ which is not specific to IDPs in Nigeria, victims are left to bear their brunt themselves without any meaning intervention from the state. This development no doubt have worsen the predicament of victims of internal displacement in Nigeria.

⁶³ Section 12(1) of Nigerian Constitution.

⁶⁴ Ibid section 12(2). The procedure involves the concurrence of the resolutions of two third of the 36 State Houses of Assembly in Nigeria.

⁶⁵ See for instance, *Registered Trustees of National Association of Community Health Practitioners of Nigeria & ors. v. Medical and Health Workers Union of Nigeria* (2008)2 NWLR (Pt. 1072) 575, 623.

⁶⁶ The role usually carried by National Emergency Management Agency in line with the NEMA Act 1999

Despite the increasing rise in the number of persons uprooted by successive internal conflicts in Nigeria and the challenges it has posed to its statehood there is no tangible success on the much talked about national policy on internal displacement.⁶⁷ Nigeria recently ratified the Africa's IDP treaty⁶⁸ modelled after the Guiding Principles⁶⁹ but has neglected to elevate it by way of domestication to the status of national law in order for it to be applicable in Nigeria so as to strengthen legal protection for IDPs as a result of internal conflicts. This indifference stance can also be seen from the failure or neglect of Nigerian government to fast track the process of passage into law of the proposed amendment to the National Commission for Refugees, Migrants and Internal Displaced Persons Act which is intended to vest the commission with the requisite mandate to deal with IDPs matters since 2012. This neglect/failure robs Nigeria of the only known opportunity of having a national legislation specific to IDPs as well as slowing down of the path to development of appropriate laws and policies so as to engender effective legal protection for IDPs.

1.4 Research Questions

The research questions in this study are as follows:

1. What are the problems of internal displacement in Jos, Plateau State Nigeria?
2. Are there adequate international and domestic legal protection for Internally Displaced Persons (IDPs) in Nigeria?

⁶⁷ Bukar, 44-45.

⁶⁸ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009 which came into force on 6 December, 2012, <http://www.au.int/en/.../Convention%20on%20IDPs%20-%20displaced..pdf> (accessed on November 6, 2014), hereinafter called the "Kampala Convention".

⁶⁹ Adopted by the United Nations Commission on Human Rights in 1998 as the first international standard setting framework for the protection and assistance of IDPs. It merely provides guidance to relevant stakeholders as the principles contained therein are not binding on states.

3. What lessons can Nigerian Government learn from the laws and practices in Sri Lanka and Uganda insofar as internal displacement in Nigeria is concerned?
4. What can we do to assist Nigerian Government, policy makers and other stakeholders in engendering effective legal protection for Internally Displaced Persons (IDPs) in Nigeria?

1.5 Research Objectives

In order to achieve the goal of this research, the following research objectives are set out in line with the research questions.

1. To examine the problems of internal displacement in Jos, Plateau State Nigeria.
2. To examine the provisions of international and domestic laws governing legal protection of Internally Displaced Persons (IDPs) in Nigeria.
3. To examine law and practices on internal displacement in Sri Lanka and Uganda for the purposes of applying their lessons to Nigeria.
4. To make recommendations that would engender effective legal protection for Internally Displaced Persons (IDPs) to Nigerian Government, policy makers and other stakeholders

1.6 The Significance of the Study

This research is significant and timely considering the renewed wave of violence due to internal conflicts in Jos, Plateau State in particular and in Nigeria in general and the gravity of human loss, destruction of properties and human displacement that

have characterized successive events. Thus the significance of this study can be seen from the following perspectives.

First and foremost, this research by virtue of its in-depth analysis of the laws and policies governing internal displacement contributes immensely to scholarly knowledge in that it bridge the gaps in existing studies and thus stimulates further research on issue of internal displacement in Nigeria due to internal conflicts.

Second, by probing into the causes of internal displacement in Nigeria in general and in particular due to recurring internal crises in Jos, Plateau State, this research would assist Nigerian Government, policy makers and stakeholders in ensuring that both legal and policy responses are properly applied in addressing specific vulnerabilities of IDPs in Nigeria.

Third, by engaging in study of law and practices on internal displacement in Sri Lanka and Uganda, this study provides ample legal resource base for Nigerian Government to draw from the lessons and experience of these states having similar burdens with a view to further improving on her own laws regarding issues of internal displacement. The analysis of Sri Lankan and Ugandan law and practices is also significant as it provides an enriched template for Nigerian legislature in conceptualizing a model for the country when adapting or adopting a new policy on internal displacement.

Fourth, this research is also significant as it probes into the problem of non-implementation of international laws relevant to legal protection of IDPs in Nigeria

due to cumbersome treaty ratification procedure and advocates for quick ratification and eventual domestication of these laws in order to be applicable in Nigeria.

Finally, IDPs as major stakeholders lives within the territory of their own country, therefore they are an integral part of the population of that state. Consequently, the present research into their challenges and problems is very essential and significant as it findings would address issues of discrimination against this vulnerable group of persons.

Conclusively, this research which focuses on legal protection for IDPs as a result of internal conflicts is unique and apt given the enormity of the bulging problems associated with situations of internal displacement in Nigeria in particular and around the globe in general.

1.7 Research Methodology

The following headings will be covered in this sub-topic, namely:

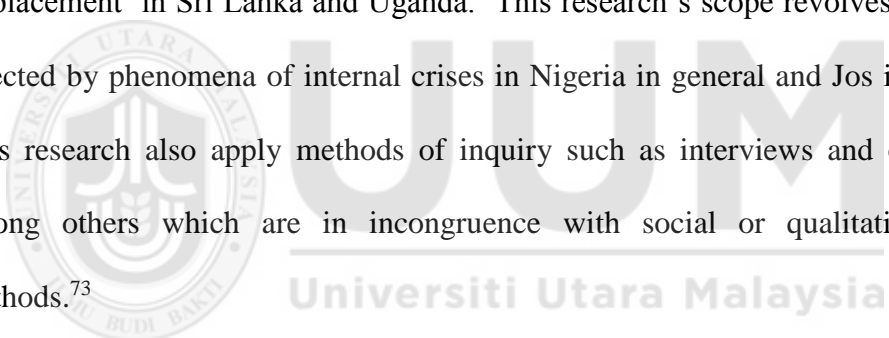
- 1) Research Design;
- 2) Research Scope;
- 3) Types of Data;
- 4) Data Collection Methods; and,
- 5) Analysis of Data.

1.7.1 Research Design

This part of research methodology deals with how the research will be conducted. It examines the appropriateness of the research methods selected in terms of logic and

rationale as well as the research plans. Research design is the linkage that connects the data collected in the course of research and the conclusions drawn therefrom in relation to the research questions and objectives set out at onset of the research.⁷⁰ It is indeed an action plan or a blue print.⁷¹

This present research is a socio-legal in nature and approach. A socio-legal research is an enquiry into legal rules and principles and its application to the people.⁷² This research therefore satisfy these conditions in that it focuses on rules and principles of relevant international laws and Nigerian domestic laws governing internal displacement in Nigeria as well as laws, policies, and practices governing internal displacement in Sri Lanka and Uganda. This research's scope revolves round IDPs affected by phenomena of internal crises in Nigeria in general and Jos in particular. This research also apply methods of inquiry such as interviews and observations among others which are in incongruence with social or qualitative research methods.⁷³



In another breadth, this research resembles a hybrid of applied research and academic research going by the nature of the research questions and objectives. It is applied in nature because it would improve the application of laws and policies geared towards the protection of IDPs in Nigeria through the identification of the inherent gaps and weaknesses in the applicable laws and policies,⁷⁴ and proffering of recommendations

⁷⁰ Robert K. Yin, *Case Study Research: Designs and Methods* 3rd edition (London: Sage Publications, 2003):18-20.

⁷¹ Ibid.

⁷² Khushal Vibhutte and Filipos Aynalem, *Legal Research Methods* (Justice and Legal System Research Institute: 2009):14.

⁷³ David Silverman, *Doing Qualitative Research*, 2nd Edition (London: Sage Publications, 2005):10.

⁷⁴ Ibid.73.

towards discovering solutions or answers to the identified ‘problem(s)’ or ‘question(s)’ in the instant research.

Similarly, this research evaluates the weaknesses in the laws and policies on internal displacement in Nigeria using lessons learnt from the study of law and practices on internal displacement in Sri Lanka and Uganda so as to improve legal protection for IDPs in Nigeria.⁷⁵

This research adopts in-depth case study strategy. Case study has been described from diverse perspectives. Case study is “an external look into an event or process in order to understand it better”.⁷⁶ Geering on other hand describes case study as an “intensive study of a small unit that can be applied to larger population”.⁷⁷ It is also a subset of qualitative research that has the potential which could facilitate generalization of findings. Case study strategy in socio-legal research facilitates the exploration of a phenomenon using multiple data sources.⁷⁸

In-depth case study as a research strategy is used in this research because of the nature of research questions which requires in-depth information on the causes of internal displacement in Nigeria and the measures to be taken in order to address the problems associated therewith.⁷⁹ According to Yin “such questions deal with

⁷⁵ Id.73.

⁷⁶ Douglas Woodwell, *Research Foundations* (London: Sage Publications, 2014):156.

⁷⁷ J. Geering, “What is Case Study and What it is Good for”, *American Political Science Review*, (2004):342.

⁷⁸ Panda Baxter and Susan Jack, “Qualitative Case Study Methodology: Study Designs and Implementation for Novice Researcher”, *Qualitative Reports* Vol.13, No.4 December (2008):544-559, <http://www.nova.edu/ssss/QR/QR13-4/baxter.pdf> (accessed 7 January 2015).

⁷⁹ Catherine Marshall and Gretchen B. Rossman, *Designing Qualitative Research*, (London: Sage Publications, 1989):28-29.

operational links needed to be traced over time, rather than mere frequencies or incidence”.⁸⁰

The justifications for the choice of case study strategy are multi-faceted in this research. First, it can thoroughly examine complex social and contemporary phenomena. Second, this strategy could reveal critical cases that needs urgent intervention. Third, through case study method relevant account of the events (being personal experience) which underpinned this research would be kept secure and not prone to manipulation as is the case with other methods of inquiry.⁸¹

Case study approach to socio-legal research is weakened by the quantum of time needed for the study, it is thus time wasting and cumbersome. Secondly, analysis and presentation of findings in a case study research requires enormous skills. Thirdly it may produce conflicting and incomplete accounts of the phenomena studied where the interviewees are not truthful in their response to the interview.⁸²

Notwithstanding the above limitations, case study method used in this research improves its reliability in that it ensures triangulation from divergent trends of evidence from the field study conducted in this research.⁸³ Secondly, the approach helps to generate rich, thorough and in-depth information.⁸⁴ Thirdly, critical case revealed by this method makes this research’s findings to be unique as it provides a

⁸⁰ Ibid., Yin (2003): 6.

⁸¹ Id., 2, 5-10.

⁸² Charles Schell, *The Value of Case Study as a Research Strategy*, Manchester Business School (1992), Paragraph 1.0, available at <http://www.finance-mba.com/Case%20Method.pdf>.(accessed on February 9, 2015).

⁸³ Marshall and Rossman, 146.

⁸⁴ Azilah Kashim and Hisham Dzakiria (eds), *Applying Qualitative Design in Research: Learning by Doing*, (Sintok Malaysia: UUM Press, 2006):11.

distanced view of other peoples' experiences.⁸⁵ Finally, case study strategy allows intrinsic generalization of one particular phenomenon of internal crises in Jos, Plateau State to the wider context of internal crises in Nigeria as a whole in purely analytic terms as opposed to statistical generalization in quantitative research.⁸⁶

1.7.2 Research Scope

This research is limited to internal displacement as a result of internal conflicts in Jos, Plateau State, Nigeria with specific emphasis on the ethno-religious crises which took place between January and March 2010 designated as case study I and the bomb related violence which occurred between December 2010 and July 2015 delineated as case study II of this research.

The choice of the case study area in the instant research is by purposive selection. Purposive selection is the process whereby the researcher uses his personal judgment and conviction to select sample site for the study.⁸⁷ This purposive approach used in this research in selecting this study area and the time frame is justified by the fact that the phenomena of internal crises which provokes internal displacement in Jos are not uncommon with other areas affected by similar crises in Nigeria. This research is designed to provide a first-hand, and in-depth investigation of particular internal crises that have occurred within the wider context where such phenomena have occurred throughout Nigeria. Hence Jos, Plateau State is not randomly selected.⁸⁸

⁸⁵ Yin (1994): 42-43.

⁸⁶ Kashim and Dzakiria, 13.

⁸⁷ Neuman, 91.

⁸⁸ Ibid; David Silverman, *Doing Qualitative Research*, 2nd Edition, (London: Sage Publications, 2005): 129.

Secondly, it is much easier to gather detailed and in-depth information and other data regarding internal displacement from Jos, Plateau State for reasons that nature of internal crises (ethno-religious/political conflicts and, bomb related violence) are more prevalent in Jos⁸⁹ than in other parts of Nigeria thus making this research site specific.⁹⁰ The consequence is that this instant research cannot be thoroughly conducted in other areas affected by similar or other types of internal crises in Nigeria.⁹¹

Finally, the advantage of proximity and geography of Jos makes it readily accessible from all parts of Nigeria and this facilitates quick collection of data required for the instant research in a more manageable form that details would not be sacrificed on the altar of long distance and inappropriate handling.⁹²

With respect to the study of other foreign jurisdictions, this research purposively selected Sri Lanka in South Asia and Uganda in East Africa as opposed to random sampling for the reasons stated below.

First and foremost, the choice of these countries for study in this instant research lies in the fact that Sri Lanka and Uganda are ethnically and religiously fragmented like Nigeria and are characterized with several ethnic, religious and political conflicts.

⁸⁹ Kashim and Dzakiria, 12.

⁹⁰ Marshall and Rossman, 54.

⁹¹ Newman, 91.

⁹² Silverman, 127, 132.

Secondly, both Sri Lanka and Uganda had at one time and the other in their history experienced incidence of internal crises orchestrated by bomb explosions with its resultant internal displacement.

Thirdly, Sri Lanka and Uganda are members of the Commonwealth of Nations⁹³ and of Common Law jurisdictions like Nigeria thereby making recommendations drawn from the study more apt and significant to Nigeria.

Finally, Sri Lanka and Uganda unlike Nigeria have made substantial progress in addressing issues of internal displacement in their respective boundaries and the in-depth analysis in this research would present laudable lessons to Nigeria. For example Sri Lanka have functional domestic policies for the protection of its internally displaced persons⁹⁴ and similarly, Ugandan exploits in addressing internal displacement within its frontiers presents a classic example of African solutions to African problem.⁹⁵ Uganda is among the first few states in Africa to adopt the African Union Convention for the Protection and Assistance of Internally Displaced Persons⁹⁶ and indeed the first to ratify it. Furthermore Uganda is the first African State to adopt the United Nations' Guiding Principles on Internal Displacement⁹⁷ as a benchmark for its National IDP Policy 2004.⁹⁸

⁹³ Sri Lanka and Uganda separately joined Common Wealth of Nations on 4th February 1948 and 9th October 1962 respectively.

⁹⁴ National Framework for Relief, Rehabilitation and Reconciliation (NFRRR) of 2002.

⁹⁵ Olivia .Kokushubila Lwabukuna, "Internal Displacement in Africa: African Solutions to African Problems. Challenges and Prospects", *Journal of Internal Displacement*, Vol. 1, No. 1, (2011), 131-141, available at <http://www.journalofinternaldisplacement.org> (accessed on 30 July 2013).

⁹⁶ Uganda signed the treaty on 23 October 2009, ratified and acceded on 29 January 2010 and finally dropped her Instrument of Ratification on 4 March 2010; See List of Countries which have signed, ratified and acceded to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009 which came into force on 6 December 2012 hereinafter referred to as 'Kampala Convention'.

⁹⁷ The first non-binding but guiding international normative framework for the protection and assistance of internally displaced persons adopted by the United Nations General Assembly in 1998.

⁹⁸ Ugandan National Policy for Internally Displaced Persons.

Regarding the usual criticisms of bias levelled against qualitative researcher's selection of site of study, this research contends that knowledge and information in respect of the issues of gravity and intensity of internal conflicts in Jos, Plateau State Nigeria which is selected in this research and the problems associated with the same in Nigeria are matters in public domain in the news media, official and unofficial reports, authoritative books, journal/articles and on internet for reasons that they have become critical and calling for urgent intervention. These facts and figures insofar as internal displacement in Nigeria is concerned could be accessed locally in Nigeria from relevant institutions of government,⁹⁹ and internationally.¹⁰⁰ Thus the extant facts and figures in this research is not amenable to distortion by the researcher's personal opinions and views.

1.7.3 Types of Data

This research relies on both primary and secondary data. Primary data are authoritative sources¹⁰¹ and in this research it comprises of information derived from in-depth interviews (face to face account) of IDPs as victims of internal crises in Jos, public officials and legal experts because they are accessible and their responses is also easy to collate, international conventions and Nigerian domestic legislations, official documents, reports and statistics insofar as are relevant to this research.

⁹⁹ For example, National Emergency Management Agency (NEMA) and National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI).

¹⁰⁰ From the Database of Internal Displacement Monitoring Centre and Norwegian Refugee Council (IDMC/NRC) at <http://www.internal-displacement.org/> which is the globally acclaimed repository of facts and figures on internal displacement worldwide.

¹⁰¹ Charles Chatterjee, *Methods of Research in Law* (London: Old Bailey Press, 2000):20-27.

Secondary data on the other hand are only of persuasive precedent.¹⁰² In this research, it includes textbooks, legal periodicals, theses, conference papers, and other unofficial reports and documents and other library based and internet sources.

The period slated for data collection in this instant research spanned from 2014 to 2016 and involved gathering of relevant information from the foregoing sources and field visits to Jos, Plateau State which is the case study site of this research as well as to Abuja the Federal Capital Territory of Nigeria where the headquarters of NEMA and NCFRMI are located.

As regards reliability and validity of the two sources of data highlighted above, it is insightful to note and based on earlier justification presented in this research that all the data and information used in this research are from legitimate sources that are verifiable.

1.7.4 Data Collection Methods

This research relies on in-depth interview as primary data collection method in consonance with the research questions and objectives. In-depth interview has been severally described as conversation with a purpose.¹⁰³

The strengths of in-depth interview are numerous. Firstly, it facilitates quick access of data in a robust and detailed form from real victims of internal conflicts in Jos as well as from public officials and legal experts.¹⁰⁴ With some of victims (internally displaced persons) still stranded in their pains and losses due to displacement, their

¹⁰² Ibid.

¹⁰³ Marshall and Rossman, 82.

¹⁰⁴ Ibid., 82, 102.

reminiscences are still fresh and this aids the coherence and quality of data elicited from the interview process.

Secondly, in-depth interview has capacities to generate data that are in congruence with the research questions and objectives of this research hence it enabled the researcher to trace the causes and problems facing internally displaced persons from the outbreak of internal crises in the case study up to date in the light of victims' oral narration/account. This method facilitates triangulation from multiple accounts of interviewees and thus enhancing the reliability and validity of the findings of this research.¹⁰⁵

Thirdly, the instant research uses in-depth interview to obtain data because the issues enveloped in the research questions are matters shrouded in seeming complexities that only this method of data collection could generate the required amount of data and information derivable from multiple sources usually needed in a case study investigation like in the instant research¹⁰⁶ in order to maintain a chain of evidence.¹⁰⁷ According to Kohlbacher¹⁰⁸ quoting Gillman,¹⁰⁹ this is because "all evidence is of some use to the case study researcher; nothing is turned away."

Finally, in-depth interview with open-ended questions was adopted in the course of this research because it allows follow up questions to clear ensued ambiguity.¹¹⁰ This method of data collection is in line with case study research.¹¹¹

¹⁰⁵ Id.103.

¹⁰⁶ Yin, 2nd ed., 8, 15.

¹⁰⁷ Ibid. See also Kohlbacher, Paragraph 3.3.

¹⁰⁸ Ibid., Paragraph 3.3.1.

¹⁰⁹ Bill Gillman, *Case Study Research Methods*, (London: Continuum, 2000):20.

¹¹⁰ Marshall and Rossman, 82.

In-depth interview used in the process of data collection in this study has its own weaknesses namely, it is cumbersome and expensive in terms of logistics, as it demands personal interactions and co-operations of the interviewees with the researcher.¹¹² Similarly, its success as it were depends largely on the listening and recording skills of the researcher.

Despite this limitations, in-depth interview is particularly helpful in this research because of the nature of the research questions (i –iii) and research objectives (i–iii) as this method of data collection generated the detailed data required of case study approach in this research.

In conducting the in-depth interview in respect of case study I, ten (10) persons from diverse ethnic, religious and political backgrounds were purposively selected. These numbers consist of eight (8) IDPs who are victims of internal conflicts and two (2) public officials from the two federal institutions presently monitoring issues of internal displacement to wit; National Commission for Refugees, Migrants and Internal Displaced Persons (NCFRMI) and National Emergency Management Agency (NEMA) with headquarters in Abuja.

With respect to case study II, nine (9) persons also from entirely different backgrounds from case study I were purposively selected by this researcher. These numbers consist of three (3) IDPs who are victims of bomb related violence in Jos, Plateau State; two (2) Police officers from Criminal Investigation Department of Nigeria Police Jos; a security personnel, a medical doctor, and two (2) legal experts

¹¹¹ Id., 78-79.

¹¹² Id.

in the field of international law and comparative criminal law were also interviewed in this research.

On the whole a total of nineteen (19) persons were interviewed for reasons that they are directly involved and thus familiar with the phenomena of internal crises subject of investigation in this research. The selection of interviewees was done in an ongoing manner during the process of data collection in the area of case study and the length of time used by this researcher in conducting each interview varies from one person to the other depending on the strength of respective conversation.

The justification for selecting this number of persons for the interview in the instant research is that they have richer information that is required in carrying out the research investigation relating to sundry issues insofar as it involves internal displacement in Nigeria in general and Jos in particular in an in-depth manner.¹¹³ For instance the victims/IDPs of internal crises resides in the study area and are familiar with the phenomena as it affects their persons and locality. Public officials in key institutions charged with the protection and assistance of IDPs are knowledgeable of their respective mandates and the legal experts interviewed in this research are skilled in international laws and Nigerian domestic laws governing IDPs in Nigeria.¹¹⁴

Secondly, the researcher also selected this number of persons because IDPs/victims, public officials and legal experts relied upon in this research belongs to highly

¹¹³ Neuman, 91.

¹¹⁴ Ibid., 283.

targeted and narrowly defined population¹¹⁵ and the imperative need to protect the interviewees and the instant researcher from harm given the insecurity of Jos at the time of data collection.

Finally, the number of interviewees selected in this research is sufficient and adequate by virtue of the fact that the goal of this research is not to secure a representative sample of an entire population of IDPs in Nigeria but to conduct a comprehensive and in-depth investigation into the issues and problems that affects IDPs due to particular internal crises in Jos using case study approach.¹¹⁶

The in-depth interview in this research was audio recorded by the researcher at the election of all the interviewees who on the other hand declined that their participation be video recorded for security concerns. This was an ethical issue which this researcher carefully handled by preserving their physical identity and thus ensuring the confidentiality of their responses.¹¹⁷

For the purpose of the in-depth interview in this research, two key interview instruments were developed and both facilitates the process of data collection. The first and most important is the Informed Consent Form (**Appendix A**) which contains written voluntary agreement of individual interviewees who participated in the interview process. In this form, prospective interviewees were informed on ethical issues such as confidentiality of their response and the fact that no financial or non-financial benefit will be given to them by virtue of participation in the instant research process.

¹¹⁵ Id., 91.

¹¹⁶ Id., 90.

¹¹⁷ Id., 67, 73.

While the second is the Interview Questions Guide (**Appendix B**) which consists of the main interview questions framed to cover the issues encapsulated in the research questions and complimented side by side with appropriate probing questions to clear any ambiguity that may likely arise from the interview.¹¹⁸ This guide ensures that the chain of evidence in this research remains unbroken insofar as the in-depth interview is concerned. This was moderated on an ongoing basis during the course of data collection.

In addition to in-depth interview, observation¹¹⁹ as another kind of primary data collection method was used in this research. The reason for this is because of the need to get accurate account of facts needed in case study which are so hidden and cannot be gotten from in-depth interview alone.

Non-participant observation entails the coherent description of events, scenes and behavioural dispositions in the area selected for the study outside the control of the interviewees. The strengths of observation as data collection method lies in its ability to obtain non-verbal behaviours and communications such as affected buildings, scenes of incidence and other hidden facts which in-depth interview alone could not reveal.¹²⁰ This method also assists in the gathering of large amount of non-contextual data as well and thus aids analysis, validity and checks which are indispensable in the process of triangulation.¹²¹ Observation has its own demerits such as its potential to cause danger or discomfort to the researcher compelled by the needs to get close to

¹¹⁸ Id. 172.

¹¹⁹ Marshall and Rossman, 79.

¹²⁰ Nuarrual Hilal Md Dahlan, "Issues Concerning the Statutory Duties of Housing Developers under Section 7 of the Housing Development (Control & Licensing) Act 1966 (Act 118) in Peninsular Malaysia", *Proceedings of the AGBA 12th World Congress*, Malaysia, November 2015:62-63.

¹²¹ Marshall and Rossman, 102-103.

facts sought to be observed and depends also on the ability of the researcher to be resourceful, systematic and honest so as to control likely bias.

Notwithstanding the foregoing, observation as used in this research is only a complimentary method and its weaknesses no matter how weighty is compensated by the overwhelming strengths of in-depth interview which is the main data collection method.¹²²

With respect to study of Sri Lankan and Ugandan law and practices on internal displacement, historical method of data collection which is essentially library based was used. This is justified having regard to research questions and research objectives of this study which focuses on comparative study of laws and policies in foreign jurisdictions-Sri Lanka and Uganda vis-à-vis Nigeria.

Historical analysis is therefore:

A method of discovering from records and accounts what happened in the past from existing qualitative data”¹²³... that is to say primary and secondary data derived from library based sources.¹²⁴

This method is weakened by the fact that it relies largely on the researcher’s evaluation of statements and records of past events (secondary data) coupled with difficulty in classifying historical data due to their multiple sources.¹²⁵

¹²² Ibid.

¹²³ Neuman, 312-313.

¹²⁴ Ibid., 95-96

¹²⁵ Ibid.

Notwithstanding the above, this method of data collection is useful in obtaining knowledge regarding areas and questions that are unexamined by previous research as it enhances the reliability and credibility of this research.¹²⁶

The essence of combining several data collection techniques and multiple data sources in this study is meant to enhance reliability and validity of the research findings as the weaknesses in one method could be compensated by the strengths of the other.¹²⁷

1.7.5 Data Analysis

Data analysis is the method by which order, sequence, organization and meaning is ascribed to quantity of data collected in the course of the research. It is messy, time consuming and a creative process. The end result comes out in a non-linear fashion.¹²⁸ Raw data has no meaning unless they are carefully analysed.

Data analysis in this research was done in line with the multiple evidences obtained from the field study in a grand manner and ensures that the emerged findings was supported by empirical evidence through careful description of data collected and segregated into defined categories in line with the research questions and objectives.¹²⁹

Responses from in-depth interview of selected participants was transcribed from audio to text to aid coherent data analysis. This choice of transcription was informed

¹²⁶ Id., 95-96.

¹²⁷ Id., 103.

¹²⁸ Id., 112.

¹²⁹ Id.

by the fact that raw and unprocessed data such as texts, notes, audio and visual images has no meanings unless they are put in readable form.¹³⁰

The data analysis in this study was done in the following manner:

- i. The researcher read and studied all the narrative data such as audio texts and field notes transcribed and scrutinized them in terms of those that provided answers to the research questions of this study;
- ii. The data was subsequently arranged in terms of the focus of this research which is on internal displacement caused by Jos Crises (Case study);
- iii. The arranged data was identified and categorized into coherent categories (pre-set or emergent) themes in line with the research questions and objectives of this study and replicated in the case studies and comparative study; and,
- iv. Finally the researcher interpreted the categorized themes as findings based on the research questions and thereafter made appropriate recommendations to conclude the study. This researcher presents each identified themes and thereafter provide data in the form of primary sources and secondary sources (quotations and excerpts) to document and illustrate them as part of the analysis.¹³¹

Due to huge dependence on multiple sources from the field work, the data analysis method carried out allows triangulation. Triangulation is the process of bringing to bear on a point multiple sources (multiple interview) and convergent lines of inquiry (interview and observation) supported by official reports and other secondary data.

¹³⁰ Silverman, 123-124.

¹³¹ Neuman, 286, 335.

The triangulation process increases the credibility and validity of result/findings in this research.¹³²

The validity and reliability of the findings of this research could be challenged on the ground that the data obtained cannot truly reflect views of the entire population of IDPs in Nigeria and thus they are not authoritative. This research states in answer that being a socio legal research, the study area and the interviewees purposively selected can truly represent the entire population affected by phenomena of internal conflicts in Jos, because evidence is thorough and comprehensive as it was elicited from persons affected by these crises. In addition, the ethnic, religious and political composition of Jos is particularly unique and likened to a miniature Nigeria. The fact that the views of the selected interviewees are authoritative and the facts and figures presented by them are verifiable is already elaborated in this chapter.

With respect to the comparative case study in this research, this research uses comparative method in analyzing existing qualitative historical data and archival resources from library based sources such as textbooks, official government documents and reports, journal publications, and internet sources¹³³ as research visit was not extended to Sri Lanka and Uganda. The justifications of this method of data analysis has also been elaborated upon in this chapter in view of its relevance to the research questions and objectives.¹³⁴ This makes this method of data analysis apt in the circumstances of this research.

¹³² Silverman, 134; Yin, 3rd ed., 34.

¹³³ Marshall and Rossman, 95.

¹³⁴ Neuman, 310.

1.8 Limitations of the Study

One obvious limitation in this research is the security and safety concerns of the researcher owing to the unpredictable insecurity of Jos during the period of data collection in this research.¹³⁵ As a result, the present researcher focused attention on Jos City centre and the surrounding suburbs of Gangere, Gada, Biu, Bauchi Road, Zaira Road and Bukuru where the interviewees and researcher's safety could be guaranteed in view of heavy presence of security operatives in this areas. As a matter of fact the present researcher was right in Jos for the field work in respect of this research when the bomb explosion of 5th July 2015 occurred.

As regards inability to access authoritative data from the relevant state offices of key institutions in the state because of lack of synergy between relevant government agencies sharing concerns on issue of internal displacement in Nigeria, that was an surmountable challenge as all government institutions dealing with issues of internal displacement in Nigeria are also located in Abuja which is secure and safe, being the seat of Nigerian Government. In this wise, relevant information relating to the internal crises in Jos, Plateau State which is required for the purpose of this research could be retrieved easily from their data base on demand.

There are also limited case law authorities in this research as far courts in Nigeria, Sri Lanka and Uganda are concerned. This is because issue regarding internal displacement is an emerging area of international law, and as such the governing laws and principles are rarely interpreted in courts.

¹³⁵ Daniel M. Goldstein, "Qualitative Research in Dangerous Places: Becoming an Ethnographer of Violence and Personal Safety", *Drug, Security and Democracy Working Papers on Research Security*, No. 1 March (2014):1-18, http://webarchive.ssrc.org/working-papers/DSD_ResearchSecurity_01_Goldstein.pdf (accessed on January 7, 2016).

As a caveat to this research, the laws, facts and information relied upon in this research are up until 30 June 2016.

1.9 Literature Review

Literature review is an indispensable part of legal research as it reveals the researcher's in-depth understanding of the subject area of research as well as justifying the research topic in terms of methodology and designs that are apt in the circumstances.¹³⁶ Such academic exercise aspires to operate within the bounds of the extant research principles such as showing respect for earlier works while not being complacent, but critically focused by not merely engaging in unnecessary narration.¹³⁷ This part of legal research reveal the gaps in previous studies on the subject and also show how the proposed research would accomplish a determined need in filling the identified loopholes through proffering of answers to the research questions.¹³⁸

There is quite a huge number of literature on the subject of internal displacement generally because of the growing apprehension¹³⁹ of the gravity of the problems associated with internal crises in Nigeria. This factor among others also influenced the growing interest in research regarding internal displacement in Nigeria coupled with the fact that the country has also experienced successive internal conflicts which led to massive displacement of its citizens.

¹³⁶ Silverman, 295.

¹³⁷ Ibid., 296-297.

¹³⁸ Marshall and Rossman, 34-35; Yin, 5th ed., 4.

¹³⁹ B.S. Chimni "Globalization and Refugee Blues," *Journal of Refugee Studies*, Vol. 8, 1995; Matthew Rosenberg, "Refugee Law and the Displacement Loopholes" *Hertfordshire Law Journal* 2(2) (2004), 19-25.

By virtue of the scope of this study which is limited to internal displacement in Nigeria with particular emphasis on internal crises in Jos, Plateau State, this review focuses primarily on literatures bearing on internal displacement as a global term and on internal conflicts in Nigeria within the scope of this research as well as on evaluation of existing models of laws and policies applicable to situations of internal displacement worldwide.

However, in order to ensure in-depth and broad based analysis, this review was extended to other relevant works on the subject matter of this research in other jurisdictions.

1.9.1 Global Challenges of Internal Displacement

Walter Kalin and others¹⁴⁰ in their book which is a fifteen chapter work by various contributors and experts on the subject matter of internal displacement examined sundry issues on internal displacement such as rights of internally displaced persons to movement,¹⁴¹ humanitarian assistance,¹⁴² food and water,¹⁴³ evacuations and access to housing,¹⁴⁴ health and basic services,¹⁴⁵ education during displacement,¹⁴⁶ family life,¹⁴⁷ recovery of personal documents,¹⁴⁸ property,¹⁴⁹ issue of employment and the likes,¹⁵⁰ security of job,¹⁵¹ voting and participation in politics,¹⁵² enforcement

¹⁴⁰ Walter Kalin, Rodri C. Williams and Khalid Koser, "Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges", *American Society of International Law, Studies in Transnational Legal Policy* No. 41, (2010): 1-661.

¹⁴¹ Ibid. 9-46.

¹⁴² Id. 47-128.

¹⁴³ Id.129-164.

¹⁴⁴ Id.165-207.

¹⁴⁵ Id.208-246.

¹⁴⁶ Id.247-290.

¹⁴⁷ Id.291-336.

¹⁴⁸ Id.337-362.

¹⁴⁹ Id.363-432.

¹⁵⁰ Id.433-468.

¹⁵¹ Id.469-506.

of obligations to prevent displacement due to natural disasters¹⁵³ and finally displacement as a result of development projects.¹⁵⁴

In the book, the authors reflect on the gravity of the deprivation that continues to be suffered by millions of IDPs worldwide and shows the willingness of growing number of states in addressing the plight of internally displaced persons.

It is abundantly clear from the foregoing review that in order to ensure effective and efficient protection for victims of internal displacement, states must demonstrate proactive will to domesticate the international standard setting norms in Guiding Principles into national laws. The holistic approach undertaken by the authors in addressing several issues bearing on situation of internal displacement is commendable even though the scope is different from the instant research. This research in addition to the foregoing delved into the causes and problems that are peculiar to victims of internal displacement in the case study in order to fill this determined gap.

The work of Cohen and Deng¹⁵⁵ is yet another veritable source that needs to be reviewed as a core text on subject matter of this research. This work paid special attention to the issues of internal displacement in its chapter two and seven. The authors examined the general causes and problems facing this vulnerable group of persons. The book advocated for legal framework aimed at protecting IDPs as a necessary panacea to their plight. This work represents a marked watershed in an

¹⁵² Id.507-550.

¹⁵³ Id.551-590.

¹⁵⁴ Id.591-661.

¹⁵⁵ Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement*, (Washington DC: Brookings Institution Press, 2012):1-414.

attempt to put the issue of internal displacement on the front burner and it is commendable.

Although the study analysed the causes and consequences in addition to setting forth strategies to prevent displacement, it did not situate whether the cause or causes of flight of IDPs are due solely to internal conflict or whether the said movement is either 'forced' or 'voluntary' as critical criterion for internally displaced persons. This research in addition to relying on the general foundation provided in the study identified other causes and problems and situates them within the context of the scope of this research. Be that as it may, the comparative platform provided by this authors is apt and was extensively exploited in the course of this research.

Cohen and Deng in another work¹⁵⁶ analyzed the problem confronting IDPs describing them as persons in dire need of protection. The authors identified absence of legal and institutional framework as the most challenging problem of IDPs. According to the authors, internal displacement has become a global challenge with trans-boundary impacts. The study under review is quite apt as far as this research is concerned as it restated the responsibility of states towards the legal and institutional protection of IDPs. This research in addition to the foregoing scholarly contributions examined other problems facing internally displaced persons due to internal conflict.

¹⁵⁶Roberta Cohen and Francis M. Deng, *The Forsaken People: Case Studies of Internally Displaced Persons*, (Washington DC: Brookings Institution Press, 1998).

This instant research also delved into how far the African Union IDPs Convention's entry into force¹⁵⁷ has further ameliorated or solved the legal problem regarding absence of binding framework in Nigeria.

Ladan in his book¹⁵⁸ addressed the issue of protection of refugees and IDPs' protection in chapter six. The learned author posited that the causes of plight of this groups of persons are diverse and complex. The author like Cohen and Deng, re-emphasized the role of national government as prime bearer of responsibility when dealing with protection and humanitarian assistance of IDPs within their territory.

This study put together in purely Nigerian setting, is significant as the analysis are apt and relevant to the scope and subject of this research. Notwithstanding this, owing to difference in scope of study, the author did not consider the subject in relation to the problems confronting IDPs arising from recurring internal conflicts as exemplified in Jos ethno-religious crises in Nigeria. These are the gaps that this research investigated.

Of equal importance is another writing by Ladan.¹⁵⁹ The learned author in chapter eighteen examined the issues of protection of the rights of refugees and IDPs by restating the definition contained in the Refugee Convention¹⁶⁰ and the Guiding

¹⁵⁷ Entered into Force on the 6 December 2012.

¹⁵⁸ Muhammed Tawfiq Ladan, *Introduction to International Human Rights and Humanitarian Law* (Zaria: Ahmadu Bello University Press, 1999).

¹⁵⁹ Muhammed Tawfiq Ladan, *Material and Cases on Public International Law* (Zaria; Ahmadu Bello University Press, 2007).

¹⁶⁰ United Nations Convention Relating to the Status of Refugees (CRSR) of 1951, <http://www.org/3b66C2> (accessed on January 15, 2014) hereinafter referred to as the Refugee Convention.

Principles.¹⁶¹ The author recognized the formidable challenges brought about refugee and IDPs' plights¹⁶² and that with the ever endless rise in the numbers, there is the likelihood of threat to other regions not initially prone to the problem. In the work deep rooted factors such as unemployment, poverty, unequal distribution of wealth among others as the underlying root causes of internal displacement were enumerated as complex and multi-dimensional.¹⁶³ Most importantly, the learned author also recognized the fact that human rights of this group of persons are inalienable like every other citizens. With respect to displacement arising from internal armed conflicts, the learned author advocated the use of humanitarian laws in the quest to engender effective protection and assistance to victims.

The literature under review is an indispensable resource in the course of this research its contributions are quite immense despite the brevity of information on issue of IDPs. This research in addition extended the analysis to cover more topical issues in this current research.

Furthermore, Agarawal in his book¹⁶⁴ particularly in chapter five dealt with issue of protection of vulnerable groups generally through the interplay of human rights regimes. The author described IDPs as a distinct class different from refugee for reasons that they remained within the territory of their own state and that their protection burden falls under the direct sovereignty of their respective national government and restated the unwillingness of some states to be involved in matters

¹⁶¹ United Nations Guiding Principles on Internal Displacement, UN.Doc. E/CN.4/1998/53/Add2, <https://www.docs.unocha.org/sites/dms/Documents/GuidingPrinciplesDispl.pdf> (accessed on 12 July 2012), hereinafter called "Guiding Principles".

¹⁶² Ladan,

¹⁶³ Ibid.

¹⁶⁴ H.O. Agarawal, *International Law and Human Rights*, 17th edition (New Delhi: Central Law Publishers, 2010) print.

bearing on internal displacement because of the importance they attach to their sovereign integrity.

One important thing to note which the above literature did not contemplate in the course of the analysis is that stern claim of sovereignty have been watered down in Africa as permissive and or consensual interference or intervention in the domestic affairs of states especially in Africa is now allowable in deserving circumstances.¹⁶⁵ The book did not address the specific problems facing IDPs either from global perspectives or the context of the scope of this research.

In another breadth, Ibeanu¹⁶⁶ in his research work examined the causes and other related factors that induces internal displacement of people in Nigeria and traced history of internal displacement from the period of the civil war immediately after the independence to the present times. The author reiterated that successive government has always had the penchant for always downplaying the scale of destruction and human killings associated with internal conflicts. According to the author, the theoretical perception of population displacement is based dominantly on 'forced', 'involuntary migration' or 'voluntary migration' and pointed out the inherent weakness in such contrived delineation.¹⁶⁷ The study reflected on Nigeria's highly fragmented ethnic and religious identities as critical and central to the various internal conflicts that has led to massive displacement in Nigeria. The author

¹⁶⁵ See art. 4(h) of the African Union Constitutive Act 2000 in contradistinction to arts. 2(4) and 2(7) of the United Nations Charter; Ben Koiki "The Right of Intervention under the African Union's Constitutive Act: From Non-Interference to Non-Intervention", *IRRC* No. 85, December (2003): 807-826, http://www.icrc.org/eng/assets/files/other/irrc_852_kioko.pdf (accessed on August 10, 2014).

¹⁶⁶ Ochechukwu Ibeanu, "Exiles in Their Own Home: Internal Population Displacement in Nigeria", *African Journal of Political Science*, Vol.3, No. 2 (1998):80-97, <http://www.archive.lib.msu.edu/DMC/African%20Journals/pdfs/...ajps003002007.p> (accessed on November 12, 2014).

¹⁶⁷ *Ibid.*, 81.

highlighted some internal crises which led to massive displacement of people in Nigeria, such as the oil producing conflicts in the Niger Delta area, communal conflicts which pervades the length and breadth of the country and conflicts tied to democratization process.

It is apt to note that the theoretical analysis of the difficulties in ascertaining the exact number of IDPs in Nigeria which the author ascribed to factors such as lack of information and data is apt for this present research which seeks also to probe into this problem in particular. This research drew from this enormous resource and extend the discourse to issue of challenges facing IDPs in the area selected for case study which was not addressed in the work. This research probed this issue using an in-depth case study to provide rich and thorough information regarding the subject.

Ashiru¹⁶⁸ on his part traced the emerging problems arising from internal displacement to the post-cold war era.¹⁶⁹ The author posited that internal armed conflict as the main factor that provokes human mass movement and that Africa still remains the worst affected continent in terms of internal displacement.¹⁷⁰ The author examined the concept of internal displacement in the context of the Guiding Principles and examined different scenarios in which internal displacement could arise as well and the criteria for their determination.¹⁷¹ The author distinguished refugees as defined under the relevant provisions of the UN Refugees Convention¹⁷²

¹⁶⁸ M.O.A. Ashiru, "Caught Within Their Borders: The Global Crisis Faced by the International Community of Internally Displaced Persons," *Nigerian Current Law Review* (2007-2010): 209-44, <http://www.nials-nigeria.org/journals/NCLR.8.pdf> (accessed on October 15, 2014).

¹⁶⁹ *Ibid.*, 209.

¹⁷⁰ *Id.*, 210.

¹⁷¹ *Id.*, 211-213.

¹⁷² Art. 1 of the United Nations Convention Relating to the Status of Refugee 1951 as amended by the 1967 Protocol, <http://www.unhcr.org/3b66C2> (accessed on January 15, 2014).

from IDPs as prescribed in the Guiding Principles.¹⁷³ Furthermore the article concisely examined the rules and principles of international laws relevant to situation of internal displacement.¹⁷⁴ The author argued that lack of authoritative data in respect of IDPs in Nigeria also constituted a critical problem. The author analyzed as well the role of national governments in situations of internal displacement particularly arising from internal conflicts.¹⁷⁵

The above work is commendable and apt in terms of the depth of analysis undertaken even though the author used only desk library sources in his quest to achieve the objectives of the paper which is to invoke thoughts on the problems of internally displaced persons in Nigeria. The work is an empirical research but fell short of a case study, a strategy which was employed in the instant research.

1.9.2 Legal and Institutional Dimensions of Protection of IDPs

Daudu in a doctoral study¹⁷⁶ analyzed the issue regarding protection of IDPs through legal and institutional measures. The author used Nigeria as focus of study and adopted content analysis as its methodology. The learned author distinguished refugees from IDPs using the internal/external dichotomy as the basis of distinction of the two vulnerable groups.¹⁷⁷ The thesis identified the causes and background of the problems associated with internal displacement in Nigeria¹⁷⁸ which the author grouped together in a seemingly complex manner as political,¹⁷⁹ economic¹⁸⁰ and

¹⁷³ See Principle 2 of the Guiding Principles.

¹⁷⁴ Ibid. 219-227.

¹⁷⁵ Id., 229.

¹⁷⁶ Benedicta Daudu, *Legal and Institutional Framework for the Protection of Internally Displaced Persons in Nigeria*, PhD Thesis, University of Jos, Nigeria (2010):1-157.

¹⁷⁷ Ibid., 29-48.

¹⁷⁸ Id., 49-67.

¹⁷⁹ Id., 70.

¹⁸⁰ Id., 72-75.

social.¹⁸¹ The work examined the historical evolution of human rights and constitutional safeguards¹⁸² and existing institutional frameworks that are applicable to IDPs in Nigeria such as those created under the Nigerian Constitution such as the National Commission for Refugees Act and the National Emergency Management Agency Act.¹⁸³ The author also proffered prospect for a legal framework on IDPs¹⁸⁴ and the application of minimum humanitarian standards for the protection of IDPs.¹⁸⁵ The contribution of this study is significant being the first of its kind in Nigeria to be undertaken regarding issues of internal displacement at the level of a doctoral study. The analysis of the issues contained therein are bold, convincing and compelling in all respects. This research which is an in-depth case study went a step further in analyzing the problems facing IDPs in a much more practical and non-theoretical form. The hallowed classification of the problems facing IDPs into political, economic and social problems does not in the respectful view of this researcher transmit ready meanings to policy makers in the search for an enduring solution to IDPs problems in particular.

The work under review did not address weaknesses in the laws governing internal displacement in Nigeria and also the analysis was not tied to any particular internal crises in Nigeria. This is one gap that was filled in the instant research.

¹⁸¹ Id., 76-80.

¹⁸² Id. 81-107.

¹⁸³ Id., 108.

¹⁸⁴ Id., 128-131.

¹⁸⁵ Id., 137.

While advocating for greater protection for IDPs through legal and institutional strategy in Nigeria, Kolawole¹⁸⁶ examined the immediate causes of internal displacement and its consequences on displaced persons. According to the author the problems of internal displacement have become a global challenge of international community.¹⁸⁷ Frequent outbreak of internal conflicts such as communal and religious riots, political violence, rifts between pastoralists and farmers and recently the Boko Harm insurgency also contributed to the growing rise in the numbers¹⁸⁸ of persons displaced within Nigeria. However, the author admitted and rightly too that there are dearth of authoritative data of IDPs in Nigeria. The author delved into the legal dilemma surrounding refugee and IDPs owing to the close nexus between internal and external dichotomy by examining the relevant provision the Refugee Convention and the Guiding Principles.¹⁸⁹ The article identified top most problems facing IDPs in Nigeria, to include absence of authoritative data, absence of binding document prescribing enforceable legal minimum standards and fragmented institutional response amongst others.

In assessing the African Union leadership in human migration treaty, the author considered the role of the regional organization in the protection of displaced persons within their own state culminating in the emergence and eventual coming into force of the African Union IDP Convention.¹⁹⁰ The author established that non-enforcement of the social, economic and environmental rights which are also applicable to situations of internal displacement before domestic courts in Nigeria

¹⁸⁶ Adeejat-Kubra Adenike Kolawole, "Towards the Evolution of Legal and Institutional Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria", *International Journal of Sustainable Development* 06.05 (2013):141-154, <http://www.ssrn.com/link/OIDA-Intl-Journal-sustainable-Dev.html> (accessed on 20 February 2014).

¹⁸⁷ *Ibid.*, 142.

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*, 143.

¹⁹⁰ *Id.*

further compounded the problems of IDPs. The work is significantly relevant in many perspectives to this research, more particularly due to its recognition and examination of some of the problems facing IDPs which is the central theme and crux of this research.

Furthermore, unlike analysis contained in the study which is too generalized without pointing to any particular internal conflicts in Nigeria for close scrutiny, this research probed directly into internal conflicts typified in the case study and situated the emerging findings in line with dictates of the research questions in this research.

Abebe¹⁹¹ in an article clearly posited that Africa hosts the highest estimates of IDPs in the world.¹⁹² The author traced the evolution of framework for protecting internally displaced persons from the initial mandate of the Secretary General's Representative (SGR) which gave birth to the guiding but not binding-Guiding Principles on Internal Displacement as an entirely "new diplomacy" which surpassed the boundaries of traditional international norms associated with treaty making process in that it incorporated non-governmental actors into the web of arrangements regarding protection of IDPs.¹⁹³

The article also examined the limitations of international humanitarian response and the emerging regional approach in Africa for the protection of IDPs which

¹⁹¹ Allehone Mulugeta Abebe "Legal and Institutional Dimensions of Protecting and Assisting Internally Displaced Persons in Africa", *Journal of Refugee Studies*, 2009):115-176, <http://www.jsr.oxfordjournals.org/content/22/2/155abstract.pdf> (accessed on July 12, 2013).

¹⁹² Ibid.

¹⁹³ Ibid.

culminated into the making of the African first human rights treaty.¹⁹⁴ According to the author, it is a development that carries with it far-reaching implications in Africa's quest to resolve the lingering menace of internal displacement.¹⁹⁵ The work also identifies ineffectual institutional arrangement as key problem to protection of internally displaced persons in Africa.¹⁹⁶ The provisions of the Great Lakes IDP Protocol being the first step in the right direction as far as IDPs in the Great Lakes Region of Africa was examined as well. The work is comprehensive in relation to internal displacement in the context of African states

However the study was conducted with primary focus on the Great Lakes Region,¹⁹⁷ consequently the discussions and specific findings in the work may not aptly fit into the context of the present research. This instant research in addition to the foregoing examined how legal and institutional gaps impede protection of IDPs within the scope of the present research. In any case and with the problems still raging in Nigeria, this research relied on area of successes in the application of Great Lakes IDPs Protocol in the search for solutions to internal displacement in Nigeria.

In addition, Lwabukuna¹⁹⁸ examined the prospect of an all-encompassing legal and policy frameworks for the protection of IDPs in Africa as a whole. The learned author looked at the socio-legal issues and problems in respect of internal

¹⁹⁴ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009) but entered into force on 6 December 2012, <http://www.au.int/en/.../Convention%20on%20IDPs%20-%20displaced..pdf> (accessed on November 6, 2014) hereinafter called the Kampala convention).

¹⁹⁵ Abebe,

¹⁹⁶ Id.

¹⁹⁷ Id.

¹⁹⁸ Olivia Kokushubila Lwabukuna, *Reflections on the Possibility of a Comprehensive Framework for the Protection of IDPs in Africa's Great Lakes Region*, LLD Thesis, University of Pretoria, South Africa, 2012):1-326,<http://www.repository.up.a.za/bitstream/handle/2263/28365/Complete...pdf...9> (accessed on July 10, 2013).

displacement in Africa's Great Lakes Region. The scope of the dissertation is the Great Lakes Region which include eastern, central, and some parts of southern Africa. The region had witnessed several inter and intra-state conflicts for past couple of years and even with the cessation of hostilities in some prominent conflict ridden zones like Sudan and the Democratic Republic of Congo, the indelible negative implications of the same has become more worrisome in view of the magnitude of IDPs the internal crises has generated in the region.¹⁹⁹ According to the author, profound attempts have been made within the region to address issues and challenges of internal displacement.²⁰⁰ The study in the final analysis proposed the need for an all-embracing legal frameworks that will ease codification of existing standards of protection. The work posited that mechanisms for monitoring of compliance of existing frameworks is absent. The study suggested ingenious reliance on African systems and their conceptual contributions as alternative strategies to the resolution of conflict and displacement in Africa and the Great Lakes in particular and also made comparative reference to national attempts aimed at addressing problem of internal displacement in Kenya and Uganda.

This work is comprehensive as it dealt with all aspects of the legal issues and problems confronting IDPs in the Great Lakes in particular and Africa in general. The intellectual discourse engaged by the learned author on the existing legal and institutional mechanisms for the protection of IDPs and the author's creative exploratory analysis into conceptual protection underlined in both international

¹⁹⁹ As per Internal Displacement Monitoring Centre (IDMC) Global Overview 2013. It is the region in Africa with the highest number of IDPs.

²⁰⁰ The Great Lakes Region is the first to conclude a sub -regional treaty on internal displacement- International Convention on the Great Lakes Region, http://www.Kas.de/wf/doc/kas_21242-544-2-30.pdf (accessed on July 10, 2013) and it's IDP Protocol, <http://www.refworld.org/pdfid/52384fe44.pdf> (accessed on July 10, 2013).

humanitarian laws and international human right laws to situations of internal displacement as a new strategy is quite impressive.

Alemayehu²⁰¹ in a study did an outline of the concept of IDPs by defining and contrasting the same with refugees.²⁰² The author analyzed impact of internal displacement and gave the corresponding global statistics. The study also examined existing framework relevant to the protection of IDPs.²⁰³ The work delved into new frontiers by analyzing the role of African Commission on Human and People's Right and Its Special Mechanism.²⁰⁴ This work is commendable, even though specific problems facing IDPs within the scope of this research was not clearly outlined for reasons of differences in scope. This research relied heavily on the analysis of the author bearing on weaknesses in the existing IDPs' frameworks in Africa insofar as it relates to this research.

Ndubuisi in a study²⁰⁵ which is centered on how humanitarian measures can be utilized to enforce human rights. Humanitarian interventions according to the author is a "coercive action by one or more states involving the use of armed force in another state without the consent of its authorities and with the purposes of preventing widespread sufferings or death amongst the inhabitants".²⁰⁶ The author

²⁰¹ Admasu Alemayehu, *The African Internal Displacement Problem and the Responses of African Union: An Examination of the Essential Features of the AU IDP Convention*, LL.M/ Ph.D Thesis, Addis Ababa University, (2010):1-147, <http://www.etd.aau.edu.et/dspace/bistream/.../2136/1/Admasu%20Alemayehu.pdf> (accessed on July 10, 2013).

²⁰² Ibid.,13-16.

²⁰³ Id., 28 – 41.

²⁰⁴ Id., 101–118.

²⁰⁵ Anthonia Omoze Ndubisi, *Evaluating the Effectiveness of Humanitarian Intervention as a Tool for Enforcing Human Rights*, LL.M. Thesis, University of Pretoria, (2012):1-66, <http://www.upetd.up.ac.za/thesis/available/etd-11302012-151018/.../dissertation.pdf> (accessed on November 10, 2014).

²⁰⁶ Ibid., Ndubisi quoting Danish Institute of International Affairs "Humanitarian Intervention: Legal and Political Aspects" Copenhagen (1990):11.

stated that humanitarian intervention has watered down the absolute claim of sovereignty²⁰⁷ and examined the relationship between principles of customary international law and humanitarian intervention on the one hand, treaty and humanitarian intervention on the other hand.²⁰⁸ The author anchored the legal basis for humanitarian intervention on the United Nations Charter in that provides for preservation of international of peace and order. The learned author in bringing home the discussion to Africa examined the place of humanitarian intervention in the light of the African systems.²⁰⁹ The author posited that despite the unprecedented right of intervention granted by the AU Constitutive Act 2000, the power to exercise the same is limited by lack of adequate finance and manpower.²¹⁰

Finally the work examined case studies of state practices insofar as it relates to law and policies on internal displacement ²¹¹ in a bid to evaluating the effectiveness of humanitarian intervention as a tool for enforcing human rights as well as indicating inherent flaws associated with humanitarian interventions such as the unintended killings, displacement of civilian population and abuse and discrimination.²¹²

The work's relative importance is underscored by the nature of the research questions in the present research which seeks to recommend to relevant government agencies and policy makers in Nigeria on the way forward to addressing the challenges confronting IDPs in Nigeria. Today it is indisputable to state that owing to

²⁰⁷ Ibid., 8-9.

²⁰⁸ Id., 15-16.

²⁰⁹ See article 4(h) of the African Union Constitutive Act as amended, http://www.au.int/en/sites/default/files?ConstituiveAct_EN.pdf (accessed on January 20, 2014). The Act seeks to extend its powers beyond whatever the United Nations Charter seeks to prescribe and under which every State Party to the AU Charter is bound to honour under the extant principles of *pacta sunt servanda*..

²¹⁰ Ndubisi, 23.

²¹¹ Ndubisi, 30-41, the States studied are Bosnia- Herzegovina, Afghanistan, and Somalia.

²¹² Ibid., 43.

absence of binding legal framework for the protection of IDPs, international humanitarian laws and conceptual foundations contained therein which are aimed at enforcing human rights can also be directed at protecting IDPs arising out of human rights violations which they are confronted. This intervention in no small measure could engender hope for over thirty (30) million of these vulnerable persons in the world which also included those displaced in the context of the internal crises subject of the present research. However, since the crux of this research is in respect of IDPs and their challenges in Nigeria, findings in the literature under review may not appropriately fit into the questions and objectives of this research.

Dalhatu ²¹³ agreed that IDPs are on the same pedestal with refugees in terms of the need of protection and consequently IDPs are also persons of concern to the United Nations High Commissioner for Refugees (UNHCR), given that IDPs lacks requisite institution to cater for them like refugees. The article is significant as it showed some level of connection between the popular mandates of UNHCR and the emerging need to extend same to IDPs. The study addressed the problems that are peculiar to refugees alone, nevertheless, it provided an intellectual basis when addressing the definitional difficulties surrounding the term ‘internally displaced persons’ which is a critical element in the instant research in order to properly situate victims in the case studies of this research. The present research goes a step further beyond these limited parameters to identify causes and problems of internal displacement in the selected area of case study.

²¹³ M.B. Dalhatu,” United Nation’s Mechanism for the Protection of Refugees Rights: A Case Study of UNHCR”, *Ahmadu Bello University Zaria Law Journal*, Vol.25 – 26 (2006 -2007):89-98.

In addition, Olagunju²¹⁴ carried out field research documenting the challenges faced by the Nigerian government and Non-Governmental Organizations (NGOs) in a bid address the numerous problems facing IDPs in the light of February/May 2000 communal conflicts in Kaduna, Northern Nigeria as an example and focus of the study.²¹⁵ The field research is empirical in nature and focused on how to prevent and better manage problems associated with internal displacement in Nigeria. The study recommended that government and relevant non-state actors need to consider economic issue of unemployment, effective policing and respect for rule of law, among others. The author traced the origin of internal conflicts in Nigeria to the civil war which began in 1966. The author unfortunately did not address the problems and weaknesses in the legal framework for the protection of IDPs in Nigeria which are in the respective view of this researcher is central to any assistance that may be granted to these persons of concern. The analysis and the accrued findings in the research are limited insofar as the focus is only on Kaduna State, but this researcher concedes that the site investigated by the author is also notorious for communal and religious violence in Nigeria.

Ferris²¹⁶ in an article examined state of IDPs in Africa by identifying that Africa has more of IDPs than refugees.²¹⁷ Unlike refugees, in Africa also there are no dedicated agency for IDPs' protection worsened by the corresponding systems for addressing

²¹⁴ Olajide Olagunju, "Management of Internal Displacement in Nigeria", *Working Paper*, No. 35 (2006):1-61, <http://www.35-displacement.pdf-Adobe Reader> (accessed on July 27, 2014).

²¹⁵ *Ibid.*, 2-3.

²¹⁶ Elizabeth Ferris, "Internal Displacement in Africa: An Overview of Trends and Opportunities", Paper presented at the Ethiopian Community Development Council, Annual Conference, African Refugee and Immigrant Lives: Conflicts, Consequences and Contributions, Addis Ababa, 2-4 May 2012):1-12, www.brookings.edu/...displacement-africa-ferrise/0...Brookings Institution (accessed 12 August 2013).

²¹⁷ *Ibid.*, 1.

their problems which is indeed too weak.²¹⁸ The author argued that the obvious problems associated with internal displacement includes loss of right of document of titles to land and property upon their return because of African traditional holdings which forbids individual rights, insecurity, absence of official IDPs camp and authoritative data.²¹⁹ Electoral violence is equally recognized as one factor that propelled massive displacement in the African context.²²⁰ The author contextually examined Kampala Convention by way of an overview²²¹. This is a unique contribution to literature on internal displacement in Africa as a whole, in that some of the challenging problems facing IDPs were clearly identified and outlined in an African context.

However the article did not identify problems and challenges in the light of any known internal crises that has led to internal displacement in any county within Africa. This obvious limitation makes the discussions and consequential findings though appropriate in some respect too generalized. This gap was filled in this research in that other legal problems/challenges facing IDPs within the scope of this study were thoroughly examined.

Lwabukuna²²² analyzed issues regarding internal displacement in the context of the Great Lakes Region (GLR) which comprised of some eastern, central and southern African states.²²³ The author examined internal displacement within the frameworks

²¹⁸ Id., 2.

²¹⁹ Id.

²²⁰ Id.

²²¹ Id., 6-12.

²²² Olivia .Kokushubila Lwabukuna, "Internal Displacement in Africa: African Solutions to African Problems. Challenges and Prospects", *Journal of Internal Displacement*, Vol. 1, No. 1, (2011):131-141, <http://www.journalofinternaldisplacement.org> (accessed on July 30, 2014).

²²³ Ibid., 131-132.

of the Guiding Principles and the Great Lakes IDP Protocol.²²⁴ An overview of problems arising from internal displacement due to internal conflicts in selected countries within the Great Lakes region was examined by the author as well.²²⁵ Reasons or factors that led to internal displacement were clearly identified. The author also examined existing international, regional and sub-regional legal and institutional framework put in place to assist and protect the internally displaced persons. The author also made profound contributions to raging debate on who is an internally displaced persons (IDPs) by reviewing the definition contained in the Great Lakes IDP Protocol.²²⁶ The article in conclusion enumerated the problems of internal displacement such as abdication of responsibility by national governments; stern claim of state sovereignty, hindrances to humanitarian access, and inability to provide or facilitate durable solutions for IDPs.²²⁷

The foregoing represents a milestone in an attempt to give a sound academic clout to the vexed issues of internal displacement in the African continent. The author's industry and ingenuity in achieving this research feat is impeccable for reasons that the findings are clear and lucid. However, the scope is different from the research at hand.

1.9.3 Internal Displacement Arising from Jos Crises

Internal displacement due to recurring internal crises in Jos has gained attention from many perspectives owing to its notoriety and severity coupled with the ill attractions these incidences has reaped for a city once described as the safest place to live in

²²⁴ Entered into Force in 2006.

²²⁵ Lwabukuna, (2011):132-135.

²²⁶ Ibid. 135-136.

²²⁷ Id., 139.

Nigeria and proudly known as the “Home of Peace and Tourism”. The events following sad experience of years of ethno-religious and political conflicts and suicidal attacks aggravated by recent bomb explosions in Jos has led to the present cynical characterization of the city as “City of Pieces and Terrorism”.²²⁸

Diram²²⁹ in an article examined the history and causes of Jos crises and how it has led to an upsurge in the number of IDPs in the Plateau State. The author while discussing this trend examined the definition of IDPs as defined in the Guiding Principles²³⁰ and posited that in relying on these conditions victims of Jos crises would conveniently be described as IDPs. The author argued that there is an imperative need for an enhanced legal protection of IDPs in Nigeria generally. The study provided some clarifications concerning the definitional debate regarding IDPs which is one of the critical elements in this research. Even though the problems facing IDPs in Jos Plateau State was not clearly spelt out and examined by the author. This research filled this gaps by providing detailed analysis of the nature and background of the problems facing IDPS in the study and made suggestions on the way forward.

Ogbozor and Quintiliani ²³¹ while focusing on the Jos crises noted that certain challenges/ barriers impede effective coordination of humanitarian response to situations of internal displacement. The author described humanitarian response in

²²⁸ Omotosho.

²²⁹ A.H. Diram, “Legal Framework for Protection of Internally Displaced Persons in Nigeria: A Case of Jos Crisis”, *Journal of Public and International Law*, ABU Zaria, Vol.1, No. 3 (2009):45-53.

²³⁰ Ibid.

²³¹ Ernest Ogbozor and Pierrette Quintiliani “Barriers to Effective Coordination in Humanitarian Response: The Jos Experience, North –Central Nigeria” Paper presented at the Second World Conference on Humanitarian Studies, Medford, USA, 2-5 June (2011), part 2, http://www.academia.edu/.../Barriers_To-Effective_Coordination_In_Humanitarian_Response_the_Jos_Experience_North_Central_Nigeria.doc (accessed on November 10, 2014).

the context of Jos crisis as inconsistent and most incoherent as agencies scamper for dominance and supremacy. Jos, Plateau State has been at the front row of recurring internal conflicts with causes varying from religious, economic to political.²³² The article under review provided a rich resource for this research in that it is an investigation of an area that is of keen interest to this research notwithstanding the fact that it is essentially based on library sources.

Oduwole and Fadeyi²³³ in their work evaluated the situations of internal displacement in Nigeria agreeing with a learned author²³⁴ that “the plight of internally displaced persons has become a formidable problem of global significance with far reaching implications for national development”.²³⁵ The authors attributed human displacement across the country to violence associated with inter-ethnic and communal clashes and armed conflicts with roots tied to religious and political differences.²³⁶ The article did an overview of extant frameworks for the protection of IDPs while examining from the perspectives of the geo-political zones in the country specific instances of internal displacement. The author furthermore identified other problems such as absence of official IDPs camps for IDPs and lack of authoritative data on IDPs as key setbacks to their protection and assistance.²³⁷ The paper also delved into roles of national governments as primary bearer of responsibilities for the prevention and protection of IDPs.²³⁸ The study examined particularly ethno-

²³² Id.

²³³ Tajudeen A. Oduwole and Adebayo O. Fadeyi, “Issues of Refugees and Displaced Persons in Nigeria”, *Journal of Sociological Research*, Vol. 4, No 1 (2013):1-18, www.macrothinkinstitute.org/jsr (accessed on 27 July 2014).

²³⁴ Ashiru, 209.

²³⁵ Oduwole and Fadeyi.

²³⁶ Ibid., 5.

²³⁷ Id., 5-6.

²³⁸ Ibid.

religious crises in Jos that have led to loss of lives and properties²³⁹ and in addition some images of the victims of internal displacement in Nigeria were provided.²⁴⁰ The paper concluded that government needs to address the causes of internal displacement by taking right steps in resolving conflicts so as to promote peaceful co-existence amongst the citizens from diverse backgrounds and also show due regard for the rights of its citizens including IDPs.²⁴¹

The article is an important resource for the instant research as it addressed issues and problems in an ideal context typified in the case study of this research. This research apart from relying on the findings and recommendations in the article examined other problems not enumerated by the authors in order to suggest appropriate recommendations as a way forward.

Similarly, Osaretin and Akov²⁴² in their study examined the complexities of internal conflicts experienced in Nigeria by positing that ethno-religious conflict has become more of a tradition in the Jos city. The authors in their analysis linked this intractable internal crises to rifts between adherents of the two prominent religion practiced in the city, Christians and Muslims on one hand and the disputes between indigenes and settlers on the other hand. The paper recommends review of the constitutional provisions relating to citizenship.²⁴³ The work further recognized the plural and fragmented nature of Nigerian ethnic nationalities and found that these triggers are also implicated in internal crises rocking Jos.

²³⁹ Id., 10. See also Punch Newspaper (Nigeria), 11 September 2011.

²⁴⁰ Id., 11-12.

²⁴¹ Id., 16.

²⁴² Idahosa Osaretin and Emmanuel Akov "Ethno- Religious Conflict and Peace Building in Nigeria: The Case of Jos, Plateau State", *Academic Journal of Interdisciplinary Studies*, Vol.2, No.1 (2013): 349-360, <http://www.mcseser.org/journal/index.php/ajis/article/viewFile/89/86> (accessed on November 11, 2014).

²⁴³ Ibid., 349.

The author's apt recognition of ethnicity and religious differences as key causes of internal crises in Jos is remarkable. The present research in addition delved into an in-depth examination of the legal challenges faced by IDPs in Nigeria as a result of internal conflicts as same was not considered in the article under review due to its sociological and non-legal nature.

Arazeem and Saka²⁴⁴ examined impact of ethno-religious conflict on Nigeria's nascent democracy. The work investigated the history of internal conflicts in Nigeria²⁴⁵ and concluded that good governance, accountability, job creation and restructuring of Nigeria's federalism is key to solving these problems in Nigeria which also bear on IDPs. The authors agreed that in Nigeria, there are limited authoritative statistics on IDPs and where they exists at all they are often than not misleading²⁴⁶ and that ethnic and religious intolerance are triggering factors that has led to internal crises which ultimately led to displacement of people as far as internal conflicts in Nigeria is concerned. One other cardinal findings of the paper is the fact that the recurring conflicts thrive so freely because of the nature of the Nigeria's colonial history²⁴⁷ and that fragile foundation laid by the British colonial administration through marriage of convenience in 1914 provided the grounds for ethno-religious conflicts. The authors assessed the negative implications of the long years of military rule to the surge in ethno-religious conflicts in Nigeria.²⁴⁸ The article examined concerted efforts made by successive Nigerian government to

²⁴⁴ Ali Arazeem, Abdullahi and Saka L., "Ethno-Religious and Political Conflicts: Threat to Nigeria Nascent Democracy", *Journal of Sustainable Development in Africa*, Vol.9, No. 3 (2007):21-36, <http://www.unilorin.edu.ng/publications/Ethnos/pdf> (accessed on November 15, 2014).

²⁴⁵ Ibid.

²⁴⁶ Id., 22.

²⁴⁷ Id., 28.

²⁴⁸ Id., 31.

address these problems through creation of states and local government and introduction of federal character into the constitution which has its own limitations.²⁴⁹

The article under review is important to the present research apart from the general analysis and the findings that ethnicity and religion provokes internal displacement in Nigeria. This research being an in-depth case study in addition to the foregoing investigated to what the extent these intervening variables affects pattern of internal displacement in the case study of this research.

Fawole and Bello ²⁵⁰examined impact of this social impasse on national development by identifying that it has left the nation contextually enmeshed in mutual suspicion among the various ethnic constituents.²⁵¹ The authors defined what is meant by ethno-religious conflict to drive home their point of argument while recognizing the peculiarity and plurality of ethnic nationalities in Nigeria.²⁵² Brief mention was made of the Jos crises as one established case wherein ethnicity and religious differences have played themselves out to the extreme.²⁵³ The authors did not address issue of internal displacement directly. This researcher applied the analysis and techniques of an in-depth case study undertaken by the authors.

²⁴⁹ Id., 32.

²⁵⁰ O.A. Fawole and M.L. Bello, "The Impact of Ethno-Religious Conflict on Nigerian Federalism," *International NGO Journal* Vol.6, No.10, October (2011):211–18, Doi:11.5897/NGOJ11.020 (accessed on July, 30, 2014).

²⁵¹ Ibid., 212-213.

²⁵² Id.

²⁵³ Id., 216 -217.

Ethnic and religious differences creates deepening mistrust among the inhabitants has been identified by Uhumnuangho and Aluforo²⁵⁴ as the most prominent factors that has repeatedly provoked internal conflicts in Nigeria. The authors examined the challenges involved in managing ethno-religious conflicts in Nigeria with particular focus on Plateau State²⁵⁵ while setting out the poser; whether lack of capacity of security agencies to bring perpetrators before the wrath of law constitutes any challenge to conflict management in the Plateau State.²⁵⁶ The authors looked at the meanings and contexts of ethnicity and religion with reference to Jos, Plateau State. In conclusion the article recommended that Nigerian government should adopt more pro-active measures such as good governance, consultation, communication, alternative disputes resolution (ADR) techniques among others in addressing the emerging problems from internal conflicts.²⁵⁷

The study is significant as it authoritatively dealt with the vexed issues surrounding recurring internal crises in Jos, Plateau State and more importantly revealing that the crises has negatively impacted the citizens whose affairs has not been effectively managed by the state, agreeing further that there are the unaddressed key problems. This research relied on the foundation provided in the work and probed further into other problems faced by IDPs in a more elaborate context

²⁵⁴ Sunday Okungbowa Uhumnuangho and Alufuro Epelle, "Challenges and Solutions to Ethno-Religious Conflicts in Nigeria: Case Study of the Jos Crises", *Journal of Sustainable Development in Africa* Vol.13, No.5 (2011):109-124,<http://www.jsd-africa.com/.../PDF/Challengesand20%20to%20Et> (accessed on October 12, 2014).

²⁵⁵ Ibid., 111.

²⁵⁶ Id., 119-120.

²⁵⁷ Id., 121.

With respect to the ravaging incidence of bomb explosion in Jos, Musa Salleks Yaks in his article²⁵⁸ examined the impact of Boko Haram attacks orchestrated series of bomb explosions and suicidal attacks in Jos. The author also critically analyzed the close association of these attacks with the militant sect-Boko Haram because of its choice of attacks on Churches and market places. The article admitted that the spate of explosions in Jos is entirely a new phenomenon different from the ethno-religious crises in Jos and examined two of these incidence such as the 24th December 2010 explosion and that of the Bus Station attacks in May 2014. In particular the author tabulated clearly the nature and timeline of bomb explosions in Jos. The author suggested a shift in the methodology of prevention and in the arrest of culprits through proactive intelligence gathering. This is in addition to government providing basic necessities and means of sustenance to the unemployed who may be conscripted as mercenaries.

This work is apt given the scope of case study II of this research despite the fact it is library based. In addition this researcher explored into other legal issues and problem unexamined by the author using in-depth interview supported by other methods of data collection in investigating the issues and problems in relation to the scope of the present research.

²⁵⁸ Musa Sallek Yaks, "In the Name of Boko Haram: A Relapse of the Jos Violent Conflict", *Journal of Research in Humanities and Social science*, Vol. 2, Issue 7 (2014):77-85, www.quesjournals.org, (accessed January 13, 2016).

1.9.4 Impact of Internal Conflicts in Nigeria

The negative impact of conflict induced displacement on the nation is enormous, Okulaja, Ajayi and Ogungbenro ²⁵⁹ examined the effect of internal conflicts on real estate development in selected Nigerian cities.²⁶⁰ The authors stated that in Nigeria, the causes of internal displacement includes inter and intra-communal and ethnic conflicts, political violence and natural disasters such as flooding. In other words, displacement could be triggered by human or natural factors.

The authors posited that irrespective of the cause of the displacement, its leaves negative socio-economic implications for the country²⁶¹ and that the investment climate in Nigeria has been bedevilled with fear of insecurity as violent atrocities being committed by ethnic and sectarian militias in Nigeria has gradually turned daytime into darkness as incessant violence are perpetuated brazenly. Rents have gone astronomically high due to violence which creates stress on existing urban infrastructures due to rural to urban migration.²⁶² In the same manner, in the heat of violence most houses and properties are destroyed, looted or burnt down.²⁶³ The study revealed that due to recurring internal conflicts in some parts of Nigeria value of residential properties have gone up especially in Nigeria's North-east especially in the wake of Boko Haram insurgency in the North East. The cost of rebuilding this structures inevitably places heavy economic burden on States within the zone.

²⁵⁹ Michael A. Olukayo, Mary A. Ajayi and Matthew T. Ogungbenro, "Crisis Induced Internal Displacement: The Implication on Real Estate Investment in Nigeria", *Journal of Economics and Sustainable Development*, Vol.5, No.4 (2014):39-48, <http://www.iiste.org/Journals/index.php/JED/article/download/.../11583> (accessed on 12 November 2014).

²⁶⁰ Such as Ekiti, Ogun, Ondo and Oyo States in Nigeria.

²⁶¹ Olukayo, Ajayi and Ogungbenro, 39-40.

²⁶² Ibid., 41.

²⁶³ Ibid., 42.

This is an important contribution to this research as problems of housing are also applicable and prevalent within the context of the case study area. However by reason of the fact that the work under review fell short of a case study investigation, this researcher went a step further to ascertain and analyse the problems of internal displacement within the context of internal crises in Jos and situated the ensued impact in proper perspectives.

Nwagboso²⁶⁴ examined the impact of internal conflicts in relation to Nigerian economy. The author opined that due to increasing insurgencies in Nigeria government spending on security related matters has gone astronomical. The study examined the causes and problems of internal conflicts and highlight the fact that the role of security agencies in Nigeria need to be re-evaluated.²⁶⁵ The author also carried out case studies of internal conflicts amidst the security challenges in Nigeria and made recommendations that would improve the security arrangement capable of suppressing the daunting challenges.²⁶⁶

Notwithstanding the fact that the problems of internal conflicts was investigated from purely economic perspective in this article, the findings and recommendations are of immense significance in this research.

Oriakhi and Osemwengie ²⁶⁷ analyzed the relationship of recurring internal conflicts to economy in respect of foreign investment in Nigeria which have been hampered

²⁶⁴ Chris N. Nwagboso, “ Security Challenges and the Economy of the Nigeria State (2007- 2011” *American International of Contemporary Research*, Vol. 2, No. 6 June (2011):248-258, www.ajcnet.com/journals/Vol_2.../28.pdf (accessed on August 28, 2015)

²⁶⁵ Ibid., 245.

²⁶⁶ Id., 256.

²⁶⁷ Dickson Oriakhi and Preseley Osenwengie, “The Impact of National Security on Foreign Direct

due to the non-availability of conducive atmosphere for foreign investments by nationals or corporate bodies from abroad. According to the authors internal crises breed uncertainty in investment by eroding the necessary guarantees of sustainable returns. This empirical study examined the interrelationship between security challenges and the Nigerian economy²⁶⁸ and brought to the fore other effects of the internal conflicts and the enthroned insecurity beyond the traditional paradigm of internal displacement. However beyond that the study by its nature is far from examining how victims are negatively impacted by the internal conflicts and insecurity.

1.9.5 Existing Models of Law and Policy on Internal Displacement

Effective protection of IDPs depends largely on the political will to domesticate and institutionalize existing frameworks on internal displacement. This certainly cannot be done in vacuum unless there is a standard or model for states to follow. Such a benchmark in order not to be short of relevance ought to take cognizance of the differences in the nature, cause and pattern of internal displacement which in most cases vary from one country to another.

Wyndham²⁶⁹ identified the theories/ models of law and policy applicable in situations of internal displacement in the light of relevant State practices. According to the author, several states from Colombia to Sri Lanka, Uganda to Turkey among others have developed national laws to reflect the Guiding Principles, stating that it is a

Investment in Nigeria: An Empirical Analysis”, *Journal of Economics and Sustainable Development* Vol. 3, No. 13, (2012):88-96, <http://www.pakacademicsearch.com/journals/520/3/.../3252> (accessed on August 28, 2015).

²⁶⁸ Ibid.

²⁶⁹ Jessica Wyndham, “A Developing Law and Policy on Internal Displacement”, *Human Rights Brief* (2006):7-32.

welcome development in that such initiative restates the primary responsibility of national government in assisting and protecting displaced population.²⁷⁰

In the article the author examined laws and policies that have been developed by the states as well as models that has been created. Pre-requisite tools that will assist legislators in fashioning out laws and policies based on the peculiarity of each state in consonance with the Guiding Principles was similarly identified. Four different but closely related models were identified by the author namely: Adoption Model; Specific Cause or Stage of Displacement Model; Specific Right Model; and, Comprehensive Law or Policy Model.²⁷¹

The first is the adoption model which denotes the use of one single instrument to adopt in wholesale the provisions of the Guiding Principles into national law. The best and commonest example is the Liberia's one page Instrument of Adoption²⁷² which refers to the Guiding Principles as a veritable source of protection and reference in matters of internal displacement. The criticism that has been levelled at this model is that such wholesale incorporation will deny relevant stakeholders the opportunity of making necessary inputs on issues that are of peculiar concerns to IDPs within the country leaving out many issues unanswered.²⁷³ This is because the Guiding Principles themselves are abstract rules and principles.

In the second model, a domestic legislation is developed in response to specific cause or stage of displacement. At first this model suggests strict adherence to peculiarity

²⁷⁰ See Principle 3 (1) of the Guiding Principles.

²⁷¹ Id., Wyndham, 8.

²⁷² Guiding Principles on Internally Displaced Persons, Instrument of Adoption, Liberia (2004), http://www.brookings.edu/fp/projects/idp/_Liberia_GPadoption.pdf (accessed on July 12, 2014).

²⁷³ Id., Wyndham, 8.

of individual states. The typical examples is the Angolan “Norms on the Resettlement of Internally Displaced Population”²⁷⁴ developed mainly to solve the problems associated with return and resettlement and the Indian “National Policy on Resettlement and Rehabilitation for Project Affected Families of 2003”²⁷⁵ which was developed to mitigate problems arising from development projects. With the exception of India, most instruments in this category share two features in that they are directed essentially at internal displacement due to internal conflicts and meant to address existing situations of displacement.²⁷⁶

The third model, unlike the second, is developed in response to a specific right of internally displaced persons in an existing situation of internal displacement. For instance, we have as an example the Turkish IDP Law ²⁷⁷ among others examples²⁷⁸ which are mainly directed at the facilitation of reparation for the victims. This model by reason of the fact that it is usually developed in responses to existing conflict, it can conveniently address any known legal and institutional challenges faced by relevant stakeholders prior to its commencement. However, its scope is always limited and this is capable of leaving out other problems²⁷⁹ that could militate against IDPs protection.

The comprehensive model approach which is not commonly practiced by States is the fourth identified by the author.²⁸⁰ This model addresses all causes and stages of internal displacement. This model is likened to the Guiding Principles. The

²⁷⁴ Decree No. 1/01 of Angola (2001).

²⁷⁵ Part 1, No 46 (2003) Gazette of India.

²⁷⁶ Wyndham, 8.

²⁷⁷ Law No. 5233 of Turkey (2004).

²⁷⁸ United States Hurricane Recovery Act, Pub. L. No. 109-148. Stat. 2680 (2006).

²⁷⁹ Wyndham, 9.

²⁸⁰ Ibid.

Colombian Law ²⁸¹ is a near classic example. Though developed in response to existing conflict induced displacement, it addressed sundry issues such as prevention and assistance to for IDPs in the country other than those arising out of development projects or natural disasters. Similarly in the African context, the Ugandan domestic IDPs' framework "National Policy on Internally Displaced Persons"²⁸² is an example of a comprehensive model of law and policy meant to address situation of internal displacement except that there are also inherent limitations.

The author in relation to each of the model of laws and policies on internal displacement identified the advantages and disadvantages of each. The author further opine that there are certain gaps which needs to be appreciated and filled when framing laws and policies on internal displacement by States, such gaps may include how to define IDPs in context of each peculiarity, challenges of implementation and monitoring and consultation and participation of IDPs in the leading up process amongst others.²⁸³ The article's relative importance to the present research cannot be under-estimated as the models identified provides focus to this research when addressing questions as to the weaknesses in the laws and policies relating to internal displacement in Nigeria. Certainly this work serves as the basis of recommendations to Nigerian Government as to the appropriate legislative steps to take when domesticating the existing frameworks for the protection and assistance of IDPs in the country. The rich example of state practices in respect of law and policy on internal displacement provided in the literature under review is apt in the instant research in view of the fact none exist at present in Nigeria.

²⁸¹ Law 387 of Columbia (1997).

²⁸² Uganda (2004).

²⁸³ Wyndham, 9-12.

1.10 Outline of the Chapters

Chapter one of this study captures the introductory elements of the research which include the background of the study, definition of operational terminologies, problem statement, research questions, research objectives, significance of the study, research methodology which comprises of research design; research scope; types of data; data collection methods and analysis of data, limitations of study and literature review.

Chapter two delves into an overview of internal conflicts in Nigeria which has resulted into deaths, human displacement of people and destruction of properties in the sequence of three periods namely, Pre-Independence Period (1914-1959); Post-Independence Period (1960-1998; and, Current Democratic Dispensation (1999 to date). The chapter also examine the patterns of conflict induced displacement.

Chapter three focuses on an assessment of the relevant legal frameworks on internal displacement as applicable in Nigeria. The chapter examines these frameworks applicable to IDPs from international, regional, sub-regional and domestic perspectives.

Chapter four deals with the case study I of this research which focuses on internal crises in Jos, Plateau State following the January and March 2010 incidences. The chapter examines the history of the people, nature and background of the crisis. It explores into these phenomena of internal crises based on primary and secondary data drawn from in-depth interview of IDPs/victims, Public officials, researcher's observation, official reports, and other publications in line with three stage structure to wit: Stage One (1): Pre-Displacement Stage; Stage Two (2): Displacement Stage,

and Stage Three (3): Post-Displacement Stage in line with emerged main themes and sub-themes.

Chapter five focuses on case study II which deals with bomb related violence in Jos, a phenomenon that constitutes new twist in the history of internal conflicts in Jos. The chapter explores into the nature and peculiarity of these new form of violence and relies mainly on primary sources such as in-depth interview with victims, Police officials and legal experts, observations, documentary evidence in official reports and supported by secondary sources such as journal articles and other publications.

Chapter six delves into study of relevant law and practices governing internal displacement in Sri Lanka and Uganda for the purposes of applying relevant lessons learnt from these jurisdictions to Nigerian situation. The investigation in this chapter is also structured into three stages in line with the two preceding chapters.

Chapter seven deals with findings and recommendations consequent upon the analysis of data in respect of this research. This chapter is structured in line with the three stages approach adopted in this research. The findings from study of laws and practices from Sri Lanka and Uganda on similar themes is contextually juxtaposed with those deriving from the case studies of this research before arriving at the recommendations highlighted in this chapter.

Chapter eight is the concluding part of this research. It summarizes the whole research process and drew conclusion based on the findings and recommendations in this research as well as areas of further research.

CHAPTER TWO

AN OVERVIEW OF INTERNAL CONFLICTS IN NIGERIA

2.1 Introduction

Nigeria's history is significantly characterized by internal conflicts caused by convergence of factors dating from the pre-independence period to date. These recurrent crises has caused incalculable wreckage of social infrastructures, depletion of hard earned resources of the state in managing the aftermaths such as deaths and massive displacement of Nigerians in the affected parts of the country.¹

In this chapter, an overview of recurring internal conflicts in Nigeria is examined in the light of three phases namely; Pre-Independence Period (1914-1959); Post-Independence Era (1960 -1998), and the Current Democratic Dispensation (1999 to date). This is meant to situate these interminable crises within identifiable pattern in terms of their characterizations insofar as deaths and internal displacement of persons is concerned.

In addition to the historical discussions on the subject of internal crises in Nigeria, challenges that militates against management of IDPs in Nigeria is also examined in

¹ Al Chukwuma Okoli and Philip Iortyer, "Terrorism and Humanitarian Crisis in Nigeria: Insights from Boko Haram Insurgency" *Global Journal of Human- Social Science (F) Political Science*, Vol. 14, Issue 1 (2014):42-43.

this chapter in the sequence of three stages namely: Stage One (1): Pre-Displacement Stage; Stage Two (2): Displacement Stage, and Stage Three (2) Post-Displacement Stage.

2.1.1 Pre-Independence Period (1914 to 1959)

Shortly after the amalgamation of the Southern and Northern protectorates with the colony of Lagos which became Nigeria in 1914, internal violence due to ethnic suspicions and rivalries between the three major tribes-Hausa, Yoruba and Ibo became gradually enthroned following the adoption of divide and rule strategy of the British colonialists that saw them consciously manipulating the indigenous ethnic groups to soothe and promote their vested interest of political and fiscal domination.² This somewhat state driven violence led to various forms of peaceful protests from labour unions, ethnic groups, and students' organizations among others to checkmate the growing excesses of the imperialists.³

Nigerians fell back on their indigenous nationalities as source of identity and power to frontally resist the oppressive imperial policy. However, instead of applying the newly garnered force against the perceived common oppressor, it turned out to be another source of rift against themselves, thereby laying the frosty foundations of

² Okwudiba Nnoli, "Ethnic Violence in Nigeria: A Historical Perspective" (2003):1-25, http://www.indiana.edu/~workshop/.../nnoli_021003.pdf (accessed on January 25, 2015); Lemuel Ededegwa Odeh, "Good Governance, Transparency and Accountability in Nigeria", *Journal of Sustainable Development*, Clarion, University of Pennsylvania, Vol. 11, No. 3 (2009):190-206, <http://www.jsd-africa.com/.../pdf/GoodGovernanceTransparencyAccountability> (accessed on January 15, 2015).

³ Ibid., Nnoli, 3.

ethnic rivalries that has since been identified as pernicious drivers of internal violence in Nigeria to date.⁴

During this period, incidences of colonially instigated violence based on its divide and rule policy was rife. The 1932 and 1945 Jos civil disturbances recorded toll of human loss and massive destruction of properties. Again in 1949, the British colonialist provoked ethnic violence in Enugu following the strike action that was embarked upon by coal miners pitching one ethnic group against the other. In the said civil unrest more than 20 persons were killed and many more were wounded.⁵

The peak of these ethnic rivalry due to the manipulation of the British colonialist was the political crisis in 1953 and the internal violence that greeted the same in Kano City. The political rift between the Igbo led National Council of Nigeria and Cameroon (NCNC) and Yoruba led Action Group (AG) began following the motion for self-government in the House of Representatives which Anthony Enahoro hurriedly moved on 31 March 1953 on the floor of the House for the implementation of the policy contrary to the North dominated political group-Northern Peoples Congress (NPC) which viewed the deadline date of 1956 as unrealizable. The aftermath of this disagreements led to personal attacks, insults, public ridicule and all forms of accusations hauled at each other even outside the precincts of the hallowed Chambers. During S.L Akintola led Action Group tour of the country, on reaching

⁴ Eghosa E. Osaghae and Rotimi T. Suberu, "A History of Identities, Violence and Stability in Nigeria" CRISE Working Paper No. 6, Centre for Research on Inequality, Human Security and Ethnicity, University of Oxford, January (2005), 14-16, Joseph C. Ebegbulem, " Ethnic Politics and Conflicts in Nigeria: Theoretical Perspectives, *Khazar Journal of Social Sciences*, (2011):76-91, <http://jhss-khazar.org/wp-content/uploads/2011/11/07Ethnic-Politics-and-> (accessed on March 10, 2015.)

⁵ Plotnicov L. "An Early Nigeria Civil Disturbance: The Hausa Ibo Riot in Jos" *Journal of African Modern Studies*, Vol. 9 August (1971): 295-312 cited in Nnoli,4.

Kano, political hostility erupted between 16 and 19 May 1953 involving the Hausa and the Ibos as a fall out from virulent insults and personal attacks following the ill-fated motion for self-government. The said crises claimed 36 human lives, while 241 persons were wounded.⁶ The nature, timeline and severity of internal conflicts in Nigeria during the pre-independence era (1914-1959) is illustrated in **Table 2.1** below:

Table 2.1

Nature and Timeline of Internal Conflicts in Nigeria (Pre-Independence Period 1914-1959)

S/No	Nature of Conflicts	Period	Location	No. of Deaths	No. of Displaced	Source of Data
1.	Hausa/Ibo Riot	1932	Jos	NA	NA	Plotnick (1971), Nnoli (2003)
2.	Ethnic Violence	1949	Enugu	20+	NA	-do-
3.	Political Crisis	1953	Kano	36+	NA	Northern Region Reports (1953), Nnoli (2003)
4.	Western Regional Crisis	1959	Oyo, Ogun States	NA	NA	Omede (2012)

Legend: NA means Not Available

From **Table 2.1** above it is crystal clear that shortly after the amalgamation of Northern and Southern Protectorates with the colony of Lagos in 1914, inter and

⁶Northern Region of Nigeria, Report on the Kano Disturbances, 16th, 17th 18th and 19th May 1953, Kaduna, Government Printer, 1953; Ibid., Nnoli.

intra ethnic and political disagreements amongst political elites began to fuel inter-party crises in Nigeria.

2.1.2 Post-Independence Period (1960-1998)

Nigeria secured her political independence on 1 October 1960 amidst the enthroned divisive policies of the British colonial administration. The period under witnessed series of ethnic and politically motivated violence due to the highly polarized federal structure distrustfully put together by the colonialist⁷ thus turning the central government to mere theatres of inter-ethnic and political struggles.⁸

The Tiv riots of 1960 and 1964 crises following the federal elections of 1964 in which the J.S. Tarka United Middle Belt Congress (UMBC) won overwhelming in preference to the then highly influential candidates of the Northern Peoples Congress (NPC). This victory sparked off riots which led to death of over 2,000 persons, destruction of properties worth millions of naira and displacement of several thousands of people within volatile areas of the then Middle Region. It was the timely intervention of the military that brought the incidence to a halt.⁹

In 1962, a federal census was conducted principally for delineation of political constituencies. The result of the census was contested in and out of the court by both the Western and Midwestern Regions who alleged that the figures were manipulated to favour the Northern region whose population as alleged was more than Eastern

⁷Eghosa E. Osaghae and Rotimi T. Suberu, 17.

⁸ Olatunji Olateju, "Historicising Contemporary Insurgencies in Nigeria," *Journal of Foreign Languages, Cultures and Civilizations* Vol. 1 No. 1, June (2013):18.

⁹ Nnoli, 14.

and Western regions combined. This census figure was considered very important as it meant that more parliamentary seats will be allocated to the North. The aftermath of this political imbroglio led to crisis in 1962.¹⁰

Again the Northern Peoples Congress (NPC) tactically employed its divide and rule politics to steer a factional break up of Action Group into the Akintola group and Awolowo group which eventually led to widespread violence in the Western region in 1962 leading to massive killings, arson and displacement of people leading to declaration of state of emergency in the Western Region in 1962. Attempt to use the military which was already heavily factionalised along ethnic identities to quell the violence failed¹¹ resulting into the first military coup in 1966 and eventually the thirty months civil war from 1967 to 1970.¹²

By 1970 when the civil war was brought to an end, agitation for more states due to fear of domination of one ethnic group over the other continued up to 1976 when twelve states were created out of the three existing regions so as to diffuse the ethnic suspicions in 1976, but process did not halt further agitations¹³ culminating into the quest for constitutional solutions which led to the birth of the 1979 Constitution. The 1979 Constitution introduced number of key conceptual solutions¹⁴ such as rules

¹⁰ Odeh, 197.

¹¹ Ibid., 197-198.

¹² A.J. Omede, "The Nigerian Military: Analysing Fifty Years of Defence and Internal Military and Fifty Years of Internal Security Operations in Nigeria (1960-2010);, www.krespublishers.com/.../PDF/.../js.33-3-293-12-12.93.omede-A.J.T (accessed on January 15, 2015).

¹³ Timothy Adujo Obaje and Nwabuo Okeke-Uzodike, "The Question of Youth Participation in Peace Building Processes in Jos, Plateau State, Nigeria" *Accord Conference Paper* Issue 2 (2013), 2

¹⁴ Olateju, 21.

regarding federal character as panacea to the problems posed by the deeply enthroned ethnic schisms.¹⁵

This period also recorded the first outbreak of religious militia groups' uprisings in the Northern Region. The Maitasine sect, an Islamic extremist group struck Kaduna with violence between 1978 and 1980 as the crises claimed many lives difficult to ascertain. The sect repeated its violence in Kano (1980), Yola (1981) and Maiduguri (1984) respectively. They were unfortunately clamped down by the military regime of General Muhammed Buhari in 1984.¹⁶

But rather than being a solution, the divisive and exclusionist principles of citizenship/indigeneship in the Nigerian Constitution was heavily implicated in the Zango-Kataf violence in 1992 which spilled to other Northern States and the recurring Tivs-Jukuns communal clashes of 1991, 1992 and 1993 in Wukari, Taraba State. At the end of the Zango-Kataf unrest alone, over 1200 persons were killed.¹⁷

Although Jos experienced varying degrees of pockets of internal strife intermittently between 1980s and 1990s, ethno-religious and political conflicts resurfaced in the Plateau State following the appointment of non-indigene as head of Jos North Local Government Council. This marked the beginning of recurring violence in Jos.¹⁸

¹⁵ See sections 14, 135 and 203 of the defunct Nigerian Constitution 1979 respectively.

¹⁶ A.O. Omotosho, "Religious Violence in Nigeria-The Causes and Solutions: An Islamic Perspective," *Swedish Missiological Theme*, (2002):15-31, <https://www.unilorin.edu.ng/.../Religion%20Violence%20in&20Nigeria-pdf> (accessed on January 15, 2015).

¹⁷ Obaje and Okeke.

¹⁸ Obaje and Okeke-Uzodike, 2.

This era also witnessed rising hostilities in the oil producing Niger Delta region of the country. The utterly destructive and exploratory activities of multinational oil corporations led to widespread environmental crises in this area. As a means of curtailing this state led repression, the Ogoni ethnic group being the most affected group in the oil producing area began their struggle for fair compensation in respect of the environmental disasters arising from crude oil exploration on their land which was considered their sole means of livelihood through their popularly known vanguard of struggle-the Movement for Survival of Ogoni People (MOSOP). In the course of time, these disagreements and struggles blossomed into full scale ethnic clashes with the multinational corporations such as Mobil, Shell and host of others. For instance, the Umuechem Riot wherein men from Nigeria Police Mobile Force (MOPOL) drafted to quell youths protest against Shell allegedly killed 80 persons, led to the destruction of over 500 buildings and displacement of unascertained number of persons.¹⁹

The climax was the violence that greeted the arrest and execution of the arrow head of the struggle-Ken Saro Wiwa alongside eight MOSOP members in 1994 by a Special Military Tribunal specially set up for the Ogoni crisis.²⁰ Other intra-ethnic struggle for fair share of the revenue from oil exploratory activities sparked off internal conflicts in places like Ilaje area, involving Ijaw and Ilaje people of Ondo

¹⁹ Victor Ojakorotu and Lysias Dodd Gilbert, "Understanding the Context of Oil Violence in the Niger Delta" in Checkmating the Resurgence of Oil Violence in the Niger Delta of Nigeria, Ojakorotu and Gilbert (eds.), *Niger Delta Books*, www.iasg.org/Niger_Delta_bookpdf (accessed on January 10, 2015).

²⁰ Nnoli, 18.

State in 1998 which led to the death of more than 50 persons and displacement of thousands.²¹

Within this era, inter-ethnic violence and clashes also greeted the creation of local government and relocation of its headquarters from Ijaw town of Ogbe-Ijaw to Itsekiri town of Ogidigben and also in Ife-Modakeke area in Osun State.

The nature, timeline and severity of internal conflicts in Nigeria during the independence era (1960-1999) is illustrated in **Table 2.2** below.

Table 2.2

Nature and Timeline of Internal Conflicts in Nigeria- Post-Independence Era 1960-1998)

S/No	Nature of Conflict	Period	Location	No. of Deaths	No. of Displaced	Source of Data
1.	Tiv Riots	1960/64	Middle Belt Region	2000+	NA	Odeh (2009)
2.	Nigerian Census Crisis	1963	Entire Country	NA	NA	Odeh (2009) Omede (2012)
3.	Action Group Party Crisis	1965	Western Region	NA	NA	Odeh (2009)

Legend: NA means Not Available

²¹ Ibid., 19.

Table 2.2

*Nature and Timeline of Internal Conflicts in Nigeria- Post-Independence Period
1960-1998 (Continued)*

S/No	Nature of Conflict	Period	Location	No. of Deaths	No. of Displaced	Source Of Data
4.	Nigerian Civil War	1967-1970	Eastern Region	30,000+	1000,000+	Omede (2009), BBC Africa
5.	Maistasine Religious Riots	1978, 1980, 1981 & 1984	Kaduna, Kano, Yola, Maiduguri	NA	NA	Omosho (2003) Omede (2012)
6.	Jos Violence	1990/91	Jos Metropolis	NA	NA	Obaje & Okeke (2013)
7.	Violence in Zango Kataf	1991, 1993	Southern Kaduna	1200+	NA	-do-
8.	Environmental Crisis	1990, 1994	Ogoni Rivers State	NA	NA	Nnoli (2003)
9.	Communal Clashes	1998	Ondo State	50+	NA	-do-

Legend: NA means Not Available.

Table 2.2 above clearly depicts the fact that internal conflicts during this period was heightened by the new political consciousness brought about by fact of independence which facilitated widespread participation of the national elites from diverse ethnic groups in politics. This period also shows the gradual rise in inter-ethnic and religious crises in Nigeria. In terms of severity insofar as deaths, displacement and destruction of property, available statistics from the table illustrates that the crises occasioned by the outbreak of Nigerian civil war stood out among all the crises that have occurred during the time.

2.1.3 The Current Democratic Dispensation (1999 to date)

The return of Nigeria to democratic government in 1999 after prolonged years of military rule does not literally mark the end of internal crises in Nigeria but rather incidence of recurring ethnic, religious inter and intra communal and political violence continued to soar in numbers and intensity.²²

Inter/intra ethnic violence during this period was fuelled by the sudden emergence of ethnic militias²³ as a means of fighting for equal opportunities and representation in government. Within the period, there was a steady rise in the number of violence recorded resulting in large scale displacement of people due to religious intolerances, ethnic rivalries, land related disputes conflicts, and environmental conflicts in the Niger Delta region of the country in respect of oil exploration activities.²⁴

The Odi Massacre of 2000 in Bayelsa State, was the climax when state led security operatives literally wiped out the entire Odi People as a result of attacks by the community which led to the killing of some police officers. The Nigeria Police Force led retaliatory attack on the community that turned it into desert, over 2,500 people

²² Michael A. Olukayo, Mary A. Ajayi and Matthew T. Ogungbenro, "Crisis Induced Internal Displacement: The Implication on Real Estate Investment in Nigeria", *Journal of Economics and Sustainable Development*, Vol.5, No.4 (2014):41, <http://www.iiste.org/Journals/index.php/JED/article/download/.../11583> (accessed on November 12, 2014).

²³ Such as Oduduwa Peoples' Congress (OPC), Egbesu, the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), Arewa Peoples' Congress (APC), the Bakassi Boys, Igbo Youth Congress (IYC), Igbo Peoples' Congress (IPC), Niger Delta Volunteer Force (NDVF), Niger Delta Resistant Movement (NDRM), Movement for the Survival of the Izon Nationality of the Niger Delta (MOSIEND), the Nigerian or Yobe Taliban, Movement for the Emancipation of the Niger Delta (MEND), and Jama'at Ahlus al-Sunnah Liddawati Wal-Jihad or better known as Boko Haram.

²⁴ Michael Baghego, Ubi Peter Samuel and Eucharia N. Nwagbara, "Environmental Damage Caused by the Activities of Multi-National Oil Giants in the Niger Delta Region of Nigeria", *Journal of Human and Social Science*, Vol. 5, Issue 6 November-December (2012):9-13, www.iosrjournals.org/iosr-jhss/.../B0560913.pdf (accessed on February 10, 2015).

were allegedly killed, thousands of people displaced and properties worth millions of Naira vandalised and in some cases razed down.²⁵

After the introduction of Sharia legal order in 12 out of 36 States in the country,²⁶ Kano and Kaduna, two strategic states in the North experienced years of turmoil in the purely mixed inter-ethnic and religious clashes involving Muslims (Hausa – Fulani) and Christians (Ibos and other tribes). In the Kaduna incidence it was recorded that over 30,000 people were recorded to be displaced by the riot in November 2000.²⁷ Following the near declaration of inter-tribal war due to reprisal attacks in Kano in October 2001, the southerners who are mostly Christian minorities in the city advised themselves to leave Kano City.²⁸

In September 2001 following the attacks in the Northern parts of the country which was considered to be a purely religious because of the religious configurations of the actors, violence erupted in Jos involving the indigenous groups (Berom, Afizere and Anaguta) who are mostly Christians and the Hausa Fulani (Muslims). This crisis led to displacement of thousands of people who fled out of the city. The Jos crisis was a fall out of the indigene/settler acrimony and this account for the gravity of human losses and destructions which followed the incidence.²⁹ In other parts of Middle Belt

²⁵ Nnoli, 20; Isaac Terwase Sampson, “Religious Violence in Nigeria: Causal Diagnosis and Strategic Recommendations to the State and Religious Communities,” *African Journal of Conflict Resolution* (2012), 107-112, <http://www.ajol.info/index/ajcr/article/ViewFile/78703/69042> (accessed on October 18, 2014).

²⁶ Norwegian Refugee Council (NRC) Global IDP Project “Internal Displacement in Nigeria: A Hidden Crisis” 1 February (2005):7.

²⁷ Integrated Regional Information Networks (IRIN), 28 November 2002.

²⁸ Integrated Regional Information Networks- West Africa (IRIN-WA), 15 October 2001; Norwegian Refugee Council (NRC) Global Data Base “Profile of Internal Displacement: Nigeria” Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council as of 28 May 2003. <http://www.idpproject.org> (accessed January 15, 2015).

²⁹ Human Right Watch (HRW) April 2003.

there were reported incidences of inter-ethnic violence involving the Tivs and other tribes considered to be settlers in Nassarawa, Benue and Taraba States.³⁰

Between 2000 and 2002, ethnic clashes involving the Yoruba and Hausa-Fulani of the Northern extraction in Lagos led to displacement of more than 3,000 to 5,000 people in what was considered to be a triggered revenge of the mayhem carried out in the North against their kith and kin.³¹ There were also inter-communal conflicts involving armed Fulani herdsmen in Mambilla Plateau, Taraba and Gombe States in 2001 and 2003 respectively wherein hundreds were displaced. The period also marked conflicts relating to communal land in Ebonyi State.³²

This current civilian administration also marked the rise of violence related to citing of new administrative units in several parts of the country such as violence that trailed the demarcation of boundaries in newly created local government areas in Cross River State (2001), Akwa Ibom State (April 2003), and Osun State (2000) between Ifes and Modakekes.³³

Between 2002 and 2003, internal conflicts in the oil producing areas deepened as competition for acquisition of political power as means of gaining access to the control of the revenues accruing from the rich oil deposits in their various communities became intense, the resulting violence led to massive displacement of

³⁰ Sampson (2012).

³¹ IRIN-WA, 17 October 2000; IRIN, 18 March 2002.

³² Peter Mbah and Chikodiri Nwangwu, "Sub-Ethnic Identity and Conflict in Nigeria: The Policy Option for the Resolution of the Conflict between Ezza and Ezillo in Ebonyi State" *Mediterranean Journal of Social Science*, Vol. 5 No. 2, January (2014): 681-688.

³³ Internal Displacement Monitoring Centre/Norwegian Refugee Council (IDMC/NRC) Global IDP Project "Profile of Internal Displacement: Nigeria" 28 May (2003):39-41, <http://www.idpproject.org> (accessed 10 August 2013); IRIN 10 September 2004; Amnesty International, 9 November 2004.

people in the Niger Delta region as can be discerned from the politically induced violence in Warri, (Delta State) Ogoni (River State), and the Nembe's factional crisis (Bayelsa State).³⁴

As relative peace was on the verge of returning to the country, a new wave of violence erupted again in Plateau State in 2004 described as a bloody cycle of calculated revenges between indigenous Christian farmers and Muslim pastoralists. The over four month period of violence spanning between February and May was most devastating and destructive³⁵ as it led to death of over 1000 persons and an estimated displacement of about 300,000 persons.³⁶

The Plateau crisis of 2004 attracted host of reprisal attacks in several Northern Nigeria between 2006 and 2009 because of the popularly held view that it was more of a religious conflict than political. As usual there were corresponding retaliations in the South-eastern part of the country especially in Onitsha where attacks on Hausa (Muslims) also led to killing and displacement of several persons.³⁷

While the nation was yet to be healed once more of the wounds from series of attacks on its citizens and the resultant displacements, Boko Haram Islamic militant sect launched offensive attack on a Police station in Bauchi on 29 July 2009. The four days of armed violence between the sect and government security forces left several

³⁴ Ibid., IDMC/NRC, 42-49.

³⁵ Human Rights Watch, "We Leave Everything for God" Accountability for Inter-Communal Violence in Plateau and Kaduna States, Nigeria, USA, (2013): 43, <http://www.hrw.org> (accessed on January 15, 2015).

³⁶ Human Rights Watch, "Revenge in the Name of Religion: IV. The Conflict in Yelwa" 2005, <https://www.hrw.org/reports/2005/nigeria0505/4.htm> (accessed on January 15, 2015).

³⁷ Guardian Newspaper, London, 2 August 2008; Sampson (2012).

persons dead and scores of hundred displaced.³⁸ When eventually the sect's leader Mohammed Yusuf was captured by the police on 30 July 2009, he was allegedly executed by the police in a manner considered to be extra judicial. This in turn belligerently provoked more lethal attacks from this deadly group that spilled to other states in the North.³⁹

Between January and March 2010, Jos, Plateau State boiled again in turmoil as violence erupted between indigeneous ethnic groups-Berom, Afizere and Anaguta (Christians) and the settlers (Hausa/Fulani Muslims) following ethno-religious acrimony from the saddening tales of the 2001, 2004, 2008 and 2009 attacks alleged to have been caused by attempts by some irate armed youths to prevent reconstruction of a burnt house by a Muslim following previous violent attacks in Nassarawa Gwom suburb of Jos city.⁴⁰ The unfortunate negative impact of the crisis during this time around in terms of number of deaths and those forcefully displaced and property related destruction was incredibly massive.⁴¹ Deadly ethno-religious violence also re-occurred in the southern Plateau State recorded as the worst ever since the horrific experience of the 2004 crisis.⁴²

From December 2010 to date, Jos in Plateau State and other Northern States has been confoundedly stunned by the violent Boko Haram attacks in quick succession. For Jos people in particular, it was a twist in history of violence different from the

³⁸ Human Rights Watch, "Spiralling Violence: Boko Haram Attacks and Security Force Abuses in Nigeria", October (2012):48-49, <http://www.hrw.org/reports/2012/10/11/spiraling-violence-0> (accessed December 13, 2013).

³⁹ Ibid. For example, Christmas day bomb attack in Madalla Niger State, Abuja bomb attacks on UN Building and Police Headquarters and host of others.

⁴⁰ Human Rights Watch, "We Leave Everything for God", 39-42.

⁴¹ Ibid.

⁴² Id.

horrific stories of the past years, on 24 December 2010 series of bombs exploded in two neighbourhoods of Jos City in which the Boko Haram sect claimed responsibility in addition to other subsequent attacks in the city.⁴³ Eight months later there was a reprisal attack on Muslims while praying at a mosque by incensed mobs on 29 August 2011 leaving many dead, several houses razed and thousands displaced.⁴⁴

Violence also accompanied the declaration of 2011 Nigeria's Presidential election result in some Northern states such as Kaduna and Kano with attendant consequences such as killing of several persons, destruction of properties and displacement of multitude of peoples.⁴⁵

Terror attacks by the Boko Haram sect in the North-eastern states which has spilled to other parts of the North have caused monumental losses of human lives, damage to infrastructures and loss of livelihood to mention but a few.⁴⁶ It is estimated that the ongoing insurgent attacks has caused displacement of more than 1.5 million people.⁴⁷

To this end, it is imperative to note that these incessant armed violence marks very dark point in the history of Nigeria as day in day out, there are current reports of

⁴³ Human Rights Watch, "Spiralling Violence" October (2012), 97.

⁴⁴ Human Rights Watch News Release "Nigeria: New Waves of Violence Leaves 200 Dead," 27 January 2011, <http://www.hrw.org/news/2011/01/27/nigeria-new-wave-violence-leaves-200-dead> (accessed on December 12, 2013); Human Right Watch, "We Leave Everything for God," 72.

⁴⁵ Ibid., Human Rights Watch, 90 -109.

⁴⁶ Id., 72.

⁴⁷ Internal Displacement Monitoring Centre/ Norwegian Refugee Council (IDMC/NRC), Nigeria: Multiple Displacement Crises Overshadowed by Boko Haram, 9 December 2014, <http://www.internal-displacement.org> (accessed January 15, 2015).

ongoing attacks on citizens especially in the North East where Boko Haram sect held sway resulting in massive killings and displacement.

Table 2.3

Nature and Timeline of Internal Conflicts in Nigeria-Current Democratic Dispensation 1999 to date

S/No	Nature of Conflicts	Period	Location	No. of Deaths	No. of Displaced	Source of Data
1.	Communal Clashes	2002	Ife/ Modadeke Osun State	2000+	10000+	IDMC (2003) AFP (2003)
2.	Communal Clashes	1999/ 2000	Ijaw. Ogidigben	18+	12000+	-do-
3.	Odi Massacre	2000	Odi, Bayelsa State	2500+	1000+	Sampson (2012)
4.	Violence following introduction of Sharia	2000 to 2001	Kaduna Kano	500+	30000+	Sampson (2012) IRIN-WA (2001) NRC (2003)
5.	Ethno-Religious Crises	2001	Jos, Plateau State	1000+	50000+	HRW (2002) IDMC (2003) UNOCHA (2002)
6.	Inter Ethnic Clashes and Reprisals	2000 to 2002	Lagos	100+	3000+	AFB IRIN- WA (2000) IDMC (2002)
7.	Inter-Communal clashes	2001 to 2003	Taraba Gombe Benue Nassarawa States	NA	250,000+	Mbah & Nwangwu (2014) IRIN (2001)
8.	Inter Communal Disputes	2001	Ebonyi State	NA	1000+	Mbah& Nwangwu (2014)

Table 2.3

Nature and Timeline of Internal Conflicts in Nigeria-Current Democratic Dispensation 1999 to date (Continued)

S/No.	Nature of Conflicts	Period	Location	No. of Deaths	No. of Displaced	Source of Data
9.	Conflicts in Niger Delta	2002 To 2003	Warri Ogoni Nembe	NA	NA	Odeh (2009)
10.	Ethno-Religious Crisis	2004	Jos Yelwa & other Areas	1000+	300000+	Reuters (2004) Sampson (2004)
11.	Ethno-religious and political Riots	2008	Jos Plateau State	381	NA	AFB (2008)
12.	Boko Haram Insurgent Attacks	2009	Maiduguri Yobe Bauchi	1000+	NA	Sampson (2012)
13.	Jos Massacre	2010	Jos	992+	NA	Nositer Adam (2010)
14.	Post-Election Violence	2011	Kaduna Kano	NA	NA	HRW (2013)
15.	Ongoing multiple Boko Haram Attacks	2011 To date	Several locations in Nigeria	NA	1.5 Million+	IDMC NRC (2014) Sampson (2014)

Legend: NA Means Not Available

Table 2.3 depict the facts and figures that clearly surpass the two preceding periods in the history of internal conflicts in Nigeria. As illustrated in this table, the return to democratic governance in 1999 led to unprecedented awareness by the citizen of their rights given the tolerant and responsive nature of civil rule. This period also witnessed the rising growth of ethnic militias. Internal conflicts became much more

expressed during this period which was climaxed by armed insurgent groups still ravaging to date.

2.2 Pattern of Conflict Induced Displacement

Under this heading the following sub-topics will be covered, namely:

- 1) Displacement due to Political Conflict;
- 2) Displacement Due to Ethno-Religious Conflicts; and,
- 3) Displacement Due to Communal Conflict.

2.2.1 Displacement Due to Political Conflicts

The above conflict is the commonest form of internal conflicts in Nigeria today. Politically induced violence arose out of disenchantment with policy and governance and it has manifested in varying forms in Nigeria leading to deaths, property destructions and wanton displacement of people.

Nigeria is a federation with obvious need for decentralization of administrative units for effective governance, political violence have trailed every attempt at carrying this exercise either under military regimes as well in democratic dispensation. The competing struggle by political office seekers, the strong desire of one ethnic or tribal group to have political domineering influences over others and the concerted manoeuvres to ventilate their rights to self-determination has been singled out the issues that have always triggered off this kind of displacement in Nigeria.

In addition to the foregoing, the prolonged years of misrule, enthroned corruption, and longstanding impunity of culprits in respect of human rights violations, and

lack of accountability in government has sown fertile ground for the emergence of this type of conflict too. A classic example that readily comes to mind is the aftermath of the 2011 presidential election which brought the former President, Goodluck Jonathan to power. It was greeted with heightened post-election violence that spanned across 12 Northern States in Nigeria, the three days of violent uprisings left many dead and over 60,000 persons displaced.⁴⁸ Most of the internal conflicts examined under the preceding headings clearly suffice as examples of politically induced displacement.

2.2.2 Displacement Due to Ethno-Religious Conflicts

Nigeria is a multi-ethnic and religious polarized country, this closely knitted rallying point defines every likely step that is taken by the citizens. This variant of conflict induced displacement is that which is considered to be fall out of rivalries arising from the inter-mix of ethnic and religious identities. Both ethnicity and religion are systematically manipulated to fan embers of disunity and disenchantment in Nigeria.⁴⁹

Ethno-religious conflicts has characteristic potentials to spread beyond primary theatres to new areas outside the contemplations of actors and that is why it is often figured out as the most violent type of conflicts in Nigeria.⁵⁰ They are mostly prevalent in the Middle Belt region now known as North central and the religiously mixed borderline states of the North like Kaduna, Plateau, Bauchi, Nassarawa,

⁴⁸ Human Right Watch (HRW) 16 May 2011.

⁴⁹ Jana Krause, "A Deadly Ethno-Religious Conflict in Jos, Plateau State, Nigeria" *Working Paper*, Geneva Declaration Secretariat, Switzerland, (2011):31.

⁵⁰ Osaghae and Suberu, 19.

Taraba, and Adamawa States because of the dominance of one particular religion over the other in these States. History is replete of examples to wit: Crisis in Kafanchan-Kaduna (1987 and 1999); Riot in Zangon-Kataf, Kaduna State (1992),; Mayhem in Tafawa Balewa Bauch State (1991, 1995 and 2000); Anti Sharia unrest in Kaduna (2008), and the ill-famed Jos recurring crises in Plateau State (2001, 2004 and 2010).

2.2.3 Displacement Due to Communal Conflicts

The above conflict is a derivation of two words-communal and conflict. While conflict has been thoroughly conceptualised, communal comes from a Latin word “common”.⁵¹ The term ‘communal conflict’ in Nigeria, therefore means disagreement over the use of resources which is common to a particular group of people by reasons of either unequal distribution or fear of domination by a selected few.⁵² It is intra-communal when it involves members of the same group and inter-communal when the reverse is the case i.e. between two or more groups.

The struggle over land which is one of commonly shared resources by group of persons has been singled out as one of the main drivers of conflict induced displacement. Apart from this, communal conflicts can be triggered off on virtually any other tangible or intangible matter that binds members of a particular group together such as chieftaincy, location of seat of government and religion among others.

⁵¹ Chinyere N. Alimba, “Probing the Dynamics of Communal Conflicts in Northern Nigeria”, *African Research Review*, Vol. 8 (1), Serial No. 32, January, (2014):177-204, DOI: <http://dx.doi.org/10.4314/afrrrev.8i1.13> (accessed on October 15, 2014).

⁵² Ibid., 186.

There are numerous instances where groups have ventilated strong hatred for each other resulting in volatile unrest which claimed several lives and properties worth millions of naira destroyed with incalculable number of persons displaced from their homes.⁵³ Communal conflicts pervade every nook and crannies of the country. For example, Ezza/ Ezillo Land dispute in Ebonyi State, the Aguleri/Umuleri Land crisis in Anambra State, Yoruba/ Hausa Shagamu clash in Ogun State, Ife/Modakeke Riot in Osun State, Ijaw/Ilaje crisis in Ondo State to mention but a few.⁵⁴

In the Northern part of the country there is an enthroned manifestation of communal conflicts because of the ease to always weep religious and ethnic sentiments into almost every crises. In this part of the country because of the heightened volatilities, inter and intra communal conflicts has become intractable and a recurring decimal. There are more communal conflicts recorded in the North central region than in other parts of the country.⁵⁵ For example, the protracted indigene settler Tiv-Jukun crises in Wukari, Taraba State, Fulani-Irigwe and Yelwa-Shendam crises in Plateau State among others.⁵⁶

Communal conflicts are also prevalent in the Niger Delta region where the indigenes engaged themselves in communal disputes or as against their common oppressors- the multinational companies ⁵⁷ as can be seen in the conflicts involving Ashanti and

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ The Violent Road: Nigeria's North Central" *Action on Armed Violence*, 12th December 2013, <https://aoav.org.uk/2013/the-violent-road-nigeria-north-central/>, (accessed on November 10, 2015)

⁵⁷ Benedicta Daudu, "Legal and Institutional Framework for the Protection of Internally Displaced Persons in Nigeria", PhD. Thesis, University of Jos, Nigeria, 2010: 63-65.

Ekpeming in Akwa Ibom State, and Ogoni and Okrika in Rivers State among others.⁵⁸

2.4 Summary

From the discussion in this chapter, it is obvious that Nigeria's diverse ethnic groupings has continued to fuel internal conflicts in all parts of the country. Persons of different ethnic origin continue to nurse suspicions against the other as seen from the North to the South, East to the West, the saddening tale of inter and intra ethnic violence is replete in Nigeria right from the pre-independence era up to post-independence and has continued to grow in intensity and magnitude after the nation's return to democratic dispensation because of the awareness and freedom associated with democratic norms.

These internal crises have brought to the fore series of problems such as colossal losses in terms of death of several Nigerians, flagrant disregard for the rights of the citizenry, massive displacement of people as well as intractable loss of properties belonging to government and individuals. Its despicable manifestations are usually expressed as reactions from agitation for political control and dominance of one group over the other, agitation for share of the oil revenue, access to land and control subsumed and coloured with religious sentiment which is merely used as a camouflage.

⁵⁸ Ochechukwu Ibeanu, "Exiles in Their Own Home: Internal Population Displacement in Nigeria" *African Journal of Political Science*, Vol.3, No. 2 (1998):90, <http://www.archive.lib.msu.edu/DMC/African%20Journals/pdfs/...ajps003002007.pdf> (accessed on November 12, 2014).

This chapter concludes that there is an imperative need for Nigerian Government to look at the issues driving disagreements in order to stem the tide. Currently the country is rocking on a shaky foundation as violence seems to be thickening more. Nigerian government needs to tackle the problems at once by adopting the best strategies in finding lasting solutions to plights of victims of internal displacement.



CHAPTER THREE

LEGAL FRAMEWORKS FOR THE PROTECTION OF INTERNALLY DISPLACED PERSONS IN NIGERIA

3.1 Introduction

This chapter examines the legal issues involved in relevant legal frameworks which comprises of international and regional instruments and institutions and domestic laws for the protection and assistance of IDPs insofar as it relates to internal displacement in Nigeria. Even though certain aspects of international law such as humanitarian law, human rights law, criminal law and domestic laws are not directly involved in IDPs' protection, for the purposes of this study, the present analysis is limited to only law that are relevant and applicable to situations of internal displacement in Nigeria.

3.2 International Instruments Relevant to IDPs

The following headings will be covered under this sub-topic, namely:

- 1) Guiding Principles on Internal Displacement;
- 2) International Humanitarian Law;
- 3) International Human Rights Law;
- 4) International Criminal Law;
- 5) African Union Convention for the Protection and Assistance of Internally Displaced Persons; and,
- 6) Great Lakes' Protocol on the Protection and Assistance to IDPs.

3.2.1 Guiding Principles on Internal Displacement

The Guiding Principles on Internal Displacement came into being in 1998 following its presentation to the United Nations General Assembly. The Principles was midwived under the able leadership of a former Sudanese Diplomat Francis Mading Deng.¹ Internally Displaced Persons (IDPs) is defined in the introduction to the Guiding Principles.²

That comprehensive definition is the first to have been offered by any of the existing international instruments is particularly significant as it spells out two distinct but related criteria which are the involuntary and coercive nature of their movement and the fact that they remained within the borders of their own states in sharp departure to the fears nursed against such definitive prescription.³

It is imperative to note also that drafters of the Guiding Principles being aware of the fears of non-acceptance elected to define 'IDPs' from the point of view of 'victim' and 'circumstances' that is to say , a rights based definition rather than the process of displacement (a need based approach) to cleverly shy away from the potential fear of conferring on them a distinct legal status which it was thought would be discriminatory against other groups in need of protection and assistance.⁴

¹ Francis was appointed as United Nations Secretary General's Representative on Internally Displaced Persons pursuant to United Nations' Commission on Human Rights' Resolution 1992/73.

² See Paragraph 2 of the Introduction to the Guiding Principles on Internal Displacement (1998). The elaborative definition of IDPs is presented in chapter one of this research dealing with operational terminologies.

³ Ibid., Paragraph 2, Introduction to the Guiding Principles.

⁴ Olivia .Kokushubila Lwabukuna, "Internal Displacement in Africa: African Solutions to African Problems. Challenges and Prospects", *Journal of Internal Displacement*, Vol. 1, No. 1, (2011):135, <http://www.journalofinternaldisplacement.org> (accessed on July 30, 2013).

The Principles are not legally binding despite the international standard setting that it conveys. This position is well illustrated in paragraph 3 of the introduction to the scope and purposes of the Principles to the effect that “they provide guidance” as opposed to imposing legal obligation on states and non-states actors when confronting problems of internal displacement. In this direction, obligations placed on states and non-state actors are mere voluntary prescriptions. Relevant stakeholders are not duty bound to obey the Guiding Principles because as there are no provisions for negotiation, adoption and ratification as applicable in the case of treaty laws.

Notwithstanding this limitations, a close look at some of its provisions would reveal that though couched in relatively soft law model, the principles restated in the Guiding Principles grew out of hard laws. For example, a right not to be arbitrarily displaced recognized in Principles 6 is also provided for in the International Covenant on Civil and Political Rights⁵ and host of other treaties dealing with humanitarian issues.⁶

The concept of national responsibility is a theme that underscores the Guiding Principles. National responsibility towards IDPs is recognized in Principle 2 of the Guiding Principles which bestow ‘primary duty’ on the states to protect and provide humanitarian assistance to IDPs residing within their territorial control. The choice of the word ‘primary’ is carefully used to denote the degree of importance attached to this role and conveys an interpretation to the effect that it is not a right but a duty and

⁵ See article 12(1) thereof.

⁶See articles 49 and 147 of the Geneva Convention IV and also articles 51(7), 78(1) and 85(4) of Additional Protocol I and articles 4(3) (e) and 17 of Additional Protocol II respectively which are binding on High Contracting Parties that signed and ratified.

responsibility owed IDPs flowing from human rights norms and notion of rules responsibility of states.⁷ This role is exercised in precedence as opposed to the exclusive rights of states in view of the fact that role of international community is not outlawed.⁸ This position too is strengthened by Principle 3 (a) of the Guiding Principles which is to the effect that given particular circumstance, a state can request for assistance to enable it sustain this responsibilities.

The Guiding Principles frown against any form discrimination based on race, sex, language, age religion, belief among others,⁹ beyond the limits entrenched in existing international normative instruments. Most importantly, Principles 6(1) provides to the effect that every human being enjoys an inherent right to be protected against arbitrary displacement from his habitual place of residence and extends the meaning of arbitrary displacement to also include ethnic cleansing, armed conflicts and large scale development projects among others listed under paragraph 2 thereof and as well as commission of other criminal acts such as genocide, crimes against humanity and war crimes¹⁰ by way of wilful killing (murder), enforced disappearance, abduction, detention and threat which endangers human lives during displacement.

⁷ See *Compilation and Analysis of Legal Norms*, Part 1 E/CH.4/1996/52/Add, Section IV, para 359-389, http://id.cdint.org/content/documents/Compilation_and_analysis_of_legal_norms.pdf (accessed on April 4, 2016).

⁸ Under article 1 (3) of the UN Charter, co-operation towards solving international problems which are above responsibility of a particular state is articulately recognized.

⁹ Principle 4 of Guiding Principles.

¹⁰ Ibid., Principle 10.

This provision is important as it shows the interplay of criminal law in strengthening normative frameworks on internal displacement to respond to the potentials and ease with which crimes are committed against IDPs because of their peculiar vulnerability.

It is interesting to add here that these provisions against arbitrary displacement expounded in the Guiding Principles applies to all phases of displacement and thus it sets an inclusive international standard for the treatment of IDPs beyond the legal contemplation of any specific international instrument dealing with human related issues.¹¹

The acceptable standard for ensuring return, reintegration and resettlement of IDPs is explicitly provided for in section five of the Guiding Principles. Specifically, the said section comprises of Principles 28 and 29 regarding attainment of durable solutions which the trilogy of return, reintegration and resettlement are meant to achieve. Durable solution is the ultimate need of IDPs and it is achieved when they can easily return to their place of residence or when they are afforded the unfettered choice of residence in another part of the country without being subjected of any form of discrimination arising from their plight.

With respect to recovery for losses suffered as a result of internal displacement, paragraphs 2 of Principles 29 vest responsibility on competent authorities (states) to provide the means of return, resettlement and rehabilitation in collaboration with

¹¹ Catherine Phuong, *The International Protection of Internally Displaced Persons* (Cambridge: Cambridge University Press, 2004):56-65.

relevant humanitarian organizations,¹² and to assist the returnees (IDPs) in the recovery of properties and other possessions abandoned or lost as a result of displacement to the extent that it is possible or otherwise to grant appropriate compensation or any other form of reparation that is just and adequate to the affected IDPs.¹³ What is just and adequate are elusive terms due to lack of definition in the Principles, hence their interpretation is susceptible to abuse unless the parameters are well articulated in the norms itself.

Despite the international standards set in the Guiding Principles, there are no provision dealing with internal or external mechanisms put in place so to speak to ensure implementation and enforcement of the laudable lessons set therein.¹⁴ The widespread acceptance alone does not guarantee their domestic implementation as the Principles is usually perplexed with the negativities of lack of capacity to monitor compliance.¹⁵

¹² Ibid., Principles 30.

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

¹⁴ Robert K. Goldman, "Internal Displacement, the Guiding Principles on Internal Displacement, the Principles Normative Status, and the Need for their Effective Domestic Implementation in Colombia" ACDI Bogota, ISSN 20127-1131 (1990):74, <http://www.corteidh.or.cr/tablas/r25153.pdf> (accessed on April 16, 2016).

¹⁵ Walter Kalin, "The Guiding Principles on Internal Displacement: An Annotations" *American Society of International Law* (2002):22.

However, it is needful to appraise the relevance of the Principles as it stands today. The Guiding Principles has gained international acceptance,¹⁶ standard and authority¹⁷ as United Nations' agencies and several states have severally referred and relied on principles embedded in it through domestication into national laws. For example, Angolan Norms for the Resettlement of Displaced Population which took effect from 2001 is a worthy example.¹⁸ Similarly National Human Rights Institutions in several states are using the Principles as a basis to promote the protection of human rights of the displaced as persons of concern.¹⁹

3.2.2 International Humanitarian Law

International humanitarian law is also called the 'law of wars' (LOW) or 'law of armed conflict' (LOAC).²⁰ This aspect of international law provide the parameters with which warfare are prosecuted by offering protection and assistance to civilians, combatants, ex-combatants who are jointly referred to as "victims of armed

¹⁶ Indeed, a 2003 resolution of the United Nations Commission on Human Rights, cosponsored by fifty-three states, expressed "appreciation" of the Guiding Principles "as an important tool for dealing with situations of internal displacement" and welcomed the fact that "an increasing number of States, United Nations agencies and regional and non-governmental organizations are applying them as a standard."; General Assembly resolutions used the same language, see also United Nations, General Assembly, Res. 54/167 (17 December 1999) and Res. 56/164 (19 December 2001); United Nations, Commission on Human Rights Resolution 2004/55; Geneva Assembly Resolution 2004/58 and Commission on Human Rights Resolution 2005/46; Lwabukuna (2010):86.

¹⁷ Muhammed Tawfiq Ladan, "National Framework for the Protection of Internally Displaced Persons (IDPS) in Nigeria", Paper presented at Workshop for Judges and Kadis on Refugee Law, National Judicial Institute, Abuja-Nigeria, 20 April (2013):1, http://www.abu.edu.ng/publications/2013-05-18-180015_3901.docx (accessed on December 21, 2014).

¹⁸ Muhammed Tawfiq Ladan, 18.

¹⁹ Such as Uganda in Africa and Sri Lanka in South Asia.

²⁰ Gary D. Solis, *The Law of Armed Conflict: International Humanitarian Law in War* (Cambridge; Cambridge University Press, 2010):3.

conflicts”.²¹ The sources of international humanitarian include custom²², treaties,²³ legislations and domestic law,²⁴ judicial decisions²⁵ and publicists.²⁶

Armed conflict is not defined in the Geneva Conventions or the two Additional Protocols despite several references made to it in international humanitarian law. However, following the decision of International Criminal Tribunal for Former Yugoslavia (ICTY) in *Prosecutor v. Tadic*, in which the accused, a Bosnian Serb politician and former member of a paramilitary armed forces supporting the attacks on Serb-run concentration camps in Prijedor was alleged of commission of crimes against humanity and grave breaches of the Geneva Conventions, the tribunal held in determining the application of the Geneva Conventions while rejecting the defence argument that there were no hostilities at the relevant time and place that:

*...An armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups...International humanitarian law applies from the initiation of such conflicts...*²⁷

²¹ Jovica Patnogie, “Human Rights and International Humanitarian Law” *Bulletin of Human Rights* Vol. 91/1, (1992):1-12; Lwabukuna, 89. See also Mohammed Nagib Ishan Jan, *Principles of Public International Law: A Modern Approach*, (Kuala Lumpur; IIUM Press, 2009): 428.

²² Customs which are extensive and uniformly practiced by states that is to say customary international law.

²³ They refer mainly to Hague Conventions of 1907, the four Geneva Conventions of 1949 and the two Additional Protocols of 1977. However apart from these two instruments, there many other IHL instruments regulating specific subjects namely, the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating , Poisonous or Other Gases, and of Biological Methods of Warfare, The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and 1977 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques and the 1980 Convention on Prohibition or Restriction on the Use of Certain Conventional Weapons to mention but a few.

²⁴ These are national legislation enacted by ratifying states to penalize or criminalize certain violations of IHL treaties.

²⁵ This refers to decisions of domestic courts, military tribunals and international courts (ICJ, ICTY, ICTR, and ICC that relates to IHL.

²⁶ This refers to the writings and opinions of scholars and jurists which mould and reshape IHL/LOAC rules.

²⁷ Decision on Defence Motion for Interlocutory Appeal on Jurisdiction (ICTY) IT-94-1A (2 October 1995) at para. 70.

It is important to note that before a decision is made on which IHL rules is applicable in any given conflict situation, the nature of armed conflict must first be determined. Basically, flowing from the combined provisions of the four Geneva Conventions and Additional Protocols, two kinds of armed conflict suffices for the application of international humanitarian law namely; international armed conflicts (IAC) and non-international armed conflicts (NIAC).

International armed conflicts (IAC) is defined in the common article 2 of the four Geneva Conventions as:

... All cases of declared war or of any other conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

It therefore follows that for an armed conflict to qualify as international armed conflict, 'parties to the conflict' must be a state within the meaning of the Geneva Conventions and the Additional Protocols²⁸ and acknowledgment of the existence or non-existence of state of war between them is immaterial. A state within the purview of the Geneva Conventions is a High Contracting Party who have signed and or ratified the said treaty provisions. It is however submitted that the existence of international armed conflicts should be decided on case by case basis.²⁹

²⁸ That is to say "High Contracting Parties" as used in reference to States Parties to the Conventions and the Protocols. This is also rational having regards to the provision of article 2 (a) of the Vienna Convention on the Law of Treaties 1969 which recognizes only state as parties to international agreements.

²⁹ John R.W.D. Jones, and Steven Powles, *International Criminal Practice*, 3rd Edition (Oxford: Transnational Publishers, 2003):223.

In all armed conflicts bearing on above description, all the provisions of the four Geneva Conventions apply in addition to Additional Protocol I for States that have ratified it.³⁰ Additional Protocol I has expanded the definition of international armed conflict (IAC) to also include “armed conflicts in which people are fighting against colonial domination and alien domination and racist regimes”³¹ to bring them within the protection engendered by the spirit and purport of common article 2 of the Geneva Conventions. This Protocol abandons the concept of protected persons used in the fourth Geneva Convention³² as it opted for an all-encompassing notion of civilian who are not combatants. It therefore follows that all the provisions of this Protocol aimed at protecting civilians are also applicable to IDPs especially under part IV of the Protocol.³³

On the other hand, non-international armed conflicts (NIAC) is described by common article 3 of the four Geneva Conventions as “... armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties.” Therefore its application is limited to internal armed conflicts which involves only one state armed force and armed force of government opponent (belligerents) who are not combatants of another state’s armed force.³⁴ Article 1(2) of the Additional Protocol II clearly excludes internal disturbances such as riot, disorder and banditry from notion of non-international armed conflict and consequently same do not give rise to conflicts known to common article 3 of the Geneva Conventions.

³⁰ This is because of the provision contained in article 1(3) of Additional Protocol I which provides that “This Protocol ... supplements the Geneva Conventions,” and shall apply in the situations referred to in article 2 common to those Conventions.”

³¹ Ibid. article 1(4).

³² Article 4 of the Fourth Geneva Conventions.

³³ See for instance article 50 of Additional Protocol I.

³⁴ Gary D. Solis, 152. Examples of such NIAC are those that occurred in Iraq and Afghanistan to mention but a few.

In order to determine whether a particular armed conflict is a non-international armed conflict or mere internal disturbance/violence two conditions relating to the nature of the conflict must be fully examined to wit: the intensity of the conflict and the organization of the parties to the conflict.³⁵ In other words, where the armed attacks are not ‘sufficiently violent and protracted’ and the non-state armed groups are not ‘sufficiently organized’ it is likely to be regarded as internal disturbance which constitute criminal acts punishable in domestic courts and in which case IHL rules of protection as envisaged in the Geneva Conventions and Additional Protocol II in respect of non-international armed conflict is inapplicable.

It is important to note also that in non- international armed conflicts, common article 3 applies and perhaps article 1(1) of Additional Protocol II apply and thus no other portion of the Geneva Conventions is applicable. Common article 3 of the Geneva Conventions is the sole article that deals with several kinds of internal armed conflicts in one single breadth namely- civil wars, insurrections and armed uprisings. Common article 3 guarantees humane treatment and this applies to entire civilian population which also include IDPs.³⁶ It is therefore based on this reason *inter-alia* that it is often referred to as “Geneva Convention in miniature.”³⁷

Internally displaced person (IDP) is not defined in international humanitarian law.

However, civilians and non-combatants are clearly described therein as:

...Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and

³⁵ See Tadic’s Case, ICTY IT-94—1-T, Judgment (7 May 1997), para 562.

³⁶ Pictet, Commentary, IV, Geneva Convention at 37

³⁷ *Prosecutor v. Kayishema and Kuzindana*, ICTR-9—1A, Trial Judgment (1 June 2001) para 65. See also Pictet, Commentary, IV, at 34.

*those placed hors de combat by sickness, wounds, detention, or any other cause.*³⁸

Juxtaposing the position of IDPs especially in displacement caused by armed conflicts occurring within the territory of High Contracting Parties which are so described as “conflict of non-international character’ in Nigeria’s North East region where government’s armed forces are fighting the Boko Haram insurgency in order to suppress and if possible annihilate them,³⁹ with the above statutory description, IDPs to the extent that they are not involved in hostilities would rightly qualify as civilians or non-combatants within the meaning of common article 3 of the four Geneva conventions and article 4 of Additional Protocol II provided the determining criteria of level of intensity of attack and the organization of the non-state armed force (Boko Haram insurgents) suggests the existence of an internal armed conflict and not mere internal violence.⁴⁰

The protection of IDPs in non-international armed conflicts occurring within the territory of High Contracting Party against forced displacement in the form of deportation, mass transfers and evacuation is well provided for in article 49 of the fourth Geneva Convention. Civilians in similar circumstances are also protected against forceful displacement under articles 4(3) (e) and 17 (1) and (2) of Additional Protocol II.

³⁸ Ibid article 3(1) common to the four Geneva Conventions.

³⁹ Joseph Olukayode Akinbi, “Examining the Boko Haram Insurgency in Northern Nigeria and the Quest for a Permanent Resolution of the Crisis” *Global Journal of Humanities and Social Sciences*, Vol.3, No.8, August (2015):32-45, <http://www.eajournals.org/wp-content/uploads/Examining-the-Boko-Haram-Insurgency-in-Northern-Nigeria-and-the-Quest-for-A-Permanent-Resolution-Of-The-Crisis.pdf> (accessed on April 15, 2016).

⁴⁰ See Antonio Cassese, 433.

The need to treat IDPs in non-international armed conflicts humanely is the philosophical basis of international legal protection against discrimination of IDPs in articles 3 and 26 of the fourth Geneva Convention and articles 2(1) and 4(1) of Additional Protocol II. The protection envisaged here are fundamental guarantees against discrimination, arbitrary and unfair treatments which are typical trademarks of situations of displacement caused by internal armed conflicts.

In the same context, civilians and non-combatants are also protected against the commission of grave breaches in the course of international armed conflicts occurring between High Contracting Parties. Grave breaches under the Geneva Conventions generally are serious violation of existing international humanitarian law and customary international law relating to armed conflicts which includes but not limited to wilful killing, torture or inhuman treatment, injury to body or health, unlawful deportation and transfer.⁴¹ In the case of internal armed conflicts, similar violations are also considered as grave breaches in the light of common article 3 of the Geneva Conventions and article 4 of Additional Protocol II.

It is noteworthy that even though the said provisions made reference to ‘civilians’ or ‘protected persons’ as recipients of the protection engendered in the Geneva Convention, in view of preceding discussions in this chapter regarding the nexus between ‘civilians’ or ‘protected persons’ and ‘IDPs’, the protection engendered therein could be applied to IDPs especially where they have remained within the borders of their own country as a result of non-international armed conflicts. It appears

⁴¹ See articles 50, 51, 130 and 147 of the First, Second, Third and Fourth Geneva Conventions respectively and article 85 of Additional Protocol I. Grave breaches under this provisions are subject to universal jurisdiction of every High Contracting Party.

that this scheme of protection is totally absent where internal displacement is as result of conflicts of lesser threshold-internal violence in the territory of High Contracting Party.

Under the Geneva Conventions and its Additional Protocols, there are no specific provisions on durable solutions for victims of non-international armed conflicts. However in the 2000 Basic Principles and Guidelines which is applicable in cases of violation of human rights law as well as humanitarian law, reparation consisting of compensation, restitution and rehabilitation etc. are recognized and intended to restore victims to the original position prior to the violation. The import of the foregoing stipulations also entail the right to return to one's habitual abode and restoration of property.⁴²

Ensuring compliance with common article 3 of the Geneva Convention in the case of internal armed conflicts is indeed problematic as there are no such mechanism to implement its spirit and purport in domestic parlance. It appears that compliance depends on the will and convenience of High Contracting Party involved and its readiness and willingness to declare a particular situation as armed conflict or mere internal disturbance. In other words implementation and enforcement of international humanitarian law is decentralised as there is no such mechanism like courts and police as it were under domestic regimes.

This researcher is in agreement with the view posited by a learned author that:

The instances of violation of or disregard for the provision of article 3 greatly outnumber instances of compliance.

⁴² Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of International Human Rights and Humanitarian Law, E/CN.4/200/62 (2000), para. 22. See also Simon Bagshaw, 119.

Nonetheless all those instances of non-observance have not been such as to erode the rule, (Similarly domestic criminal laws are not obliterated by their daily violation).⁴³

However, with respect to grave breaches committed in the context of relevant provisions of Geneva Conventions and Additional Protocol I in respect of international armed conflict earlier referred in this sub-heading, High Contracting Parties to the Geneva Convention are enjoined to enact domestic penal legislations to make those atrocious acts punishable before national courts.⁴⁴ Adherence to this clarion call depends of course on the political will of states parties to the Conventions as investigation and prosecution of violations of international humanitarian law rules as a matter of fact would take place within national jurisdictions based on domestic legislation consequent upon domestication of relevant international humanitarian law treaties.

Nigeria is a signatory to the four Geneva Conventions and the two Additional Protocols, consequently their provisions are binding on it.⁴⁵ To this extent, these treaties insofar as they are relevant to the protection of IDPs in the context of non-international armed conflict (NIAC), they create binding obligations on Nigeria to observe and apply the protection envisaged therein in favour of IDPs in the country.⁴⁶

⁴³ Antonio Cassese, *International Law*, 2nd edition (Oxford: Oxford University Press, 2005):432.

⁴⁴ See for instance the provision of article 146 of the fourth Geneva Convention.

⁴⁵ For example, Geneva Conventions I-IV adopted in 1949 (ratified on 20 June 1961), Additional Protocol I and II adopted in 1977 (ratified on 10 October 1988), Hague Convention adopted in 1954 (ratified on 5 June 1961), Hague Protocol adopted in 1954 (ratified on 5 June 1961) and, Hague Protocol adopted in 1999 (ratified on 21 October 2005) respectively. See Rule of Law in Armed Conflicts Project (RULAC), Nigeria: International Treaties Adherence, http://www.geneva-academy.ch/RULAC/international_treaties.php?id_state=157 (accessed on April 3, 2016).

⁴⁶ Christopher Gane and Mark Mackarel eds. *Human Rights and The Administration of Justice* (Hague; Kluwer Law International, 1997): xiv-xv.

3.2.3 International Human Rights Law

Under international human rights law, IDPs is neither defined nor singled out for special protection. This is because unlike other branches of international law such as international refugee law and international humanitarian law which consider ascription of legal status as condition precedent to the enjoyment of protection and assistance embedded in their respective rules, legal protection embedded in international human rights law applies in all situations and to all persons by virtue of their human character. The sources of international human rights law is as provided under article 38(1) of the Statute of International Court of Justice and it includes:

International treaties, international customs as evidence of general practice accepted by law, general principles of law as recognized by civilized nations and judicial decisions and the teachings of the most highly qualified publicists as subsidiary means of interpretation of the rules of law.

The incontrovertible conclusion regarding application of international human rights law rules and principles to internally displaced persons (IDPs) as ‘human person’ finds support in the preamble to United Nations Charter to the effect that:

*We the people of the United Nations, determined ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...have resolved to combine our efforts to accomplish these aims.*⁴⁷ (Emphasis added).

From the foregoing, it is clear that the relevance and applicability of international human rights law to the legal protection of IDPs is indisputable insofar as IDPs do not lose their human character by reasons of displacement. Unlike international humanitarian law, the nature of armed conflicts (be it international armed conflict, non-

⁴⁷ See also articles 1, 55 and 56 of the UN Charter.

international armed conflict or internal disturbance) which provoked displacement is immaterial in determining when international human rights law applies.

Human rights treaties are applicable in Nigeria by virtue of the fact that she is a signatory to most if not all international and regional conventions on human rights.⁴⁸ For reasons of their distinct legal character as treaty as opposed to any other sources of international law⁴⁹ prescriptions stipulated therein are binding on states parties in line with the provisions of article 26 of the Vienna Convention (1969).

Surprisingly, from international human rights law perspective, the Universal Declaration on Human Rights which not only reflects consensus of opinions on the nature of fundamental rights and freedom of individual as human person but also expresses the unanimity of belief in the inherent dignity of man is not binding on all states having only force of moral persuasion, despite the fact that it has become part of customary international law which is considered to wield force of law universally.⁵⁰

⁴⁸ For example, International Covenants on Civil and Political Rights adopted in 1966 and entered into force 23 March 1976 (ratified on 29 July 1993), International Covenant on Economic, Social and Cultural Rights adopted in 1966 (ratified on 29 July 1993) and, Convention on the Elimination of all Forms of Racial Discrimination adopted in 1963 (ratified on 16 October 1967); African Charter on Human and Peoples Rights commonly referred to as the Banjul Charter adopted 27 June 1981 but entered into force 21 October 1986 (ratified by Nigeria on 22 June 1983) which aims to promote human rights with the African continent drawing from earlier prescriptions in the United Declaration of Human rights and the Bill of Rights. The full content is at http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf (accessed on April 3, 2016).

to mention but a few. See details lists depicting Nigeria's Status of Ratification of Human Rights Instruments, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/NHRC_NGA_UPR_S4_2009anx_RatifiedHumanRightsInstruments.pdf (accessed on April 3, 2016)

⁴⁹ Article 38 of the Statute of International Court of Justice provides a comprehensive list of sources of international law with treaty being the *primus inter-pares*-first among equals.

⁵⁰ James C. Hathaway, "Fear of Persecution and the Law of Human Rights" *Bulletin of Human Rights* Vol. 91, Issue 1 New York, (1992): 98-123.

Human rights law as replicated in treaties and customary international law seeks to protect and safeguard the rights guaranteed therein by ensuring that state parties comply with their obligations to refrain from carrying out any act that could impede its enjoyment by all citizens. Article 1 of the African Charter on Human and Peoples Rights⁵¹ presents a ready example by providing to the effect that:

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.

The above approach which consider only states as repository of responsibility to protect is traditional. Current concerns has shown an emerging trend where non-state actors⁵² as well as every organ of the society are imbued with inherent responsibility to promote human rights standards, though limited in scope. For example, the Liberation Tamil Tigers Eelam (LTTE) in Sri Lanka owes international community the responsibility to promote peace, but that does not approximates to an outright obligations placed on states as primary actors in international law.⁵³

It is important to note that human displacements as a result of non-international armed conflicts within the meaning of the common article 3 of the four Geneva Conventions (1949) and Additional Protocol II and internal disturbances within the territory state parties are evidently characterized by wide range of human rights violation such as the right to life, abuse of privacy and family life, liberty, security and abuse of socio-

⁵¹ Adopted 27 June 1981 but entered into force 21 October 1986. See also Art. 2(1) of International Covenant on Cultural and Political Rights 1966 but entered in force on 23 March 1976 which provides to same effect by imposing obligation on States Parties to the Covenant to mention but a few.

⁵² For example, article 4 of the Optional Protocol to the Convention on the Rights of the Child; Practice of United Nations Organs-Security Council Resolution 1564(2004) where it stressed in the preamble that “the Sudanese rebel groups [...] must also take all necessary steps to respect international humanitarian law and human rights law”;

⁵³ UN Security Council Resolution 1894 (2009).

economic and cultural rights by reasons of enthroned conflict induced humanitarian emergency. What is more, internal armed conflicts or internal disturbance also entails widespread discriminations– whether on sex, origin, racial, ethnic, religious and political grounds.⁵⁴ All these infraction of rights of the citizens (IDPs inclusive) are arbitrary in that they are antithetical to human rights laws be it international or domestic as the case may be more so that human rights’ protection is not tied to the existence of armed conflict or war like situations as it were under international humanitarian law.

Prohibition and prevention of all forms of arbitrary treatment which is a core theme in the protection of IDPs in the Guiding Principles on Internal Displacement (1998) is also an undeniable standard in international human rights instruments.⁵⁵ For ease of reference, article 6 of International Covenant on Civil and Political Rights provides that:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”⁵⁶ It also states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”....⁵⁷

With respect to prohibition against arbitrary treatments impugning on dignity and respect, and equality of human persons, ICCPR requires that:

All persons “deprived of their liberty should be treated with humanity and with respect for the inherent dignity of the human person” and that “all persons are equal before the law

⁵⁴ Lwabukuna, 96-97.

⁵⁵ See the Preamble to the United Nations Charter 1945.

⁵⁶ Article 6 of International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, hereinafter called” ICCPR”.

⁵⁷ Ibid. article 7.

*and are entitled without any discrimination to the equal protection of the law...*⁵⁸

The foregoing fundamental guarantees are also applicable to IDPs if they are confronted with similar human rights challenges in the course of their plight after all from the definition of IDPs in both the Guiding Principles and the African Union IDP treaty, human rights violation have been adjudged as one of the pernicious drivers of internal displacement.

The International Covenant on Economic, Social and Cultural Rights is very specific in providing against discrimination of any human person (IDPs inclusive) predicated on grounds of race, colour, sex, language, religion, political or other opinion etc.⁵⁹ It must be stated that in Nigeria in particular, internal displacement occurs due to ethnic, religious and political based discriminations. It therefore follows that the provision of ICESCR is apposite to situations of internal displacement in Nigeria insofar as human right issues are concerned.

Similar prohibitions aimed at preventing arbitrary treatment are found in other international human rights' instruments such as the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT),⁶⁰ the International Convention on the Elimination of All Forms of Racial Discrimination

⁵⁸ Id. Articles 10 and 26.

⁵⁹ See article 2(2) of the International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976 hereinafter referred to as "ICESCR".

⁶⁰ UNGA Resolution 39/46 UN Doc A/329/51 (1984) 1465 UNTS entered into force on 26 June 1987. This convention decries forceful transfer of any person from one state to another state by state. It is the basis of principles of 'non-refoulement' which applies only to refugee and not internally displaced person because of geographic criteria. However the Guiding Principles rephrased this provision in Principles 15 so as to be applicable to internally displaced persons.

(CERD),⁶¹ the Convention on the Elimination of Discrimination Against Women (CEDAW),⁶² and the Convention on the Rights of the Child (CRC)⁶³. At the regional level there is African Charter on Human and Peoples Rights (ACHPR).⁶⁴

The foregoing provisions insofar as arbitrary treatment is concerned are quite significant to IDPs for reasons that the rights they confer are not easily derogated from and applies at all times making these guarantees most applicable to situations of internal displacement.⁶⁵

The rights of victims of violation of human rights to seek for adequate and effective reparation from national courts or tribunals established by states parties to international human rights' instruments is well established in international law.⁶⁶ Article 6 of International Convention on the Elimination of all Forms of Racial Discrimination

⁶¹ UNGA Resolution 2106 (XX) UN Doc A/6014 (1965) 660 UNTS 195 entered into force on 4 January 1965. This convention prohibits racial discrimination on grounds of race, colour, national or ethnic origin among others. These factors are listed as constituting prohibited causes of arbitrary displacement under principles 6 (2) (a) of the Guiding Principles.

⁶² UNGA Resolution 34/180 UN Doc A/34/46 (1979) 1249 UNTS 13 entered into force on 3 September 1981. This Convention provides special guarantees for women by emphasizing equality of right to education employment and ownership of property and right to be protected against physical safety. The convention applies to internally displaced women who are the most vulnerable in situation of displacement and that underscores the copious adaption of the provision into principle 7(d), 11(a and b), 19 and 20 of the Guiding Principles on Internal Displacement.

⁶³ UNGA Resolution 44/25 UN Doc A/44/49 (1989) 1577 UNTS 3 entered into force on 2 September 1990. The CRC together with the Two Optional Protocols and the Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention No. 182 of 1982) provides for the protection of children below the age of eighteen years against enforced labour. It is not in controversy that the bulk of internally displaced persons are vulnerable children-unaccompanied minors and separated children. These instruments are applicable to situations of displacement involving children and that accounts for their restatement in principles 11(2) (a) and (b), 13(1) and 17(3) of the Guiding Principles on Internal Displacement.

⁶⁴ Art. 5 thereof which provides that: "every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."

⁶⁵ For example, article 4(2) of ICCPR. However one negative trend too lies in the fact that there are few as well which can be derogated from during emergency situation akin to internal strife like article 4(1) of ICCPR.

⁶⁶ Article 4 of the Universal Declaration of Human Rights (UDHR).

(CERD)⁶⁷ enjoin states parties to ensure that victims of discrimination premised on race in particular are granted adequate reparation in respect of discrimination they have suffered. In the same vein, Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment⁶⁸ provides beyond the limits set out in CERD in recognizing the provision of means of rehabilitation in addition to adequate compensation for victim's dependents in an event that the said torture results to death of the victims.⁶⁹ Where IDPs are affected by such violations they are accordingly entitled to take advantage of the benefits provided in the above human rights' instruments.

Human rights law provides mechanism by which implementation of its entrenched standards so as to make the commitment made by the states in respect of human rights' treaties meaningful and realistic. This could be achieved by the provision that allows affected individual to lodge complaint or petition against their government for violations before ad-hoc entities or courts established pursuant to relevant conventions.

Just like several treaty based rules of international law, the extent of their successes in terms of compliance and implementation is also constrained by the stern adherence to the principle of sovereignty particularly revered under the African systems⁷⁰ and international legal order.⁷¹

⁶⁷ International Convention on the Elimination of all Forms of Racial Discrimination (1965)

⁶⁸ The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment (1984).

⁶⁹ Ibid., article 14.

⁷⁰ Article 4(a) and (g) of the African Union Constitutive Act 2000 which not only respects the sovereign rights of member states but also forbid interference in the domestic affairs of member states.

⁷¹ See article 2(4) and (7) of the UN Charter dealing with sovereign equality and territorial integrity of member states.

3.2.4 International Criminal Law

International criminal law is a branch of international law that seeks to regulate the behaviours of states, organizations and individual beyond national borders in commission of crimes.

International criminal law is a subset of public international law that derive from sources such as treaties,⁷² customary international law, and general principles of law, judicial decisions (subsidiary source) and learned writings (subsidiary source). These sources typically correlate with the classic list of sources of international law.⁷³

There are close relationships between international law and other areas of international law like humanitarian law and human rights as both influenced the development of international criminal law more particularly in the interpretation and application. Certainly the reverse is also the case with international criminal law in relation to these branches of public international law- humanitarian law and human rights law.⁷⁴

The primary foundation of international criminal law is firmly rooted in treaties. This derives from the fact that criminal penalty cannot lie in respect of an acts or omissions which are not stipulated in any written law at the time of their commission.⁷⁵

⁷² Such as Convention for the Prevention and Punishment of the Crime of Genocide of 1948 (hereinafter called the “Genocide Convention”, The grave breaches provisions of the Geneva Conventions, Rome Statute of International Criminal Court adopted in 1998 but entered into force in 2002(hereinbefore called “Rome Statute of ICC”) amongst several others which are not widely ratified.

⁷³ See article 38 (1) of the Statute of International Court of Justice

⁷⁴ Similar relationship exists between human rights law and humanitarian law. See also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ Advisory Decision (2004) para. 106.

⁷⁵ This rule finds legal authority in a Latin maxim “*Nullum crimen, nulla poena sine lege*” meaning that no one shall be punished for an act or omission unless such act or omission at the time of its commission constitute an offence prescribed in a written law. It is also restated in article 11 of Universal Declaration of Human Rights (UDHR) and articles. 22 and 23 of the Rome Statute of ICC.

International criminal law as entrenched in the Statute of ICC criminalize certain acts which are known as international crimes. An international crime is “any serious crime of great concern to an international community as a whole” and over which international criminal court could assume jurisdiction namely, genocide, crimes against humanity and war crimes.⁷⁶ These crimes are not explicitly defined but rather their physical elements and mental elements are used as descriptive benchmarks in the Statute of ICC.⁷⁷

Genocide is the “intentional killing, destruction or extermination of groups or members of a group.”⁷⁸ The Genocide Convention also sets out clear definition of genocide as well as criminalizing it. However, the definition provided in Genocide Convention is flawed for reasons that it failed to incorporate extermination of a group on political and cultural grounds and its enforcement mechanisms is ineffective. This development propelled further advancement in the legal description of genocide in the Statutes and decisions of ICTY⁷⁹ and ICTR⁸⁰ prior to the ICC Statute.

Article 6 of the ICC Statute provides to the effect that genocide means “any of the following acts committed ‘with intent to destroy, in whole or in part, a national, ethnical, racial or religious group’. The acts to which this article relates are specified under paragraphs (a) to (e) of the said article and includes wilful killing, torture and destruction of properties to mention but a few.

⁷⁶ Article 4 of Statute of ICC

⁷⁷ Ibid. Articles 5, 6 and 7 of Statute of ICC. The crime of genocide is previously provided for in article IV of the Genocide Convention.

⁷⁸ Antonio Cassese, 443. Prior to the Statute of ICC, this crime was referred to as crime of persecution by International Military Tribunal and Tokyo International Tribunal.

⁷⁹ *Jean –Paul Akeyesou’s Case* at Para 204-8 among several other cases of genocide decided by ICTY

⁸⁰ *Jelistic’s Case at Para 78-83* among several other cases of genocide decided by ICTR.

Suffice to add that for an act to be declared as genocidal under the foregoing article, both the mental element (*mens rea*) which is intent to destroy, in whole or in part the targeted group and the physical element (*actus reus*) which is the actual commission of any of the acts listed under paragraphs (a) to (e) must be proved to exist before conviction can be secured.

With respect to the second category of international crime called crimes against humanity, it is said to be committed under article 7 of Rome Statute of ICC when any of the acts referred to in paragraphs (a) to (k) takes place as “part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”

The requirement of the concurrence of the mental element and physical also applies in establishing the commission of this crime. However unlike genocide, it must be established that; the attack was “part of a widespread and systematic attack” as opposed to limited and sporadic attacks, “the targeted persons must be civilians and they must have knowledge that the offences are part of systematic policy or of widespread and large scale abuses.”⁸¹

War crimes is the third category of international crimes under the ICC Statute. War crimes are violations of “law of armed conflicts” or “law of war” and since ICTY’s decision in the *Tadic’s Case*, war crimes also embraces “serious infringements of customary law or applicable treaty law on internal armed conflicts.”⁸²

⁸¹ Antonio Cassese, 442.

⁸² *Prosecutor v. Tadic* at Para.95-137

Serious infringements/violation that are considered war crimes is elaborately provided for under Article 8 (2) of the Statute of ICC. The list of war crimes in the ICC Statute is not an attempt at codifying rules of customary law on the matter.⁸³ Basically, there are four aspects of violation that are war crimes under the Article 8 (2) (a), (b), (c) and (e) of ICC Statute. These are : (a) grave breaches of the Geneva Conventions; (b) other serious violations of the laws and customs applicable to international armed conflicts within the established frameworks of international law; (c) violations of rules applicable to armed conflict not of an international character under article 3 common to the four Geneva Conventions and (e) other serious violations of law and customs applicable to armed conflicts not of an international character within the established framework of international law.

It must be stated that in order to establish war crimes under the ICC Statute, it is important to establish the mental element which is the intent or knowledge or recklessness in carrying out the prohibited act in question which constitute the physical element and same must concur.

With respect to grave breaches which constitute violations of Geneva Conventions and Additional Protocol I, under Article 8 2 (a) and (b) or (c) and (e) there is an additional requirement that such prohibited act must be committed within the context of an armed conflicts known to internal humanitarian law and applicable customary law and not internal disturbances.⁸⁴

⁸³ Antonio Cassese, 438.

⁸⁴ See articles 8(2), (c) and (f) of Statute of ICC.

IDPs is not defined in international criminal law *per se*. However, the Rome Statute of ICC in particular made several references to “victims of crime” even though the later too is also devoid of any definition therein, where acts that led to displacement also constitute a crime under international law as posited earlier on in this discussion, there is of course no further argument as to the qualification of any person affected as a victim of crime and entitled to take benefit of the legal protection under articles 68, 75 and 79 of the ICC Statute which provides compensation for ‘victims of crime’ and their ‘witnesses’ during participation in proceedings, provision of reparation/compensation for ‘victims of crime’ and provision of trust fund for the benefit of ‘victims of crime’ respectively.

To this extent, it could be argued that even though IDPs is not expressly defined in the above treaties, a community reading of the above provisions of the Statute of ICC in the opinion of this researcher would lead to a rational conclusion that IDPs are also victims of international crimes are also entitled to the protection guaranteed in these treaties.

Being treaty based, the legal character of international criminal law is intrinsic. In other words, States Party to the relevant treaties are duty bound to accord them legal status as far as international law is concerned based on the legal effect of article 26 of the Vienna Convention. As stated earlier on in this chapter, Nigeria have ratified Genocide Convention and Statute of ICC consequently they are binding on it insofar as they are relevant to the protection of IDPs in curbing impunity of incessant internal violence especially having regards to criminal acts which are also punishable in domestic

parlance where international treaty provisions are incorporated into national penal legislation.⁸⁵

The notion of state responsibility is also well entrenched in international criminal law as it behoves on states parties to exercise its criminal jurisdiction over any person found to have committed any of the acts considered as international crimes.⁸⁶ In carrying out this responsibility states parties to these conventions are enjoined to cooperate with the court (ICC) in the area of investigation and prosecution of crimes,⁸⁷ other forms of assistance;⁸⁸ and in the enforcement of its orders⁸⁹ as incidental to the treaty obligations.

The obvious limitation to the assumption and implementation of this responsibility by states parties lies in the fact that it all depend on whether the treaty in question is domesticated in national jurisdictions. This is because in some jurisdictions, for example, Nigeria, treaty does not have automatic application in the same manner as domestic laws.⁹⁰

There are no provisions in international criminal law for attainment of durable solution for victims of crime. However, the right to reparation for gross violation of rights which have reached the threshold of international crime is well articulated. These are meant to put victims of crime to the position they were prior to the commission of the

⁸⁵ This is in accordance with article 26 of the Vienna Convention on the Law of Treaties 1969.

⁸⁶ See the Preamble and articles I and V of the Genocide Convention and the Preamble to Rome Statute of ICC.

⁸⁷ Article 86 of Rome Statute of ICC.

⁸⁸ Ibid. Article 93.

⁸⁹ Id., Articles 103-107.

⁹⁰ *Gani Fawehinmi v. Sani Abacha* [1996] 9 NWLR (Part 475) 710, 747

criminal acts in question. Under article 75 of the Statute of ICC, the court is empowered on its own motion to determine the amount of reparation consisting of restitution, compensation and rehabilitation that would be payable in respect of losses, damages or injuries suffered by victims of crime.⁹¹ To make this provision practicable, article 79 provides for trust fund for victims where such order can be executed from in accordance with article 75(3). These reparations is payable to direct and indirect victims.⁹² The foregoing provisions was given judicial approval by the Appeal Chamber of the ICC in *Situation in the Democratic Republic of Congo-The Prosecutor v. Thomas Lubanga Dyilo*⁹³

The foregoing key features of international criminal law as entrenched in the Statute of ICC in particular is significant on the grounds that they brought to the fore the need to go beyond punitive justice⁹⁴ and the fact that the award by this court does not constitute a bar to the right of victims of crime to seek to seek alternative remedies under national jurisdictions.

In conclusion, international criminal law is treaty based and as such there are provisions on internal mechanism for compliance and implementation of its rules. For example, the Rome Statute of ICC provides for Assembly of State Parties as the

⁹¹ Article 5 of Statute of ICC.

⁹² Rule 85 of the Rules of Procedure and Evidence made pursuant to article 51 of Statute of ICC.

⁹³ ICC-01/04-01/06 delivered on 3 March 2015. In this case, the accused was arraigned for the offence of enlisting, conscripting and using child soldiers in the Ituri conflict in the Democratic Republic of Congo between September 2002 and August 2003 and was convicted and sentenced to 14 years jail term by the Trial Chamber. On appeal to the Appeal Chamber, the court held among others after satisfying itself of the fact that the accused was penniless and amended its earlier decision of 1 December 2014 which affirmed the order of the Trial Chamber ordering that the reparation to the 129 identified victims be paid from the Trust Fund for Victims. See case information and other details at, <https://www.icc-cpi.int/iccdocs/PIDS/publications/LubangaENG.pdf> (accessed on April 21, 2016).

⁹⁴ Under article V of the Genocide Convention of 1949 which states "...to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III" lend credence to the thought that punitive justice rather than restorative justice seems to be the sole object of trials in respect of crimes prohibited by the convention.

highest monitoring body with one representative each from each state party for the purpose of ensuring efficiency of the Court⁹⁵ and may set up other subsidiary bodies to supervise, investigate and evaluate the functions of the Court.⁹⁶ Like most treaty law, the internal mechanism depends for its efficacy on the political will and co-operation of states parties as the ICC lacks the legal competence to arraign on its own in domestic jurisdictions as well as ensuring the compliance with its conviction and sentence in the territory of states parties.⁹⁷

3.2.5 African Union Convention for the Protection and Assistance of Internally Displaced Persons

This is the first regional arrangement on IDPs' protection and assistance constituted under the auspices of the African Union in the world.⁹⁸ The application of this Convention is limited to member states of the African Union who have adopted and ratified it.⁹⁹

The definition of IDPs in this Convention¹⁰⁰ is on all fours with the one offered in the Guiding Principles.¹⁰¹ Like the Guiding Principles, the definition is rather descriptive rather than a definitive proof of identity of a particular class of persons in need. This

⁹⁵ Article 112 (1) of the Rome Statute of ICC.

⁹⁶ Ibid. Article 112(4).

⁹⁷ Id., Article 30.

⁹⁸ Adopted in 2009 in Kampala, Uganda but entered into force on December 6, 2012 (hereinafter called "Kampala Convention").

⁹⁹ As at 17 March 2013, the following nineteen countries out of the thirty nine that signed, have adopted and ratified the Convention namely, Angola, Benin, Burkina Faso, Central African Republic, Chad, Gabon, Gambia, Guinea-Bissau, Lesotho, Mali, Malawi, Nigeria, Niger, Rwanda, Sierra Leone, Swaziland, Togo, Uganda and Zambia. This data is at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=51c19fd24> (accessed on April 1, 2016).

¹⁰⁰ Article 1(1) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons, <https://www.icrc.org/casebook/doc/treaty/au-idp-convention---assembly---final---10.23-pm-23-oct.pdf> (accessed on April 1, 2016) hereinafter referred to as Kampala Convention.

¹⁰¹ Guiding Principles, Introduction, paragraph 2.

is because it does not confer any separate legal status on IDPs but rather reinforces special protection and assistance for IDPs in the context of African States.¹⁰²

Similarly, the Kampala Convention like its precursor-Guiding Principles provides that internal displacement denotes “involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized state borders.”¹⁰³ This definition in similar vein amplifies the two core elements namely, the movement is within the territory of their own state and that it is coercive and involuntary.

The legal character of this convention has been much celebrated as the first legally binding regional treaty on internal displacement.¹⁰⁴ The reasons are not far-fetched, it is a treaty and flowing from preceding discussions regarding this subject, treaties are by their own nature legally binding on states parties to it. To further buttress this point, articles 16 and 17 provides for signature, ratification and or accession by states party.

Nigeria in furtherance of this requirement has signed, ratified and deposited her instrument of ratification, thus making its provisions applicable in the legal protection of IDPs within the territory of this country. The responsibility to protect and assist IDPs is clearly expressed in this Convention as residing with the competence of

¹⁰² Allehone Mulugeta Abebe, “The African Union Convention on Internally Displaced Persons: Its Codification Background, Scope and Enforcement Challenges” *Refugee Survey Quarterly* Vol. 29, No. 3 (2010):47; Flavia Zorzi Giustiniani, “New Hopes and Challenges for the Protection of IDPs in Africa: The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa” *Denver Journal of International Law and Policy*, Vol. 39:2, (2011):348, <http://www.djilp.org/wp-content/uploads/2011/08/05-Zorzi-Giustiniani.pdf> (accessed on January 9, 2015)354.

¹⁰³ Article 1(l) of Kampala Convention.

¹⁰⁴ International Refugee Rights Initiative (IRRI), “Comparison of the Kampala Convention and the IDP Protocol of the Great Lakes Pact” A Briefing Note, January 2014, <http://www.refugee-rights.org/Assets/PDFs/2014/Comparative%20Note%20on%20the%20Kampala%20Convention%20and%20IDP%20Protocol%20FINAL-EN.pdf> (accessed on January, 20 2015).

national governments. This position flows from the preamble to the Convention as used in the Guiding Principles ¹⁰⁵ to the effect that:

States Parties shall have the primary responsibility and commitment to respect, protect and fulfil the rights to which internally displaced persons are entitled, without discrimination of any kind.

Unlike in other normative frameworks on IDPs' protection, this Convention is categorical in terms of the role of non-state actors who are also duty bearers by providing to the effect that these obligations are to be shared by humanitarian organizations¹⁰⁶ and the African Union.¹⁰⁷

The rule against arbitrary treatment coined as 'prohibition and prevention of arbitrary displacement' in this Convention is one of its significant innovations. For example, article 4 recognizes the right not to be arbitrarily displaced in a language that is more explicit and elaborative than in any other existing norms relating to internal displacement.¹⁰⁸ In particular, the Convention provides against arbitrary displacement of people whose existence is dependent on land in addition to declaring that acts of arbitrary displacement could amounts to an international crimes.¹⁰⁹

Like the Guiding Principles, the Convention provides that development projects could lead to arbitrary displacement.¹¹⁰ Unfortunately, the Convention, unlike the Guiding

¹⁰⁵ Principles 3 of UN Guiding Principles on Internal Displacement 1998

¹⁰⁶ Article 6 of Kampala Convention

¹⁰⁷ Ibid. Article 8.

¹⁰⁸ See the comprehensive list of prohibitions in article 4 (4) (a-h) of Kampala Convention which is longer than the Guiding Principles; See also Abebe, 46-47; Alemayehu, 59.

¹⁰⁹ Article 4(5) and (6) of Kampala Convention.

¹¹⁰ Ibid. Article 10.

Principles,¹¹¹ failed to provide explicitly kinds and purposes of project envisaged therein.

It is humbly submitted that the word “project” as used in this Convention is too wide and as such its interpretation is amenable to subjective decisions of those charged with such responsibilities. With respect to the question of necessity of such projects in the first place, the Convention similarly failed to employ the phrase ‘...compelling and overriding public interests’ used in the Guiding Principles to curb excesses of state actors and non-state actors.

The Convention contains elaborate provisions that deal with issue of durable solutions in the forms of return, reintegration and rehabilitation as well as grant of effective and adequate remedies for IDPs. The obligation for providing these solutions and remedies is vested on states parties to the Convention. Article 11 of this Convention explicitly provides to the effect that IDPs shall be entitled to an informed choice of which of these solutions that are appropriate to their particular circumstances.¹¹² National authorities are also enjoined to set up mechanisms for settlement of issues that provoked displacement¹¹³ with particular emphasis on restoration of properties such as land where it is established that the livelihood and attachment of IDPs depends on land.¹¹⁴

¹¹¹ Under Principle 9(c) of the Guiding Principles reference is made only to large scale development projects e.g. large dam construction.

¹¹² Article 11(2) of the Kampala Convention.

¹¹³ Ibid., Article 11(3).

¹¹⁴ Id., Article 11(5).

With respect to granting of reparations, this Convention provides that IDPs shall be granted effective remedies¹¹⁵ but failed also to define what is meant by “effective remedies” in relation to IDPs. This failure renders this provision amenable to diverse interpretations in practice.

States parties are further enjoined to provide mechanisms that would aid the granting of remedies incurred consequent upon displacement.¹¹⁶ Of particular importance is the provision which render states parties liable to pay reparation to IDPs where displacement occurs due to their neglects to prevent in the case of displacement caused by natural disasters.¹¹⁷

The foregoing provisions are ground-breaking as they not only set realistic standards regarding durable solutions and reparations beyond the limits set out in the Guiding Principles but also the fact that sovereignty which entails responsibility to protect IDPs is further advanced by the doctrine of vicarious liability in respect of states parties to the Convention.¹¹⁸

Unlike the Guiding Principles where mechanism for monitoring and compliance is lacking, article 14 of this Convention provides for a monitoring arm christened “Conference of States Parties” to monitor and review implementation of this treaty in collaboration with other key regional mechanisms such as African Commission for Human and Peoples’ Rights (ACHPR) the African Peer Review Mechanism, and the

¹¹⁵ Id., Article 12(1).

¹¹⁶ Id., Article 12(2).

¹¹⁷ Id., Article 12(3).

¹¹⁸ Ibid.

Special Rapporteur and African Court of Human and Peoples Rights.¹¹⁹ However, the right of intervention which is entrenched in article 8(1) of this Convention and designed to give legal efficacy to the role of the “Conference of States Parties” has never been exercised insofar as internal conflicts in Africa is concerned.¹²⁰

It is submitted that the reasons for this avoidable gap are not farfetched. The monitoring mechanisms of this Convention is unfortunately domiciled in the meeting of States Parties is unnecessarily too weak due to lack of political will.¹²¹ In the same vein, the language regarding monitoring is unreasonably vague as no function is specified for the “Conference of States Parties to the Convention.”¹²² What is more, there is no guidance on the specific roles of African Commission on Human and Peoples’ Rights (ACHPR) and African Peer Review Mechanism in collaborating with Conference of States Parties.¹²³

3.2.6 Great Lakes’ Protocol on the Protection and Assistance to IDPs

The Great Lakes IDP Protocol emerged as the first sub-regional arrangement to have ever been undertaken and modelled after the Guiding Principles worldwide.¹²⁴ The provisions of the IDP Protocol is limited to the thirteen (13) states within the Great

¹¹⁹ See article 30 of the African Charter on Human and Peoples Rights (1981) which provides for the role of African Commission on Human and Peoples’ Rights in monitoring and ensuring compliance with African human rights system.

¹²⁰ Such right of intervention recognized in article 4(h) of the AU Constitutive Act 2000 is yet to be put into practice based on similar reasons.

¹²¹ Giustiniani, 370.

¹²² Brigitta Jaksa and Jeremy Smith, “Africa: From Voluntary Principles to Binding Standards” *Ten Years of the Guiding Principles on Internal Displacement*, Marion Couldrey and Maurice Herson (eds.), *Forced Migration Review*, GP 10, December (2008):19.

¹²³ For example, under article 62 of the African Charter on Human and Peoples’ Rights, the measures to be taken by the Commission is couched in general terms.

¹²⁴ It was adopted under the auspices of the International Conference for the Great Lakes Region (ICGLR) in 2006 as part of the Great Lakes Pact (hereinafter called Great Lakes IDP Protocol).

Lakes region who are members of the International Conference for the Great Lakes Region (ICGLR).

Article 1 (4) of the Protocol adopts the definition of IDPs in the Guiding Principles word for word and in addition it incorporates the impact of development projects as one of causes of internal displacement in the Great Lakes region. For ease of reference article 1(5) provides to the effect that 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, and who have not crossed an internationally recognized State border. (Emphasis added).

The underlined phrase-‘in order to avoid the effects of large scale development projects’ in the above provision influenced the incorporation of an article on development induced projects in the Kampala Convention.¹²⁵ Even though the word ‘project’ is nowhere defined in the IDPs’ Protocol in same manner as it is absent in the Kampala Convention, the interesting reference to it in these instruments is considered a good step in the right direction given the increasing rate of development projects with attendant consequences. For example, in response to displacement caused by development projects such as large dams in China and India, the World Bank have spent more than 63 percent of its fund to show how intractable this problem has become at the international level.¹²⁶ Further example exists in Nigeria where over

¹²⁵ Article 10 of the Kampala Convention.

¹²⁶ George Caspary, “The Impact of Development Induced Displacement on Human Security: A Study of Dam Finance” *Human Security Journal*, Vol. 4 Summer (2007):70-81, http://reliefweb.int/sites/reliefweb.int/files/resources/8B92955EF4A559A2C125741A0032BD3B-CPHS_jun2007.pdf (accessed on April 2, 2016).

10000 were reportedly displaced following the construction of Cross River National park.¹²⁷

The Great Lakes IDP Protocol also recognizes the role and responsibilities of states as primary actors in international law. This is provided for under articles 3, 5 and 6 of this Protocol respectively. This Protocol is quite explicit beyond existing frameworks as it focuses mainly on member states insofar as responsibility to protect IDPs is concerned in addition to the clearly worded commitment to comply with the general standards set out in the Guiding Principles.¹²⁸ This protocol also enjoins member states as part of their obligations to respect and comply with United Nations Security Council resolutions that are relevant to the protection of the civilians including women in armed conflicts.¹²⁹

The notion of prevention and protection from arbitrary displacement is well recognized in the Great Lakes IDP Protocol even though there are no comprehensive provisions on this subject as entrenched in the Guiding Principles and the Kampala Convention. It appears that a quick look at other provisions of would show that there is a strong undertaking to protect IDPs in the sub-region against all forms of arbitrariness insofar as it relates to internal displacement as the protocol commends “member states to prevent arbitrary displacement and to eliminate all root causes of displacement.”¹³⁰

¹²⁷ Bogumil Terminiski, “ Development Induced Displacement and Resettlement: Theoretical Frameworks and Current Challenges, Geneva May (2013):19, <https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/8833/Bogumil%20Terminiski,%20development%20Induced%20Displacement%20and%20Resettlement.%20Theoretical%20frameworks%20and%20current%20challenges.pdf?sequence=1> (accessed on March 4, 2016).

¹²⁸ IIRI (2014):3.

¹²⁹ UN Security Council Resolutions No. 1296 (19 April 2000), https://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1296 and No. 1325 (31 October 2000), https://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1325 (accessed on April 6, 2016).

¹³⁰ See articles 2(4) and 3(1) of the Great Lakes IDP Protocol.

Unlike the Guiding Principles and the Kampala Convention, there are no express provisions dealing with durable solutions to IDPs in this protocol. The slightest reference approximating to the thresholds established in existing frameworks is in article 4 (f) and (h) which provides to the effect that member states undertake to ensure safe relocation of IDPs to their place of choice as well as promoting reunification with their families at the end of displacement.

The obvious problem is that despite the fact the drafting of this Protocol was influenced by the Guiding Principles, it failed to follow the same path in this respect. What is more challenging is that fact that there are no definite institutional mechanism for the provision of durable solutions to the plight of IDPs as far as Great Lakes region is concerned.

There are no provisions for implementation of this sub-regional arrangement on IDPs *per se* as it is bereft of such internal mechanism. Rather it enjoin member states to implement the Guiding Principles by adopting it as a legal framework on IDPs applicable to the region¹³¹ through domestication into national laws.¹³² Member states are further enjoined to designate an organ or institution of government with the sole responsibility in the provision of protection and assistance for IDPs and other victims of disaster within the region.¹³³ This is a clear gap and constitutes a strict departure from the Kampala Convention.

¹³¹ Article 6(1) of the Great Lakes' IDP Protocol.

¹³² *Ibid.*, Article 6(3).

¹³³ *Id.*, Article 6(4).

3.3 International Institutions Relevant to IDPs

The following headings will be covered under this sub-topic, namely:

- 1) United Nations High Commissioner for Refugees (UNHCR);
- 2) International Committee of the Red Cross (ICRC); and,
- 3) International Organization for Migration (IOM).

3.3.1 United Nations High Commissioner for Refugees (UNHCR)

The legal foundation of UNHCR derives from the Charter of the United Nations.¹³⁴

Article 7 of the UN Charter provides to the effect that the United Nations is empowered to create “such subsidiary organs as may be found necessary, may be established in accordance with the present Charter”.¹³⁵ The UNHCR is one of such subsidiary organs and flowing from the fact that refugees are considered as persons of concern to the United Nations General Assembly necessitated the adoption of UNCHR Statute in 1951.¹³⁶

IDPs is not defined or mentioned in the UNHCR Statute as persons of concern.¹³⁷ The reasons for the absence of nexus with IDPs is not far-fetched, and this distinction is well explained at the onset of this research. Suffice to state further that IDPs by definition unlike refugee are within the territory of their own states and thus the responsibility for their protection falls directly on their national governments coupled with the fact that the United Nations Charter which begets UNHCR as a refugee

¹³⁴ Corinne Lewis, *UNHCR and International Refugee Law: From Treaties to Innovation*, (London: Routledge, 2012):13.

¹³⁵ Article 22 of the UN Charter.

¹³⁶ Statute of the Office of the United Nations High Commissioner for Refugees, contained in the Annex to UN General Assembly Resolution 428 (V) of 14 December 1950(hereinafter referred to as UNHCR Statute).

¹³⁷ *Ibid.*, Paragraph 8(a) lists out the four areas of responsibilities all pertaining to the protection of refugees.

institution within its system forbids interference in the domestic affairs of member states.¹³⁸

The UNHCR Statute is not a treaty *per se* but evidently product of resolution of the General Assembly of the United Nations.¹³⁹ Within the spheres of UN system, this resolution is recommendatory rather than obligatory.¹⁴⁰ The term ‘resolution’ is generic and may mean, decision or recommendation. Their legal effects depend largely on the context they are used.¹⁴¹ These terms-decision and recommendation are too vague and thus do not lend themselves to precise practical definition even within the UN Charter.¹⁴² The International Court of Justice in *Certain Expenses of the United Nations*¹⁴³ held while considering the purport of article 17(2) of the UN charter that ‘decision’ means binding resolution while ‘recommendation’ is used for non-binding resolution. It went further to add that a resolution is binding if it creates an obligation on those it is addressed to.

The UNHCR Statute being a unilateral act of the General Assembly merely recommends to states when dealing with the protection of refugee, to this extent this research argues that there are not binding on member states of the United Nations

¹³⁸ Article 2(1) and (7) of the United Nations Charter, <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> (accessed on March 23, 2016).

¹³⁹ United Nations General Assembly Resolution 428 (v) of 14 December 1950, <http://www.un.org/documents/ga/res/5/ares5.htm> (accessed on April 3, 2016).

¹⁴⁰ P.N Maynard, “The Legal Consequence of United Nations High Commissioner for Refugees” *International and Comparative Law Quarterly* (1982):415, 416 cited in Corinne Lewis (2012):99.

¹⁴¹ According to Bryan A. Garner, *Black’s Law Dictionary* 9th Edition (USA: Thompson Reuters, 2009):1425 a resolution means “a main motion that formally expresses the sense, will, or action of a deliberative assembly...”

¹⁴² Marko Divac Oberg, “The Legal Effects of Resolution of the UN security Council and the General Assembly Resolution in the Jurisprudence of the ICJ”, *European Journal of International Law*, Vol. 16, No.5,(2006):880.

¹⁴³ (1962) ICJ Rep. 151 at 163 (hereinafter called ‘Certain Expenses’).

notwithstanding the fact that they are neither incompatible to the general purpose of the UN Charter nor the interest of those to whom they are addressed to.¹⁴⁴

There are no provisions that vest national authorities with responsibility pertaining to the protection and assistance of IDPs or any matter contained in the mandates of the UNHCR¹⁴⁵ which is promotional and consistent with the purpose of the United Nations.¹⁴⁶ Be that as it may, this research argues that the only linkage that UNHCR have with states is through its responsibility to report to the UN General Assembly which essentially comprises of about 196 states who are parties to the UN Charter. Reporting to this eminent body without more does not in the opinion of this researcher translate to imposing obligations on them to cater for IDPs within their territory.

The UNHCR Statute is not armed with precise mandates to either prevent or prohibit arbitrary displacement insofar as it relates to IDPs in particular. This is true having regard to the fact that such provisions are not found within the spectres of the four responsibilities of UNHCR as distilled from its Statute.¹⁴⁷ Be that as it may, UNHCR's interpretation of its role in the legal protection of refugee encompasses rules including those pertaining to protection against refoulement and freedom from discrimination as a threshold in the development of international standard for the treatment of refugee.¹⁴⁸

To this extent it could be argued that the notion of arbitrary displacement is not entirely alien to UNHCR even though in discharging this responsibilities, IDPs nonetheless are

¹⁴⁴ *South West Africa (Ethiopia v. South Africa (Second Phase))* (1966) ICJ Rep. 6 at 50-51 (hereinafter called 'South West Africa'). This is but a general rule subject to exceptions.

¹⁴⁵ Paragraphs 8 (a) of UNHCR Statute

¹⁴⁶ Article 13 of the United Nations Charter.

¹⁴⁷ Paragraphs 8(a) of UNHCR Statute.

¹⁴⁸ UNHCR, Notes on International Protection, 2, UN. Doc. A/AC.96/680 (5 July 1986).

not primary but secondary target of attention especially if displacement takes place within the borders of member states of the United Nations.

The provision of durable solutions to refugees and other persons of concern (IDPs, migrants etc.) to UNHCR is aptly provided for in paragraph 1 of its Statute and consists of repatriation, integration and resettlement with the ultimate purpose of ensuring them to rebuild their lives with honour. Firstly, voluntary repatriation is meant to satisfy the strongest hope of putting an end to exile by ensuring that refugees return to their country of origin in safety and dignity with the support and collaboration of their home governments. For example, in 2015 UNHCR facilitated the voluntary return of 116 Somali refugees from Kenya to Mogadishu,¹⁴⁹ secondly, resettlement in a third country other than the country of asylum is another option for those whose hope of returning home is lost. This depends on the co-operation of the third country in question. For example, UNHCR has been able to facilitate the resettlement of Bhutanese refugees from Nepal to third country since the onset of the programme in 2007¹⁵⁰ and local integration of refugees in foreign country especially where the source of persecution in the home country is still prevalent, acceptance by the host state offer a new phase of live to this vulnerable persons. UNHCR negotiated the local integration with Brazilian Government with respect to nearly 2000 Angolan and Liberian refugees in 2012.¹⁵¹

¹⁴⁹ UNHCR, “116 Somali Refugees from Kenya Land in Mogadishu...” Press Release, 5 August 2015, <http://www.unhcr.org/55c1fadd9.html> (accessed on April 22, 2016).

¹⁵⁰ UNHCR, “Resettlement of Bhutanese Refugees Surpasses 100.000 Mark, New Stories, 19 November 2015, <http://www.unhcr.org/564dded46.html> (accessed on April 22, 2016).

¹⁵¹ UNHCR, “UNHCR Welcomes Brazilian Residency for Nearly 2000 Angolan and Liberian Refugees” Briefing Notes, 9 November 2012, www.unhcr.org/509cedc9.html (accessed on April 22, 2016).

The UNHCR Statute is not fortified with the pre-requisite power of enforcement of implementation of refugee laws by states parties to the 1951 UN Refugees Convention. In other words, the UNHCR does not have power of enforcement in view of the fact its intervention is dependent on the cooperation of states parties.¹⁵² The near example of enforcement mechanism which can be exploited by the UNHCR is through a procedure that entails lodging a request for an advisory opinion of the International Court of Justice with respect to issues of interpretation of the provisions of UN Refugees Convention,¹⁵³ and through the submission of dispute over interpretation of the 1951 Refugee Convention to the ICJ.¹⁵⁴ The cases of *Asylum Case (Columbia v. Peru)*¹⁵⁵ and *Haya de la Torre (Columbia v. Peru)*¹⁵⁶ which were decided by the ICJ prior to 1951 illustrates these provisions.

The soft nature of the mandates of the UNHCR goes a long way to deny it of the necessary legal competence to invoke penal sanctions against states parties with a view to guaranteeing effective implementation of international refugee standards.

It is also the contention of this research that since UNHCR derives its mandates from the UN Charter, it is logical to submit that its mandate ought to extend to protection and assistance of IDPs as necessary implication of the overall objectives of the United Nations which is maintenance of international peace and order. After all, the conditions that provoke situations of internal displacement and those of refugee are quite similar except for the geographic criterion.

¹⁵² Article 35(1) of the UN Refugee Convention.

¹⁵³ Article 65 of the Statute of the International Court of Justice.

¹⁵⁴ Article 38 of the 1951 UN Refugee Convention.

¹⁵⁵ 1950 I.C.J. 266. The fact of this case involves the issue of grant of asylum to Mr Hay de le Torre , the leader of a political party in Peru based on the interpretation of 1928 Havana Convention on Asylum.

¹⁵⁶ 1951 I.C.J. 71. The fact are on all fours with the *Asylum Case*.

3.3.2 International Committee of the Red Cross (ICRC)

This is a Non-Government International Organization (NGIO) outside the United Nations system¹⁵⁷ that act as guardians in humanitarian assistances pursuant to article 3 common to the Geneva Conventions applicable to non-international armed conflicts (NIAC). The source of its authority is Statute of the International Movement of the Red Cross and Crescent 1986.¹⁵⁸ Persons of concern to ICRC's regimes is not clearly defined save for earlier prescription in its alternative source-Geneva Conventions which provides that protection is in favour of civilians and non-combatants.¹⁵⁹

IDPs is not defined in the Statute of the Movement and its absence suggest in the interim that the mandates of ICRC which derives from the Statutes of the Movement is not applicable to situations of internal displacement. However, IDPs are civilians or non-combatants especially where they are not involved in hostilities in conflicts of non-international character which takes place within the territory of High Contracting Party to the Geneva Conventions.¹⁶⁰ Where internal armed conflict is of lesser intensity and the non-state party is unorganized in terms of structure and military power, like riot, uprising and banditry, it is an internal disturbances in which case ICRC would not intervene based on the provisions of article 1(2) of Additional Protocol II to the Geneva Conventions.

¹⁵⁷ Susan F. Martin, "“Forced Migration and Evolving Humanitarian Regime” *Working Paper* No.20, New Issues in Refugee Research, Georgetown University, (2000), 15 available at <http://www.refworld.org/pdfid/4ff5860e2/.pdf> (accessed on January 27, 2015).

¹⁵⁸ Adopted by the 25th International Conference of the Red Cross at Geneva in 1986, amended in 1995 and 2006 respectively.

¹⁵⁹ See article 3(1) Common to the Four Geneva Conventions.

¹⁶⁰ Ibid.

To put more simply, ICRC's mandates towards IDPs can only be invoked where the armed conflict is internal armed conflicts as opposed to international armed conflicts as prescribed by common article 2 of the Geneva Conventions. ICRC can also extend its scheme of protection in favour of IDPs based on the dictates of international human rights law founded on the respect for protection of lives and dignity of human persons.¹⁶¹ To this extent IDPs certainly would qualify as persons of concern to ICRC

There are no provisions in the Statutes of the Movement that confers on it binding effect on states parties to the Statutes despite its importance as elicited from the preamble and many references made to the Geneva Conventions in it.¹⁶² A quick glance at the general provisions,¹⁶³ this researcher humbly contends that they merely recommends as opposed to imposing statutory obligation on states parties to it who are also High Contracting parties to the Geneva Convention to comply and thus it is not binding on them.

National responsibility of states towards persons of concern to ICRC is not provided for in the Statute of the Movement. The Statute is not a treaty *per se* and thus it does not impose additional obligations on High Contracting States who are also parties to the Statutes of the movement (ICRC) beyond their obligations held by them under international humanitarian law.

However, going by the fact that the Statute enjoin states parties to the Geneva Conventions and other relevant treaties dealing with humanitarian assistance to IDPs

¹⁶¹ ICRC's Mandate and Mission: An Overview, 29 October 2010, <https://www.icrc.org/eng/who-we-are/mandate/overview-icrc-mandate-mission.htm> (accessed on March 12, 2016).

¹⁶² Articles 1(3) and 2 of the Statutes of the Movement,

¹⁶³ Ibid., articles 2(1), (2), (3), (4) and (5) thereof.

to ‘co-operate’ with its members.¹⁶⁴ It could be argued in this research that there are incidental responsibilities that are to be undertaken by ICRC in line with the general obligation of states parties in this Conventions.¹⁶⁵

There are no specific provision in the statute that is aimed at preventing or prohibiting arbitrary treatments capable of igniting internal displacement. However, by reason of the fact that they are popularly called the “guardian” of the Geneva Conventions which prohibits most forms of arbitrary treatments by way of discrimination based on whatever grounds, it is safe to add that in carrying out their responsibility towards victims of internal armed conflicts, this body would likely be guided as to what can amount to arbitrary treatments in the light of the Geneva Convention.

There are no specific provisions in the Statute of the Movement which is the Charter of the ICRC¹⁶⁶ insofar as the provision of durable solutions and reparations for IDPs in particular and victims of human rights violations in general. Despite this lacuna, a clear appraisal of the provisions of article 6 of this Statute which provides to the effect that the ICRC is competent to “bring relief by all means to all disaster victims,”¹⁶⁷ assists in relief operations,¹⁶⁸ and promotion of social welfare in partnership with national government¹⁶⁹ makes their involvement vital when dealing with general framework for providing durable solutions.

¹⁶⁴ Art. 2 of the Statute of the Movement.

¹⁶⁵ This is by virtue of article 3(1) Common to the Geneva Conventions.

¹⁶⁶ Article 5 of the Statutes of International Red Cross and Red Crescent 1986 as amended.

¹⁶⁷ Ibid., Article 6(c).

¹⁶⁸ Id., Article 6(d).

¹⁶⁹ Id., Article 6(e).

The ICRC's role in the implementation of international humanitarian law can be further gleaned from the not less than 100 reference to it in the Geneva Conventions with most of them based on "injunctions to act" in furtherance of the Conventions regarding supervision, co-operation, and repatriation. This was illustrated in the *Simic Case*¹⁷⁰ where the International Criminal Court for Yugoslavia (ICTY) did not only endorsed the immunity of staff of ICRC from testifying before it but also recognized its role in the implementation of the Geneva Conventions.

3.3.3 International Organization for Migration (IOM)

IOM was established in 1951 as Intergovernmental Committee for the European Migration principally to help European Government to resettle millions of persons uprooted by the Second World War.¹⁷¹ It was later rechristened as International Organization for Migration in 1989.

The Constitution of IOM offers no definition in respect of IDPs.¹⁷² However, the IOM's Glossary on Migration made pursuant to its Constitution defines 'internally displaced persons' word for word in line with the Guiding Principles.¹⁷³

In addition, IDPs is also seen therein from point of view of victim of forced migration in view of the definition of forced migration in IOM's glossary as follows:

¹⁷⁰ *Prosecutor v. Simic et al.* ICTY Case No IT 95-9, Decision on the Prosecution Motion under Rule 73 for a Ruling Concerning the Testimony of a Witness (Trial Chamber), 27 July 1999, paras. 47 and 72.

¹⁷¹ Richard Perruchoud, "From the Intergovernmental Committee for European Migration to International Organization for Migration" *International Journal of Refugee Law*, Vol. 1(4) (1989): 501-517.

¹⁷² Constitution of International Organization for Migration adopted on 17 October 1953 and amended in 2013, www.iom.int/constitution#Ch1 (accessed on March 31, 2016).

¹⁷³ International Migration for Migration (IOM), Glossary on Migration, Geneva, (2004):32-33, http://www.iomvienna.at/sites/default/files/IML_1_EN.pdf (accessed on March 10, 2016).

A migratory movement in which an element of coercion exists, including threat to life and livelihood whether arising from natural or man-made causes (e.g. movement of refugees and internally displaced persons as well as people displaced by natural and environmental factors, chemical, or nuclear disasters, famine or development projects.¹⁷⁴ (Emphasis added).

The foregoing clearly shows the application and relevance of IOM's role in IDPs related matters as persons of concern as the same is not shrouded in any definitional difficulty.

IOM Constitution is a private document that regulates relationship of members.¹⁷⁵ Nonetheless, this research argues that the Constitution remains private act of members and hence its provision is binding only on members as it do not approximate to the status of treaty within the context of jurisprudence of international law as are applicable to IDPs' protection.

States who are members of this organization in accordance with article 2 of IOM's Constitution are required to carry out the purposes and functions stipulated in articles 1 (a) to (d), 2 and 3 thereof. To this extent, there are corresponding responsibilities owed by respective states towards migrants as opposed to IDPs who are not considered as primary persons of concern to this organization by virtue of its Constitution.

The issue of prohibition of arbitrary treatment which consists of unlawful discrimination and forceful displacement is not provided for in the IOM Constitution

¹⁷⁴ Ibid., 23.

¹⁷⁵ Article 22 of the IOM Constitution provides for the legal personality of the organization.

but IOM have carried out tasks that are aimed at preventing arbitrary displacement in Afghanistan and Iraq to mention but a few.¹⁷⁶

IOM being a private international organization, the implementation and enforcement of the provision of its constitution is a domestic matter and usually carried by its highest decision making organ which is the Council comprising of one representative from each member states.¹⁷⁷ The Council's enforcement powers reside in the nature of functions it is charged with under its Constitution. It is also empowered to take appropriate actions against any erring members.¹⁷⁸ The efficacy of this internal mechanism is doubtful as there is no record on how it has applied this powers with respect to implementation of the provision of its constitution insofar as members' conduct is concerned.

3.4 Domestic Legal Frameworks Relevant to IDPs

Unlike international frameworks relevant to IDPs' protection which comprises of relevant instruments and institutions because both are distinct and are based on separate legal sources, domestic regimes in Nigeria are creation of statutes and in individual cases they provide both legal and institutional basis for IDPs' protection. In view of the foregoing, they are not distinct to deserve separate discussions under this sub-heading.

¹⁷⁶ See Human Rights Watch, "The International Organization for Migration and Human Rights Protection in the Field Current Concerns" Submission to IOM Governing Council Meeting, November (2003):1-18, <https://www.hrw.org/.../migrants/iom-submissio> (accessed on March 5, 2016).

¹⁷⁷ Article 6 of the IOM Constitution.

¹⁷⁸ Ibid. Article 6(a)-(e) thereof.

The following headings will be covered under this sub-topic, namely:

- 1) Nigerian Constitution;
- 2) National Commission for Refugees, Migrants and Internally Displaced Persons Act;
- 3) National Emergency Management Agency Act;
- 4) National Human Rights Commission Act; and,
- 5) Other Domestic Laws.

3.4.1 Nigerian Constitution

The present Nigerian Constitution came into force in 1999 is the ‘basic norm’ or ‘grundnorm.’¹⁷⁹ By the provisions of the Constitution, all the guarantees, duties and obligations that it creates being the ultimate source of all other laws and institutions insofar as it relates to the protection of IDPs is binding on all authorities and persons in Nigeria.¹⁸⁰

There are no specific references to ‘IDPs’ as a term in this Constitution.¹⁸¹ However, the Constitution prescribe several guarantees which are applicable to all authorities and persons in Nigeria.¹⁸² In other words, the Constitution in Chapter IV provides for a number of rights christened ‘fundamental rights’ which are to be enjoyed by Nigerian citizens in the nature of general entitlements.¹⁸³

¹⁷⁹ Hans Kelsen, “Pure Theory of Law, Its Methods and Fundamental Concepts” *Law Quarterly Review*, Vol. 50 (1934):474.

¹⁸⁰ Section 1(3) of Nigerian Constitution 1999 underscores this by providing that “...if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of its inconsistency, be void”.

¹⁸¹ Constitution of the Federal Republic of Nigeria 1999 as amended, <http://www.nigeria-law-org/ConstitutionOfFederalRepublicOfNigeria?html> (accessed on January 10, 2013).

¹⁸² *Ibid.*, Section 1(1).

¹⁸³ Examples of these fundamental rights are right to life, right to dignity of human person, right to personal liberty, right to fair hearing, right to private life and right to freedom from discrimination. *Id.* Sections 33, 34, 35, 36, 37 and 42 respectively.

These constitutionally guaranteed rights also avails IDPs by virtue of the fact that they are citizens who lives within the borders of their own state. It is therefore the overall responsibility of Nigerian government to protect and assist citizens (IDPs inclusive) in the realization of their inalienable rights in line with the fundamental obligation of government which is to the effect that:¹⁸⁴

It shall be the duty and responsibility of all organs of government, and of all authorities and persons exercising legislative, executive and judicial powers to conform to, observe and apply the provisions of this Chapter of this Constitution.

The above is also reasonable given that the primary purpose of government is provision of security and welfare of the people which shall be the ultimate concerns of government as borne out of section 14 (2) of the Constitution. It is worthy to note that since displacement do not lead to loss of citizenship, IDPs as citizens are entitled to the full enjoyment of the above rights even in situations of internal displacement.¹⁸⁵

The Constitution is the primary source of legal guarantees against arbitrary treatments in Nigeria as it is replete of several provisions that abhor acts of discrimination based on the grounds of age, place and circumstance of birth, sex, ethnic, religion and political group among others. These guarantees are spelt out in chapter three which consists of fundamental objectives and directive principles of state policy. For example, section 15(2) provides to the effect that:

...National integration shall be actively encouraged, whilst discrimination on the grounds of state of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

¹⁸⁴ Id. Section 13.

¹⁸⁵ Ladan, 11.

Chapter four of the Constitution dealing with fundamental rights on the other hand provides more specific fundamental guarantee against discrimination when it provides that:

*A citizen of Nigeria of a particular community, ethnic group or place of origin or sex, religion or political opinion shall not by reasons only that he is such a person be subjected to any disabilities, restrictions, privileges or advantages which are not so accorded to citizens of other community, ethnic group or place of origin or sex, religion or political opinion.*¹⁸⁶

The provision of section 42(2) is much more explicit on this issue in providing clearly that “no citizen of Nigeria shall be subjected to any disability or deprivation merely by reasons of the circumstances of his birth.

Gratifying as these provisions are, their practical application and eventual enforcement is curtailed by duplicitous provisions in Constitution which gives the right by one hand and take it with the other hand. For example, the much touted guarantees entrenched in chapter three has been held in plethora of cases on the authority of section 6(6) (c) of the Constitution to be non-justiciable.¹⁸⁷

However, where these provisions (sections 13 and 14 in particular) are upgraded into law by due legislative process, it is only then that aggrieved citizens including IDPs can press for their enforcement hiding under the phrase “except as otherwise provided in this Constitution” as aptly illustrated in *Attorney General of Ondo State v. Attorney*

¹⁸⁶ Section 42(1) (a) and (b) of 1999 Nigerian Constitution.

¹⁸⁷See *Bishop Anthony Okogie v. Attorney General of Lagos State* (1981) 2 NCLR 337. The facts of which has been previously in this chapter; *Attorney General of Ondo State v. Attorney General of Federation* (2002) 9 NWLR Pt.722 at 222; and *Federal Republic of Nigeria v. Alhaji Mika Anache* (2004) 14 WRN 1 at 62-63, where Niki Tobi JSC (as he then was) held that an exception can be found in the phrase-“except as otherwise provided in this constitution” in Section 6 (6) (c).

*General of Federation.*¹⁸⁸ The Court held that though stamping out corrupt practices is part of fundamental objectives as stipulated in section 15 of chapter three of the Constitution, it is an item 60(a) of the Exclusive Legislative List which the National Assembly is competent to legislate upon and thus the ICPC Act is enforceable before courts in Nigeria.

Similar consideration also applies when considering the legal enforceability of section 42(1) (a) and (b) which is stripped off of practical relevance by subsection 3 thereof which provides that “nothing in subsection 1 of this section shall invalidate any law by reason only that the law imposes any restrictions...” in the appointment of any persons into any office in the states or as a member of the police forces and armed forces, etc.

Strictly speaking, the Nigerian Constitution do not provide durable solutions for IDPs. However there are several provisions that recognizes the role of reparation to victims in circumstances akin to situations of internal displacement exhibited by infraction of citizens’ rights. For example, section 44 provides for payment of compensation in respect of compulsory acquisition of moveable property. Section 46 gives legal effect to the foregoing provision by granting access and aid to citizens to ventilate their grievances of loss of property in courts established under the Constitution.¹⁸⁹

¹⁸⁸ (2002) 9 NWLR Pt.722 at 222. In this case the issue of validity and application of Independent Corrupt Practices and related offences Commission Act in Ondo State was questioned on the ground that it falls under Section 15 of the Constitution which are generally non-justiciable. See also *Olafisoye v. Federal Republic of Nigeria* (2004) 4 NWLR (Pt. 864) 860 which is on all fours with the facts of AG of Ondo State supra.

¹⁸⁹ Section 46(1) of 1999 Nigerian Constitution. See also section 46(2) and (4) (b) (i) respectively. An example of such regulation is the Legal Aid Council Act Cap L9 Laws of the Federation of Nigeria 2004 which governs grant of free legal representation to indigent citizens.

3.4.2 National Commission for Refugees, Migrants and Internally Displaced

Persons Act

This Act established a national institution on refuge protection in 1989¹⁹⁰ primarily to cater for protection and assistance of refugees following the adoption of the OAU/AU Refugees Convention.¹⁹¹ The term “internally displaced persons (IDPs) is neither defined nor referred to in this Act as persons of concern for the purpose of legal protection and assistance by the commission.

However, in 2002 following Presidential directives mandate of the commission was proposed to cover new class of vulnerable persons such as migrants and internally displaced persons.¹⁹² Due to the similarities in the humanitarian challenges faced by both refugees and IDPs, it is appropriate to contend that in the absence of any dedicated agency for IDPs in owing to the inordinate delay in the amendment of the law, this commission is the only known institution in respect of IDPs related matters as far as Nigeria is concerned.

The responsibility of this commission is captured in the very wordings of the enacting clause of the NCFRMI Act which by virtue of the extension of their mandate entails, to lead and coordinate national action plan for the protection and assistance of refugees, asylum seekers, migrants and IDPs who are now proposed as persons of concern to the commission.¹⁹³

¹⁹⁰ Pursuant to National Commission for Refugees (Establishment) Act 1989 now revised as Cap N21 Laws of the Federation of Nigeria 2004 (hereinafter called “NCFRMI Act”).

¹⁹¹ OAU/AU Convention Governing Specific Aspects of Refugee Problems in Africa 1969.

¹⁹² The extended mandate to cover migrants and IDPs is yet to be passed into law and thus it is not yet included in Cap N21 Laws of the Federation of Nigerian 2004 (NCFRMI Act).

¹⁹³ The Enacting Clause of Decree No 52 of 1989 which established the Commission reads “An Act to establish the National Commission for Refugees for safeguarding the interest and treatment of persons who are seeking to become refugees in Nigeria or persons seeking political asylum in Nigeria and other matters incidental thereto. However, this seems inadequate in view of the extension of their mandate

3.4.3 National Emergency Management Agency Act

The above Act¹⁹⁴ established National Emergency Management Agency (NEMA). IDPs is nowhere defined expressly in the Act. However, it is not in doubt that going by the nature of functions it perform as the foremost one stop institution that provides humanitarian assistance to victim of disasters in Nigeria regardless of the causes, it is relevant to the protection of IDPs.¹⁹⁵

In showing that the scope of operations of NEMA is relevant to IDPs' protection and assistance, section 6 of the Act is insightful as it provides that:

*For the purpose of paragraphs (e), (f), (j), (k) and (m) of subsection (1) of this section—natural or other disasters include any disaster arising from any crises, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country.*¹⁹⁶ (Emphasis added).

It is interesting to note that flowing from the foregoing reference to 'disasters arising from crises,' the provisions of the Act is wide enough to cover situations of internal displacement caused by conflicts, natural and man-made factors. For example, in the ongoing internal armed conflicts in Nigeria's North East, the Agency in a number of ways has been able to intervene in order to assist IDPs both in material needs and provision of shelters.¹⁹⁷

since 2002 via Presidential directives which is yet to be so amended and reflected in Cap N21 Laws of the Federation of Nigeria 2004 because it fails to list IDPs among persons of concern to the Commission.

¹⁹⁴ National Emergency Management Agency (Establishment) Act 1999 now Cap N34 Laws of the Federation of Nigeria 2004 (hereinafter called "NEMA Act").

¹⁹⁵ Ibid., Section 6(1).

¹⁹⁶ Id., Section 6(2).

¹⁹⁷ Michael Olugbode, "Two New Camps Established in Maiduguri" This Day Newspaper Live 22 January 2015, available at www.thisdaylive.com (accessed on January 24, 2015)

The national responsibility for the assistance of victims of disaster which by extension include IDPs is bestowed on this agency by virtue of section 6 of the NEMA Act which list out its statutory functions. These functions *inter-alia* includes formulation of policy regarding management of all disasters and emergency, co-ordinate research and plans, monitor organization and collation of data in respect thereof.¹⁹⁸

There are no provisions in the NEMA Act to prevent discrimination or any other forms of arbitrary treatment of victims of disasters-IDPs inclusive as it were under international and regional frameworks and in certain aspect of domestic regimes. However, its primary duty which entails informing and educating the citizens on ways of preventing disasters generally¹⁹⁹ is akin to a kind of pro-active preventive strategy aimed at forestalling arbitrary displacement of citizens.

3.4.4 National Human Rights Commission Act 1995

The commission was established in 1995²⁰⁰ as lead agency on human rights protection in Nigerians through compliance and enforcement.²⁰¹ There are no particular references to IDPs who are susceptible to gross human rights violation by reason of their being displaced from their homes in this Act.²⁰²

However, drawing from its statutory functions of the commission namely, enforcement of the provision of the constitution insofar as it relates to issues of human

¹⁹⁸ See generally section 6 (1) (a)-(n) of NEMA Act.

¹⁹⁹ Section 6(1)(e) of National Emergency Management Agency Act 1999 now Cap N34 Laws of the Federation of Nigeria 2004

²⁰⁰ By virtue of National Human Rights Commission (Establishment) Act 1995 now Cap N46 Laws of the Federation of Nigeria 2004 as amended in 2010 (hereinafter called "NHRC Act").

²⁰¹ Nnamani S.O., "Institutional Frameworks for the Protection of Human Rights in Nigeria: An Appraisal" *Journal of Law and Jurisprudence*, Nnamdi Azikiwe University Vol. 6, (2011):128-137.

²⁰² Section 19 of NHRC Act.

rights as enshrined in chapter four of Nigerian Constitution (1999) and all other international and regional human rights' treaties in which Nigeria is a signatory; monitoring and investigation of human rights violations; rendering of assistance to victims in their quest for appropriate remedy; carrying out of research on human rights issues and formulation of policies on human rights and other ancillary functions.

These functions as outlined above are exercisable in favour of all Nigerians which undoubtedly include IDPs by virtue of their human character and in the case of IDPs in particular, it is beyond any doubt that they are most susceptible to gross human rights violation by reasons of their forceful/involuntary movement from their habitual place of abode to other part of the country.

In discharging these responsibilities, the Commission is empowered to conduct investigation and institute appropriate legal action-criminal or civil in respect of any of its findings.²⁰³ It has the power to grant awards and compensation to victims of human rights violations and the same are enforceable by the courts.²⁰⁴

As stated earlier, unlike the Guiding Principles and the Kampala Convention, NHRC Act is not basically an IDP framework, thus there are no specific provision that deals with issue of return, resettlement and rehabilitation of IDPs as victims of human rights violation. However, there is a fairly related provision in the Act to the effect that the commission shall assist victims in their search for redress and remedies commensurate with the level of deprivations suffered.²⁰⁵ This is distinct in view of the additional

²⁰³ Ibid., Section 6.

²⁰⁴ Id. Section 22.

²⁰⁵ Section 6(c) of NHRC Act.

assurance in the Act to the effect that any redress or remedies made by the Commission against any person or institution shall be enforced by the court.²⁰⁶

3.4.5 Other Domestic Laws

There are no provisions in Nigerian land law and criminal law that defines or made reference to IDPs. However, it is not in doubt that given the situations of internal displacement in Nigeria, IDPs could suffice as either a land owner whose title may be affected by acts of internal violence or a victim following various acts of criminality inherent in armed conflicts in which case, the provisions of the Land Use Act²⁰⁷ and Abandonment of Properties Act²⁰⁸ insofar as are relevant can be employed to extend compensation to land owners who may qualify as IDPs.

In the same vein, the provisions of Criminal Code,²⁰⁹ Penal Code,²¹⁰ Terrorism Prevention (Amendment Act 2013²¹¹ and Administration of Criminal Justice Act 2015²¹² would be used as basis of ensuring accountability of perpetrators for their involvement in crimes related to displacement in Nigeria.

²⁰⁶ Ibid., Section 22(1) and(2).

²⁰⁷ Cap L1 Laws of the Federation of Nigeria 2004 which governs land administration and control and compensation in Nigeria.

²⁰⁸ Cap A1 laws of the Federation of Nigeria 2004 which governs issues of abandonment of land and other properties in Nigeria.

²⁰⁹ Cap C38 Laws of the Federation of Nigeria 2004 which provides for nature of crimes and its fines and penalties in the Southern part of Nigeria.

²¹⁰ Cap P3 Laws of the Federation of Nigeria 2004 which provides for nature of crimes and its fines and penalties in the Northern part of Nigeria.

²¹¹ This Act prohibits and punishes terrorism and terrorism related offences connected thereto. In Nigeria similar provisions can be found in the Economic and Financial Crimes Commission (Establishment) Act 2004.

²¹² This Act governs the practice and procedure of criminal proceedings and order of fines and compensation to victims of crime before all Federal courts in Nigeria.

With respect to issue of reparation, there are few references in the Nigerian land law²¹³ on payment of compensation in respect of revocation of right of occupancy based on overriding public interests.²¹⁴ Also in a related context, the Administration of Criminal Justice Act provides to the effect that courts of criminal jurisdiction in addition to conviction and sentence of perpetrators of violence may order payment of compensation to victim provided such sum is recoverable by way of civil suit.²¹⁵

The foregoing provisions are limited in scope and would apply only where the causes of internal displacement are based on grievances relating to land matters or have resulted into commission of crimes punishable under domestic penal legislations as highlighted above.

3.5 Summary

As can be gleaned from the foregoing assessment of the legal frameworks on the protection of IDPs as examined from international and domestic perspectives, it is clear to note that there are plethora of applicable legal rules that have been put in place to safeguard the rights and interest of IDPs.

At the international level, IDPs' based treaty has not been possible and this is understandable given the place of sovereignty vis-à-vis the issue of internal displacement. The international standard setting norms-Guiding Principles on Internal Displacement which provides some sort of succour to IDPs is unnecessarily blighted with disapproval of its non-binding character.

²¹³ For example, Land Use Act 1978 now revised as Cap L1 Laws of the Federation of Nigeria 2004.

²¹⁴ Ibid., Section 28(2)(a) or (c) and 29(1).

²¹⁵ Section 319 of ACJA.

However, given the extensive usage and acceptance of the standards that it engenders for IDPs, it is sufficient to follow in the practice of states, more so that Principles in itself is a clear restatement of existing laws relevant to situations of internal displacement. The collaborative/cluster approach of using several institutions in search of solutions for IDPs which the Principles have established is ideal in addressing the gaps in their protection and assistance.

African Union's celebrated legal initiatives in ensuring that IDPs are singled out for protection and assistance is ground breaking as it has further strengthened existing schemes of protection engendered at the international level. This bold step is surely an African solution to African problem considering the peculiarity and pattern of internal displacement in the region which is usually conflict driven.

At the domestic level, the mill is still grinding slowly in view of the incoherent nature of legal and institutional protection available to IDPs. Certainly there is a strong hope that eventually the much talked about national policy on IDPs and domestication of relevant international and regional arrangements to ease challenges of implementation and enforcement in the midst of stern claim of sovereignty and territorial integrity which stares at us like the proverbial 'Chinese wall'²¹⁶ will see the light of the day in order to halt the surge in internal displacement in Nigeria. In addition, political will is needed to garner the necessary resources that will translate beautiful agendas to reality.

The soft landing provided by the African Union Constitutive Act with respect to intervention to prevent arbitrary displacements which are threat to regional security

²¹⁶ Lwabukuna, 173-176.

and peace also depends on how credible and responsive states parties are willing to adhere to the provisions of the Convention in the first place for reasons that being a human rights treaty, it is devoid of any mutual benefits capable of acting as an incentive towards obedience from states parties.

With respect to Nigeria, the reason for the often *ad-hoc* and incoherent legal responses to the issue of protection of IDPs as gleaned from this chapter is not farfetched. Most of the laws and institutions as presently constituted were not primarily intended to cater for the intense humanitarian challenges posed by incessant internal conflicts ravaging the country.



CHAPTER FOUR

CASE STUDY I: JANUARY TO MARCH 2010 INTERNAL CRISES IN JOS

4.1 Introduction

This chapter deals with the case study I component of this research and is centred on ethno-religious and political crises in Jos Plateau State Nigeria. The case study looks at the January and March 2010 crisis in particular which occurred in the once serene city¹ called Jos, the capital city and in the Dogo Nahawa area of Jos, Plateau State, which has become epicentre of interminable violence in Nigeria's North Central Geo-Political zone.² This chapter also examines the history and background of the people of Jos in Plateau State Nigeria.

In carrying this case study, investigation will be premised on three (3) stages, namely Stage (1): Pre-Displacement Stage; Stage (2): Displacement Stage; and, Stage (3): Post-Displacement Stage. The rationale behind this choice of strategy in examining the phenomena of internal conflicts in this case study is to ensure in-depth and robust scrutiny.

¹ Sunday Okungbowa Uhunmwangbo and Aluro Epelle, "Challenges and Solutions to Ethno-Religious Conflicts in Nigeria: Case Study of Jos Crisis" *Journal of Sustainable Development in Africa* Vol.13, No.5 (2011):110.

² Nigeria comprises of six Geo-Political zones namely North West, North East, South West, South South, North Central, South East.

In similar vein the choice of case study research, the question of why these crises occurred³ as gleaned from the three stages is examined in a thorough and comprehensive manner.

The research analysis is based on the themes elicited from the data collated with a view to examining them in a more lively and original form ⁴ in the light of these stages bearing in mind primary sources like interview, observations, official reports and elucidated upon by secondary sources such as article publications, and internet sources that are relevant to this research and thus enhance the reliability of this research and ultimately aids the process of triangulation of the six sources of evidence⁵ in the instant research. This case study by virtue of the foregoing typifies the three primary features of research in that it is exploratory, descriptive and explanatory of the internal crises that occurred in January and March 2010 at Jos, Plateau State.

The sources of data and information in the light of the three stages of the internal crises in case study I are as summarized and illustrated in **Figure 4.1** below. Similarly the background information of participants in the in-depth interview conducted in the course of the field work in respect of case study I is illustrated in **Appendix C**.

³ Robert Y. Kin, *Case Study Research: Design and Methods*, 2nd edition (London: Sage Publications, 1994):1, 6, &21.

⁴ David Silverman, *Doing Qualitative Research*, 2nd edition (London: Sage Publications, 2005):49.

⁵ Robert Y. Kin, *Case Study Research: Design and Methods*, 4th edition (London: Sage Publications, 2009):111.

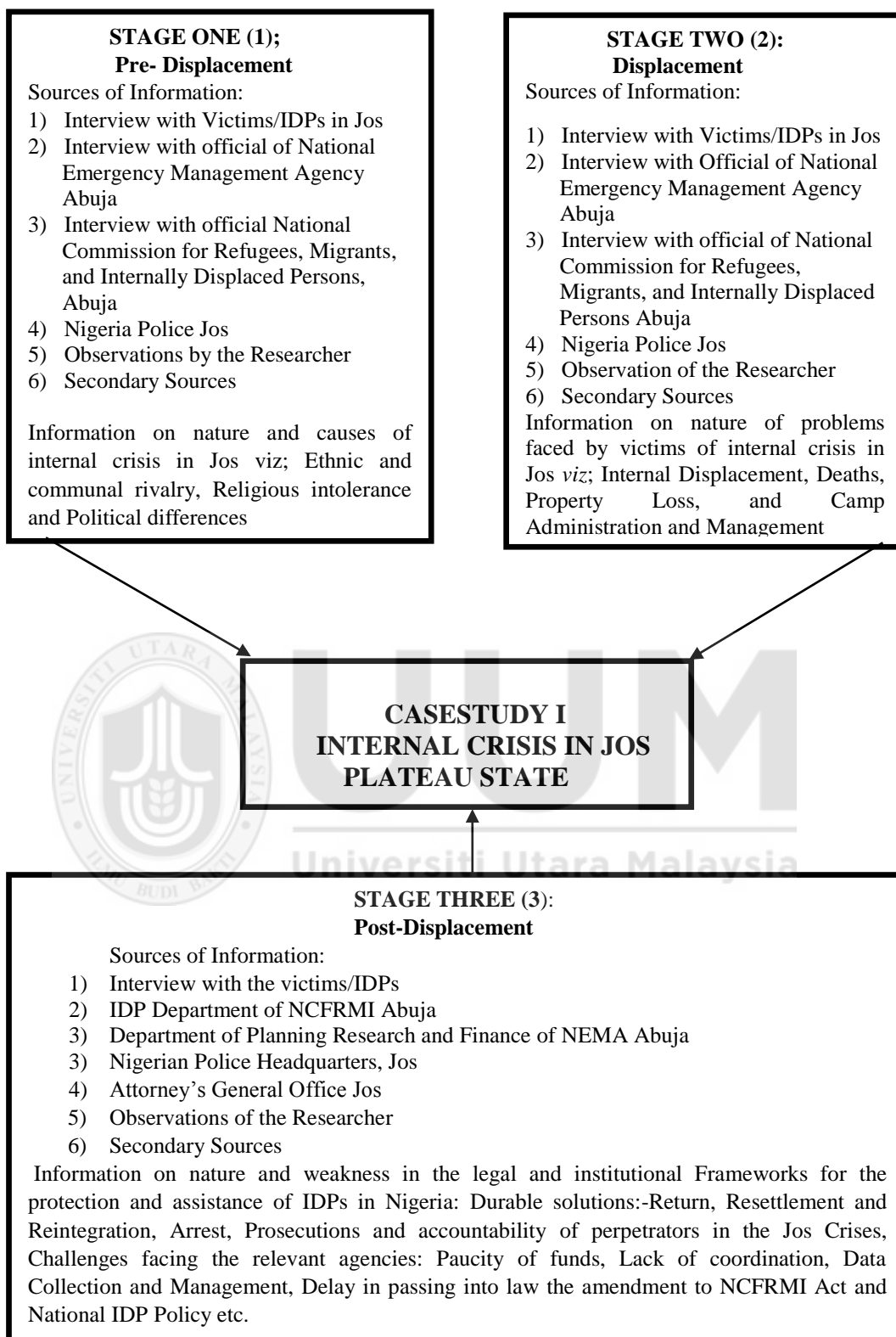


Figure 4.1: Summary of the data sources and information of all the stages involved in Case Study I

4.2 Background and Location of the Case Study I

Jos is situated approximately at the heart of Nigeria and is the capital city of Plateau State and the twelfth largest State in Nigeria.⁶ Plateau State shares boundary with the States of Bauchi on the North, Kaduna on the North West, Nassarawa on the South West, and Taraba on the south East

It was initially created as Benue-Plateau in 1967 by General Yakubu Gowon (then Head of State) and renamed as Plateau State in 1976 following another series of state creation exercise. It is a miniature Nigeria with more than 100 ethnic groupings and over 40 diverse spoken languages.⁷ In addition to the “natives” or “indigenes” - Berom, Anaguta and Afizere (BAA), there are also Hausa Fulani, Ibo, Yoruba and others jointly regarded “as settlers”. Its strategic location in the Nigeria’s North Central geo-political zone makes it a crossover point to the core North through Bauchi State.

According to the 2006 National Census, Plateau State has a population of 3,178,712⁸ divided into 17 Local Government Areas. Jos metropolis which is the epicentres of recurring internal violence is made up of three Local Government Areas namely, Jos North, Jos East and Jos South.⁹ The map of Nigeria showing Plateau State and Jos North where recurring crises have become the order of the day is as illustrated in **Figure 4.2** below.

⁶ International Crisis Group, “Curbing Violence in Nigeria (1): The Jos Crisis”, *Africa Report* No. 196, 17 December (2012):1.

⁷ Uhumuwangbo and Epelle ;Aaron Sayne, “Re-thinking Nigeria’s Indigene-Settler Conflicts” *Special Report No. 311, U.S. Institute of Peace*, Washington, July (2012):109.

⁸ National Population Commission, 2006 Census Figures, www.nigeriapopulation.org.ng (accessed on June 12, 2014).

⁹ Uhumuwangbo and Epelle, 110.

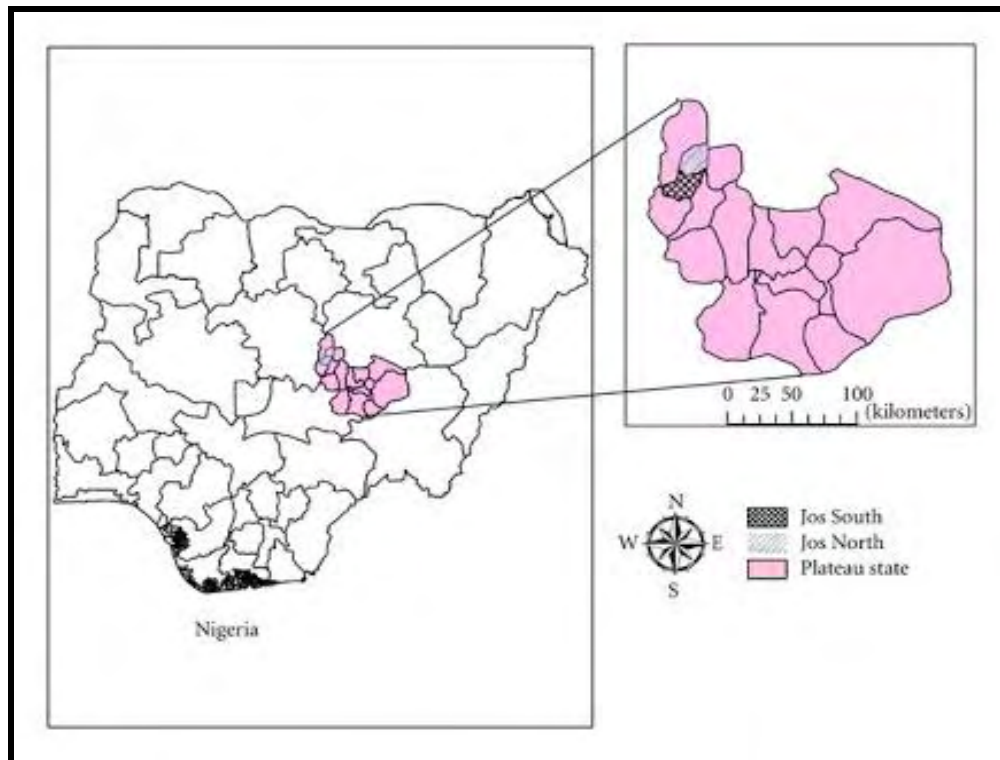


Figure 4.2: Map of Nigeria showing the location of Jos, Plateau State (drawn to scale)

For nearly two decades now, (1994-2014) Jos Plateau State has been inflamed and characterized with infamous rise in recurring internal conflicts to wit; inter- ethnic, religious and political in nature impacting across local, rural and urban settlements.¹⁰ Many lives have been lost as a result of serial killings, private properties and government developmental infrastructures have been severally destroyed with brazen ignominy.¹¹ Violence majorly has always been between the “indigenes” (BAA) and the “settlers” (Hausa Fulani) perpetuated along ethnic, religious and political delineations of Christians and Muslims respectively.

¹⁰ International Crisis Group ICG): Curbing Violence in Nigeria (1): The Jos Crisis, *Africa Report* No. 196, 17 December (2012), page (i), hereinafter referred to as ICG. 17 December (2012).

¹¹ Ibid., 2.

Unfortunately all the inter-communal crises have taken Jos North as the starting point which is the biggest and the commercial centre of Plateau State. As the city of Jos continues to grow, it was also marked by fresh reign of violence, the splitting of Jos Local Government into two in 1991 by the military administration of General Ibrahim Babangida marked a disastrous moment as the natives/indigenes traded accusations at government of the day to the effect that the exercise was carried out to consolidate the 'settlers' (Hausa Fulani) political hegemony of the main Jos City centre which fell into Jos North Local Government Area.¹² Following this Jos was yet again inflamed in another round of political induced violence that spilled to other parts of the state. This time it was over the appointment of the Chairman of Jos North Local Government by the then Military Administrator. This apparent dispute was essentially predicated on long standing rift over land and chieftaincy between the indigene-BAA Berome Afizere and Anaguta and the settlers-the Hausa Fulani resurfaced in the nature of claim of power and politics.¹³

Ever since then there have been one form of reprisal attack or the other allegedly spearheaded by the opposing groups.¹⁴ Though the appointment was swiftly rescinded, the aftermath of the ensued violent protest led to killings and massive destruction of properties and places of worship.¹⁵

¹² Id., 9.

¹³ Id.

¹⁴ Jana Krause, *A Deadly Cycle – Ethno-Religious Conflict in Jos, Plateau State Nigeria*, Working Paper, Geneva Declaration Secretariat (2011):26-7; Human Rights Watch: "Leave Everything to God", Accountability for Inter-Communal Violence in Plateau and Kaduna States, December 2013):23, https://www.hrw.org/.../nigeria1213_ForUploa (accessed on March 24, 2015).

¹⁵ Best, S.G., *Conflict and Peace Building in Plateau State, Nigeria* (Abuja: Spectrum Books, 2007): 54-55.

At the wake of 2010, precisely between January and March there was successive outbreak of inter-communal and inter religious clashes violence in Jos city centre and its environs like Kuru Karama and Dogo Nahawa areas located in Jos South Local Government majorly inhabited by the native Beroms which resulted apart from material destructions into cases of cruel and selective killing of hundreds of people.¹⁶ The nature and timeline of major internal conflicts in Jos from 1994 to 2010 is illustrated in **Table 4.1**.

Table 4.1

Nature and Timeline of Internal Conflicts in Jos (1994-2010)

S/No	Location and Nature of Conflicts	Period	Estimated Deaths
1	Jos North Political Crisis over Appointment of Caretaker Chairman of Jos North LGC	1994	NA
2	Inter-Communal and Political Conflicts in Jos	2001	1000
3	Jos Political Violence	2008	381
4	Dutse Uku & Kuru Karama	2010	992
5	Dogo Nahawa	2010	70

Legend: NA means Not Available

Source: Wikipedia, Nigeria Police (2008-2010), ICG (2013), NEMA (2015)

4.3 Stages of the Internal Crises in Jos

The following headings will be covered under this sub-topic, namely:

- 1) Pre-Displacement Stage: Causes of Internal Crises in Jos;
- 2) Displacement Stage: Problems Faced by Victims of Successive Crises in Jos;

¹⁶ Jana Krause, 44.

and,

- 3) Post-Displacement Stage: Legal and Institutional Frameworks for IDPs.

4.3.1 Stage One (1): Pre- Displacement Stage: Causes of Internal Crises in Jos

This stage considers the cause of internal crisis in Jos, Plateau State with particular emphasis on the January and March 2010 incidence which took place at Dutse Uku, Kuru Karama and Dogo Nahawa areas of Jos respectively.

The cause(s) of internal conflicts in Jos is difficult to clearly discern with exactitude. This is due to the absence of broad line of demarcation between what can be said to be seen to be matter of ethnicity, religion and politics.¹⁷ The intermittent crises in Jos has its own manifest characterizations owing to the nature of the various constituent nationalities that makes up the city. There is indeed an unnecessary inter-play of identity, politics and economy in the whole sad scenes that the conflict had generated. Violence is therefore likened to a smokescreen as whenever political disputes occurs, the issue of ownership struggle is brought to bear and this is usually expressed in religious terms.¹⁸

The following headings will be covered under this sub-topic, namely:

- 1) Ethnic and Communal Rivalries;
- 2) Religious Intolerance; and,
- 3) Political Differences.

¹⁷ Interview with Suleiman Umar, Victim and Resident, Bauchi Road Jos, 26th June 2015.

¹⁸ Ibid.

4.3.1.1 Ethnic and Communal Rivalries

Nigeria account for one quarter of West Africa's population and well over 250 ethnic groups.¹⁹ Since the advent of democracy in 1999, various parts of the country have witnessed one form of ethnic or communal violence or the other.²⁰ It must be noted that relationship between indigenes and their host communities in Nigeria have not been rosy at all.²¹

In Plateau State in particular, there exists ethnic and communal suspicion among the various ethnic groups that makes up the state. This is what is called identity dispute over access to economic and political resources exacerbated to an unreasonable extent by the indigenes as a means of excluding non-indigenes from the seeming advantages that it portends for the holders.²² The State is made up of the Berom, Afizere and Anaguta (BAA), Hausa Fulani, Igbo, Yoruba and other ethnic groups.

The BAA who are in the majority considered themselves the 'natives' and the owner of the state while others ethnic groups mostly the Hausa Fulani notwithstanding the number of years they have been resident in Jos are seen to be 'settlers'. This unsavoury reputation is so much entrenched that it has engendered what is called the indigene/settler dichotomy.²³ Worthy of note is the fact that of all the tribes that came to settle in Jos, it is only the Hausa Fulani that are laying ownership claims to Jos and

¹⁹ IDMC/NRC: NIGERIA: Simmering Tension Cause New Displacement in the "Middle Belt": A Profile of the Internal Displacement Situation, 3 December 2010:17, www.internal-displacement.org/.../Nigeria/pdf/ (accessed on April 15, 2015).

²⁰ Ibid.

²¹ International Crisis Group, "Nigeria: Want in the Midst of Plenty," *Africa Report* No. 113, 19 July (2006):2-5.

²² ICG, (2012):16.

²³ Joshua Segun and Jegede Ajibade Ebenezar, "Ethnicization of Violent Conflicts in Jos" *Global Journal of Human Social Science- Political Science*, Vol.13, Issue 3. (2013):37-42. <https://globaljournals.org/.../5-Ethnicisation-of-> (accessed on April 30, 2015).

this matter is further complicated by the fact that majority of them are Muslims thereby sending signals of religious dimensions to the conflict.²⁴

In the course of the researcher's investigation a number of persons were interviewed agreed entirely with this assertion and labelled it as one source that has continued to play itself as a recurring decimal. According to an interview in this study, it was stated thus: ²⁵

In 2010 what happened was hatred between the indigenes and the settlers and this gave rise to the crises in Jos and which was transferred to Dogo Nahawa in Jos South Local Government.

Another respondent²⁶ also corroborated the fact that the crisis can be purely traced to issues of ethnic and tribal conflict when he stated in an interview that “all the crises in Jos from 1999 till date is a product of hatred of one tribe against the other.”

In the same manner even government officials who are charged with the duty of managing the aftermath of the crises in their own investigation attested to the fact that issue of ethnic and communal interests is highly implicated as one of the primary causes of the incessant internal crises in Jos. In her words: ²⁷

In the course of our intervention we have been confronted with the issue of ethnicity and intolerances among residents who are from different background especially in the city centres.

²⁴ Id., page (ii)

²⁵ Interview with Mary Daylop, Victim/Resident, Jos City Centre, 27th June 2015.

²⁶ Interview with Mallam Mohammed Sani Bello, Victim/Resident Zaria Road, Jos, 29th June 2015.

²⁷ Interview with Director IDP Department, NCFRMI office, Abuja, 24th June 2015.

In the researcher's investigation into the issue at hand, most if not all the persons interviewed agreed that ethnicity and tribal differences is one of the causes of internal conflicts in Jos. For instance, one respondent²⁸ stated that "I was born here in Jos about 45 years ago and I can tell you that it was people who are strangers to Jos that are causing all form of atrocities in Jos."

The foregoing diverse revelations is in tandem with a view expressed by a learned author²⁹ that notwithstanding the fact the two groups co-exist together, there are tensions of the fear of dominance nurtured by the indigenes against the so called settlers (Hausa Fulani) in addition to the allegation of religious intolerance levelled against the later as evidenced in the 2001 and 2001 conflicts in Jos.

4.3.1.2 Religious Intolerance

The issue of religion is so closely linked to ethnicity in Nigeria and Jos in particular as it can be said to be fused. The reception of the two popular religions - Islam and Christianity in different parts of the country at the time greatly influenced its followership. While the Northern part largely dominated by Hausa Fulani are predominantly Muslims, the southern part on the other hand most inhabited by Yoruba and Igbo are mostly Christians even though divided in some sorts.³⁰

Religion has been taken to fan embers of hatred and used as a platform to achieve dominance in varying ramifications. Several factors have been implicated as drivers

²⁸ Interview with David Pam, Victim/Resident, Gangere Jos, 30th June 2015.

²⁹ Ogoh Alubo, "The Public Space in Nigeria: Politics, Power, Gender, and Exclusion" Paper presented at the Cordesria 12th General Assembly, Covering the African Public Sphere, 7th-11th December 2008:3, Yaounde Cameroun, http://www.codeseria.org/IMG/pdf/ogoh_Alubo.pdf (accessed on August 28, 2015).

³⁰ Ibid., 9.

of inter religious violence such as lack of recognition of one another; campaigns of hatred and black mail; and religious extremism among others.³¹

As this study reveals in the case of incessant internal crisis in Jos, most if not all the incidences of violence have religious connotations as it involves clashes between Hausa Fulani who are mostly Muslims and the Native BAA-Berom Afizere and Anaguta who are preponderated by Christian majority.³²

In the course of the researcher's investigation, it was revealed according to a source³³ which implicated religious intolerance as one cause of repeated violence in Jos that:

The January and March 2010 crises in Jos and Dogo Nahawa was due to rumours that was spread that a particular religion is about to launch attack on the other. As a result there was tension in the city and those who don't meant (sic) well for the city takes it upon themselves to cause problem.

The same respondent in buttressing his assertion continued that "it was Christians mostly Berom, Afizere and Anaguta that were attacking us the Muslim-Hausa Fulani."

In the same vein another source³⁴ while confirming that religious indifference is central to the incessant crisis in Jos reiterated that:

³¹ A.O. Omotosho, "Religious Violence in Nigeria – the causes and solutions: An Islamic Perspectives" *Swedish Missiological Theme*, 2003:15-31, <https://www.unilorin.edu.ng/.../Religion%20Violence%20in&20Nigeria-pdf> (accessed on January 15, 2015).

³² Segun & Ebenezar, 38

³³ Interview with Suleiman Umar, Victim/ Resident, Bauchi Road Jos, 26th June 2015.

³⁴ Interview with Mallam Mohammed Sani Bello, Victim/Resident, Zaria Road Jos, 29th June 2015.

It was all rumours and text messages flying everywhere that Christians mostly Berom Afizere and Anaguta are attacking us Muslims-Hausa Fulani and due to that trouble broke out and spread to every part of the city. The Dogo Nahuawa incidence is what I called a return leg or retaliation.

However those of Berom, Afizere and Anaguta origin and who are “natives” and mostly Christians while in agreement that religious intolerance was manifestly implicated in the cause of internal conflicts in Jos painted their own version that “Religious intolerance is the reason why all this is happening in Jos. Christians do not believe Muslims and vice versa and so there is no unity and love amongst residents.”³⁵

4.3.1.3 Political Differences

The scramble for political offices as well as domination of the political space called Plateau State in general and Jos in particular has played itself out as one of the most striking causes of incessant internal crises in Jos. Politics has been elevated to an acrimonious height that it constitutes an access to advantages which citizenship rights holds for the citizens.³⁶

An author³⁷ summed up this issue with an opinion that the root causes of incessant crises in Jos is the competition for political control and the issue of indigene and settler dichotomy and that this issue becomes pronounced because of the advantage the status of indigeneship attracts in favour of the holder as against a settler or stranger.

³⁵ Interview with David Pam, Victim/Resident, Gangere Jos, 30th June 2015.

³⁶ ICG, (2012), 16.

³⁷,Best Shedrack, 7-8 ; See also Ogoh Alubo, 13.

In Jos, two instances of politically motivated violence stood out to validate the views that political differences accentuated by ethnic and religious undertones is implicated as one cause of successive crises in Jos. Firstly in 1994 following the clamour for the creation of additional local councils in the state, while the citizens favour of the creation of Jos East and Jos South which limited the rising hegemony of the Hausa Fulani, the Hausa Fulani on the other hand are disposed to the creation of Jos North. Simmering violence followed the eventual creation of Jos North and the appointment of a Hausa Fulani as caretaker Chairman.³⁸

In September 2001, the appointment of Alhaji Muktar Mohammed, a Hausa Fulani as the co-ordinator of the Federal government poverty alleviation programme- (NAPEP) was greeted with resentment from the natives who argued that why should such an important appointment be given to a “settler” rather than an “indigene”.³⁹

Apart from the foregoing there other instances which clearly shows that political difference can be safely held to have triggered up crises in Jos. For instance, the violence that greeted the notorious May 2002 disagreement between Hausa Fulani Voters on the one hand and the Berom, Afizere and Anagta voters on the other hand during the ward congress of the Peoples Democratic Party.

In the course of the researcher’s investigation, it was repeatedly confirmed that political differences in the case of Plateau State in general and Jos in particular is skewed around ethnic and religious affiliations can be held to be one cause of the

³⁸ Ibid., Alubo, 10.

³⁹ Id., Alubo, Best, 51-53, 54-55 & Krause, 24- 25.

incessant violence in Jos. According to an interview conducted in the course of this study, it was revealed thus:

Before now every political appointment made by government is always regarded as taking side. Today it is a Berom man and the Hausa Fulani will be complaining and tomorrow vice versa. Take the case of 1994 when Jos North Local Government council was created and the violence that began by the indigene because of the fact that a Hausa Fulani was made the chairman of the council. There are many other instances. Really in Jos there is difference between politics, religion and ethnicity.⁴⁰

Confirming the involvement of politics as influencing successive crisis in Jos and the fact that there is no much distinction between what is ethnical, religious and political, a source in the course of this study further re-counts that:

As far as Jos is concerned, there is no difference between ethnicity, religion and politics, one influence the other. Any time politics comes to play religion will be used to consolidate and sell the political hatred.⁴¹

Most revealing, a source in the course of this study while reiterating how political followership in Jos is dictated by ethnic and religious inclinations stated very passionately that:

In Plateau state and Jos in particular, it is your tribe that determine your religion and the political party you support. Once a member of your tribe is not appointed into political position, the next is you start complaining for the removal of that person from another ethnic group from office and vice versa.⁴²

⁴⁰ Interview with Mary Daylop, Victim/Resident, Jos City Centre, 27th June 2015.

⁴¹ Interview with David Pam, Victim/Resident, Gangere Jos, 30th June 2015.

⁴² Interview with Ezechukwu Orji, Eye witness/ Resident, Gada Biu, Jos, 1st July 2015.

The foregoing depicts diverse thoughts on causes of internal strife in Jos in so far as politics is concerned.

4.3.2 Stage Two (2): Displacement Stage-Problems Faced by Victims of Successive Crisis in Jos

This stage is aimed at investigating problems faced by victims of successive internal crisis in Jos on the resident directly and government. In this wise, the following headings will be covered under this sub-topic, namely:

- 1) Internal Displacement;
- 2) Deaths;
- 3) Loss of Property; and,
- 4) IDPs' Camp Management.

4.3.2.1 Internal Displacement

One of the undoubted consequences of incessant violence in Jos as revealed in the course of this case study is the resultant displacement or better put mass movement of the citizens from their original place of abode to other part of the state and in some instances across other states. The overall impact is felt across all tribes, languages and cultures.⁴³

During displacement which is characteristics of successive internal conflicts in Jos residents have experienced worst forms of depravity due to their forceful and violent

⁴³ Segun & Ebenezar, 41.

removal from their homes due to the unfolding tragedy.⁴⁴ As they move to safe place, their homes and properties are left at the mercies of their pursuers and in most cases they are ruthlessly razed down with utter impunity.⁴⁵

Following the January and March 2010 crisis in Jos in particular so many persons were displaced that the National Emergency Management Agency (NEMA) has to create eight (8) additional camps to cater for their welfare in the neighbouring Bauchi State because of the high influx of internally displaced persons from Jos.⁴⁶

During the field work in this research, the foregoing was clearly ventilated by the victims themselves who had expressed concerns regarding the issue of displacement that the incessant crises in Jos and its environs had brought upon them. In an interview with a victim⁴⁷ of internal crisis in Jos, he recounts his experience during the crisis as follows:

Everybody ran for their lives, old and young and before you know some of our houses and our belongings were set ablaze. When I came back there was nowhere to stay with my family. Many people died in the process and up till today some persons have refused to return to the city.

In another similar context, another respondent⁴⁸ put her version on the issue of the raging displacement and dislocations due to conflict by stating that “several

⁴⁴ Al Jazeera, 26th January 2010. For detailed information on number of IDPs following the crisis, see IDMC/NRC: Nigeria- Simmering Tensions Cause New Displacement in the “Middle Belt”(2010), 71, <http://www.internal-displacement.org/assets/library/Africa/Nigeria/pdf/Nigeria-December-2010.pdf> (accessed on September 1, 2015).

⁴⁵ Ibid., IDMC/NRC: Nigeria (2010) 75-76: Integrated Regional Information Network (IRIN), 12 February 2010.

⁴⁶ Id.

⁴⁷ Interview with Suleiman Umar, Victim/Resident, Bauchi Road Jos, 26th June 2015.

⁴⁸ Interview with Mary Daylop, Victim/ Resident, Jos City Centre, 27th June 2015.

thousands of people ran away from their home for fear of attack and death and we never returned to our homes.”

The foregoing revelation is positively corroborated when another respondent⁴⁹ in the course of this field work reiterated that “...there was mass movement of people from their place of residence...”

It should be noted that in the course of the violence and the resultant displacement, a respondent confirmed how the perpetrators of the crisis took undue advantage of the imbroglio to descend on their properties left behind. In the very words of the respondent,⁵⁰ he stated that “people ran away from their homes and rioters descended on their properties looting and burning them.”

Another victim⁵¹ revealed the impact of the conflict on the residents in the course of this study when she stated that:

The conflict caused many to leave their homes against their wish and when they returned everything they have is gone. Some were looted while many were burnt to ashes.

Drawing from the sum total of the testimony of the victims in this case study, it is pertinent to point out considering the incessant nature of the conflicts, one cannot but to agree with an author that the resultant displacement did not only affect Plateau State but also the federal government as well as the neighbouring states especially in

⁴⁹ Interview with Mallam Mohammed Sani Bello, Victim/ Resident, Zaira Road Jos, 29th June 2015.

⁵⁰ Interview with Usman Shehu, Victim/Resident, Bukuru Road Jos, 1st July 2015.

⁵¹ Interview with Ayefu Daniel, Eye witness/Resident, Zenta Adamu Jos, 2nd July 2015.

relation to the strain on their social infrastructures due to the high influx of internally displaced into those safe states.

4.3.2.2 Deaths

Death is one likely consequence of every violent conflict like the case at hand. The interminable violence in Jos Plateau State has over the years generated much death burden than any other incidences put together in the history of the state. Right from 1994 when full fledged violence erupted in the city of Jos till date, the colossal loss of lives and the state of insecurity in the state is unprecedented.

As regards the 2010 inter-communal and religious riot which started on Sunday 17th January at Dutse-Uku and spreaded to other parts of Jos North and later Dogo Nahawa in Jos South, it was intense considering the number of lives lost. It was more protracted than those of 2008 which lasted only two days before it was controlled. At Kuru Karama it was reported that more than 200 bodies were found on the ground with many decomposing bodies thrown into wells. The Jasawa Development Association (JDA) in their dataset quoted that over 968 people were killed in the crisis.⁵²

At the Dogo Nahawa axis in Jos South, the number of death was in fact colossal as it was estimated that in the night of 7th March 2010 alone more than 300 persons of Berom origin were alleged to have been massacred by Hausa Fulani in retaliation of

⁵² Integrated Regional Information Networks (IRIN), "Our lives will never be the same again", <http://www.irinnews.org/news/2010/01/22/our-lives-will-never-be-same-again> (accessed on April 5, 2015).

the killing of their people and their cattle during the January 2010 incidence which though did not take place at Dogo Nahawa but nearby Mai Adiko area.⁵³

In the course of the researcher's investigation, heart breaking revelations were made by residents (victims) interviewed regarding the spate of death following incessant conflicts in Jos over the years but more particularly as a result of the January and March 2010 incidences.

In an interview, a resident disclosed that "many also were killed either in churches and mosques. Because many person who died could not be recognised, government gave them mass burial."⁵⁴ Confirming the spate of death which prompted government to conduct mass burial because of the level and the manner people were killed, another victim/resident⁵⁵ interviewed revealed that:

Many persons were killed in broad day light. Plateau State government and Red Cross conducted mass burial in more than five places in the Dogo Nahawa incidence because people were burnt beyond recognition.

In the same vein, another respondent⁵⁶ confirmed the foregoing revelation when he confirmed his own experience that:

Many were wounded. Unfortunately several persons died as they burnt by fire and the only thing that government can do is mass burial. There are many sites of this in Dogo Nahuawa. Churches and mosques were burnt as well.

⁵³ Higazi, 29.

⁵⁴ Interview with Mary Daylop, Victim/Resident, Jos City Centre, 27th June 2015.

⁵⁵ Interview with Mohammed Sani Bello, Victim/Resident, Zaira Road Jos, 29th June 2015.

⁵⁶ Interview with David Pam, Victim/Resident, Gangere Jos, 30th June 2015.

Commenting on the difficulty associated with getting accurate figures in respect of those who died following violent attacks in Jos, a respondent⁵⁷ interviewed in this research revealed that “it is difficult to say how many that have died in the incident but I know many people died both in the Jos crises and the one of Dogo Nahawa.”

Similarly another victim/resident⁵⁸ also confirmed the state of insecurity and of the existence and conduct of mass burial of dead people during the conflict by Plateau State government when he stated that:

There was total breakdown of order. The whole town was in turmoil and in Dogo Nahawa in particular the extent of killing was disastrous as many who died were buried together in mass grave. I know of two of such spots where the burial took place.

The foregoing shows the fact that successive internal conflicts in Jos has left behind shocking and harrowing experience as far as human loss is concerned so much that the attention of the International Criminal Court (ICC) was drawn to it as to the possibility of commission of offence of genocide and other international crimes by the perpetrators.⁵⁹

⁵⁷ Interview with Usman Shehu, Victim/Resident, Bukuru Road Jos, 1st July 2015.

⁵⁸ Interview with Ezechukwu Orji, Eye witness/Resident, Gada Biu Jos, 1st July 2015.

⁵⁹ Higazi, 31 referring to the International Criminal Court Prosecutor's Analysis on Jos Massacre, Radio Netherlands Worldwide, 11 November 2010, <http://www.rnw.nl/international-justice/article/icc-prosecutor-analyses-jos-massacre> (accessed on August 18, 2015).

4.3.2.3 Loss of Property

The incessant Jos internal crises have to its abysmal credit the worst form of wreckage of private and public property as well on social infrastructures from 1994 to date.⁶⁰

Starting from April 1994 protest over the appointment of Mallam Mato, a Hausa Fulani by tribe as the chairman caretaker committee of Jos North which sparked off violence consequent on his rejection by Berom people. The ensuing hostility orchestrated by irate Jasawa youths led to the destruction of parts of the Jos ultra-modern market located at the popular terminus and other structures along the Rukuba Road in the city.⁶¹

As the spate of violence continued both in frequency and density, the spate of destruction of properties continued. Between 7th to 13th September 2001, massive destructions of properties was recorded in and around Jos. Human rights groups confirmed that the outskirts of the city had been burnt down completely and in the city centre massive and total wreckage of places of worship schools, shops and vehicles were are common sights.⁶² The researcher's investigation in the course of this study also reveals this trend.

According to a resident⁶³ of Jos while recounting his own personal loss stated that:

⁶⁰ Ibid.

⁶¹ Philip Ostein, "Jonah Jang and the Jasawa: Ethno-Religious Conflict in Jos, Nigeria" August (2009):12, www.sharia-in-africa.net/.../Ostien_Jos.pdf (accessed on September 3, 2015) quoting extensively Best (2007) 55.

⁶² Ibid.

⁶³ Interview with Suleiman Umar, Victim/Resident, Bauchi Road Jos, 26th June 2015.

Before you know some of our houses and our belongings were set ablaze. When I came back there was nowhere to stay with my family. Many people died in the process and up till today some persons have refused to return to the city.

Another victim⁶⁴ interviewed confirmed the fact of loss of personal properties in the course of the January and March 2010 violence in Jos when he recounts that:

When the problem started every one was on the run because there was no end. Between January and March 17th 2010, violence was happening on a daily basis. Houses were razed down at will and many people lost their lives. In fact in terms of material things, what I lost personally I cannot count. I leave everything to God.

With respect to destruction targeted at public and private buildings as well places of worship, a source⁶⁵ in the course of this study stated that “I can tell you that several places of worship in the town were also burnt down. As a result of all this everyone has to be careful in associating with another.”

The foregoing depicts the impact of the successive violence in Jos especially with regard to private property of victims and on public infrastructures. The extent of destructions of private and public properties following internal crises in Jos (subject of Case Study I) in this research is graphically illustrated in **Pictures 4.1-4.8** in this chapter.

⁶⁴ Interview with Usman Shehu, Victim/Resident, Bukuru Road Jos, 1st July 2015.

⁶⁵ Interview with Ezechukwu Orji, Gada Biu Jos, 1st July 2015

4.3.2.4 IDPs' Camp Management

Camp management is a critical element in every attempt at securing humanitarian intervention in favour of victims of disasters which invariably include internally displaced persons.

As a result of the unavoidable displacement arising from internal conflicts in Jos, the need to provide temporarily food and other relief materials as well as accommodation for internally displaced persons (IDPs) became the new burden on government as well as other non-state actors.

Statutorily, the responsibility for providing reliefs materials and accommodation to IDPs falls under the direct mandate of the two federal institutions namely National Emergency Management Agency and National Commission for Refugee, Migrants and Internally Displaced Persons which are the only bodies with responsibility bearing on the protection of internally displaced persons.⁶⁶

In furtherance of the powers of NEMA to make regulations for disaster management in Nigeria,⁶⁷ the National Contingency Plan is put in place to ensure that the agency respond to emergencies within the first ten days of occurrence as a means of boycotting the bureaucracy of approvals. The Plan adopts the multi-hazards approach to management of disasters which invariably includes the provision of camping

⁶⁶ Established under National Commission for Refugees, Migrants and Internally Displaced Persons Cap N21 Laws of the Federation of Nigeria 2004 and National Emergency Management Agency (Establishment) Act No. 12 of 1999 as amended hereinafter referred to as NCFRMI Act and NEMA Act respectively. Note that the amendment sought from the National Assembly in compliance with the Presidential directives that the mandates of the commission be extended to migrants and internally displaced persons in 2002 and 2009 respectively is yet to be made at the time of this study.

⁶⁷ Ibid., Sections 6(2) and 24 of NEMA Act

materials and other administrative measures with NEMA serving as the leading agency⁶⁸ building the needed collaboration and cooperation with other government agencies through the adoption of sectorial approach geared towards the interest of internally displaced persons.⁶⁹

Other non-state actors like Non-Government Organizations like Catholic Reliefs Services, Save the Children UK, Amnesty International, UNICEF and other international humanitarian agencies like the International Committee of the Red Cross also intervene in deserving cases especially where the new burden becomes overwhelming to the primary state actors.⁷⁰

In the course of this case study, the researcher's investigation also reveals that these federal institutions with primary mandates for this important element of protection of IDPs were deeply involved in discharging their responsibilities during the successive Jos internal conflicts.

According to an official⁷¹ of NEMA while responding to the researcher's questions, he stated that:

NEMA coordinates all phases of disaster management in Nigeria which involves preparedness, prevention, mitigation, response, rehabilitation and recovery. IDPs' administration falls within the response subset of disaster management and that is where we are involved.

⁶⁸ See item 0.23 Guiding Principles and National Contingency Plan, 5.

⁶⁹ Ibid., item 1.0 & 1.1 thereof.

⁷⁰ Olajide Olagunju "Management of Internal Displacement in Nigeria" *Working Paper* No. 35 October (2006): 8, [http:// web.mit.edu/cis/www/.../35_displacement.pdf](http://web.mit.edu/cis/www/.../35_displacement.pdf). Accessed on 4 September 2015.

⁷¹ Interview with Senior Planning Officer, NEMA office Abuja, 23rd June 2015.

The said officer continued further that:

Under the Response sub set of intervention, we have a response strategy that is out to ensure that we respond to emergency swiftly within the first ten (10) days of occurrence. That is contained in the National Disaster Plan. The strategy is broken down into several sectors such as provision of health, water, sanitation and hygiene, education, information, camp coordination and management, food and non-food items, emergency shelters and protection.

At the National Refugee Commission, an officer ⁷² who is in charge of IDPs protection in Nigeria confirmed that “in terms of welfare we provide IDPs camps and ensure appropriate facilities are put in place for their use.” On the part of the victims themselves especially a number of them interviewed in this case study, their responses validate the claim of these agencies’ involvement in camp management and administration during the course of the crises in Jos. In the very words of a respondent,⁷³ while reminiscing her experiences she recounts that:

Plateau State Government, and some officials from Abuja provided immediate relief materials and temporal accommodation for us at one primary school in our area of the city where foods was shared for us but we did not stay there for long.

Another victim⁷⁴ while confirming the nature of humanitarian assistance received during the period of displacement following the January and March 2010 crises in Jos narrates his own version that:

Government only gave us immediate support by accommodating in schools and other public places. Foods items and other daily needs were provided but this cannot be like our home.

⁷² Interview with Director IDP Department, NCFRMI office Abuja, 24th June 2015.

⁷³ Interview with Mary Daylop, Jos City Centre, 27th June 2015.

⁷⁴ Interview with David Pam, Gangere Jos, 30th June 2015.

4.3.3 Stage Three (3): Post- Displacement Stage: Legal and Institutional Frameworks for IDPs

This stage of the case study deals with last phase of displacement. It examines the weaknesses and gaps in the existing legal and institutional frameworks for the protection and assistance of victims of internal crisis in Nigeria.

The following headings will be covered under this sub-topic, namely:

- 1) Mechanisms for Durable Solutions;
- 2) Accountability of Perpetrators of Jos Violence;
- 3) Institutional Funding;
- 4) Coordination among Humanitarian Agencies;
- 5) Data Collection and Management; and,
- 6) NCFRMI Act and National Policy on IDPs.

4.3.3.1 Mechanisms for Durable Solutions

At the core of post-displacement stage lies the need to ensure that IDPs are availed of the legal and institutional measures capable of assuaging them of the pain, suffering and losses associated with situation of internal displacement. Government in respective states where internal violence are common occurrence are saddled with primary responsibility needed to achieve the foregoing ⁷⁵ in the nature of return, resettlement and re-integration are attainable and also ensure accountability of perpetrators in a bid to avert impunity.

In the case at hand, this responsibility is shouldered by National Emergency Management Agency and National Commission for Refugees, Migrants and

⁷⁵ Article 5 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons 2009 (Entered into force on 6th December 2012) hereinafter called the Kampala Convention

Internally Displaced Persons by virtue of their enabling laws.⁷⁶ In the course of this study, the researcher's interviews with their officials reveal their level of compliance with the mandates of their respective agencies regarding the attainment of solutions that are characteristically enduring. Durable solutions to internal displacement takes the form of putting up appropriate mechanism to ensure safe return, resettlement and reintegration of IDPs as provided for in the UN Guiding Principles.⁷⁷

According to a source during an interview conducted in the course of this study, the officer⁷⁸ stated that:

My department is in charge of IDPs protection and assistance and we also strive to ensure that apart from providing temporary solutions in respect of their immediate needs, we ensure that they are properly reintegrated back to the society they come from by resettling them in their chosen place of residence. In terms of welfare we provide IDPs camps and ensure appropriate facilities are put in place for their use. We provide building materials such as zincs and cement to support people whose houses were razed down by violence. These are part of our mandate and concerns to IDPs.

In order to make return feasible material assistance as aforesaid should be provided for the internally displaced persons as more often there is virtually nothing on ground to return to after end of violence. There were divergent views on the part of victims interviewed as to whether mechanisms to ensure durable solutions were indeed put in place during the January and March 2010 violence in Jos.

⁷⁶ NEMA Act 1999 and NCFRMI Act 2004.

⁷⁷ See Principle 28, 29 & 30 of United Nations Guiding Principles on Internal Displacement 1998 hereinafter called the Guiding Principles. Provisions with similar intendment can also be found in article 11 of the Kampala Convention.

⁷⁸ Interview with Director IDP Department, NCFRMI Abuja, 24th June 2015.

According to the views shared by a victim/resident⁷⁹ interviewed pursuant to this study, it reveals that:

Yes government really tried for us when they shared some zincs, woods and cement to enable us rebuild our houses after the incident. But you know things cannot be the same again.

On the other hand, another victim deprecated absence of attempt by relevant government agencies in meeting their needs to ensure they safely return and are resettled following the destruction of their homes and source of livelihoods after the crisis. According to him: ⁸⁰

As far as I know people were promised that their buildings will be rebuilt for them but personally I don't know much about the truth of that as my family has to leave the camp to go and stay with our family who were not affected.

The foregoing intervention and manner of delivery of durable solutions to the victim is not consistent with international standards and the incoherence seems to be ad-hoc in nature as this essentially draws from the nature of existing legal and institutional frameworks which does not prioritize the needs for enduring solutions such as safe return, resettlement and re-integration of internally displaced persons at the front burner.⁸¹

⁷⁹ Interview with Mary Daylop, Victim/Resident, Jos City Centre, 27th June 2015.

⁸⁰ Interview with David Pam, Victim/Resident, Gangere Jos, 30th June 2015.

⁸¹ The extant legal frameworks are the NCFRMI Act and NEMA Act which is not IDPs specific. Worst still the National IDP Policy is yet to be activated with force of law.

4.3.3.2 Accountability of Perpetrators of Jos Violence

Bringing culprits of violence to justice is critical to ending reign of impunity and utter perpetuation of conflicts in Jos Plateau State. According to Human Rights Watch ⁸² “there is a limit of preaching peace without accountability” while referring to the view that you cannot preach peace when you see your relations being killed on daily basis.

Nigerian government has acknowledged this unsavoury development too when in one of the several investigative panel on civil disturbances it was restated that “the failure to bring the perpetrators of violence is a major contributory factor to the perpetration”.⁸³

This failure is multifaceted. It stems from failure at the time of arrest,⁸⁴ carrying out mass arrest to quell violence and thereafter releasing them unconditionally with charge framed, vital evidence needed for effective prosecution are mishandled at the time of arrest due to improper documentation as well as selective prosecution of arrested culprits.⁸⁵

The Federal High Court sitting in Jos has severally criticized the manner prosecuting authorities handled most of the cases that came out of Dogo Massacre incidence in Jos. For instance in the cases of *Federal Republic of Nigeria v. Patrick Ishawa and*

⁸² Human Rights Watch, (2013), 144.

⁸³ Federal Republic of Nigeria, “White Paper on the Report of the Federal Government Investigation Panel on the 2011 Election and Civil Disturbances,” August 2012, 24.

⁸⁴ Federal Republic of Nigeria v. Shafi’u Danmalam and Ors FHC/Jos/28C/2010, Judgment delivered on 23rd June 2011.

⁸⁵ Ibid. See for example section of the above report on 2010 Jos Violence, especially the Kuru Karama and Dogo Nahawa massacres respectively.

Anor,⁸⁶ Honourable Justice A.L. Allogoa held that “there was no iota of evidence against the accused persons.”

In the course of the researcher’s investigation, it was discovered that successive conflicts that have occurred in Jos were carried out by mob or large groups of persons. It is difficult upon arrest to link those arrested with exhibits recovered at the scene. Victims too displaced by violence lack the resources to prosecute those cases even where they are eye witnesses. Witnesses too are also afraid of reprisal attack if they testify against culprits.

There are however few instances where criminal prosecutions have yielded convictions as a result of diligence on the part of the prosecutors and the judges. For example, the Federal High Court sitting in Jos convicted two Fulani men on a charge of conspiracy and terrorism by a term of imprisonment of 21 years based on their confessional statements.⁸⁷

In other communities like Kuru Karama where the violence rules from day to day, not one suspect was arrested at the scene of crime making it difficult to prosecute without evidence as attacks was spontaneous.⁸⁸ Instead of criminal prosecution

⁸⁶ FHC/Jos/55C/2010. In this case the accused persons were arraigned for the offences of conspiracy, murder and arson contrary to sections 518, 318 and 443 of the Criminal Code in respect of violence in Jos. During hearing, the prosecution could not establish the offences against them due to the fact witnesses to the alleged offences refused to come and give evidence in court. See also Federal Republic of Nigeria v. Ibrahim Ibrahim and Ors FHC/Jos/42C/2010.

⁸⁷ Federal Republic of Nigeria v. Dauda Abubakar FHC/J/14C/2010 delivered on 14th February 2011, 10.

⁸⁸ Human Rights Watch, December (2013), 138.

successive government preferred the setting up of commissions of inquiry⁸⁹ with a view to ascertaining those responsible. This is more of a political solution and in all senses it cannot last long. In the same vein, Aaron Sayne posited rightly that “the use of commission is where genuine and legal controversies go to die”.⁹⁰

The researcher’s investigations in the course of this study is clearly in tandem with the foregoing that lack of prosecution of culprits in series of violence in Jos indeed has sown an age of impunity as crises become rampant on daily basis. In an interview with a woman resident⁹¹ of Jos, she responded to the burning issue in the following words:

Sir, how can violence end in Jos when people who kill, destroy houses, maim people and loot freely in all the crisis are walking round freely without fear of being caught and taken to the law court. We have seen people whom we know who killed others in our area and we expect them to be in prison today, instead they are looked upon as people of honour in our community. When the relations of those who were killed see them there will be bitterness. That is why all the fight in Jos is mainly based on revenge because government cannot punish wrongdoers hence some people will take law into their hands.

Similarly other victims interviewed during this study attributes the seeming failure to ensure accountability to lack of political will to ensure culprits are made answerable for their wrong as the reasons for constant perpetuation of conflict in Jos. For instance one resident⁹² stated that:

⁸⁹ As far Plateau State is concerned more than six Commissions of Inquiry have been set up to look into the incessant Jos internal violence. But reports have remained unimplemented.

⁹⁰ Aaron Sayne, 7.

⁹¹ Interview with Mary Daylop, Jos City Centre, 27th June 2015.

⁹² Interview with Suleiman Umar, Victim/ Resident, Bauchi Road Jos, 26th June 2015.

Certainly there is no end to crises in Jos because people who are involved in destruction, killings and all other evil things are not punished by government. We see them moving freely on our roads and this makes it difficult for us to forgive. The pain in our hearts after losing a dear one will make you angry and any little provocation, you will be moved to retaliate. That is why crisis will continue until government change its ways of tracing the people causing the problem and to punish them. They parade themselves as untouchable.

This views was further corroborated when another respondent⁹³ in an answer to similar question stated that:

Sir I can tell you that during the Dogo Nahawa incidence many people were arrested by the police in Jos and later taken to Abuja. But before you know we saw all of them back in Jos. Not even a single person among the people we saw killing people during the time was sent to prison. In view of this people are not happy with how things are handled as if there is no punishment for doing evil.

Apart from domestic mechanisms for ensuring an end to impunity, transnational justice mechanism can be employed with similar if not more assuring gains. Nigeria is signatory to the Rome statute that established International Criminal Court, yet apart from the preliminary report on the examination of several communications by the Prosecutor of the Court in 2010 which alleges commission of acts and omissions in the central Nigeria among others, not a single persons has been served with an arrest warrant by the court up to date.⁹⁴

⁹³ Interview with Mohammed Sani Bello, Victim/Resident, Zaira Road Jos, 29th June 2015

⁹⁴ International Criminal Court, Office of the Prosecutor, "Situation in Nigeria" *Article 5 Report*, 5 August (2013):1-33, www.icc-cpi.int/iccdocs/.../SAS%20-%20NGA (accessed on September 30, 2015).

The call for prosecution of perpetrators beyond the shores of Nigeria becomes imminent having regard to ethnic manoeuvring that usually characterized litany of supposed trials before national courts.⁹⁵

4.3.3.3 Institutional Funding

At the core of every humanitarian assistance lies the issue of financial resources. This is because humanitarian intervention in itself is cost extensive as it entails the provision of foods and other basic household amenities, health facilities, accommodation among host of others.

According to an official⁹⁶ of National Emergency Management Agency (NEMA) interviewed in this study there is no corresponding increase in the allocation to this organization despite the surge in violence in Nigeria. In his own words:

Finally there is the challenge of lack of adequate fund to meet up the ever increasing rate of emergencies which keeps on blowing in degree and intensity every day. There is no corresponding increase in the budgetary allocation of this body.

The foregoing was confirmed by another officer⁹⁷ of a sister organization- National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI).

According to her:

Our budget is not straight from the federation account. We are under the presidency where the envelop system is used to disburse fund to MDAs under it based on needs and availability. Our organization does not have a single digit charge on the national revenue. We are only left at the mercy

⁹⁵ During the 2010 conflicts in Jos, most of the people arrested were taken to Abuja for prosecution on the orders of the Federal Attorney General because of allegation of bias levelled against Plateau State Government with respect to the indigenes who were involved.

⁹⁶ Interview with Senior Planning Officer, NEMA office Abuja, 23rd June 2015.

⁹⁷ Interview with Director, IDP Department, NCFRMI office Abuja, 24th June 2015.

of the presidency. In the same vein, it is this lack of adequate finance that prevented us from establishing skill acquisition centres in other areas other than the one in Birnin Kebbi, Kebbi State for the purposes of resettlement and rehabilitation of IDPs.

The cumulative effects of the above challenges by virtue of its multi-faceted dimensions has limited other proactive measures that ought to be taken by this institutions.

4.3.3.4 Coordination among Humanitarian Agencies

The impact of violence is so devastating in a nature that one agency alone cannot be able to meet up the exigencies on the ground especially regarding internally displaced persons as a result of the same.

In Nigeria, the National Emergency Management Agency is the leading agency when it comes to matters of national disasters be it human or natural induced. Under the NEMA Act, six zonal offices are established to ensure collaboration. Also under the Act, states are also required to set up State Emergency Management Agency (SEMA) to take charge in respect of disasters occurring within the state.

Apart from NEMA, the National Commission for Refugees, Migrants and Internal Displaced Persons is authorised by law to cater for the welfare and protection needs of refugees, migrants and internally displaced persons and operates six zonal offices of the commission to ease administration.

Beside these institutions, there are other Non-Government Organisations (NGOs) that are also interested in the protection cycle. These are International Committee of the Red Cross, International Migration Organisation and host of others.

The case study reveals that by virtue of numerous hands involved in the protection and assistance of IDPs, the problem of how to effectively coordinate them becomes obvious. An officer⁹⁸ of NEMA interviewed stated that:

Coordination gaps is yet another daunting problem as there are several bodies responding to emergency at the same time and NEMA by virtue of its position is saddled with the arduous responsibility of coordinating activities of other sister bodies which is not always easy.

Responding to the same question in the course of our in-depth interview, an officer and expert⁹⁹ on IDP protection reiterated more bluntly that:

We have the problem of coordination of other humanitarian agencies that assist IDPs. However it is difficult to coordinate all these bodies who claim always that it is our money we are spending and we don't need any control from any quarter.

4.3.3.5 Data Collection and Management

Accurate data on internal displacement is a key critical element when considering what measures should be applied in an event of internal crisis. The absence of authentic information on victims of disasters including IDPs make it virtually impossible for actors to meet up with needs of these vulnerable persons. Accurate and efficient data is necessary for effective planning.

⁹⁸ Interview with Senior Planning Officer, NEMA office Abuja, 23rd June 2015.

⁹⁹ Interview with Director IDP Department, NCFRMI office Abuja, 24th June 2015.

Buttressing this challenges, an officer¹⁰⁰ working with NEMA who was interviewed in the course of this study chronicled the issue as follows:

It is pretty difficult to say with exactitude the number of persons affected by disaster in which ever form to day because of lack of expertise and resources. However NEMA is trying to overcome this problem through effective camp coordination and management whereby accurate profiling of affected persons are carried out by this organization in collaboration with NGOs such as Red Cross.

On the part of the NCFRMI, the agency under whose direct superintendence IDPs issue is, the officer¹⁰¹ in charge stated in response to our question regarding this issue under reference that:

There is no hiding in the statement that there are dearth of accurate figures on IDPs in Nigeria. The reason are not farfetched data on IDPs are collected by different government bodies such as this commission, NEMA, Bureau of Statistics etc. and NGOs such as Red Cross Society with each giving out their own figures based on their own investigations. This is because there is no coordination in data collection on IDPs in Nigeria.

The officer stated further that there are ongoing measures to overcome the challenge through collaboration. In her words:¹⁰²

The Commission is striving to overcome this this problem with the assistance of International Organization for Migration (IOM) which set up the Displacement Tracking Index (DTI) to help government in collecting and disseminating data on IDPs. It is with this assistance that the commission was able to release 2014 estimates which put the figure of internally displaced persons in Nigeria at 3.3 million. The DTI ensures that several organizations dealing with issue of IDPs monitor and collaborate with each other before releasing figures to the public.

¹⁰⁰ Interview with Senior Planning Officer, NEMA office Abuja, 24th June 2015.

¹⁰¹ Interview with Director, IDP Department, NCRFMI office Abuja. 24th June 2015.

¹⁰² Ibid.

4.3.3.6 NCFRMI Act and National Policy on IDPs

In the year 2002, the then Nigerian President (Chief Olusegun Obasanjo) by fiat directed that the mandate of National Commission for Refugees Act 1989 be extended to cover migrants and internally displaced persons who are hitherto not protected under any dedicated law. The draft amendment which was forwarded to the National Executive Council for onward transmission to the National Assembly for eventual passage into law is yet to see the light of the day till date.

The same applies to the National IDP Policy prepared under the auspices of the National Commission for Refugees, Migrants and Internally Displaced Person since 2011. The passage of IDP policy into law is key to IDP protection as it encapsulates in one single document all that is required to ensure that IDPs are well catered in all phases in view of the fact that the provisions contained therein is built round the parameters set out in existing norms¹⁰³ and regional instrument¹⁰⁴ on IDP protection.

In response to our question on this issue in the course of the study, an officer¹⁰⁵ of the commission stated that:

There are several of them but the most challenging has to do with the delay in passing the proposed amendments to the NCFRMI Act which expanded the mandate of the commission to migrants and internally displaced persons (IDPs). The present arrangement is merely a presidential approval which is yet to have the force of law. That is why a look at the Act will reveal that there is no section devoted to migrants and internally displaced persons (IDPs) yet. Again the draft National Policy on Internally Displaced Persons 2011 which was passed to the Federal Executive council for onward

¹⁰³ For example Guiding Principles on Internal Displacement.

¹⁰⁴ Kampala Convention.

¹⁰⁵ Interview with Director, IDP Department, NCFRMI office Abuja, 24th June 2015.

transmission to the National Assembly is yet to be passed into law up till date. These are the limitations in the legal framework that is actually affecting the discharge of our functions.

4.4 Legal Analysis

This section deals with analysis of the legal issues arising from the researcher's investigation consequent upon case study I. This will be carried out in the sequence of the three stages adopted in this research.

The following headings will be covered under this sub-topic, namely:

- 1) Stage One (1): Pre-Displacement Stage;
- 2) Stage Two (2): Displacement Stage; and,
- 3) Stage Three (3): Post-Displacement Stage.

4.4.1 Stage (1) One: Pre-Displacement Stage

Discrimination in the application of laws and policies with respect to citizens' grievances predominate in Nigeria. It is trite that one of the cardinal principle of the rule of law is that of equal treatment of all human persons before the law in disregard of place of sex, ethnic origin, religious affiliation or political inclination. This universal principle occupies a prime place in international laws and permeate constitutional provisions on bill of rights in most domestic jurisdictions like Nigeria.¹⁰⁶

¹⁰⁶ For example, Section 42 of 1999 Nigerian Constitution.

It is pertinent to begin from the onset that recurring ethno-religious and political conflicts in Jos stemmed from the seeds of discrimination evident from the case study between the indigenes and the settlers. This is predicated on the fact membership of a particular ethnic or religious group accrue to holders certain rights and privileges which are not ordinarily not available to the other groups. This indigenes/settlers dichotomy becomes the basis for discrimination which basically encourages unequal treatment.

Under international law discrimination on the basis of ethnic origin, religious belief and political opinion among others is frowned at in recognition of the rule of equal treatment. This well-known principle permeates all branches of international law applicable to Nigeria.

From the case study, it is incontrovertible to state that internal displacement have occurred within the meaning of Guiding Principles and the Kampala Convention and therefore the application of Principles 10 and 12 of the Guiding Principles articles 9 and 12 of the Kampala Convention respectively which abhor arbitrary displacement and other associated acts are applicable to the instant case.

With respect to the application of international humanitarian law, it is pertinent to examine from the case study, the nature of conflict that provoked displacement in the first place. This is because the nature of conflict determines the application of the rule and principles of IHL in any given case. The instant case reveals that the internal disputes between Berom, Anaguta and Afizere (BAA) and Hausa Fulani, the conflict is more or less a riotous situation and more so none of the parties is

structurally organized in military parlance. None of the parties is a state or non-state armed group. It therefore follows that the violent conflicts in case study I is of lesser threshold than non-international armed conflicts in which common article 3 of the Geneva Conventions applies. They are mere internal disturbances and thus such conflicts are clearly excluded by article 1(2) of Additional Protocol II of 1977 from the protection engendered in favour of victims under common article 3 of the Geneva Conventions (1949).

The application of international human rights law insofar as issues of discrimination in conflicts or during peace times is concerned have been sufficiently elaborated in chapter three of this research. There are no such condition precedents as it were under IHL.

Nigerian Constitution also frown at discrimination by reasons of ethnic groups, place of origin, sex religion or political opinion and went further to preclude executive and administrative organs of government from given such discriminatory policies any effect whatsoever.¹⁰⁷ This is obvious given that the indigene/settler dichotomy is not a legal construct *per se* notwithstanding its notoriety in fanning ethnic and religious violence in Nigeria.

From the instant case study, the failure of Nigerian Constitution to define words like “indigene” or “settler” and “citizen” is heavily implicated. The provisions of section 25 (1) and (2) which conveys the phrase “belonged to a community indigenous to

¹⁰⁷ Section 42(1) and (2) of the Nigerian Constitution.

Nigeria”¹⁰⁸ was established in this case study as the bane of internal disputes in Jos, Plateau State. The absence of clear cut definition of these key words in the Nigerian Constitution in preference to ‘ethnic groups’ and ‘states’ makes mockery the said provisions.¹⁰⁹

As regards judicial remedy in favour of victims of internal conflicts against discrimination, the provisions on non-justiciability or no-go areas in Nigerian Constitution circumscribed the application of the benefits of chapters III and IV of the Constitution as regards discrimination.¹¹⁰ This is well illustrated in *Attorney General Ondo State v. Attorney General of the Federation*,¹¹¹ the Supreme Court held *inter-alia* that it cannot enforce any of the provisions of chapter two of the constitution until the National Assembly has enacted specific law as it did in the 2000 in respect of section 15(5) thereof with respect to ban of corrupt practices and abuse of power.¹¹²

It is humbly submitted this should not be the case with IDPs in view of other provisions like sections 147(3), 153(2) and 197(3) which appeared elsewhere other than under chapter III and IV of the constitution by virtue of the phrase “except as

¹⁰⁸ Id., Section 25 (1) (a).

¹⁰⁹ International Crisis Group (ICG), *Curbing Violence in Nigeria (1): The Jos Crisis*, Crisis Group, Africa Reports No. 190, 17 December (2012):3.

¹¹⁰ Sections 6 (6) (c) and 42(4) of Nigerian Constitution.

¹¹¹ (2002) 9 NWLR (Pt. 772) 222. In this case, the plaintiff sought to challenge the powers of the defendants to exercise its power to curb corruption and abuse of powers under section 15(5) of the 1999 Constitution.

¹¹² See earlier case of *Arch Bishop Anthony Okogie v. Attorney General Lagos State* (1981) 2 NCLR 337 at 350 with respect to the enforcement of Section 11 of the 1979 Nigerian Constitution which is *impari materia* with section 11 of Chapter II of 1999 Nigerian Constitution. Note that Economic and Financial Crimes Commission (Establishment) Act 2000 was passed by the National Assembly to curtail acts of economic crimes and allied matters as an item No. 60(a) of the Exclusive Legislative List under the 1999 Nigerian Constitution.

otherwise provided in this constitution” contained in section 6(6)(c) thereof. To this extent there are justiciable and individual litigants can take advantage of this leeway to challenge laws and policies of government that tend to encourage discrimination on the basis of ethnic origin or religion as held in *Alhaji Mika Anache & 3ors v. Federal Republic of Nigeria*¹¹³ where Niki Tobi JSC (as he then was) held as follows:

In my humble view section 6 (6) (c) of the Constitution is neither total nor sacrosanct as the sub section provides a leeway by the use of the words “except as otherwise provides by this Constitution. This means that if the Constitution otherwise provides in another section, which makes a section or sections of the chapter justiciable, it will be so interpreted by the courts.

In practice, record shows that there are indeed few attempts to challenge discriminatory acts of government in Nigeria with respect to discriminatory policies which creates dichotomy between citizens as prevalent in this study area (Jos) except in *Anizaku & Ors v. The Governor of Nassarawa State & Ors*¹¹⁴ where the plaintiffs successfully challenged the Citizens Residency Bill 2004 introduced by the defendants on the grounds that it offends section 42(1) of the Constitution.

Right of access granted by the constitution becomes only meaningful and realistic only when citizens are aware and could afford judicial remedy. Poverty and illiteracy are two sides of the same coin in Nigeria. Few are seldom aware of violation of their

¹¹³ (2004) 14 WRN 1 at 62-63. See also G.N Okeke and C. Okeke, “The Justiciability of the Non-Justifiable Constitutional Policy of Governance in Nigeria”, *Journal of Humanities and Social Science*, Vol. 7, Issue 6, (2013):9-14, www.iosrjournals.org/iosr-jhss/.../B0760914.pdf?id (accessed on January 30, 2016).

¹¹⁴ CAJ/Jos/20/2004.

rights let alone seek remedy.¹¹⁵ Many are even not aware that free legal services can be ordered on their behalf by the High Court in deserving cases in furtherance of the provisions of section 46(4) of the Constitution.¹¹⁶

In all the raging contentions against the inclusion of the conflict-ridden phrase- ‘indigene’ into our constitution have been severally implicated for the failure to address this legislative snag. It is no longer an overstatement when a learned author opines that “this situation perhaps explains why previous peaceful coexistence between ethnic and religious groups is now blighted by regular bouts of violence”.¹¹⁷

4.4.2 Stage Two (2): Displacement Stage

Under this stage, it is important to analyse the following issues namely, the status of the victims, nature of the conflict and the nature of crime committed in respect of the internal crises subject of this case study I.

The case study clear illustrate instances of displacement of persons in the study area. As revealed from the available data victims were forcefully uprooted from their habitual place of residence as a result of the generalized violence. It is also clear that they remained within the border of Nigeria. To this extent victims of internal crises in case study I qualify as internally displaced persons (IDPs) in that they have met the two criteria stipulated in both the Guiding Principles and Kampala Convention elaborately discussed in chapter three of this research.

¹¹⁵ Interview with James Gyang, Resident /Victim, Jos on 17th December 2015.

¹¹⁶ Under Section 10 (1) of Legal Aid Act Cap L9 Laws of the Federation of Nigeria 2004 free legal aid can be granted to any person whose earning is below the national minimum wage. However, “national minimum wage” is not defined in the Act.

¹¹⁷ Alubo, 15.

With respect to the second issue which relates to nature of the conflict in question, this research adopts earlier discussion with respect to similar issue in stage one of this analysis and states further that the nature of the conflict having regard to the provisions of common article 2 and common article 3 of the Geneva Conventions is neither international armed conflict nor non-international armed conflict but an internal disturbances. IHL rules of protection of victims defined as civilians or persons not engaged in hostilities do not apply to the victims of the conflict in this case study.

On the third issue, it is pertinent to state that the application of international criminal is dependent on the existence of commission of crimes which have been criminalized under relevant treaties such as Genocide Conventions, Geneva Conventions and Rome Statute of International Criminal Court. These international crimes have been well discussed in chapter three of this research.

It is evidently clearly from the state of evidence distilled from the in-depth interview which was supported by this researcher's observation and other secondary sources that criminal acts of wilful killing, causing of grievous bodily injury and destruction of private and public properties which were clearly established in the case study falls below the threshold of the crime of genocide as the attack even though clearly intended "to destroy in whole or in part either of the two ethnic nationalities-Berom, Anaguta and Afizere (BAA) on one hand and Hausa Fulani on the other hand who were involved in the conflict. Though the physical elements of genocide is present and that is not enough to establish this heinous crime under article 6 of the Rome Statue of ICC.

From the evidence available in case study I, crimes against humanity cannot be said to have been committed on the grounds that the criminal acts such murder, torture and other inhumane acts stipulated under article 7 (1) (a) to (k) of the Rome Statute of ICC though committed were not carried out “as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack.” The available evidence from the case study suggests that the attack was limited to few places and most irregular. Similarly, it is not in evidence as far as case study I is concerned that victims had knowledge of the attacks.

The existence of the commission of war crimes under the Rome Statute of ICC is dependent on the nature of the conflicts in question. Based on the discussions on the application of IHL to the case study at hand, it is humbly submitted that insofar as the conflict in Jos as typified in case study I is adjudged herein as an internal disturbance. Under article 8 of the Rome Statute of ICC, the criminal act perpetrated against victims are not grave breaches within the meaning of the Geneva Conventions under article 8 2(a) or serious violations of customary law in respect of international armed conflicts under article 8 2(b) or serious violations of Common article 3 of the Geneva Conventions in respect of non-international armed conflicts under article 8(2) (c) and (e).

It appears from the evidence derived from case study I that these criminal acts namely wilful killings, torture, causing grievous bodily hurt, wanton destruction of properties were also not committed “as part of a plan or policy or as part of a large-scale commission” in order to satisfy the requisite mental element of war crimes under article 8 of the Rome Statute of ICC.

This is apposite in view of article 8 (2) (d) which clearly exclude internal disturbance like the case at hand on the grounds that they are isolated and sporadic attacks below the threshold of internal armed conflicts especially given the parties involved.

In respect of violations of human rights as evidenced in the case study, this researcher adopts earlier discussion on the relevance of application of international human rights protection to all human beings and adds further that this is not dependent on existence of conflict.

Under Nigerian criminal law, heinous acts such as killings, torture and wanton destruction of properties committed in the course of the internal disturbances-riots, uprising and banditry in Jos, Plateau State as revealed in the case study at hand are punishable as grievous offences and perpetrators are amenable to criminal prosecution in Nigerian courts.¹¹⁸

Several challenges impede the application of international law standards as outlined and applicable to the case study at hand. For example, Nigeria has ratified the African Union Convention on IDP but beyond ratification, up to date Nigeria is yet to put in to force the national policy on IDPs despite the growing waves of violence owing to the complex procedure of ratification provided for under section 12 of the Constitution which preclude application of international treaty in particular before Nigeria courts.¹¹⁹

¹¹⁸ For example Murder, Manslaughter, Arson Attempt to destroy property by explosives and conspiracy contrary to sections 324, 325, 443, 452 and 518 of Criminal Code Act Cap C38 Laws of the Federation of Nigeria 2004 respectively

¹¹⁹ See Registered Trustees of National Association of Community Health Practitioners of Nigeria & ors. v. Medical and Health Workers Union of Nigeria (2008)2 NWLR (Pt. 1072) 575 at 623. This case

It is important to state that issues of compensation for victim of crimes as well as their witnesses in Nigeria as required in international law such as article 12 of the Kampala Convention as it exists in other jurisdiction like Sri Lanka¹²⁰ for internally displaced persons is also problematic. For instance, in the instant case study I victims reiterated this issue of lack of compensation in terms of death of family members and loss of properties. Under the Land Use Act¹²¹ though there are provision for payment of compensation for revocation on grounds of overriding public interest, no similar provision exists in respect of property abandoned as a result of internal crises as evident in the case study.

What is more, the compensation envisaged under Nigerian criminal law by virtue of Administration of Criminal Justice Act 2015 is not robust enough to cover all losses incurred by victims of internal conflicts in view of the fact it is limited to monetary compensation for losses which are recoverable by way of civil suit.¹²²

As revealed from the instant case study, the administrative agencies set up by the government namely, National Emergency Management Agency (NEMA) and National Commission for Refugees, Migrants and Internally Displaced (NCFRMI) are also hampered by insufficient resources in providing the needed solution to IDPs in view of the fact that their funding is not robust enough to cater for the increasing rise in internal crises in Nigeria.

involves the enforcement of International Labour Organization Convention which was not domesticated in line with Section 12(1) of 1999 Nigerian Constitution. The Court held that it cannot be enforced in Nigeria.

¹²⁰ Protection and Assistance of Victims of Crimes and Witnesses Act No. 4 of 2015 (Sri Lanka).

¹²¹ Section 30 of the Land Use Act Cap L5 Laws of the Federation of Nigeria 2004.

¹²² Section 315 thereof.

4.4.3 Stage Three (3): Post-Displacement Stage

Deriving from the legal analysis in stage one of this chapter, the status of victims of internal conflicts in Jos was established as an internally displaced persons. They are entitled to be provided with durable solutions such as resettlement, reintegration and rehabilitation in line with Principles 28 and 29 of the Guiding Principles as replicated in articles 11 and 12 of the Kampala Convention. In the instant case study, such mechanisms was not established by available evidence in favour of victims of internal conflicts in the study area. However, these provisions in order to avail IDPs, it must be re-affirmed through domestication into national legislations which is not the case as far as Nigeria is concerned.

The foregoing accounts for the fragmented and incoherent interventions devoid of necessary coordination needed in times of violence and disasters. The functions of these agencies are not properly spell out to avoid possible areas of institutional friction.¹²³

With respect to prosecution of culprits in these crises. It is apt to note that drawing from earlier analysis to the effect that the conflict in questions falls below the thresholds of either international armed conflicts or non-international armed conflicts because of its failure to satisfy the two criteria laid out in the *Tadic's Case* and based on the express provision of article 1(2) of Additional Protocol II which excludes internal disturbance from the effects of the provision of common article 3 of the Geneva Conventions coupled with the fact genocide, crimes against humanity and

¹²³ Both NEMA and NCFRMI are empowered to cater for the assistance of IDPs concurrently under their enabling statutes.

war crimes was not established to have committed as stipulated in the Rome Statute of ICC, the jurisdiction of ICC in the instant case cannot be invoked even though Nigeria is a party to the ICC Statute.

It is important to add that the only way, the jurisdiction of ICC may be invoked is where a State Party to Rome Statute of ICC makes a referral to the court based on the provisions of article 14 which was not established in this case at hand.

It is not in doubt that the internal conflicts in this case study have led to the commission of certain criminal acts namely killing, torture and arsons among others. It appears that these acts which are also criminalized under Geneva Conventions and Rome Statute of ICC needs to be domesticated before the standards set by these conventions can be applicable in domestic parlance as it were in other jurisdictions like Sri Lanka and Uganda.¹²⁴ Barring any other specific conditions that must be satisfied, domestic court is vested with criminal jurisdiction as the proper forum by which these perpetrators could be sufficiently made to be accountable for their involvement.

Available evidence from the case study reveals that there are substantive and procedural difficulties in prosecuting culprits of this violence in Jos domestically. The case of *Federal Republic of Nigeria v. Luka Buka and Ors*¹²⁵ is on point. In this case, the accused persons were charged during the 2010 Jos crises for the

¹²⁴ In Uganda, there are domestic laws such as the International Criminal Court Act and the Geneva Convention Act to mention but a few which genuinely ease the application of international law before national courts.

¹²⁵ Plateau State High Court Division (2010).

offences of criminal conspiracy and unlawful possession of fire arms contrary to Section 518 of the Criminal Code Act and Section 3 of the Fire Arms Act which were purely federal offences before State High Court rather than offence such as culpable homicide punishable with death (murder) with stiffer punishment under the same Criminal Code Act ¹²⁶ which both courts have concurrent jurisdictions to try and punish.

Furthermore there are no special criminal courts to handle matters relating to internal displacement caused by internal conflicts in Nigeria. The case study revealed this the non-availability creates additional burden on existing courts such as Federal High Court and State High Court by virtue of sections 251 and 272 of the Constitution in respect of criminal matters respectively thereby culminating in unnecessary delay in trial of perpetrators of internal violence in Nigeria.

Witness protection also hamper effective prosecution in this case study I. There are no robust witness protection policy under Nigerian criminal law as it exists in other jurisdiction like Malaysia¹²⁷ and as such prospective witnesses being afraid of their personal safety as well as their property are not willing to come and adduce evidence during the trial of perpetrators of internal violence.

The issue of adequacy or otherwise of funding available to management of internal displacement in Nigeria is yet another serious issue. Placing the humanitarian emergency created by internal conflicts in case study I side by side with the

¹²⁶ Section 316 of the Criminal Code Act Cap C38 Laws of the Federation of Nigeria 2004.

¹²⁷ Section 4 of Security Offences (Special Measures) Act 2012 (Malaysian SOSMA)

provision of NEMA Act which provides 20% out of 2% ecological fund¹²⁸ which is not limited to IDPs as the main source of funding to NEMA shows that it is grossly inadequate and indicative of lack of commitment on the part of the Federal government as it relates to disaster management in Nigeria.

In the case of NCFRMI, it is not entitled to any front line charge in the federation account. The source of funding to the Commission is through the envelope system which essentially dependent on the discretion of Secretary to the Government of the Federation who supervises the Commission. As matter of fact there is no provision for funding in the Act establishing the Commission.¹²⁹

4.5 Summary

The case study in this chapter was in respect of the January and March 2010 internal conflicts in Jos, Plateau State, Nigeria. This chapter examined the issues under reference from the perspective of three distinct stages-namely, pre-displacement, displacement and post-displacement.

In stage one, the study investigated the causes of internal violence that have repeatedly wrecked the one serene city in Plateau State by looking at the ethnic, religious and political spectres of the problem. At the end of the scrutiny one issue that played out is the negative influence of the indigene settler syndrome on the causes of violence in Jos which in the analysis revealed that there are plethora of

¹²⁸ Section 13 (1) of NEMA Act Cap N33 LFN 2004.

¹²⁹ NCFRMI Act Cap N31 LFN 2004.

duplicitous provisions in the nation's constitution exploited to fan embers of disunity among the citizens all in the name of preserving the right of ethnic minorities.

Discussions on stage two highlighted the problems that arose out of displacement which affected the residents in the course of violence in Jos. Such challenges include displacement, death and loss of property which was discovered to be major problems encountered due to the violence in the case study. The stage revealed colossal human and material losses during the 2010 violence.

Finally in stage three, this case study examined the nature of durable solutions attained at the end of displacement which the study revealed as being fragmented and incoherent. The case study highlighted also that there are dearth of prosecution of perpetrators of violence due to confluence of factors. The issue of challenges that impede the smooth running and discharge of the responsibilities of government institutions relevant to internal displacement was similarly investigated.



Source: Human Rights Watch (2012)

Picture 4.1 A burnt Church building during internal crises in Jos



Source: Human Rights Watch (2012)

Picture 4.2 A damaged residential building during internal crises in Jos



Source: Human Rights Watch (2012)

Picture 4.3 Damaged residential houses at Anglo Jos due to 2010 Jos crises



Source: Jana Krause (2012)

Picture 4.4 A completely damaged settlement during crises in Jos



Source: Jana Krause (2012)

Picture 4.5 Massive destruction at Dogo Nahuawa during 2010 Jos crises



Source: Researcher's Field Study (2015)

Picture 4.6 The Jos Terminus Market building under renovation



Source: Researcher's Field Study (2015)

Picture 4.7 The Gbong Gwom Palace seat of Plateau State Traditional Council Jos



Source: Naij.com (2015)

Picture 4.8 Burnt buildings in smokes along Bauchi Road Jos

CHAPTER FIVE

CASE STUDY II: BOMB RELATED VIOLENCE IN JOS

5.1 Introduction

This chapter deals with case study II component of this research and investigates the new wave of internal violence orchestrated by bomb attacks and explosions which affected several part of Jos metropolis from late 2010 to date. The escalation of violence associated with bomb explosions in the city has worsened the frosty relationship of residents following persistent ethno-religious and political crises in Jos.¹

However, these renewed violent attacks in Jos and its environs which are subject of this chapter differed from the type of internal crises investigated in the preceding chapter. Like the preceding chapter, the researcher's investigation in respect of this chapter is similarly structured into three stages of the crises, namely: stage one (1) Pre-Displacement which covers the nature and causes of the renewed internal violence in Jos, stage two (2) Displacement which delves into the nature of the problems brought about by the violence and finally stage three (3) Post-Displacement which deals with legal and institutional dimension of these crises.

¹ International Crisis Group (ICG), "Curbing Violence in Nigeria (1): The Jos Crisis", *Crisis Group, Africa Report* No. 196, 17th December (2012), i.

The justifications for the choice of case study strategy in investigating the increasing wave of bomb related violence within Jos is well elaborated in the research methodology section in chapter one and further highlighted in chapter four of this research. In addition, Jos exemplifies a typical location within Nigeria reputed to be the most affected by bomb explosions in quick succession than any other part of the country where the phenomena of internal crises caused by bomb explosions have occurred.

The data and information that are relied upon in this case study are drawn from primary sources such as individual in-depth interview of victims, Police officers, Legal experts, Medical personnel, Church leaders and Muslim clerics, official documents and reports, and secondary sources such as textbooks, scholarly articles in journal publications and internet sources. The underpinning purpose is to ensure available evidence is properly triangulated from these multiple sources so as to improve the credibility and reliability of this research.

The data sources and information in respect of the three stages of the crises in Case Study II are as summarized and illustrated in **Figure 5.1**. Similarly the background information of participants interviewed in respect of field work conducted in respect of case study II is illustrated in **Appendix D**.

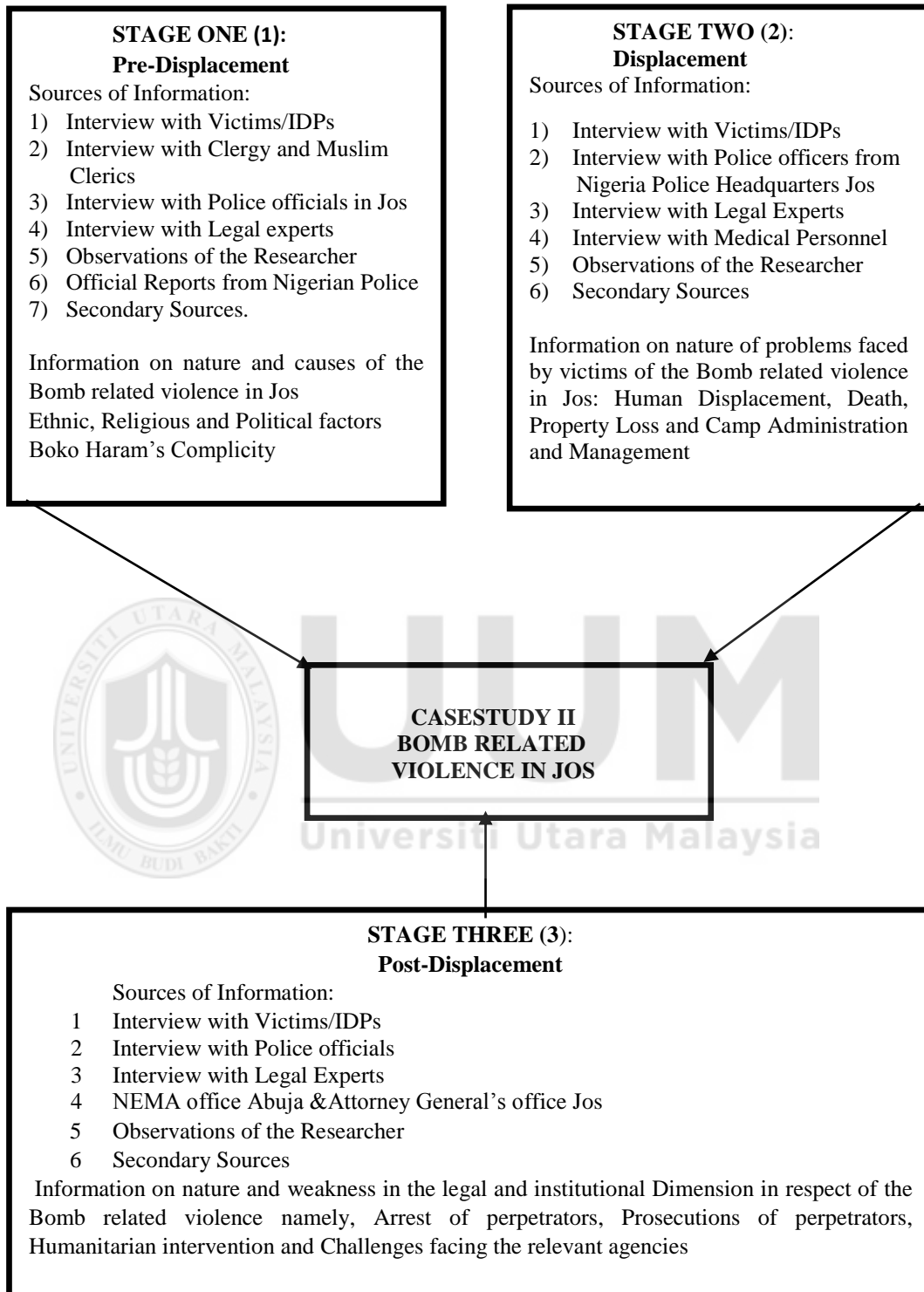


Figure 5.1 Summary of data sources and information of all the stages involved in Case Study II

5.2 Background and Location of Area in Case Study II

Under this heading, the instant study adopts previous discussions on the historical background and location of Jos highlighted in chapter one and more particularly in chapter four of this study for reasons of similarity of context and substance.

The city of Jos has in the past few years (from 2010 till date) tasted her own bitter pill of bomb explosions and suicide attacks which rocked and is still rocking several locations within the metropolis to date.² These renewed outbreak of violence orchestrated by bomb related incidences (subject of case study II) took place in several parts of Jos namely, Angwa Rukuba and Gada Biu areas of Jos³, Jos City Centre⁴, Rayfeild area of Jos and Tudun Wada area⁵ and most recently the twin bombings at Terminus market and Bus station in 2014⁶ and at the Yantaya area of Dilimi Jos and at the Shagalinka Restaurant located within Unijos Consultancy Complex, Bauchi Road, Jos in 2015.⁷

² Musa Sallek Yaks, "In the Name of Boko Haram: A Relapse of the Jos Violent Conflict", *Journal of Research in Humanities and Social Science*, Vol. 2, Issue 7 (2014):78, www.quesjournals.org, (accessed on January 13, 2016).

³ Nigeria Police Force, Criminal Investigation Department Jos, Incident Report, 24th December 2010 (copy on file), hereinafter simply called "Police Incident Report.". This incident recorded herein involves multiple bomb explosions on eve of Christmas allegedly targeted at churches.

⁴ Ibid, Police Incident Report dated 25th December 2011 and 26th February 2012 (on file) respectively. See also International Crisis Group (ICG), 17th December (2012), 14. This report was in respect of bomb explosion at the Mountain of Fire and Miracle Ministry Church Jos.

⁵ Ibid, Police Incident Reports dated 26th February 2012 and 8th April 2012 (on file). These incidence involves a Suicide Bomber conveyed in a Volkswagen Gulf 3 Car with Registration No. GGE 847 AA targeted at COCIN Church headquarter Jos and a Vectra vehicle loaded with explosives and targeted at St Finsbarr Catholic Church Rayfeild Jos, respectively.

⁶ "Nigeria Twin Bomb Explosions Kill Dozen in Jos" BBC, 20th May 2014. See also "Nigeria bombings leave over a hundred dead in city of Jos", The Guardian Newspaper, Nigeria, 21st May 2014.

⁷ These incidences involve twin bomb blasts at two different locations accompanied by sporadic gunshots. See Police Incident Report, Criminal Investigation Department, Nigeria Police Jos dated 5th July 2015(Copy on file) wherein it was declared an "act of terrorism" for the first time by Police authority in Plateau State.

Though each of these incidences differ relatively in terms of causalities and general impact, the modus operandi (use of bomb and other impoverished explosive devices (IEDs) and vehicle impoverished explosive devices (VIEDs) employed to unleash mayhem against the people of Jos were the same.

These disturbing development especially those that happened in late 2010 and 2011 led to the declaration of state of emergency in four Local Government Areas of Plateau State which consist of Jos North, Jos South, Riyom and Barkin Ladi by the then President Goodluck Jonathan on 30th December 2011.⁸

In the same token, following the renewed violence in Jos and its environs in relation to the gravity of killings and destructions, the Plateau State Police Command banned the movement of motorcycles in the city centre to pave way for effective surveillance of movement of unscrupulous elements.⁹

For the purpose of this case study and to ensure thorough investigation of the varying issues insofar as it relates to this study by ensuring unbroken chain of evidence, the researcher carefully selected three instances of bomb explosions that occurred in Jos from 2010 to date, namely the Multiple Bomb Blasts at Angwan Rukuba and Gada Biu dated 24th December 2010, Twin Bomb Blasts at Terminus Market Motor Park, Jos dated 20th May 2014 and the Twin Bomb Blast at Dilimi Mosque and Shagalinka Restaurant Bauchi Road, Jos dated 5th July 2015 out of the several occurrences.¹⁰

⁸ “Jonathan Descends on Four States, Declares a State of Emergency”, The Moment (London), 31st December 2011.

⁹ ICG, 14.

¹⁰ It is on record that between December 2010 to July 2015, Jos recorded more than eight cases of bomb and suicidal explosions.s

The rationale behind the purposive selection of these bombs spots in this study is informed by the fact that the three represents critical cases in terms of human casualties, destruction of properties and other concerns associated thereto. Secondly, the choice encompasses the first and the last of such violence in Jos to date.

The nature and timeline of bomb related violence subject of Case Study II is illustrated in **Table 5.1** below.

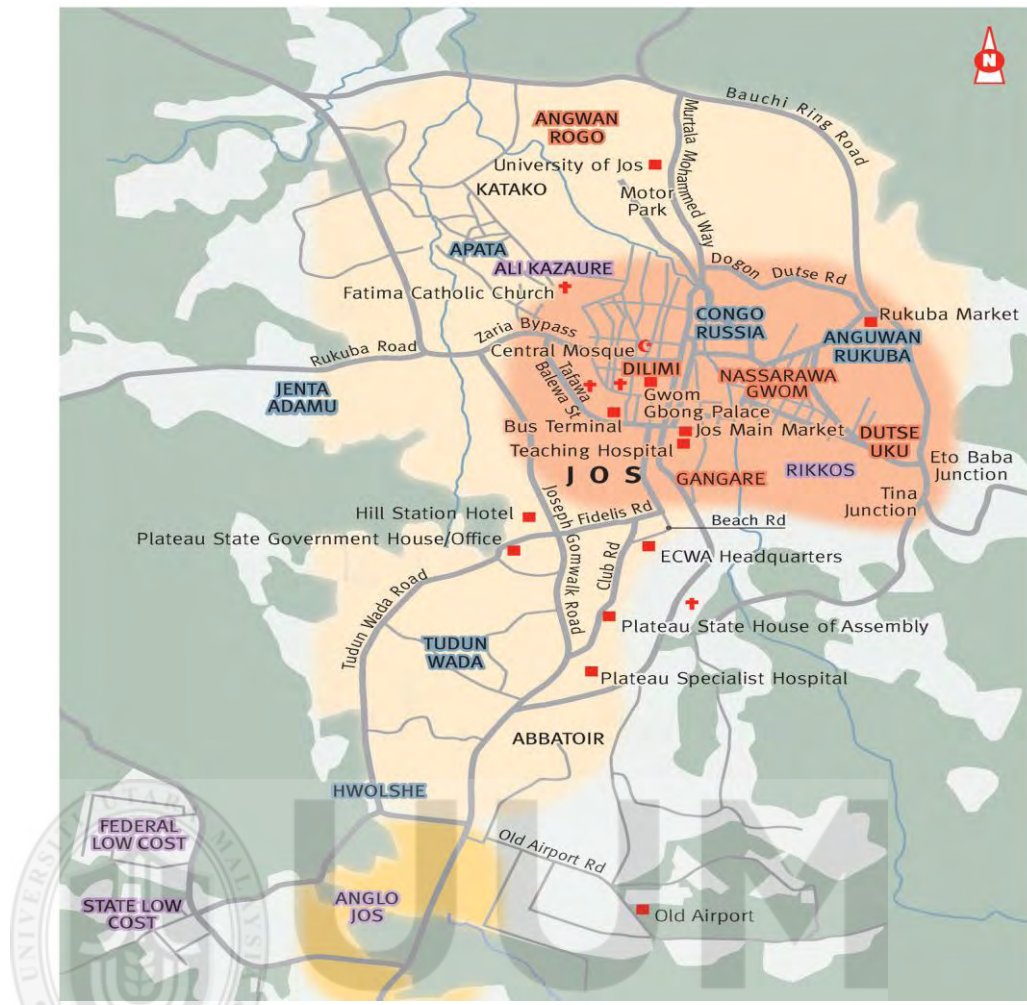
Table 5.1

Nature and Timeline of Bomb Related Violence in Case Study II

S/No	Location of Conflict	Period	Estimated Deaths
1	Multiple Bomb Blasts at Gada Biu and Angwa Rukuba Area of Jos metropolis	2010	19
2	Twin Bomb Blasts at Terminus Market and Bus Station Jos	2014	118
3	Jos Twin Bombing at a Mosque in Dilimi and Shagalinka Restaurant within Unijos Consultancy Complex Jos	2015	55

Source: Wikipedia.com, Nigeria Police (2011-2015), ICG (2013), NEMA (2015), UNOCHA (2015)

The detailed map of Jos showing the various parts of the city mostly affected by the new waves of bomb related violence on the Plateau is illustrated in **Figure 5.2** below.



Source: Jana Krause (2011)

Figure 5.2 Map of locations in Jos affected by bomb explosions (delineated in red and blue)

5.3 Stages of the Bomb Related Violence in Jos

For the purposes of in-depth and thorough investigation, stages of the violence encapsulated in case study II is subdivided into three stages namely stages 1, 2 and 3 respectively.

The following headings will be covered under this sub-topic, namely:

- 1) Stage One (1) Pre-Displacement Stage-The Nature and Causes of the Bomb Related Violence in Jos;

- 2) Stage Two (2) Displacement Stage-The Nature of Problem in the Bomb
Related Violence; and,
- 3) Stage Three (3) Post-Displacement Stage- Legal and Institutional Measures

5.3.1 Stage One (1): Pre-Displacement Stage

The Nature and Causes of the Renewed Violence in Jos

Unlike ethno-religious and political conflicts which are the subjects of case study I of this research, the renewed violence in Jos after the near disappearance of those identity crises has its own peculiar characterizations.

Though the present case study cannot be investigated based on mono-perspective,¹¹ it can be looked from more or less an angle of organized warfare wherein bombs and other impoverished explosives were employed to cause massive human losses and wanton destruction of properties of their victims with series of lethal attacks commonly targeted at churches, mosques and market places with large concentration of people where maximum impact are surely guaranteed.¹²

Whereas the nature of the renewed violence seems to be a settled fact, same cannot be said of the cause as opinions differ extensively on this pertinent issue of what actually masterminded the re-emergence of violent conflicts of essentially different character and dimension in a city already bedevilled by incessant ethnic and religious crises.

¹¹ Joshua Segun and Jegede Ajibade Ebenezer, "Ethnicization of Violent Conflicts in Jos", *Global Journal of Human Social Science: Political Science*, Vol. 13, Issue 7 (2013):36, <https://globaljournals.org/.../5-Ethnicisation-of-> (accessed on August 12, 2014).

¹² Musa, Sallek Yaks, 77-85

The following headings will be covered under this sub-topic, namely:

- 1) Divided Ethnic and Religious Composition of Jos; and,
- 2) The Boko Haram's Complicity in the Renewed Violence.

5.3.1.1 Divided Ethnic and Religious Composition of Jos

Nigeria is a heterogeneous nation with mixed ethnic and religious interests. In the same manner Plateau State is a mini Nigeria with its own peculiar ethnic and religious structure as well. Jos as its capital city is home to over 100 indigenous ethnic groups prominent amongst whom are the Berom, Afizere and Anaguta (in order of population) and more than 40 spoken languages.¹³ Other ethnic groups in the state are the Hausa Fulani, Ibo, Yoruba to mention but a few, mostly from other parts of the country also constitute a significant proportion of the entire population of the Plateau State.¹⁴

While the indigenous ethnic groups (Berom, Afizere and Anaguta) are mostly Christians, the so called settlers-Hausa Fulani, one of the tribes with whom the indigenes have had constant feud with are on the other hand predominantly Muslims.¹⁵ As earlier revealed in the preceding chapter, the enmity created by these long standing dichotomies between the Berom Afizere and Anaguta and the Hausa Fulani had resulted in series of ethno-religious and political conflicts in Jos over the years.¹⁶

¹³ Adam Higazi, "The Jos Crisis: A Recurrent Nigerian Tragedy", *Discussion Paper* No. 2, Friedrich Ebert Stiftung, January (2011):7-8; ICG, (2012), 1.

¹⁴ Ibid.

¹⁵ Joshua Segun and Jegede Ajibade Ebenezer, 38.

¹⁶ This is because of all other ethnic communities in Jos, it is only the Hausa Fulani that claims indigeneship rights along with Berom, Afizere and Anaguta. See ICG (2012), 2.

According to the reports of the field study carried out in this research, there is no agreement as the exact cause(s) of the renewed violence in Jos. While most of the respondents interviewed are of the view that the renewed crises came on the threshold of existing ethnic and religious hostilities, they are also quick to debunk the claim of ethnic and religious vendetta by the same breadth having regard to the nature of attack and the people and places affected by the crises.¹⁷

For instance, in an interview with a senior police officer in Jos,¹⁸ he stated that:

I think the new cases of violence in Jos are essentially a fall out of the past incidences which are purely ethnic and religious in nature. Initially people thought it was a case of revenge by Muslims against Christians. However later events proved it otherwise as there were attacks on both Christians and Muslims at different times.

Similarly, in an interview with a victim¹⁹ who is also a Senior Pastor of one of the numerous churches affected by bomb explosions in Jos, he stated while debunking the link of ethnic and religious differences to the renewed violence that:

Before now, violence in Jos are mainly on grounds of ethnicity or religion. But nowadays there is a sudden departure as what is now in vogue is the use of bombs explosions and suicide bombers. There was an incident which involve my own church here in Jos.

Corroborating further, a village resident²⁰ interviewed stated that:

¹⁷ Though with varying degrees of apportionment. See Field Report in respect of the Researcher's Case Study II carried in Jos dated 15th, 16th and 17th December 2015 and 5th-6th January 2016 respectively.

¹⁸ Interview with O/C Legal & Prosecution, State Criminal Investigation Department, Nigeria Police, Jos on 15th December 2015.

¹⁹ Interview with Victim and Senior Pastor, Mountain of Fire Ministry Church, Jos on 16th December 2015.

²⁰ Interview with James Gyang, Village Resident, Jos on 17th December 2015.

But the new cases of violence nowadays is different. ...This is quite different from the past that is because of differences amongst tribes in Jos as crises affect both Muslims and Christians alike whether Berom or Hausa Fulani.

From the foregoing, it can be deduced that ethnic and religious sentiments are mainly employed as a camouflage to enthrone terror on the citizens. The researcher cannot agree any less but to align with the view of a legal expert²¹ interviewed in this case study that the recurring conflicts in Jos is a product of convergence of factors when he stated that:

Previously it was basically religious but now religion is just a camouflage or one out of many- the fear of Muslims being dominated by the Christians and vice versa, fear of reoccurrence of conflicts spark further conflict to the extent that little misunderstanding can lead to serious fight and could escalate from rural to urban centres, poverty and unemployment as most of the young ones in the area under consideration have no means of sustenance, most are not educated and those who are educated finds it difficult to secure jobs such that once there is little conflict, they see it as an opportunity to loot. Other factors includes the utilization of thugs by politicians who are already armed with light weapons during elections and the acquisition of arms and weapons by mosques and churches for purposes of self-defence.

5.3.1.2 The Boko Haram's Complicity in the Bomb Explosion

Bomb explosions and suicide attacks are recent phenomena in Nigeria.²² However, the emergence of Boko Haram, a militant Islamic sect of the Sunni ideology and

²¹ Interview with Timothy F. Yerima, Professor of Law /Legal Expert, Anyigba on 5th January 2016.

²² I.C Achumba, O.S. Ighomereho and M.O.M Akpor-Robaro, " Security Challenges in Nigeria and Implications for Business Activities and Sustainable Development", *Journal of Economics and Sustainable Development*, Vol. 4, No. 1 (2013):79,<http://pakacademicsearch.com/pdf-files/ech/520/79-99%20Vol%204,%20No%202%20%282013%29.pdf> (accessed April 15, 2016); International Crisis Group, Curbing Violence in Nigeria (II): The Boko Haram Insurgency, African Report No. 216, 3 April (2014):7-8, www.crisisgroup.org/.../nigeria/216-curbing-vi (accessed on February 13, 2016); Musa Sallek Yaks, 78.

affiliation founded in 2002 by Mohammed Yusuf on Nigeria's political milieu brought about incidences of bomb related violence as a recurring experience. The sect is also known as *Jama'atu Ahlus-Sunnah Lidda'Awati Wal Jihad* (People Committed to the Propagation of the Prophet's Teachings and Jihad). In Hausa language, Boko Haram means 'western education is sinful'.²³

Boko Haram's first deadly operations in Nigeria occurred in July 2009 when the group clashed with security operatives in the North eastern states of Bauchi, Borno, Yobe and Kano states resulting in massive loss of lives and destruction of properties in what was later on described as "five days of deadly violence".²⁴

Boko Haram is peculiarly known for its sectarian agenda which is to expel the present political structure in the country and in its place enthrone pure Sharia code as the only legitimate legal order and religion in Nigeria²⁵ and thus the sect out-rightly rejects peaceful co-existence between Muslims and Christians, as Muslims who are not willing to imbibe in this ideology were labelled as infidels.²⁶ In the words of one of the sect popular spokesman, Abu Qaqa, he summed up the agenda of the sect in the following words:

Our objective is to place Nigeria in a difficult position and even destabilise it and replace it with Sharia, and to ...take Nigeria back to the pre-colonial period when the Sharia law was practiced.

²³ Marc-Anthoine Perouse de Montclos, "Nigeria's Interminable Insurgency? Addressing the Boko Haram Crisis," *Research Paper African Programme*, September (2014): 7, <https://www.chathamhouse.org/.../20140901Bo> (accessed on April 1st 2015).

²⁴ Ibid.

²⁵ Id., 8. See also ICG, 9.

²⁶ Human Rights Watch, (October 2012):45.

Suffice to draw from the above assertion that the aim of Boko Haram sects as properly gleaned from their modus operandi in Jos makes it different in context from ethnic and communal driven interests that led to ethno-religious crises in Jos as investigated in the preceding chapter.

It is worthy of note, that the convergence of multiple factors such as the unending ethno-religious and political disputes, the geographical location of Jos being “on the cusp of the core North”²⁷ where Boko Haram’s attacks is endemic and other underlying root causes of civil unrests such as unemployment, poverty and illiteracy,²⁸ provided the fertile ground for the sudden emergence of Boko Haram attacks in Jos since late 2010 to date.²⁹ For the records not less than eight cases of lethal attacks in the name of bomb and multiple suicidal explosions have occurred in Jos within the period of six years three out of which is illustrated in **Table 5.1** of this case study in which Boko Haram sect themselves have assumed full responsibilities for most of the explosions.

To further buttress the fact that bomb related violence (as in this case study) has its own peculiar and distinct characterizations from the histories of internal violence in Plateau State, a number of respondents interviewed in this field study were definite in attributing the responsibility for the bomb explosions and suicide attacks in Jos to the activities of the dreaded Boko Haram Islamic sect.

²⁷ ICG (December 2012), 1.

²⁸ Interview with Timothy F. Yerima, Professor of Law/ Legal Expert, Anyigba on 5th January 2015. See also A. I. Ajayi, “Boko Haram and Terrorism in Nigeria: Exploratory and Explanatory Notes”, *Global Advanced Research Journal of History, Political Science and International Relations* Vol. 1(5) July (2012):103-107, <http://garj.org/garjhpsir/index.html> (accessed on February 12, 2016).

²⁹ Sunday Okungbowa Uhummwangho and Alufuro Epelle, “Challenges and Solutions to Ethno-Religious Conflicts in Nigeria: Case Study of the Jos Crises”, *Journal of Sustainable Development in Africa* Vol.13, No.5 (2011):119, <http://www.jsd-africa.com/.../PDF/Challengesand20%20to%20Et> (accessed on October 12, 2014).

For example, a senior police officer³⁰ involved in the investigation and prosecution of cases of bomb explosions and suicide attacks in Jos while responding to the researcher's question as to the nature and causes of the renewed violence in Jos stated that:

These new waves of violence are normally carried out through the use of bomb and other impoverished explosive device stuck inside the boot of vehicles which are driven forcefully into congested area and in the process of collision, the bombs will explode in a manner that have caused monumental danger to lives and properties of targets. In addition, the latest strategy is the use of suicide bombers wherein programmed bombs and other impoverished devices are worn by human beings with the intention of detonating them at choices places such as churches, mosques and market places which is highly difficult to predict in terms of investigation.

Besides the foregoing, there are also those who actually witnessed some of this attacks and whose memories are still replete with the terrible horror that accompanied the heinous acts. For example in an interview with the Chief Security Officer (CSO)³¹ of the University located within the major flashpoints, he narrated his experience in relation to one incident (bomb explosion) that occurred close to one of the outer entrance gate to the institution in the following words:

One thing is sure I see this kind of violence as terrorist attacks rather than ethnic or religious conflict. They are spill over from the Boko Haram attack in the North East Nigeria to other parts of the country and due to the special location of Jos as gateway to the far north, Jos is bound to be one of the flash points.

³⁰ Interview with OC Legal & Prosecution CID, Nigeria Police, Jos on 16th December 2015.

³¹ Interview with Chief Security Officer, University of Jos, on 17th December 2015.

Some residents³² interviewed in the course of this research and who are also victims of this renewed violence at Terminus Market and Dilimi Mosque areas of Jos city where multiple bomb blasts took place in May 2014 and July 2015 respectively also described these attacks in the nature an act of extremism on the part of Boko Haram sect and as a new twist in internal violence in Jos.

Apart from Jos Boko Haram sects had at different times launched several attacks similar to those in the instant case study in strategic parts of the country like Abuja, Kano and the Northeast using the same modus operandi.³³ For example, the Christmas day's (25th December 2011) bomb explosion that occurred at the St Theresa Catholic Church Madala, Niger State in which over 43 persons lost their lives.³⁴ Besides the fact of claiming sole responsibility for the Madalla attacks, the Boko Haram sect had openly boasted that it was a revenge for the Eid el-Fitr prayer ground attacks on Muslims supposedly by Christians in Jos on 11th August 2011.³⁵ This goes without more to support the complicity of Boko Haram elements as far the incidence of explosions is concerned in Jos.

Based on foregoing discussions in respect of this stage, it can be concluded that the incessant bomb explosions in Jos which is entirely recent and different from ethno-religious disputes which has been a recurring decimal in Jos is an attempt to

³² Interview with James Gyang and John Adeleke, Residents and Victims, Jos on 17th December 2015.

³³ For example UN Building bombing on 25th August 2011 and This Day Newspaper Offices in Abuja and Kaduna on 26th April 2012 to mention but a few.

³⁴ Boko Haram Claims Responsibility For Bloody Xmas Bomb Blasts In Madalla, Jos Damaturu, Mubi...As Casualty Figure Rises, May Hit 100, <http://ireports-ng.com/2011/12/25/boko-haram-claims-responsibility-for-bloody-xmas-bomb-blasts-in-madalla-jos-damaturumubi-as-casualty-figure-rises-may-hit-100/> (accessed on March 28, 2016).

³⁵ Ibid.

introduce a new dimension to the crises using religious as a bait to the prevailing discriminations premised on ethnic identities.

5.3.2 Stage Two (2): Displacement Stage

The Nature of Problems in the Bomb Related Violence

Like ethno-religious and political conflicts investigated in the preceding chapter of this research, the bomb related violence has generated a number of problems of varying dimensions owing largely to the pattern of nature of weapon employed by the perpetrators of the attacks.

The following heading will be covered under this sub-topic, namely:

- 1) Human Displacement and Other Forms of Violation of Rights;
- 2) Deaths; and,
- 3) Loss of Property and Means of Livelihood.

5.3.2.1 Human Displacement and Other Forms of Violation of Rights

One indisputable problem created by situations of internal conflicts generally is the upsurge in forced displacement leading to involuntary movement of persons from their original place of abode to another ³⁶ due to fear of real or imminent attacks, on However the gravity of the problem is not underestimated by the lack of accurate

³⁶ National Emergency Management Agency (NEMA), Abuja (2011), Records of IDPs in Nigeria: - October 2010 – October 2011). See also Mohammed Tawfiq Ladan, “Diagnostic Review of Insurgency in Nigeria: The Legal Dimension”, Paper presented at the Eminent and Expert Working Group Meeting on National Counterinsurgency Strategy, held at Unity Hall NIPSS Kuru Plateau State, 28th- 31st August 2012, 6.

record of casualties and number of internally displaced persons owing to the very nature of the crises.³⁷

The researcher's investigation in this case study as corroborated by an eye witness account revealed widespread human movement following violence created by series of bomb explosions in Jos. For example, one resident of Jos³⁸ interviewed in this study gave an account of such movement when he stated that:

I know that at the scene of the bomb explosion that occurred at Terminus Market, more than 2000 persons were displaced and were assumed missing as a result. There was no camping facilities provided for the victims because of the urgent need was medical assistance. Those displaced by the bomb related incidences in Jos metropolis were never camped at any location. Some of my relations affected by the explosion that occurred at Gada Biu area came and lived with me at Gangere and left after movement was restored in the city.

In the same vein, another respondent³⁹ in an interview conducted pursuant to this study put it more simply that "people left their homes because of the incident for fear of reprisal attacks."

Albeit the lack of accurate data on the total number of persons displaced during series of bomb explosions in Jos under reference, one thing the researcher observed was that the explosions were more or less meant to attain high rate of mortality rather

³⁷Adeejat-Kubra Adenike Kolawole, "Towards the Evolution of Legal and Institutional Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria", *International Journal of Sustainable Development* 06.05 (2013), 147 available at <http://www.ssrn.com/link/OIDA-Intl-Journal-sustainable-Dev.html> (accessed on February 20, 2014).

³⁸ Interview with James Gyang, Resident/Victim, Jos on 17th December 2015. This is also corroborated by Jana Krause (2011), 13 who puts the figure of displaced persons at 18000.

³⁹ Interview with John Adeleke, Resident/Victim, Jos n 17th December 2015.

anything less in view of the fact that the targeted locations such as churches, mosques, parks and markets were carefully selected for the attack.⁴⁰

In addition, there were reported cases of widespread violation of rights of the citizens namely, right to movement and association as people could not freely move from one place to another due to military check points. From the researcher's observation in the course of the field study, there are still huge barricades at the entrance of major flash points in the city to serve as preventive measures. For example, at the University of Jos situated along Bauchi Road where repeated explosions have been recorded in the past including barricade manned by combined team of Army, Police, Navy and others were seen keeping watch at the main entrance of the institution.

5.3.2.2 Deaths

The rate of deaths attributed to the bomb related violence in Jos is particularly worrying. This might have stemmed from the nature of the weapon employed to prosecute the violence in itself (impoverished explosives devices and vehicle impoverished devices) coupled with the choice of location of attack such as worship centres and market places.⁴¹

There are conflicting statistics with regard to the number of deaths in the three bomb occurrences investigated in this study.⁴² However the most authoritative are those kept by the National Emergency Management Agency and the Police authorities largely because of their direct participation in the aftermath operations.

⁴⁰ Musa Sallek Yaks, 81.

⁴¹ Ibid.

⁴² See Table 5.2

According to report published by National Emergency Management Agency, 80 persons were killed, while another 250 were injured in the multiple bomb attacks that occurred at the Angwan Rukuba and Gada Biu area of Jos on 25th December 2010.⁴³ The police authorities in Jos on their part puts the figure of dead at 19.⁴⁴

With respect to the twin bomb blasts that occurred on 20th May 2014 when an impoverished explosive device concealed in a mini bus exploded between 3.00pm and 3.30 pm at the popular bus station and the densely populated Terminus market located at the Jos city centre was particularly disastrous. NEMA coordinator at the scene reported that 118 persons were gruesomely killed in the twin blasts and recovered from the rubble and over 56 were injured.⁴⁵ This figure is also confirmed by the Office of the Coordinator for Humanitarian Affairs of the United Nations.⁴⁶ However, newspaper reports put the figure of the dead at 150 persons.⁴⁷

The sad event of 5th July 2015⁴⁸ which apparently was the last of such explosion to have happened in Jos till date was targeted at two separate locations in the city namely, a Mosque at Yantaya area of Dilimi, a densely populated suburb of the city while Islamic preaching (Tafsir) was going on and a popular restaurant located along Bauchi Road near University of Jos. Both were meant to worsen the extent of casualties which actually was what happened on the fateful day as the explosions

⁴³ Quoted in Musa, Sallek Yaks, 80

⁴⁴ Police Incident Report dated 26th December 2010 (Copy on file).

⁴⁵ Mohammed Abdulsalami, NEMA Coordinator at the scene of incident. See Nigeria Bombing: "Death toll passes 100", BBC News, 20th May 2014, www.bbc.com/news/world-africa27493940 (accessed on February 17th 2016).

⁴⁶ "Nigeria: Jos Bombing" Office of the Resident Coordinator Situation Report No.3, 21st May 2014, 1-3, www.sos-usa.org/.../SITREP-NIGERIA-Jos-Bo (accessed on February 13, 2016).

⁴⁷ For instance, The Punch Newspaper, Nigeria Vol. 38, No 20666, 21st May 2014, P. 1, 2&7 ISSN 00312666.

⁴⁸ It is interesting to note that this particular incident occurred while this researcher was on field study in Jos for this instant research.

was also accompanied by sporadic gun shootings. Plateau State Command of the Nigeria Police recorded that 55 persons were killed while another 55 sustained various degrees of injuries.⁴⁹ These development was corroborated in an interview with a medical personnel of Our Lady of Apostles Hospital Jos.⁵⁰

Another resident⁵¹ confirmed the spate of death arising from the bomb blasts that occurred at the Terminus Market on 20th May 2014 when in his account he stated that:

Naturally a number of people were killed in the course of the attacks though I cannot give the exact number. I saw many dead bodies being carried away from the scene on that fateful day.

This was further corroborated by another eye witness/victim⁵² who stated also that “I know several persons were killed directly by the impact of the explosion while many others who were wounded”.

The foregoing sequence of revelations clearly depict extent of deaths occasioned by the bomb related violence in Jos which is just an estimated figure in view of absence of reliable machinery for data collection in Nigeria.

5.3.2.3 Loss of Property and Means of Livelihood

Internal crisis generally is usually inundated with loss of property. This is particularly true having regard to series of explosions that has occurred in Jos over

⁴⁹ Police Incident Report (Copy on file)

⁵⁰ Interview with Dr Jerry Ogwuche, Medical Officer, Jos on 16th December 2015.

⁵¹ Interview with James Gyang, Village Resident/ Victim, Jos on 17th December 2015.

⁵² Interview with John Adeleke, Village Resident/ Victim, Jos on 17th December 2015.

the years.⁵³ This was further confirmed by a learned scholar to the effect that owing to explosions in which Boko Haram have been implicated in Nigeria and in Jos in particular several properties have been destroyed not minding the financial cost⁵⁴.

Fawole and Bello⁵⁵ substantiated the foregoing assertion that:

In addition to their replaceable loss of lives, losses in terms of property (goods, houses, business premises) have not yet been fully ascertained. Some survivors have permanently lost all they laboured for in their lives.

In the course of the researcher's investigation in this case study, the in-depth interview revealed the following responses which are material to the issue under reference to further corroborate the views held by these authors. A senior Pastor⁵⁶ interviewed admitted that there were numerous losses suffered by victims during the bomb related violence that took place in Jos as captured by this case study and went further to add that:

Apart from this many people have lost their homes, goods in shops which were burnt down. Some churches and mosques that were burnt down are currently undergoing repairs with no form of assistance from the government.

An eye witness account following an interview conducted in this study also revealed that the attacks targeted at private and public facilities during the incidence was totally destructive. Accordingly, the interviewee stated that:

⁵³ See also ICG (December 2012); Chris I. Nwagboso, "Security Challenges and the Economy of the Nigeria State (2007- 2011)" *American International of Contemporary Research*, Vol. 2, No.6, June (2011):52, www.aijcrnet.com/journals/Vol_2.../28.pdf (accessed on August 28, 2015).

⁵⁴ Musa Sallek Yaks, 77

⁵⁵ O.A Fawole and M.L., Bello, "The Impact of Ethno-Religious Conflict on Nigerian Federalism," *International NGO Journal* No. 6 (10), October (2011):217 doi:11.5897/NGOJ11.020.

⁵⁶ Interview with Senior Pastor and Victim, Jos on 16th December 2015.

Usually these attacks are targeted at public facilities such as market places and schools as can be shown from the incessant attacks on Terminus main market, University of Jos among others. Aside this, part of shop was destroyed and also there are lot of people who have lost their cars during the violence caused by bomb explosion in Jos.⁵⁷

In the same vein, John Adeleke⁵⁸ who was interviewed in respect of bomb explosions that took place at the Yantaya area of Dilimi in Jos in the course of this case study also recounted his personal experiences as follows:

Some of the market shops located near the scene were destroyed by the fire that came out of the explosion. Some of us lost our only source of livelihood as I can no longer carry on with my business as my shop was also destroyed in the crisis that took place at the Dilimi.

In the researcher's quest to probe further given the importance of payment of any form compensation to the victims, a resident who is also a victim responded that no compensation for loss of their properties by any government agencies apart from basic household items that were supplied to victims during the crises.⁵⁹

The foregoing accounts entirely agrees with earlier views expressed by authors to the effect that loss of properties be it through act of burning or outright destruction of houses, markets, worship centres among others are clear expression of violent circumstances like the cases at hand.⁶⁰ The gravity of destruction of private and

⁵⁷ Interview with James Gyang, Village Resident Jos on 17th December 2015.

⁵⁸ Interview with John Adeleke, Resident/Victim Jos on 17th December 2015.

⁵⁹ Interview with James Gyang, Resident/victim, Jos on 17th December 2015.

⁶⁰ A. S.Bagaji, M. S.Etila, E. E.Ogbadu, et al "Boko Haram and the Recurring Bomb Attacks in Nigeria: Attempt to Impose Religious Ideology through Terrorism", *Cross-Cultural Communication*, Vol. 8 (1), (2012):33-41.

public properties due to bomb related violence in Case Study II is graphically illustrated in **Pictures 5.1 to 5.10** of this chapter.

5.3.3 Stage Three (3):Post-Displacement Stage

Legal and Institutional Measures

The issue relating to the applicable legal and institutional steps to be taking with respect to the unforeseen situations engendered by internal conflicts is of utmost importance and in that wise the present case study is not an exception. Like the preceding chapter (Case Study I), this chapter deals with post conflict issues such as arrest, prosecution and other challenges which are evident from the gap or weakness in the legal and institutional frameworks.

The following headings will be covered under this sub-topic, namely:

- 1) Arrest of Perpetrators;
- 2) Prosecution of Perpetrators;
- 3) Humanitarian Intervention; and,
- 4) Challenges from Remedial Measures.

5.3.3.1 Arrest of Perpetrators

It is the procedure through which attendance of suspects can be compelled before court to answer allegation bothering on commission of an offence given the inquisitorial system of criminal justice in Nigeria.⁶¹ The Police by virtue of their

⁶¹ See Section 36(5) of the Nigerian Constitution 1999 which provides that “an accused person is presumed innocent until the contrary is proved”.

powers drawn from the Police Act⁶² is the leading organ of government in this respect.⁶³

With regard to this case study, the researcher's investigation revealed that arising from the nature of conflict which is essentially bomb related, effecting arrest of perpetrators of internal violence has not been too gratifying. For example, a Police officer⁶⁴ interviewed responded that:

However effecting arrest of mobs involved in these kind of violence is very difficult as can be seen from our incident police report. To make arrest meaningful a suspect should have nexus with the alleged commission of offence if not issues of human rights abuse will surface and that is why police usually exercise caution when it comes to this issue of arrest.

The foregoing become much worrying in view of the fact that those who are directly involved are also killed in the course of the explosions. This same respondent stated further with respect to problem inherent in the foregoing situation that:

It is extremely difficult to make meaningful arrest in Bomb related violence where the actual culprits are also killed in the course of explosion as witnessed in several instances which occurred in Jos. However where intelligence reports revealed some level of complicity of individuals, Police have gone to make such arrest.

⁶² See Sections 4 and 23 of the Police Act Cap P8 Laws of the Federation of Nigeria 2004 (hereinafter called the Police Act).

⁶³ Section 18 of the Administration of Criminal Justice Act 2015 (hereinafter called ACJA).

⁶⁴ Interview with O/C Legal & Prosecution CID Nigeria Police, Jos on 16th December 2015.

The above position was corroborated by another respondent⁶⁵ in agreeing that the procedure of arresting culprits in series of bomb attacks is extremely difficult given the nature of these attacks.

Confirming further from police incident reports, it was revealed that based on the foregoing revelation from police themselves, number of person eventually arrested in connection with the explosions was not commensurate with the degree of atrocities committed. In the said report⁶⁶ only one person (Aliyu Dahiru) was reported to have been arrested over the eve of Christmas bomb explosion which claimed more than 118 persons.

The researcher's investigation and follow up observation in the course of the field work revealed further that there were rising tensions and rumour of an impending chaos following massive mobilization by different religious denominations prior to this explosions yet there was no quick response aims at arresting suspected individuals. The foregoing revealed lack of expertise on intelligence gathering on the part of the authority as attested to by a respondent⁶⁷ in the following words:

Certainly Yes. You will recall that this is a new twist in internal security in Jos. Before now the rift was between natives and settlers but now the battle is between the people and some faceless individuals who claimed to belong to a group currently launching deadly attacks in several parts of the country. The mode of attack is different and that is why Police are grabbing with the situation. We believe there is a need for capacity training on early detection and intelligence gathering to avert any likelihood of violence as well activating mechanisms for preventive detention so as to avert its re-occurrence.

⁶⁵ Interview with Investigation Police Officer, Jos on 16th December 2015.

⁶⁶ Police Incident Report dated 24th December 2010 (Copy on file).

⁶⁷ Interview with O/C Legal & Prosecution CID, Nigeria Police, Jos on 16th December 2015.

5.3.3.2 Prosecution of Perpetrators

Another important issue of great concern as revealed in this case study is the fact despite the severity of the violence captured in this case study, there are few cases of successful prosecution. For example between 24th and 29th December 2010, only seven persons that were arrested for violence related offence and eventually charged before the Federal High Court Jos.⁶⁸

According to a Senior Police officer,⁶⁹ prosecuting perpetrators of violence is an uphill task. This difficulty stems from non-availability of evidence and credible witnesses to support the proof of the alleged offences. In his own words, he stated that:

Prosecuting culprits of bomb related violence generally in Nigeria is extremely challenging because of dearth of credible evidence and witnesses. Critical evidence needed to support prosecution cases are often destroyed in the course of violence coupled with eye witnesses who are not willing to testify in court due to fear of attack on their persons and property.

In a similar tone another Police officer⁷⁰ corroborated the foregoing when he stated in support that:

It is extremely difficult for us to assemble evidence against suspects arrested in the course of our investigation and eventual prosecution. At times evidence are destroyed because of the nature of violence and eye witnesses are also affected by the incidence. Some other times eye witnesses are scared to come to court to give evidence because of fear of attack on their persons and property. As a result of all these securing conviction against culprit is difficult because we don't have evidence.

⁶⁸ Police Incident Report dated 24th, 25th, 26th, 27th, 28th and 29th December 2010 (Copy on file).

⁶⁹ Interview with O/C Legal & Prosecution, Nigeria Police, Jos on 16th December 2015.

⁷⁰ Interview with Investigation Police officer Jos on 17th December 2015.

Residents interviewed complained of certain individuals who were actively involved in the perpetuation of the crises which claimed hundreds of lives and millions of property destroyed without being interrogated for their involvement. According to a victim⁷¹ interviewed in this case study, he stated that:

We only hear that they were taken to court but before you know we see the same set of people boasting around that they will still do more harm if another opportunity comes. But we cannot take law into our hands. Those in authority are not helpful at all.

Nigerian Government both at the federal and state levels had strong preference for Commissions of Inquiry in the pursuit of accountability of perpetrators rather than through judicial process when in fact the so called commission lack the legal power to pass conviction or apportion liability because their composition most often is influenced by ethnic, religious and political undertones.⁷²

At the national level since 2009 when bomb related violence and suicidal attacks became the order of the day, there has been series of allegations levelled against high ranking personalities⁷³ in Nigeria on the ground of their alleged complicity in these acts of terrorism. Unfortunately there is only one case of successful conviction and

⁷¹ Interview with John Adeleke, Victim, Jos on 17th December 2015.

⁷² Aaron Sayne "Re-thinking Nigeria's Indigene-Settler Conflicts", *Special Report* No. 311, U.S. Institute of Peace, Washington DC, July (2012):13. See also "Report of the Plateau State Judicial Commission of Inquiry," 2010, (unpublished manuscript).

⁷³ Human Rights Watch (December 2012):81. The case that readily comes to mind is that of Senator Ali Ndume whose alleged offence of aiding and abetting terrorism in connection with Boko Haram sect under section 7(1) of the Terrorism (Prevention) Act 2011 now amended in 2013 was made subject of criminal case before the Federal High Court Abuja. Unfortunately up till date nothing has been done to ensure full trial as the said Senator is currently the Leader of Senate at the National Assembly. See also "Nigeria Suspends Senator Ndume Boko Haram Case" This Day Newspaper 22 March 2012, <http://allafrica.com/view/group/main/main/id/00014668.html> (accessed on April 14, 2016).

sentence for the offence of aiding and abetting terrorism involving one Konduga based on his own self-confession till date.⁷⁴

In the course of this study, the researcher observed that beyond the foregoing factors which hampered due prosecution of perpetrators, the atmosphere of insecurity in Jos during these crises are also additional factors. The researcher observed further that beyond the reasons advanced those who shouldered the responsibility of prosecution were afraid of their own personal safety and security.⁷⁵

5.3.3.3 Humanitarian Intervention

Humanitarian intervention is another issue worthy to be considered as a kind of post-conflict measure towards assuaging the sufferings of victims of armed conflicts. These interventions vary from the provision of temporal shelter, food materials, household needs and health facilities among others. In Nigeria, for example this responsibility in providing reliefs materials for the victims insofar as disasters-be it natural or man-made in Nigeria is concerned rests on the National Emergency Management Agency as institution with the requisite mandate as provided for in the NEMA Act.⁷⁶

Unlike in case study I where camping facilities was provided for victims because of its recurring nature, the researcher observed that there were no IDP camps

⁷⁴ See Nnochiri, "Boko Haram spokesman bags 3-year jail term" Vanguard (Lagos), December 7, 2011. See also 2012 Report from the office of the National Security Adviser found that only one individual has been convicted on terrorism-related charges. "National Counter Terrorism Strategy (NACTEST)," prepared under the guidance of then National Security Adviser General O.A. Azazi, 10, para. 1.8.

⁷⁵ These concerns was similarly expressed as being responsible for lack of effective and timeous prosecution in other parts of the country affected by similar violence. See Human Rights Watch (December 2012):82.

⁷⁶ See Section 6 of NEMA Act Cap N33 Laws of the Federation of Nigeria 2004.

established in Jos for victims of bomb explosion save for the on spot evacuation for purposes of medical attention, fire fighting and data collection which were done in collaboration with Plateau State Emergency Management, Police and other security agencies and NGOs like Our Lady of Apostles Hospital as it relates medical treatment of victims and the injured.

A victim⁷⁷ interviewed in the course of this study explained the role of NEMA and the peculiarity of its intervention during the incidence thus:

There were no camping facilities provided for the victims because of the urgent need was medical assistance. Those displaced by the bomb related incidences in Jos metropolis were never camped at any location. Some of my relations affected by the explosion that occurred at Dilimi area came and lived with me at Gangere and left after movement was restored in the city.

With respect to health related issues, a medical personnel⁷⁸ interviewed shed light on the level of institutional interventions insofar as the issue of health needs of victims is concerned. He acknowledged the receipt of several referrals to their institution by NEMA and the Police during the course of the explosions when he stated thus:

Our facility is located right in the heart of the city of Jos and unfortunately most of these incidences happened right within the city centre and that makes our hospital the natural place of call whenever there is crisis because of the proximity. Secondly our facility being a faith based institution owned by Roman Catholic Church, it is quite understandable why the injured and dead are usually rushed down for resuscitation and first aid because care is utmost importance to us.

⁷⁷ Interview with James Gyang, Jos on 17th December 2015.

⁷⁸ Interview with Dr Jeremiah Ogwuche, Medical Officer, Jos on 18th December 2015.

In the area of provision of food items and other basic necessities, victims of the bomb explosions acknowledged receipt of these items as part of National Emergency Management Agency's intervention in pursuance of National Contingency Plan which specifies mode of intervention in situation of disasters within the first ten day of the happening of the same. In an interview with one victim he narrated thus:

Some of the immediate measures taken by government at various times include the provision of house hold needs which are shared by NEMA officials and other agencies that normally rescue victims from the scene of bomb attacks.

The foregoing clearly depicts the level of intervention spearheaded by NEMA as the leading agency on disaster management in Nigeria during the Jos bomb explosions. However it must be noted that beyond the provisions made above, there are other areas of concern which were left unattended to. For example, victims were not compensated for the losses they had actually suffered in the course of the incident especially in terms of housing and other properties lost,⁷⁹ the essence of which would have enthroned durable solutions to their plight.

5.3.3.4 Challenges from Remedial Measures

In combating the menace associated with increasing rate of violence caused by bomb and suicidal attacks in Jos, key players such as the Police, NEMA and other relevant stakeholders in the discharge of their responsibilities have been confronted with host of practical challenges in addition to those resulting from legal lacunae inherent in the legal and institutional frameworks, the fulcrum upon which their responsibilities is anchored.

⁷⁹ Interview with James Gyang, Village Resident/Victim, Jos on 16th December 2015.

The foregoing is trite having regard to the fact that bomb explosion is entirely a new twist in the phenomena of internal conflicts in Nigeria in general and Jos in particular which has been pre-occupied with purely ethno-religious conflicts over the years. As observed by the researcher with regard to the Police and other security agencies, these deadly events brought to the fore their inadequacies in their capabilities in terms of intelligence gathering and swift response to crises of a magnitude like the case at hand. According to a Police officer⁸⁰ interviewed in this case study, he narrated the problem of lack of proper capacity with respect to the police in their response to the crises brought about by bomb explosions in Jos when he stated thus:

The mode of attack is different and that is why police are grabbing with the situation. We believe there is need for capacity training on early detection and intelligence gathering to avert any likelihood of violence as well as activating mechanisms for preventive detention so as to avert future occurrence.

The foregoing clearly support the view of an author that the security operatives involved in series of internal crises in Nigeria are hampered by lack of capacity and intelligence training and other vices such as corruption and divided loyalty to the federal government as well as to their respective states due to the lingering identities crises prevalent in Nigeria.⁸¹

5.4 Legal Analysis

This section deals with examination of the legal issues revealed in the case study in terms of the three stages of the case study. Consequently the following headings will be covered under this sub-topic, namely:

⁸⁰ Interview with O/C Legal & Prosecution, CID Nigeria Police, Jos on 16th December 2015.

⁸¹ Aaron Sayne, 8.

- 1) Stage One (1): Pre-Displacement Stage;
- 2) Stage Two (2): Displacement Stage; and,
- 3) Stage Three (3): Post-Displacement Stage.

5.4.1 Stage One (1): Pre-Displacement Stage

Drawing from analysis in chapter four of this research, it is no longer in doubt that victims of bomb related violence in Jos are IDPs within the meaning of the Guiding Principles and Kampala Convention and thus their provisions which are aimed at preventing discrimination by whatever criteria also applies to the instant case.⁸² The rationale behind this conclusion is well elaborated in stage one of case study I and the same position applies here.

The application of international human rights' law to the facts of gross violations experienced by victims is also indisputable for reasons that this branch of international law applies at all times and to all persons by virtue of their human beings. Specifically, articles 6, 10 and 26 of ICCPR and article 2 of ICESCR applies in full force as the discrimination which provided the fountain for the occurrence of the violence in question as revealed from the case study is evidently arbitrary. Other human rights' instruments as explained in chapter three are also applicable to the instant case.

The next issue is what is the nature of violence in case study II? As revealed from the evidence drawn from case study investigation, it is clearly that it involves the use of

⁸² See Principles 10 and 12 of the Guiding Principles on Internal Displacement (1998) and Article 9 of Kampala Convention

bomb and other explosive devices to foment killings and destruction of properties. The said attacks are targeted against victims who are on equal footing with civilians defined in the Geneva Conventions for reasons that they are engaged in hostilities. The conflicts in the instant case study do not involve armed forces of two states in order to make it international armed conflicts within the meaning of common article 2 of the Geneva Conventions.

The Boko Haram insurgents who were implicated by all available evidence in this case study are belligerent non-state's armed group fighting against the people and the government of Nigeria. The attack is sufficiently violent going by available evidence of massive loss of lives and state of destruction of private and public properties but sporadic and isolated in the case study.⁸³ Granted, the dreaded Boko Haram insurgents are structurally organized, that alone do not make this particular conflict to qualify as non-international armed conflict in order to bring victims within the scheme of protection contemplated in common article 3 of the Geneva Conventions.

As rightly pointed out in the previous chapter, the violent conflicts in this case study are no more than internal disturbances which are excluded from being regarded as non-international armed conflicts under article 1(2) of Additional Protocol II. To this extent IHL rules and principles are inapplicable to the case at hand and to the extent that it not in doubt that certain criminal conducts were committed in the course of this incidence, domestic penal laws are applicable to enthrone accountability.

⁸³ See Figure 5.2 in this chapter.

The provision of Nigerian Constitution which abhors discrimination by reasons of ethnic groups, place of origin, sex, religion or political opinion is also applicable to this case study.⁸⁴ To give this provision a legal effect, the Constitution grants every citizens unhindered access to invoke the judicial powers of the state vested in courts established under section 6 (6) thereof with a view to determining the propriety or otherwise of such acts.⁸⁵

In practice attempt by individuals to challenge discriminatory acts of government has not been too successful from the standpoint of judicial proceedings in Nigeria. Up till date there are few cases where settlers have challenged discrimination as unconstitutional. For example, the case of *Anizaku & Ors v. The Governor of Nassarawa State & Ors*⁸⁶ whose brief fact was given in respect of similar legal issue in case study I of the preceding chapter clearly illustrates this legal position.

Gratifying as this rare attempt might be, the haunting snag with Nigerian example is that the same Constitution itself has been found wanting in this regard. Discriminatory provisions in the Constitution enthrone the very basis for disunity. For example, the provisions of section 14(3) which provides to the effect that the criteria for selection of any person to certain cadres of federal bureaucracy and ministerial appointment by the President shall be based on place of origin and ethnic considerations.⁸⁷ In the opinion of this researcher, this practice which is pursuant to

⁸⁴ Section 42(1) and (2) of the Nigerian Constitution.

⁸⁵ Ibid. Section 46(1).

⁸⁶ CAJ/Jos/20/2004. The facts of this case has been elaborated in Case Study I.

⁸⁷ Section 147(3) of Nigerian Constitution which provides to the effect that in complying with subsection 2 of this section, the President is required to give effect or conform with the provision of section 14(3) which provides for 'quota system' by appointing at least a Minister who shall be an 'indigene' of that state.

specific law in Nigeria is deeply implicated apart from sowing the seeds of discord also encourages mediocrity rather than merit.

Right of access granted by the Constitution is also limited by poverty which hampers the realization of this right.⁸⁸ For example under the Legal Aid Council Act⁸⁹ free legal representation is available to any indigent Nigerian earning below the national minimum wage. The problem however lies with the stark absence of definition of what is national minimum wage in the said Act and lack of specific reference to IDPs in particular.

5.4.2 Stage Two (2): Displacement Stage

Based on available evidence from stage two of this case study, it is established beyond doubt that the involuntary movement of residents was propelled by violent bomb attacks which resulted in the displacement of victims from their usual place of abode to areas within the Plateau State. These facts has sufficiently determined the status of victims as well as establishing the existence of internal displacement within the meaning of normative frameworks-Guiding Principles and Kampala Convention.

The application of international human rights protection to IDPs subject of this case study too is indisputable, the philosophical basis of which is well elaborated in chapter three of this research and also based on the views expressed by residents/victims in this case study.⁹⁰

⁸⁸ Interview with James Gyang, Resident /Victim, Jos on 17th December 2015. See for example, the support provided in Section 10(1) of the Legal Aid Council Act Cap L9 Laws of the Federation of Nigeria 2004 in respect of indigent citizens.

⁸⁹ Section 10 (1) of the Legal Aid Council Act Cap L5 Laws of the Federation of Nigeria 2004.

⁹⁰ Interview with James Gyang, Resident/Victim, Jos on 17th December 2015.

As discussed in the previously in this chapter, The criminal acts of killing and destruction of properties in case study even though they are evidently criminalized both under international criminal law and domestic law, insofar as the bomb related violence do not involve either two states' armed forces fighting each other on the one hand or between one state and a dissident or belligerent armed group on the other hand, the conflict in this case study is below the threshold of international armed conflict and non-international armed conflicts under common article 2 and common article 3 of Geneva Convention respectively⁹¹. Consequently IHL is not applicable to facts as presented in this case study.

The criminal acts in question may also suffice as grave breaches which are serious violations of international customary law and the Geneva Conventions.⁹² However, the existence of international armed conflict within the parameters set by the Geneva Conventions is also relevant in determining the existence or otherwise of grave breaches. To this extent and based on available evidence, it is difficult to establish the existence of grave braches as known under the Geneva Conventions in the instant case study.

In applying the facts of this case study, the pertinent question is does international criminal law applies to this case at hand? The answer is dependent on the proof of commission of international crimes under the ICC Statute. The case study reveals wilful killings and destruction of private and public properties. These criminal acts are not genocide within the meaning of article 6 of ICC Statute because they were

⁹¹ *Prosecutor v. Tadic supra*

⁹² Articles 50, 51, 130, and 147 of the First, Second, Third and Fourth Geneva Conventions respectively as well as article 85 of Additional Protocol I

not committed with 'intent to destroy in whole or in part any particular ethnic, religious or political group' as the attacks subject of this case study was launched against both Berom, Anaguta and Afizere (BAA) and Hausa Fulani.⁹³ The attack do not also amount to crimes against humanity under article 7 of ICC Statute on the ground that the acts were not committed as 'part of a widespread or systematic attack'. This is because available evidence points to the fact the attacks was sporadic and irregular in nature.

Based on the available evidence also from the case study, it is incontrovertible to state that while it is true that certain criminal acts namely wilful killing and destruction of properties committed in the course of bomb violence in this case study suffices as war crimes under article 8 (1) of ICC Statute, they were not committed 'as part of a plan or policy to exterminate any particular ethnic, religious or political group' and also the attack affected only isolated places in Jos and the not the entire city.

To this extent these criminal acts are not international crimes to be brought under the jurisdiction of ICC under article 5 of its Statute and it is only domestic courts in Nigeria that can apply penal provisions in deserving circumstances like the case at hand.

This analysis adopts earlier discussion to the extent that the conflict in the instant case study is neither an international armed conflict nor non-international armed conflict. Suffices to add that the criminal acts committed therein are also not subject

⁹³ See Researcher's Field Report on Interview 2016.

of ICC jurisdiction as grave breaches under article 8 (2) (a), (b), (c) and (e) of ICC Statute.⁹⁴

Under Nigerian criminal law, acts of violence comprising wanton killings, torture, wilful destruction of public and private properties and displacement and human rights violations orchestrated by bomb explosions in Jos are inherently criminal. As revealed from the case study data, they could suffice as well as acts of terrorism under the Terrorism (Prevention) Act 2011⁹⁵ and the EFCC Act⁹⁶ and as treason and treasonable felony under the provisions of Criminal Code and Penal Code laws.⁹⁷

Beyond these domestic criminal legislations, Nigeria is also a party to the African Union's Treaty on Terrorism which defines acts of terrorism as violation of criminal laws of state parties⁹⁸ in respect of death, injuries, destruction of public and private properties among others. The above regional arrangement is applicable to the instant case in strengthening domestic penal sanctions in a bid to nib to the bud egregious internal conflicts in Nigeria.

5.4.3 Stage Three (3): Post-Displacement Stage

Based on the preceding analysis and the available evidence in this case study, the only competent authority that can initiate arrest and prosecution of the criminal acts committed in the course of bomb related violence in Jos is the Nigeria Police based

⁹⁴ Article 8 (2), (d) and (f) of ICC Statute.

⁹⁵ Sections 1 and 3 of Act No. 10 of 2011 as amended by Terrorism Prevention (Amendment) Act 2013.

⁹⁶ Section 15(2) of Economic and Financial Crimes Commission (Establishment) Act 2004 as amended.

⁹⁷ Section 41 and 412 of the Criminal Code Cap C38 Laws of the Federation of Nigeria 2004 and Penal Code Cap P3 Laws of the Federation of Nigeria 2004 respectively.

⁹⁸ Article 1(3) of African Union Convention on Prevention and Combating of Terrorism (1999) as amended by its Protocol (2004).

on section 4 and 23 of the Police Act. However from the case study, this hallowed function was hamstrung by several factors which all points to issue of lack of capacity to handle violent and mob like situations that occurred in the case study.

The case study also revealed strong preference for *ad-hoc* bodies to investigate cases of violence in Jos rather than courts. This research submits that the use of commission of inquiry and inability of prosecuting authorities to assemble credible evidence are reasons behind dearth of prosecution in the instant case

The provisions contained in both the Police Act⁹⁹ and the Administration of Criminal Justice Act¹⁰⁰ seem not to encourage swift and proactive measures on the grounds that they are not enough to encourage preventive arrest and detention. As revealed in the case study, there were simmering tensions in Jos city and its environs several days before the eruption of hostilities yet few persons were arrested in connection with the violence only after it had happened. This lack of swiftness is also inherent in Terrorism Prevention (Amendment) Act,¹⁰¹ to the effect that the request to arrest and detain persons suspected of engaging in acts of terrorism must be made upon an ex-parte application to the Judge before such a person can be detained up to 90 days pending the completion of investigation by the prosecuting authority. It is submitted that the period between the filing and hearing of the application and the ruling is such a long period of time that creates an unfettered opportunity for the happening of an act or omission.

⁹⁹ Sections 4 and 24 of the Police Act Cap P8 Laws of the Federation of Nigeria 2004.

¹⁰⁰Section 18 of the ACJA.

¹⁰¹ Section 32(1) of the Terrorism Prevention (Amendment) Act 2013.

In other jurisdictions the Police and other law enforcement agencies have powers to detain any person suspected of posing threat to the internal security of their respective country without the unnecessary luxury of making an application to the court to so act like the Malaysian example that allows for swift response aimed at preventing actual commission of crime.¹⁰²

Based on earlier analysis in this case study, accountability of perpetrators under the ICC Statute is impossible as the crimes in question are not international crime. This is more so that ICC Statute to the extent that they have not been domesticated do not have automatic application in Nigeria.¹⁰³

Most of the international and regional treaties applicable to situations of internal conflict like the instant case study requires domestication beyond mere ratification in Nigeria and so such treaties in order to be clothed with legal competence in Nigerian

¹⁰² Section 4 (5) of Security Offences (Special Measures) Act No. 747, 2012 (Malaysia) (hereinafter called SOSMA).

¹⁰³ Section 12(1) of the Nigerian Constitution provides that before a treaty becomes applicable in Nigerian courts, it must have been passed into law by the legislature; *Registered Trustees of National Association of Community Health Practitioners of Nigeria & ors. v. Medical and Health Workers Union of Nigeria* (2008)2 NWLR (Pt. 1072) 575, 623. See also *African Reinsurance Corporation v. Abata Fantaye* [1986] 3 NWLR (Part 32) 811, which illustrated this issue as far back as 1986 with respect to the application of African Reinsurance Corporation treaty under section 12 of the repealed 1979 Constitution whose provision is *impari materia* with section 12 of Nigerian Constitution 1999 as amended; *Fawehinmi v. Abacha* [1996] 9 NWLR (Part 475) 710, 747 and *Abacha v. Gani Fawehinmi* [2000] 6 NWLR (Pt. 660) 228 Or (2000) 4 FWLR 533 SC, both at the court of first instance and on appeal to the Supreme Court with respect to application of African Union Charter Act; C. J. S. Azoro, "The Place of Customary International Law in Nigerian Legal System: A Jurisprudential Perspectives" *International Journal of Research*, Vol. 1 Issue 3, (2014):74-100; Antonio Cassese, *International Law*, 2nd Edition (Oxford: Oxford University Press, 2005):216-217; Mohammed Nagib Ishan Jan, *Principles of International Law: A Modern Approach* (Malaysia: International Islamic University Malaysia Press, 2009):57.

¹⁰³ For example African Union Convention for the Protection and Assistance of Internally Displaced Persons (2009) came into force on the 6th December 2012 hereinafter referred to as the Kampala Convention and the Rome Statute of International Criminal Court (2002), https://www.icc-cpi.int/.../rome_statute_english (accessed on February 25, 2016).

courts must be passed as an act of the National Assembly.¹⁰⁴ This legislative procedure is not only cumbersome but time wasting as it require the approval of majority of Houses of Assembly of the States of the federation before such bill can be assented to by the President.¹⁰⁵ They are not insurmountable given the gravity of the challenges posed by internal displacement in Nigeria.

A legal expert¹⁰⁶ who was interviewed in this case study clearly highlighted the danger inherent in lack of domestication of international treaties especially the Rome Statute of ICC in insofar as internal conflicts is concerned in Nigeria as follows:

The want of sufficient domestic platform for prosecution of international crimes in Nigeria actually brings about a situation of prosecution of perpetrators for a far lesser crime or crimes not within the purview of their act of atrocities especially with the coming into operation of the Terrorism Act.

The foregoing opinion in the researcher's observation finds expression and support in the decision in *Federal Republic of Nigeria v. Luka Buka & Ors*¹⁰⁷ where the accused persons were charged for lesser offences such as criminal conspiracy contrary to section 518 of the Criminal Code and unlawful possession of fire arms contrary to section 3 of the Fire Arms Act¹⁰⁸ instead of offences that carries stiffer penalty.

¹⁰⁴ For example African Union Convention for the Protection and Assistance of Internally Displaced Persons (2009) came into force on the 6th December 2012 hereinafter referred to as the Kampala Convention and the Rome Statute of International Criminal Court (2002), https://www.icc-cpi.int/.../rome_statute_english... (accessed February 25, 2016)

¹⁰⁵ Section 12(3) of the Nigerian Constitution. Note that in Nigeria there are 36 State Houses of Assembly.

¹⁰⁶ Interview with D.F Atidoga, Senior Lecturer/Legal Expert, Anyigba on 6th January 2016.

¹⁰⁷ FHC/Jos/ 2010 unreported.

¹⁰⁸ Fire Arms Act Cap F28 Laws of the Federation of Nigeria 2004.

Another plausible reason for the non-implementation of international conventions in Nigeria as revealed from this case study is due to the absence of clear cut sanctions and the fact that obedience and compliance with the treaty provisions is on the basis of good faith *-pacta sunt servanda*.¹⁰⁹ However where a state party like Nigeria failed to comply with the provisions of a treaty for example the Kampala Convention which she has duly ratified, African Union is empowered to invoke its powers to intervene in the domestic affairs of Nigeria to suppress the violence and forestall international breach of peace¹¹⁰ notwithstanding the principle of territorial integrity which is the hall mark of the African Union and the United Nations.¹¹¹ This power is rarely exercised by the African Union even in the face of prevalence of inter and inter-state conflicts in the continent.

5.5 Summary

This chapter deals with the case study II of this research which covered bomb related violence in Jos as opposed to ethno-religious crisis in case study I presented in the preceding chapter. It examined these incidence as twists in the phenomena of internal conflicts in Jos in particular. The researcher's investigation was structured into three stages to allow for thorough and an in-depth analysis in the light of available data drawn from field study.

Stage one investigated the nature and cause of these renewed violence which affected almost all the nooks and crannies of Jos metropolis by looking at the underlining

¹⁰⁹ See article 26 of the Vienna Convention on the Law of Treaties 1969.

¹¹⁰ Article 4 (h) of Constitutive Act of the African Union read along with article 8(1) of the Kampala Convention respectively.

¹¹¹ Ibid., Article 3(b) and (f) of AU Constitutive Act and article 2(4) and (7) of the UN Charter respectively.

diverse ethnic and religious interests prior to the sudden onslaught of bomb explosion with a view to situating the causative factors. It also examined involvement of Boko Haram insurgents in the bomb attacks having regard to other occurrences in other parts of the country in which they have claimed responsibility with a view to situating their level of complicity. It delved into ascertaining whether these acts of bomb explosions suffice as acts of terrorism as defined under Nigeria and international laws.

Stage two on the other hand discussed specific problems and challenges encountered by victims in the course of the violence orchestrated by bomb explosions from the perspectives of human rights' violations and mass displacement of residents, deaths and losses of properties which the discussion found to be devastating in view of the deadly nature of the attacks.

Regarding stage three, the chapter examined legal and institutional issues with respect to by looking at the difficulties in the arrest and prosecution of perpetrators of bomb explosions in Jos due to the nature of the coupled with lack of credible evidence and witness protection and made reference to the position in Malaysia for best practices on this issue. It also considered challenges that impede legal intervention such as Nigerian laws which abhor application of international treaties before domestic courts in Nigeria by virtue of the cumbersome ratification and domestication procedure. Other challenges such as lack of adequate capacity for intelligence gathering and funding was also considered in this chapter.



Source: NEMA (2015)

Picture 5.1 Scores of dead bodies covered as a result of Jos bomb explosions



Source: Naij.com (2015)

Picture 5.2 Smokes from fire inferno due to bomb attacks in Jos



Source: Naij.om (2015)

Picture 5.3 Scattered debris of multiple items destroyed following the bomb explosions in Jos



Source: Human Rights Watch (2011)

Picture 5.4 A completely burnt car following bomb explosion in Jos



Source: Naij.com (2015)

Picture 5.5 Fire Fighters at the bomb sites in Dilimi Area of Jos



Source: Researcher's field study (2015)

Pictures 5.6 A completely ravaged area following Jos Bomb Explosion



Source: Nigeria Police (2014)

Picture 5.7 Commissioner of Police Chris Olakpe and Joint Task Force Members on visit to Terminus Market Jos scene of twin bomb explosion on 20 May 2014



Source: Nigeria Police (2014)

Pictures 5.8 Some police officers on check and search at the scene of bomb explosion in Jos



Source: Human Rights Watch (2014)

Picture 5.9 Market women in search of remains of their wares following the bomb explosion that affected their shops at Terminus Market Jos on 20 May 2014



Source: Naij.com (2014)

Picture 5.10 A scrap of one of the vehicle armed with impoverished explosive devices (IEDs) in Jos on 20 May 2014

CHAPTER SIX

STUDY OF LAW AND PRACTICES ON INTERNAL DISPLACEMENT IN SRI LANKA AND UGANDA

6.1 Introduction

This chapter highlight the law and practices in two foreign jurisdictions namely, Sri Lanka in South Asia and Uganda in East Africa vis-à-vis Nigeria insofar as it relates to issues of internal displacement due to internal conflicts is concerned.

The elaborate reasons and justifications of the choice of this foreign jurisdictions for in-depth scrutiny in this chapter is comprehensively discussed in the research scope contained in chapter one of this research and is hereby adopted in this chapter.

This chapter begins with brief historical account of the two foreign jurisdictions and highlight the issue of internal conflicts and its implications in three stages namely, Stage (1) One Pre-Displacement; Stage (2) Two Displacement; and, Stage (3) Three Post –Displacement in the same manner as in chapter four and five of this study.

6.2 Brief History of Sri Lanka and Uganda

Sri Lanka, a small island that covers an estimated 65,630 kilometres is situated within the coast of the Indian Ocean¹ in South Asia. Sri Lanka has an estimated

¹ M.A.M. Fowsar, “Religious Symbolism and Politics in Sri Lanka: Muslim’s Grievances,” *First International Symposium FIA, SEUSL*, (2014):32-35,
[http:// www.seu.ac.lk/.../symposium%20fia/2014/.../R](http://www.seu.ac.lk/.../symposium%20fia/2014/.../R) (accessed on March 8, 2015).

population of 20,937,773 people² comprising of heterogeneous ethnic and religious backgrounds. Like Nigeria, Sri Lanka is vividly described as “an ethno-religious mosaic”.³

Owing to 26 years of inter-ethnic and religious motivated conflict between the predominant ethnic group-Sinhalese and the next in population-Tamil tribes which ended in the year 2009,⁴ the country has been plagued by underdevelopment as a result. Colombo is the capital city of Sri Lanka and Buddhism is the state religion.⁵ Sri Lanka is divided into three geographical zones namely, the southern part where the capital Colombo is situated, the central zone and the northern zone.⁶ Sri Lanka got her independence on the 16th May 1972 when it officially secured full-fledged independence status as a republic.⁷

On the other hand, Uganda gained independence in 1962.⁸ This landlocked state of approximately 236,040 kilometres square⁹ described as “Pearl of Africa” and located in East Africa shares borders with Sudan on the North, Kenya on the East, Democratic Republic of Congo on the West and Rwanda and Tanzania on the

² Country Meters, Current Population of Sri Lanka 2015, http://www.countrysimeters.info/en/Sri_Lanka (accessed on March 8, 2015). See also the estimated figure of 20,359 439 granted by the Department of Census and Statistics Sri Lanka, <http://www.statistics.gov.lk/> (accessed on March 8, 2015).

³ Tamil Guardians “Root Causes of Ethnic Conflict in Sri Lanka” World Bank, 20 February 2008, <http://www.tamilguardian.com/article.asp?articleid=1609> (accessed on March 27, 2015).

⁴ Ibid.

⁵ Chapter II, Article 9 of the Constitution of the Democratic Socialist Republic of Sri Lanka 1978, <http://www.priu.gov.lk/.../1978Constitution/1978Con...> Government of Sri Lanka (accessed on March 10, 2015) hereinafter simply referred to as the Sri Lankan Constitution.

⁶ Geographical Identity of Sri Lanka, 21-43, www.edupub.gov.lk/.../English/.../Chap%202.p (accessed on October 30, 2015).

⁷ Encyclopedia.com, Sri Lanka, http://www.encyclopedia.com/topic/Sri_Lanka.aspx#2 (accessed on March 16, 2016).

⁸ Under British colonial rule from 1894 to 1962.

⁹ World Bank -Trading Economics, Land Area (sq. km) in Uganda, www.tradingeconomics.com/uganda/land-area-sq-km-wb-data.html (accessed on March 11, 2015).

South.¹⁰ Uganda is made up of four (4) administrative regions namely, Central, Western, Northern and Eastern comprising 112 districts.¹¹ Kampala which is located in the south eastern shoreline of the Lake Victoria is the capital territory of Uganda. The population of Uganda according to official sources is about 34,856,813.¹²

6.3 Stage One (1): Pre-Displacement Stage

In this stage, the study will examine the causes of internal displacement in Sri Lanka and Uganda for the purposes of comparison with Nigeria insofar as it is applicable to this research.

The following headings will be covered under this sub-topic, namely:

- 1) Causes of Internal Displacement in Sri Lanka; and,
- 2) Causes of Internal Displacement in Uganda.

6.3.1a Causes of Internal Displacement in Sri Lanka

Like Nigeria, internal displacement in Sri Lanka is caused by convergence of factors such as ethnic and communal disputes, religious intolerance and politically induced differences. To put it more precisely the causes are intertwined and cannot be easily separated from each other.

The following headings will be covered under this sub-topic, namely:

- 1) Ethnic and Communal Rivalries;
- 2) Religious Intolerance; and,

¹⁰ Encyclopedia of the Nations, Republic of Uganda/Country Overview -Location and Size, <http://www.nationsencyclopedia.com>Africa> (accessed on March 11, 2015).

¹¹ First schedule to the Uganda Constitution.

¹² Uganda Census 2014/ United Nations Statistics Division, <http://www.unstats.un.org/unsd/demographicsources/.../uganda/UGA-2014-11.pdf> (accessed on March 11, 2015). As at 11/3/2015, Country Meters estimates Ugandan population to be 40,663,372, <http://www.countrymeters.info/en/Uganda> (accessed on March 11, 2015).

3) Political Differences.

6.3.1.1 Ethnic and Communal Rivalries

Sri Lanka is a multi-ethnic nation. The ethnic composition is as follows; Sinhalese 73.9%, Tamil 12.6%, Moors 7.4%, and Indian Tamil 0.5%.¹³ In Sri Lanka unlike Nigeria, the major cause of internal crisis is attributed to successive inter-ethnic wars between the Sinhalese and Tamils who always engaged in mutual suspicion predating modern history of Sri Lanka as their relationship has always been sown in antagonism.¹⁴

The Tamils were favoured by the British divide and rule policy and their close contact with the imperialists made them better educated than the Sinhalese had disproportionate share of educational opportunities and access to civil service jobs under the colonial rule thereby placing them in a superior position than the Sinhalese who are in the majority.¹⁵ In other words, colonialism engendered racial superiority and identity politics in Sri Lanka which the Sinhalese had upturned through the apparatus of the state policies from the mid-1940s to 1993 when civil war began coupled with the adoption of Sinhalese as official language by the “Sinhalese Only Act”¹⁶ and the disenfranchisement of the Tamils under the Ceylon Citizenship Act of

¹³ A.T.M Abdullahel Shafi and MD. Harun-Or- Rashid, “Ethnic Conflict in Sri Lanka: A Critical Analysis” *International Journal of Humanities, Arts and Literature*, Vol.1, Issue 3 August (2013):17-34.

¹⁴ Janos Beras and Antal Beraczkai, “Liberation Tigers of Tamil Eelam (LTTE): Terrorism or Insurgency?” *AARMS* Vol. 8, No. 1 (2009), 91-106, www.zmne.hu/aarms/docs/Volume8/Issue1/pdf/09bera.pdf (accessed on May 29, 2015).

¹⁵ Ibid.

¹⁶ Known as the Official Language Act No. 33 of 1956.

1948¹⁷ which pride itself as reinforcing ethnic politics to the fullest and eventual repatriation of several Tamils to India under the Indo-Ceylon Agreement of 1964.¹⁸

The fall out of the above development led to the infamous 1983 civil war between the Tamil militants-Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan Army that resulted into generalized violence which contrary to expectations became protracted and intractable as it went on for the next 26 years in a life of a country that is ethnically fragile and volatile.

This infamous civil war has been implicated as one of the major causes of internal crisis in Sri Lanka.¹⁹ It is not surprising that majority of IDPs due to conflicts arising from successive inter-tribal wars were mostly of Tamils' origin who are known to predominantly reside within the main theatre of violence-Northern part of Sri Lanka.

6.3.1.2 Religious Intolerance

Sri Lanka by its constitution is not a secular state as it provides that Buddhism predominantly practised by the majority Sinhalese tribe is the state adopted religion²⁰ even though there are other religion like Hinduism, Christianity and Islam.

In the same manner with Nigeria, though it cannot be openly said that the cause of internal crisis in Sri Lanka is religious in exclusive terms, yet insofar as religious

¹⁷ Act No. 8 of 1948 which is regarded as a controversial statute that deny citizenships rights to Indian Tamils who were about 11 percent of the population of Sri Lanka. See Ceylon Citizenship Act, https://en.wikipedia.org/wiki/Ceylon_Citizenship_Act (accessed on March 20, 2016).

¹⁸ Also known as Indo-Sri Lankan Pact of 1964 which dealt with the problems of statelessness of Indians in Sri Lanka. See also Rani S. Pillai, "The Indo-Sri Lankan Pact of 1964 and the Problem of Statelessness-A Critique" *Afro-Asian Journal of Social Science* Vol. 3, No. 3.1 Quarter I (2012):1-14, <http://www.onlineresearchjournals.com/aajoss/art/82.pdf> (accessed on April 20, 2016).

¹⁹ Andres Angel, "National Legal Framework for IDPs in Sri Lanka: A Critical Analysis" *IPCS Research Papers*, Institute of Peace and Conflict Studies, New Delhi India, September (2008): 1-25, www.ipcs.org/pdf_file/issue/1905030534RP17-Andre-SriLanka.pdf (accessed on March 10, 2015).

²⁰ Article 9 of the Constitution of the Democratic Socialist Republic of Sri Lanka 1978, <http://www.priu.gov.lk/.../1978Constitution/1978Con...Government of Sri Lanka> (accessed on March 10, 2015) hereinafter simply called the Sri Lankan Constitution.

participation followed ethnic lines it becomes difficult to separate effect of one from the other. For example, most Sinhalese are Buddhist by faith while the Tamils are Hindus save for some who belonged to other religion.²¹ Buddhism is conferred with special status in Sri Lanka.²²

By reason of constitutional approval of a single religion-Buddhism predominantly upheld by the Sinhalese over other faith practised by citizens of minorities ethnic group such as Tamils and Muslims, the Sri Lankan Constitution like Nigeria on this point plant the seeds of discord and acrimony dating till today.

6.3.1.3 Political Differences

Political participation in Sri Lanka is a reflection of her past history exacerbated by ethnic acrimony between the majority tribe (Sinhalese) and the minorities (Tamils and Muslims). The quest for political platforms to ventilate tribal agenda unavoidably underscores successive outbreak of violence within the first two decades of the civil war.

Like Nigeria, where instances of liberation struggles against the state proliferate, the territorial integrity and democratic structures in Sri Lanka came under intense politically induced attacks twice. First, the sudden emergence of rebellion led by the Sinhalese youths (the largest ethnic community in Sri Lanka) under the acronym of JVP (*Janatha Vimukhi Peramuna*) to take over power in 1971 but eventually failed and resurfaced in 1980, though not successful these militant groupings have

²¹ Sehar Mushtaq, "Identity Conflict in Sri Lanka: A Case of Tamil Tigers" *International Journal of Humanities and Social Science*, Vol.1 No.2, August (2012):202-210, http://www.ijhssnet.com/journals/Vol_2_No_15_August_2012/25.pdf (accessed on September 13, 2015).

²² Ibid.

continued to be relevant in the political equation of Sri Lanka.²³ Secondly, the Tamils Youth Movement (the second largest ethnic tribe in Sri Lanka) was formed in the 1970s on the other hand. They launched armed struggle against the government of Sri Lanka under the aegis of the Liberation Tigers of Tamil Ealam (LTTE). Their activities resonate the high points in political assassination and generalized violence that later became guerrilla war. Their political agenda at the time was to carve an independent Tamils' Eelam State for themselves.²⁴

To sum up, ethnic differences laid foundation for political division in Sri Lanka. Though it practices multi-party democracy, the deeply seated acrimony from the pre-colonial past largely account for political intolerance in the country.²⁵ The youth led conflicts against the two communities in Sri Lanka was against the traditional political systems existing at the time and that is why an author while unearthing the nature of the conflict posited that political conflict in Sri Lanka "is not only between the communities, but also within the communities."²⁶

To say the least two foremost authors²⁷ while referring to the global problem of internal displacement which also applies to the case of Sri Lanka clearly summed the issue of the unsafe marriage between ethnicity and politics when they posited that:

It is never the mere differences of identity based on ethnic grounds that generate conflict, but the consequences of those differences in sharing power and the related distribution of resources and opportunities.

²³ Sirimal Abeyrame, "Economic Roots of Political Conflicts: The Case of Sri Lanka", 1-28, <https://taxpolicy.crawford.anu.edu.au/.../pdf/.../...> (accessed on August 28, 2015).

²⁴ Abdullahel Shafi and Harun-Or- Rashid, 19.

²⁵ Ibid., 23 -26.

²⁶ Abeyrame, 8.

²⁷ Roberta Cohen & Francis Deng, (1998): 21.

6.3.1b Legal Frameworks

The 1978 Sri Lankan Constitution²⁸ like the Nigerian Constitution provides for a long list of rights christened ‘fundamental rights and civil liberties’ which are meant to be enjoyed by the citizens including IDPs such as the right to equal participation,²⁹ right to freedom of movement,³⁰ right to choose one’s residence,³¹ right to freedom of expression³² and right to freedom from cruel, inhuman treatment,³³ freedom from arbitrary arrest, detention and punishment³⁴ among others.

Like Nigeria, these constitutionally guaranteed rights are not in themselves absolute as they can be derogated from in the interest of national security,³⁵ and for purposes of ensuring racial and religious harmony, parliamentary privilege, contempt of court, interest of national economy, public order, public health etc.³⁶ This is more particularly under the Emergency Regulation Laws where arrests and preventive detention and curtailment of freedom of movement of citizens including IDPs are common occurrences³⁷ during wars as the case with the Sri Lankan experience as national security takes precedence over human rights protection.³⁸

The Sri Lankan Constitution also recognized reparation in an event of infringement or imminent infringement of the fundamental rights stipulated thereof.³⁹ It grants

²⁸ Chapter III thereof as amended up to 9th September 2010.

²⁹ Article 12 of Sri Lankan Constitution.

³⁰ Ibid., Article 14.

³¹ Id., Article 14 (1) (h).

³² Id., Article 14 (1) (a).

³³ Id., Article 11.

³⁴ Id., Article 23 (1).

³⁵ Id., Article 15 (1).

³⁶ Id., Article 15 (2), (3), (4), (5), (6), (7) & (8).

³⁷ 2007 Sampur HSZ IDP Case wherein the Sri Lankan Supreme Court refused to grant the petitioner leave to challenge unlawful infringement of their rights during period of emergency.

³⁸ Internally Displaced Persons in Sri Lanka: Legal Framework and Key Issues, 4, www.southasianrights.org/wp-content/uploads/2012/03/IDP-SL2.pdf (accessed on March 20, 2015).

³⁹ Id., Article 17.

unhindered right of access to any individual to approach Supreme Court within one month of infringement or imminent infringement to ventilate their grievances in accordance with the provisions of article 126 of the Constitution.

Profound as this constitutional stipulations may be, the plight of IDPs is incredibly worrisome as they lack the wherewithal to gain access to the Supreme Court if they are even aware of the same in the face of poverty coupled with the fact that the statutory period of one month within which to file the complaint in the supreme Court that is only located in Colombo is doubtful for IDPs who are scattered around the country as a result of the civil war.

6.3.2a Causes of Internal Displacement in Uganda

In Uganda just like every other country that had experienced internal armed conflicts, it is pretty difficult to situate the cause(s) of internal conflicts in water tight compartments.

The following headings will be covered under this sub-topic, namely:

- 1) Ethno-Political Factors;
- 2) Religious Factors; and,
- 3) Human and Natural Catastrophes.

6.3.2.1 Ethno-Political Factors

Uganda being a multi-ethnic state with well over 40 ethnic groups had experienced the negative impact of ethnicity which have impeded national growth and

integration.⁴⁰ Ugandan historical past resonates incidences of inter-ethnic conflicts between one group and the state and between groups inter se.⁴¹

The British colonialists divided the entire protectorate into several indigenous kingdoms bestowed with their own independent leadership. Despite the fact that other ethnic groups exist, Baganda group was favoured to be the British principal kingdom in Uganda. Like many other African states at the time, the British colonialists wilfully employed the divide and rule policy pitching the southerners-Baganda ethnic group against others mainly the Acholis.⁴² A situation that brought heavy resentment from other indigenous kingdoms.

The indigenous kingdoms established by the colonialist which has been the bane of division between the ethnic groups in Uganda was abolished after the independence to pave way for peace and harmony. But nevertheless political leaders continued to use ethnic platforms to further their political agenda.

When Milton Obote who himself an Acholi person became the President in 1966 rather than threading on the path of peace, his regime became worse than under the imperial regime as he capitalized on this imbalance in the armed forces which favoured his Acholi people relying heavily on personnel who are majorly drawn

⁴⁰ Chrispas Nyombi & Ronald Kaddu, "Ethnic Conflict in Uganda's Political History," *Social and Public Policy Review* 9 (2) University of Plymouth Press, 47-48, <http://www.uppress.co.uk/SocialPolicy2014/NYOMBI%20KADDU.pdf> (accessed on March 17, 2015).

⁴¹ Ibid. For example, Buganda issue which created tension between Baganda ethnic group and the state and also conflict between the Bakiga and Banyoro ethnic groups in Kibale.

⁴² Joanna R. Quinn, "Ethnic Conflict in Uganda" in *Why Neighbours Kill: Explaining the Breakdown of Ethnic Relations*, Proceedings of Conference held at the University of Western Ontario, June 4-5, 2004:1-22.

from his ethnic tribe because of their peculiar body builds that supports ideal soldiers to promote his dictatorial tendencies against the non-Acholi tribe.⁴³

This state of affairs continued at its peak resulting in massive killings and displacement of people till 1971 when then Major General Idi Amin took over of power via a palace coup being an army commander to the deposed Obote. Amin claimed to be on a mission to correct the anomalies of the ousted regime which depended largely on an army that pride itself on the threshold of ethnic solidarity rather than allegiance to the nation. The unconstitutional ouster of the post - independence civilian regime of Obote marked a politically violent phase in the history of Uganda as a new sovereign state.⁴⁴

Idi Amin took very outstanding measures considered by him as reasons for the regime change, during this period as Amin suspended the Ugandan Constitution and ordered massive deportation of the Asian populations from Uganda.⁴⁵ In addition several Ugandan political elites fled the country while the unfortunate ones were extra judicially executed.⁴⁶ He targeted mainly the Acholis and Langis descents, whose men in the armed forces supported the regime of Obote at the time.

With the support of the then Tanzanian President Julius Nyerere, General Idi Amin's eight years of inglorious rule marked by death of over 300,000 was toppled in

⁴³ Sarah B. Mason, *The Uganda Peoples's Defence Force: Portraying Regional Strength while Perpetuating Internal Instability*, Published MA Thesis, Georgetown University, November 2013:1

⁴⁴ Ibid.

⁴⁵ Christopher Mbazira, "Origin and Historical Development of the Constitution, Republic of Uganda Country Report, 4, [http:// www.icla.up.ac.za/.../uganda_country_report.p](http://www.icla.up.ac.za/.../uganda_country_report.p) (accessed on October 10, 2015).

⁴⁶ Ibid.

1979.⁴⁷ Amin's regime was marked as a reign of terror, murdering and torturing of perceived opponents.⁴⁸

True to type, President Yoweri Museveni regime being a product of armed struggle has also been plagued by numerous armed rebellion too numerous to count ⁴⁹ with much negative impact felt mainly in the Acholi dominated Northern Uganda considered to be epicentre of internal armed conflict in Uganda. Museveni banned political parties and brought back the indigenous kingdoms that were abolished.

The outbreak of war in Northern Uganda in 1986 followed the Museveni's led National Resistance Movement alleged appropriation of political control over Acholi's dominated Northern Uganda. This was met with stiff rebellion led by Madam Alice Lakwena's Holy Spirit Movement whom Joseph Kony led Lord Resistance Army (LRA) described as "the world's brutal insurgency group"⁵⁰ took over from.

These insurgences led against Ugandan national forces have been implicated as the most protracted and intractable moments among others.⁵¹ The Northern Uganda

⁴⁷ Catholic Relief Services (CRS) "Northern Uganda: The Forgotten War", scar.gmu.edu/ICC/NorthernUganda.pdf [accessed on 12 March 2015]. Note that the exact figure of those killed under Idi Amin regime is unknown till date. See the Republic of Uganda, The Report of the Commission of Inquiry into Violations of Human Rights, Kampala: UPPC, 1994, 628.

⁴⁸ Quinn, 4.

⁴⁹ Kasper Thomas Olsen "Violence against Civilians in Civil War: Understanding Atrocities by the Lord's Resistance Army in Northern Uganda," *Conflict Research Group, Working Paper* No. 8, February (2007):1-16, www.psw.ugent.be/crg/.../workingpaper_LRA (accessed on September 15, 2015).

⁵⁰ Ibid.

⁵¹ There are also unrests like West Bank Front rebellion and the Allied Democratic Forces rebellion in the West Nile and Rwezori regions respectively.

conflict continued in intensity beyond 2008 owing to the refusal of the LRA leader Joseph Kony to sign the Peace Agreement with the Government of Uganda.⁵²

President Museveni's tactical armed operations-Operation Iron Fist and Operation Light Thunders which were initially put up to curtail the international expansion of raging rebellion also provoked massive killings, abuse of human rights and displacement thereby justifies the opponent's perception of the Museveni's military measures as another phase of ethnic cleansings of the perceived enemies.⁵³

6.3.2.2 Religious Factors

Uganda is a secular state as it has no state religion.⁵⁴ However the division orchestrated by identity and ethnic conflicts which resonates in her style of political hegemony and quest for economic control has religious undertones. To fan further group interest, political parties were formed at a time along religious dogma.

After independence in Uganda, three political parties came on board to support their respective causes. These are the Kabaka Yekka, Anglican Buganda Party (Anglican), Uganda People's Congress (Protestant) and the Democratic Party (Catholic).

Though successive leaders (Obote and Museveni) have claimed religious tolerance by preaching inter-religious cooperation among the citizens, this solidarity on the premise of faith and ethnic groupings have continued to shape national politics in Uganda till today.⁵⁵

⁵² Olsen.

⁵³ Ibid.

⁵⁴ Article 7 of the Constitution of the Republic of Uganda 1995 as amended.

⁵⁵ Quinn, 10 quoting Ofcansky, Uganda: Tarnished Pearl of Africa, 74-75.

6.3.2.3 Human and Natural Catastrophes

Uganda too is not left out of the impact of climate change and its attendant displacement of citizens. Between 1980 and 2010 over sixty natural disasters namely earthquake, flooding, epidemic (HIV Aids and Ebola), landslides, drought among others have occurred in Uganda affecting more than five million people.⁵⁶

Humanitarian crisis also greeted commencement of several development projects undertaken by the Government of Uganda. For example, the Palm Oil Plantations farms, Amuru district projects-Sugar Cane factory and the Uganda Wild Life Project among several others has led to the forceful eviction of thousands of persons whose dependence is tied to agriculture by reason of the fact about 88% of the country population reside in rural areas.⁵⁷

The aftermath of the foregoing crisis created further concerns as over 1.8 million people became displaced by the end of 2005.⁵⁸

6.3.2b Legal Frameworks

The foundation of legal protection for IDPs in Uganda is the Constitution which came into force on 22nd September 1995. It prescribes general right of protection for citizens which also applies to IDPs in Uganda.

⁵⁶ Ibid.

⁵⁷ "Countries Compared by People > Percentage living in rural areas.. International Statistics at NationMaster.com, <http://www.nationmaster.com/country-info/stats/People/Percentage-living-in-rural-areas> (accessed on April 20, 2016).

⁵⁸ Internal Displacement Monitoring Centre/ Norwegian Refugee Council DMC: Uganda- New Displacement in Uganda Continues Alongside Long -Term Recovery Needs 23, January (2014):3.

The 1995 Constitution in chapter four contains a long list of fundamental rights and freedoms which are considered inalienable.⁵⁹ It provides for equality of all citizens by proscribing all forms of discrimination predicated on the grounds such as colour, ethnic tribe, sex, birth, religion, social and economic standing and disability among others.⁶⁰ Discrimination is defined therein to connote giving different treatment to different persons based on the foregoing grounds enshrined therein.⁶¹

Unlike Nigeria, item II (iv) of the national objectives and directive principles of state policy provides against discrimination in the composition of government and based on the same broad representation to reflect national character and social diversity of the country without mentioning issues of state of origin.⁶²

The Ugandan Constitution restates the primacy of life by forbidding deprivation of the same⁶³ and guaranteeing personal liberty⁶⁴ of any person against wanton, reckless and intentional acts except where it is carried out in accordance with the decision of court seized of competent jurisdiction in accordance with the provisions of the constitution.⁶⁵ As a way of facilitating the release of such persons if eventually incarcerated, it provides that unhindered access shall be granted to his/her next of kin, or lawyers.⁶⁶

⁵⁹ Section 20 (1) and (2) of Ugandan Constitution.

⁶⁰ Ibid., Section 21 (1) and (2).

⁶¹ Id., Section 21 (3).

⁶² In sharp contradiction to section 14(3) of 1999 Nigerian Constitution.

⁶³ Section 22 of Ugandan Constitution.

⁶⁴ Ibid., Section 23.

⁶⁵ Id., Section 23 (1) (a) – (h), 2, 3, and 4.

⁶⁶ Id., Section 23 (5).

Furthermore, the Constitution provides against subjecting citizens to torture and any other forms of cruel, inhuman and degrading treatment or punishment,⁶⁷ slavery, servitude and forced labour,⁶⁸ except where it is justified in accordance with the provisions of the constitution. Infringement of the rights provided in the constitution is very rife in situations of internal displacement generally having regards to the period when the United Peoples Defence Force (UPDF) were conscripted to provide security for IDPs leaving in “protected villages”.

Most important to IDPs is the constitutional provisions that frown against deprivation of property⁶⁹ and unlawful violation of right of privacy of home and property of citizens⁷⁰ save in exceptional circumstance.

Other rights guaranteed by the constitution which are also in the form of general entitlement to all citizens including IDPs are right of fair hearing and all the applicable guarantees,⁷¹ freedom of conscience, expression, movement (usually curtailed during displacement), religion, assembly and association.⁷² The constitution also recognizes the right of citizens to education⁷³ among others.

The rights guaranteed by the Ugandan Constitution are not absolute as there are amenable to limitations⁷⁴ except few of them⁷⁵ that derogation is expressly prohibited. However no derogation will be allowed if the intendment is for the

⁶⁷ Id., Section 24.

⁶⁸ Id., Section 25.

⁶⁹ Id Section 26

⁷⁰ Ibid., Section 27.

⁷¹ Id., Section 28.

⁷² Id., Section 29.

⁷³ Id., Section 30.

⁷⁴ For instance during period of emergency. Id., Section 47.

⁷⁵ Id., Section 44.

purposes of “public prosecution, detention without trial and any other limitations beyond the specifics of what is reasonable and demonstrably justifiable in a free and democratic society.”⁷⁶

The Ugandan constitution also grants rights of unhindered access to any person who claims that rights and freedom guaranteed therein are infringed or in threat of infringement to approach any competent court to seek reparation.⁷⁷

6.4 Stage Two (2): Displacement Stage

This stages investigates problems faced by victims of internal conflicts in the two foreign jurisdictions, namely, Sri Lanka and Uganda. Thus the following headings will be covered under this sub- topic, namely:

- 1) Problems Faced by Victims in Sri Lanka; and,
- 2) Problems Faced by Victims in Uganda.

6.4.1a Problems Faced by Victims in Sri Lanka

This aspect of the comparative study investigates consequences of internal displacement in Sri Lanka that spanned nearly over two decades in the country. The negativities that followed this crisis necessitated it to attract label of the worst humanitarian crises in Asia.

The following headings will be covered under this sub-topic, namely:

- 1) Population Displacement;
- 2) Deaths;

⁷⁶ Id., Section 43.

⁷⁷ Id., Section 50.

- 3) Loss of Property; and,
- 4) Camp Management and Administration.

6.4.1.1 Population Displacement

That quite a huge number of persons were forcefully uprooted from their homes as a result of recurring internal crises in Sri Lanka needs no further clarification as displacement stands out as one of the notorious consequence of internal conflict be it human made or naturally induced.

While it is difficult to give a precise figure of those displaced by the civil war owing to lack of authoritative data and statistics as is the case with Nigeria, it has been estimated that the 1983 Anti-Tamils riots alone that descended into a full blown spiral violence led to displacements of over 130 000 Tamils who fled to nearby India⁷⁸ in search of safety. In other instances, massive displacement have resulted from rumours of reprisal attack leading up to the 1995 massive fleeing of several thousands of persons from Jaffna area⁷⁹ and also during the Elephant Pass Battle in 2000.⁸⁰ According to authoritative government reports recurring violence in Sri Lanka have caused the displacement of large number of persons over times.⁸¹

⁷⁸ UNHCR, Internal Displacement in Sri Lanka, Colombo Branch Office, November 2000, [http://www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/C0361792067F3374C1256992003BD168/\\$file/UNHCR_PAPER_Nov.pdf](http://www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/C0361792067F3374C1256992003BD168/$file/UNHCR_PAPER_Nov.pdf) (accessed on February 12, 2015).

⁷⁹ Mario Gomez, "National Human Rights Commissions and Internally Displaced Persons Illustrated by the Sri Lankan Experience" Brookings Institution – SAIS Project On Internal Displacement Occasional Paper, July (2002):1-34, [http://www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/0AAD3947EECCB5B3C1256C7D0058E32A/\\$file/National_Human_Rights_Commissions_Gomez.pdf](http://www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/0AAD3947EECCB5B3C1256C7D0058E32A/$file/National_Human_Rights_Commissions_Gomez.pdf) (accessed on February 12, 2015).

⁸⁰ Global IDP Project, Sri Lanka Pages, <http://www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/2589C11D11E6147DC1256C8A0032F502> (accessed on February 12, 2015).

⁸¹ Statistics from Sri Lankan Office of the Commissioner General of Essential Services (CCES) 2002.

For displacement arising from armed conflicts and generalized violence which went astronomical by mid of 2006 when government forces and the LTTE renewed their warfare resulting in the displacement of hundreds of thousands of people,⁸² there has been a gradual reduction of the number of persons displaced from what it used to be during high points of the civil wars as a result of cessation of hostilities since 2009.⁸³

Apart from displacement caused by conflict arising from long years of inter-tribal wars identified above there are also isolated cases of displacement caused by natural disasters in Sri Lanka such as the flash flood in Colombo and its environs on the 10th November 2010 resulting in the displacement of about 236,936 persons and the 26th December 2004 Asian Tsunami wave that affected over 25 districts with displacement of persons estimated to be over one million.⁸⁴

6.4.1.2 Deaths

The cost of the Sri Lankan recurring civil war is incalculable.⁸⁵ Human loss is colossal when gleaned from the nature of the crises and weapons employed by the parties to prosecute it. There are no agreed statistics on actual deaths during the civil war in Sri Lanka (1982 to 2009) because of the difficulty of data collection exercise

⁸² IDMC/NRC, "Civilians in the way of conflict: Displaced people in Sri Lanka: A Profile of internal displacement situation, 26 September (2007):11.

⁸³ IDMC- "Global Overview 2014, Internal Displacement in South and South-East Asia", 76, www.internal-displacement.org/.../2014/201405-global-overview-2014- (accessed on February 22, 2015).

⁸⁴ Norwegian Refugee Council, "Global IDP Profile of Internal Displacement in Sri Lanka: Reassessing Internal Displacement in South Asia", 263, (2005):1-143, <http://www.idpproject.org> (accessed on March 7, 2015).

⁸⁵ Describing the extent of death, a writer described his experience on a journey from Vavuniya to Jaffna where the war was tersely fought as "highway of blood". See Mark Johansen, "Journey in Jaffna , Sri Lanka, 4 Years After the Civil War's Bloody Conclusions", International Business Times, 18 May 2013, www.ibtimes.com › Media & Culture › Travel (accessed on September 17, 2015).

and what exist is diverse estimated figures which are but guess works depending on the timeline captured.⁸⁶

The United Nations estimated that between 80,000 and 100,000 were killed during the civil war that began in 1982 and terminated in 2009.⁸⁷ This estimate includes LTTE soldiers, Sri Lankan soldiers, Indian soldiers and host of civilians. On the other hand, the Uppsala Data Program revered for its accuracy and dependability put the estimate of deaths with respect to the war that took place between 1990 and 2009 at a figure of about 59000 to 75000 people.⁸⁸

The Lesson Learnt and Reconciliation Committee (LRRC) set up by Sri Lankan President Mahinda Rajapaksa in 2009 estimated that between 2006 and 18th May 2009, the LTTE lost more than 22,000 of its soldiers, and that over 5,000 Sri Lankan soldiers were killed but with no estimate of figure regarding civilian population.⁸⁹

While it is true that the figure of civilians killed in the course of the civil war continues to be shrouded in intense debates.⁹⁰ However Sri Lankan government in

⁸⁶ S.Santhirasegaram, "Military and Poverty: A Critical Study in Sri Lanka" *Developing Country Studies* Vol.3, No.8, (2013):92, <http://iiste.org/Journals/index.php/DCS/article/download/7064/7214> (accessed on April 19, 2016).

⁸⁷ United Nations "Up to 100,000 Killed in Sri Lanka Civil War" ABC News, 2009, Australia, <http://www.abc.net.au/news/2009-05-20/up-to-100000-killed-in-sri-lankas-civil-war-un/1689524> (accessed on April 19, 2016).

⁸⁸Uppsala Conflict Data Program, "Sri Lanka's Conflict Data Summary", http://www.ucdp.uu.se/gpdatabase/gpcountry.phd?id+144®ionSelect+6-Central_and_Southern_Asia (accessed on September 14, 2015). The current update for 1989 to 2015 is 65,372.

Report of the Sri Lankan Commission of Inquiry on Lessons Learnt and Reconciliation, November (2011):37,http://www.priu.gov.lk/news_update/Current_Affairs/ca201112/FINAL%20LLRC%20REP%20ORT.pdf (accessed on September 14, 2015).

⁹⁰ See the estimated figures quoted by Fletcher Martin, "Slaughter in Sri Lanka". *The Times*, London 29 May 2009; and Charles Haviland, "Sri Lanka medics recant on deaths" *BBC News*, 8 July 2009, http://news.bbc.co.uk/2/hi/south_asia/8141007.stm (accessed on September 14, 2015). Contrast with Borger, Julian, "Sri Lanka says up to 5,000 civilians died in Tigers battle". *The Guardian* (London) 4

February 2012 gave an official estimates of death of civilians in the Northern Province where the battle was fiercely fought to be 8,649 without distinguishing LTTE casualties. While this official figure tallies with an earlier UN estimates, it is grossly incorrect as it admits to have inadvertently concealed some deaths.⁹¹

The conclusion derivable from the foregoing is that no accurate account can be given regarding number of deaths during the nearly three decade's civil war in Sri Lanka.

6.4.1.3 Loss of Property

Like Nigeria's recurring internal crises, the civil war in Sri Lanka occasioned monumental wreckage on public and private properties. The civil war affected lives and occasioned destruction of assets and buildings of innocent civilians especially in the war torn Northern Province where Tamils and other minority tribes are predominant. According to a project report on Sri Lanka,⁹² the civil war wrecked over 160,000 houses in the Northern Province.

It is on record that many health institutions and over 326,000 houses belonging to IDPs in the North East were destroyed during the war. Landmines resulting from high magnitude weapons also destroyed the agricultural land which is the mainstay of the Tamils. According to a consultant to UNHCR, more than 50% of houses and

June 2009, <http://www.theguardian.com/world/2009/jun/04/sri-lanka-civilians-tigers-battle> (accessed on September 14, 2015).

⁹¹ Charles Haviland "Sri Lankan government publishes war death toll statistics" BBC News, Asia, 24 February 2012, <http://www.bbc.com/news/world-asia-17156686> (accessed on September 14, 2015).

⁹² UN-Habitat Projects: Sri Lanka- Reconstruction of Three Thousand War Damaged Houses Under Way in Northern Sri Lanka with Funding from the European Union, the Australian Government, the Swiss Agency for Development Cooperation., http://www.fukuoka.unhabitat.org/projects/voices/sri_lanka/detail05_en.html (accessed on September 14, 2015).

other properties of IDPs were destroyed during the recurring conflict in the Northern Province of Sri Lanka where incidence of violence was predominant.⁹³

6.4.1.4 Camp Management and Administration

By the nature of the Sri Lanka 26 year's old war, the first attempt at procuring succour to victims of the war was the designation of "safe zones"⁹⁴ ostensibly to allow the trapped civilians cross over to the Sri Lanka military base. But continued attacks from the Tamils separatists prevented their coming into the safe zones between January and May 2009. Government of Sri Lanka had no option but to create IDPs' camps to take care of those who escaped and those who were left behind at the safe zones to several locations within the southern Vavuniya District especially in the Manik Farms which housed the highest number of IDPs at the time, Jaffna District, Mannar District and Trincomalee District in camps described by Sri Lankan government described as "welfare centres".⁹⁵

Though the camps were meant to be temporal in nature, violent situations on ground then as a result of the final phase of the war made the programme to last longer than the initial three years projected by the Sri Lankan government.⁹⁶

⁹³ Scott Leckie, "Housing, Land and Property Rights in Post Conflict Societies: Proposal for a New United Nations Institutional and Policy Framework" Legal and Protection Policy Research Series, UNHCR, PPLA/2005/01, Geneva, Switzerland, March (2005):15, www.unhcr.org/425683e02a5.pdf (accessed on September 17, 2015).

⁹⁴ On the 21st January 2009 the Sri Lankan military declared a 32 square kilometres (12 sq mi) Safe Zone 5 kilometres (3.1 mi) north-west of Puthukkudiyiruppu, between the A35 highway and Chalai Lagoon.

⁹⁵ Severally described as "internment camps" by the UNCHR and "concentration camps" by the Tamils separatists.

⁹⁶ Ramesh Randeep, "Sri Lanka civil war refugees to be housed in 'welfare villages'". London The Guardian, London, 12 February 2009, <http://www.theguardian.com/world/2009/feb/12/sri-lanka-refugees-welfare-camps> (accessed on September 15, 2015).

After the end of war, owing to the selective nature and lack of unbiased commitment to camp management and administration, the UN excluded the government of Sri Lanka from return and resettlement especially in relation to the need to rehabilitate and reintegrate suspected LTTE personnel.⁹⁷

6.4.1b Legal Frameworks

There has been a number of state mooted legal initiatives by the Sri Lankan government specifically targeted at IDPs to cushion the impact or repercussions of the long years of armed conflict and generalized violence.

To date there are seven of such national legislations, namely, the Rehabilitation of Persons, Properties and Industries Authority Act,⁹⁸ Welfare Benefit Act,⁹⁹ Disaster Management Act,¹⁰⁰ Tsunami (Special Provisions) Act,¹⁰¹ Registration of Deaths (Temporary Provisions) Act,¹⁰² Geneva Conventions Act,¹⁰³ and the Resettlement Authority Act.¹⁰⁴ In addition to these laws, there is “soft law” approach which resulted into a National Framework¹⁰⁵ that emphasizes resettlement rehabilitation and reintegration of IDPs.

Out of these seven legislations as stated above, six were drafted in response to the surging numbers of IDPs between 2002 when cease fire between the Sri Lanka Army

⁹⁷ See Report of the Secretary General’s Internal Review Panel on UN’s Action in Sri Lanka, November 2012, www.un.org/.../Sri_Lanka/The_Internal_Review (accessed on September 14, 2015).

⁹⁸ Act No. 29 of 1987 (Sri Lanka).

⁹⁹ Act No. 2 of 2002 (Sri Lanka).

¹⁰⁰ Act No. 13 of 2005 (Sri Lanka).

¹⁰¹ Act No. 16 of 2005 (Sri Lanka) ratified by GoSL in 2006.

¹⁰² Act No. 17 of 2005 (Sri Lanka) ratified by GoSL in 2007.

¹⁰³ Act No. 04 of 2006 (Sri Lanka) which domesticated the Geneva Conventions I-IV of 1948.

¹⁰⁴ Act No. 09 of 2007 (Sri Lanka).

¹⁰⁵ National Framework on Resettlement, Rehabilitation and Reintegration (Sri Lanka) 2002

and the Liberation Tigers of Tamil Eelam (LTTE) failed and 2007 when the Government of Norway midwived settlement of the warring parties became realistic.

The Rehabilitation of Persons, Properties and Industries Authority Act as a foremost national law is tailored toward assisting owners of affected properties through repair and where possible restoration of damaged properties. It is an authority creating law that restates the role of the Sri Lankan Government to put an appropriate institutions in line with the Act. However, the entitlements provided therein even though general in form addresses specific needs of IDPs in Sri Lanka.¹⁰⁶

Both the Welfare Benefits Act is not specially enacted to cater IDPs' related issues alone, they are in the nature of general entitlements to all citizens. The Act provides for payment of benefits and reliefs in a transparent manner and creates boards of arbitration for quick resolution of numerous disputes relating to resettlement respectively.¹⁰⁷ Like the previous act it is also an authority creating norms.

Furthermore, due to the impact of natural disasters following the flash floods and the 2004 Tsunami, three legislations were enacted in response to deal transiently with the national emergency at the time. The first is Disaster Management Act which creates the National Council for Disaster Management, and Disaster Management Centre¹⁰⁸ and provides for the management and technical committees with responsibilities to prepare, coordinate and manage disaster related issues among other functions.¹⁰⁹

¹⁰⁶ Sections 4 and 5 of the Act.

¹⁰⁷ Sections 7 and 8 of the Act. See also Angel, 10.

¹⁰⁸ Section 2(1) of the Act.

¹⁰⁹ Ibid. section 4 (a)-(o).

The second category are the Tsunami (Special Provisions) Act and the Registration of Deaths (Temporary Provisions) Act and were ratified by Sri Lankan Government in 2006 and 2007 respectively. They are meant to cushion the obstacles to the realization of human rights prescriptions faced by victims of the Tsunami. They provides for the issuance of death certificates¹¹⁰ as well as creating a specialized institution known as the National Child Protection Authority to cater for the special needs of unaccompanied children and young persons.¹¹¹ It also provide necessary safeguards against conflicting claims of properties of victims¹¹² among others.

As part of the process of domestication of international humanitarian law applicable to victims of internal armed conflict into national legislation, the Sri Lankan Government enacted the Geneva Conventions Act which was meant to give legal teeth to the Geneva Conventions on Armed Conflicts and Humanitarian Law. This law in particular eases off the contextual dilemma surrounding the application of norms of international humanitarian in Sri Lanka in the face of the incessant attacks following the civil war.

Finally, the Resettlement Authority Act is profound in many respects as it clearly addresses core issues affecting IDPs than all the preceding national laws.¹¹³ It established the Resettlement Authority¹¹⁴ as an ingenious institution that ensure the attainment of durable solutions for the IDPs due to conflicts. The Authority formulate national policies for the resettlement of victims categorizing them as IDPs

¹¹⁰ Part I of the Tsunami (Special Provisions) Act 2004; Sections 10- 12 of the Registration of Deaths (Temporary Provisions) Act 2005.

¹¹¹ Ibid. Part II of Tsunami (Special Provisions) Act.

¹¹² Id., Part III.

¹¹³ Part II section 13 (a) & (b) of the Act.

¹¹⁴ Ibid., Part I, section 2.

and refugees. This Act is more of a post-displacement legislation than all the existing national laws in Sri Lanka.

With respect to guiding norms, Sri Lankan Government in 1999 took decisive steps to develop a comprehensive national policy that seeks to address all these challenges so as to ensure that basic needs of IDPs are met, and also to rebuild and rehabilitate lives and facilitate reconciliation. Unlike Nigeria, the Sri Lankan national IDPs policy was built on inputs drawn from all the relevant stakeholders such as government bodies (Steering Committee and the Consortium of Humanitarian Agencies)¹¹⁵, civil society groups and the international community through a wide consultative process spanning from 1999 to 2002 when it finally adopted.¹¹⁶

The framework defines an “internally displaced persons” from the perspectives of armed conflict and generalized violence¹¹⁷ in line with international standard setting norm-the Guiding Principles and focuses more directly on IDPs related issues beyond the general entitlements in existing national laws and policies.¹¹⁸ It accordingly delineates the legal status of IDPs and their universally accepted entitlements to protection and assistance through the recognition of host of rights such as liberty, security, resettlement and integration¹¹⁹ and recommended the adoption of the Guiding Principles.¹²⁰

¹¹⁵ The Consortium on Humanitarian Agencies was established in 1997 to serve as non-profit national provider.

¹¹⁶ Angel, 11.

¹¹⁷ Clause 35, Para 1 of the Sri Lankan National Framework.

¹¹⁸ Ibid.

¹¹⁹ Id., Clause b of Part II. See also Annex II to the National Framework on IDPs.

¹²⁰ Angel, 12; Ibid., Part III of the Sri Lankan National Framework. See also Wyndham, 9.

6.4.2a Problem Faced by Victims in Uganda

The internal unrest following successive crisis in Uganda had left behind litany of negative implications on the entire citizenry. Below are some of the most striking effects relevant to this research.

The following headings will be covered under this sub-topic, namely:

- 1) Population Displacement;
- 2) Deaths;
- 3) Loss of Property; and,
- 4) Camp Management and Administration.

6.4.2.1 Population Displacement

Displacement of civilians during the crises in Uganda was chiefly caused by government policy whereby people were forcefully moved from their homes into “Protected Villages” first established in the Kitugum District for fear of the LRA’s attack on civilians in the Northern Uganda. The high point was in 2002 during the “Operation Iron Fist” when Ugandan forces launched massive attack leading to displacement of the entire Acholi’s rural strong holds under preoccupation by the LRA such as the districts of Gulu, Pader and Kitugum.¹²¹

State led encampment increased vulnerability as it further exposed civilians to more LRA’s attack right in the middle of the IDPs’ camps which the Acholis claimed was

¹²¹ Ruth Mukwana and Katinka Ridderbos, “Uganda’s Response to Displacement: Contrasting Policy and Practice,” in Ten Years of the Guiding Principles, *Force Migration Review*, GP 10, (2008), 21; Rebecca Horn, “Coping with Displacement: Problems and Responses in Camp for the Internally Displaced in Kitugum, Northern Uganda,” *Intervention* Vol. 7, No. 2, (2009):110-129, https://psychotraumanet.org/sites/.../int_140.pdf (accessed on September 16, 2015).

an attempt to further annihilate them.¹²² Ugandan Government and the international community's response to the humanitarian needs of the IDPs in government established protected villages was not impressive and that underscores the christening of Ugandan internal crisis as "the worst ever in the world."¹²³

6.4.2.2 Deaths

One peculiar thing to note in the Ugandan travails was the pattern of coordinated attacks against civilian population in the Northern Uganda. It has been evidently posited that the rationale went beyond immediate gains of winning the war as it was mischievously designed to be population control measures in the hands of the LRA to avoid the possibility of recruitment by government forces and to forestall civilian rebellion against the separatists.¹²⁴ This underscores the endless atrocities meted out on civilians during the nearly two decade old civil war in Northern Uganda.

By the heinous nature of the civil war, accurate figure of death either on the part of government forces or that of LRA could not be ascertained. The same goes for civilian casualties. Be that as it may it is an undisputed fact that the rate of death owing to the conflict was indeed unprecedented. To corroborate this fact several human skulls gathered after the end of the war were given mass burial by government.¹²⁵

¹²² Ibid., 22

¹²³ Id.

¹²⁴ Olsen, 5.

¹²⁵ Quinn, 18.

6.4.2.3 Loss of Property

More than two decades of internal crises in Uganda brought with it sad stories of destruction of property. The degree of looting and pillaging by both sides of the armed conflict that is to say government forces and the LRA was indeed a serious issue during the course of the state led displacement which forcefully uprooted the people ill-timed and unprepared. During the Karamoja region cattle rustling conflict, there were reported incidence of losses of livestock between 1987 and 1988 and the Museveni's new government was implicated as lending helping hands to the raiders.¹²⁶

The LRA were accused of indiscriminate burning of several houses in the Acholi's dominated Northern Uganda wherein economic trees and their granaries were totally wrecked. Same also applies to the Ugandan Peoples Defence Force (UPDF) who were also accused of aerial military bombardments of civilian properties during their fight with the LRA. This was critical as it altered completely people's source of livelihood even upon return to their habitual place of residence.¹²⁷

In the same vein, public infrastructures were not left out of the destruction occasioned by the internal war as critical facilities like hospitals, schools and road were destroyed by both forces loyal to the government and those of the LRA. This development worsened already battered situation of civilians.¹²⁸

¹²⁶ Office of the United Nations High Commissioner for Refugees, "The dust has not yet settled" 52-53, www.ohchr.org/.../DustHasNotYetSettled.pdf (accessed on September 15, 2015).

¹²⁷ Ibid.

¹²⁸ Id.

Lands were also confiscated by government to provide space for the state led encampment programmes that is to say for the building of IDPs' camps and military installations especially in the Northern Uganda for which peoples were not compensated.¹²⁹

6.4.2.4 Camp Management and Administration

In the case of Uganda, government by its own policy created the camps which it christened "protected villages" to cater for the welfare and safety of the citizens trapped due to the clash of troops loyal to the government and that of Joseph Kony's led LRA separatists. In line with the dictates of the standard set in the Guiding Principles, Ugandan Government bears the primary responsibility for their protection and assistance in camps.¹³⁰

Prior to the coming into force of Ugandan National Policy on IDPs in 2004, Government of Uganda coordinates and manages IDPs related issue of camping through the District Disaster Management Committee established via a circular from the office of the Prime Minister though its membership structure was largely undefined.¹³¹

With respect to security at the camps, the Ugandan Peoples Defence Force (UPDF), largely criticized for sundry violations of rights of citizens bears responsibility in this

¹²⁹ Peter Veit, "Conflict, Displacement, and Land Rights in Uganda," *Africa's Brief*, December 2010:1-4, www.focusonland.com/.../conflict-displacement... (accessed on September 28, 2015).

¹³⁰ Principle 3 of the Guiding Principles on Internal Displacement 1998.

¹³¹ Deborah Mulumba and Wendo Mlahagwa Olema, "Policy Analysis Report: Mapping Immigration in Uganda" *African Migration and Gender in Global Context: Implementing Migration Studies*, 18th September 2009:42, www.immis.org/.../Policy-Analysis-Report-Uga... (accessed on September 12, 2015).

regard as it was established in the first place for that purpose to shield the people from LRA attacks.

6.4.2b Legal Frameworks

To date, there are basically five major initiatives employed by Government of Uganda as means of protection and assistance to IDPs uprooted by internal armed conflict and generalized violence, natural disasters and development projects.

The following headings will be covered under this sub-topic, namely:

- i) National Policy on Internally Displaced Persons 2004;
- ii) International Criminal Court Act 2010;
- iii) Geneva Conventions Act 1964;
- iv) National Policy on Disaster Preparedness and Management 2011; and,
- v) National Policy on Land 2013.

i) National Policy on Internal Displaced Persons, 2004

Adopted in August 2004 as a comprehensive model of law and policy on internal displacement, this policy framework addresses all causes and phases of displacement that have characterized post-independence Uganda.¹³² It was one of the few initiatives developed around the globe following the adoption of the Guiding Principles in 1998.

This policy provides for an assurance that displaced persons shall enjoy the rights granted by the constitution in the same manner as other citizens by providing for the establishment of institutions as it restates the commitment of government to the

¹³² IDMC/NRC- Uganda, 9.

observance of existing international and regional instruments relevant to the protection of IDPs in Uganda.¹³³ The core objectives is to fast track the alleviation of effects of internal displacement through the establishment of institutional structures.¹³⁴

Unlike Nigeria's draft national policy which is yet to come into force, the Ugandan National IDP Policy in bolstering its objectives created a lead agency¹³⁵ whose core functions amongst others include coordination and supervision of various bodies and institutions involved in IDPs related issues.¹³⁶ In a bid to ensuring that coordination and implementation is effective, the national policy sets up various committees¹³⁷ whose memberships is drawn from across government ministries and agencies from the National, District and Sub-County levels.

At the national level, the committees include Inter-Ministerial Policy Committee,¹³⁸ Inter-Agency Technical Committee,¹³⁹ and Human Rights Promotion and Protection Sub Committee.¹⁴⁰ While at the district level, the District Disaster Management Committee is the lead agency charged with the responsibility of engendering protection and assistance for IDPs through effective mobilization of local resources for the promotion of welfare of IDPs within the district.¹⁴¹ It is headed by the Chief Administrative Officer (CAO). Just like the national committee, the district disaster

¹³³ Chapter I of the National Policy on Internally Displaced Persons 2004, http://www.brookings.edu/~media/Projects/idp/Uganda_IDPpolicy_2004.PDF (accessed on March 20, 2015) hereinafter simply called Ugandan National IDP Policy.

¹³⁴ Ibid., Policy goals of the national IDP Policy.

¹³⁵ Id., Clause 2.1 which designated the Office of the Prime Minister-Department of Disasters Preparedness and Refugees as lead agency.

¹³⁶ Id., Clause 2.1.1.

¹³⁷ Clause 2.2 of the Ugandan National IDP Policy.

¹³⁸ Ibid., Clause 2.2.1.

¹³⁹ Id., Clause 2.2.2.

¹⁴⁰ Id., Clause 2.3.

¹⁴¹ Id., Clause 2.4.

management Committee comprises of other sub-committees, such as District Human Rights Promotion and Protection with clear and broader objectives.¹⁴²

In order to reach out to the nooks and crannies, the national policy provides for Sub-County Disaster Management Committee as lead agency on IDPs related issues at that lowest level of government.¹⁴³ It is also headed by the sub-county chief.

For the purposes of ensuring the security and safety of IDPs and those engaged by humanitarian agencies, the policy vests the responsibility of their protection on the shoulder of the Uganda Peoples Defence Forces (UPDF) as lead agency on security in collaboration with other national security agencies such as Ministries of Internal Affairs, Defence and Health, and the Ugandan Police among others.¹⁴⁴ Chapter three of the national policy also deals with other key issues¹⁴⁵ of concern to IDPs in Uganda in line with the policy mission.

The policy places the responsibility of coordinating assistance from national and international humanitarian and development partners on the Uganda Red Cross Society¹⁴⁶ especially at the district levels where resettlement centres or camps are located.¹⁴⁷

ii) **International Criminal Court Act 2010**

¹⁴² Id., Clause 2.5.

¹⁴³ Id. Clause 2.5.1.

¹⁴⁴ Id., Chapter Three Clause 3.1.

¹⁴⁵ These include freedom of movement, prohibition of arbitrary displacement, voluntary return and resettlement, legal status and identification, property rights, family reunification, food security, shelter, clothing, health and education among others.

¹⁴⁶ Uganda Red Cross Society is a creation of The Red Cross Act No. 23 of 1964.

¹⁴⁷ Chapter four of the Ugandan National IDP Policy.

The Ugandan ICC Act ¹⁴⁸ is a classic example of incorporation of international treaty obligations into national law to ease off the challenge of application. It adopted the definition of international crimes and mode of liability enunciated in the Rome Statute of the International Criminal Court and made the same applicable as offences under Ugandan law and punishable before the International Crimes Division of the High Court of Uganda which was established to assume jurisdiction as a special criminal court.

The case of *Republic of Uganda v. Thomas Kwoyelo*¹⁴⁹ which was the only case that came before the International Crimes Division (ICD) of the High Court of Uganda as the special court with jurisdiction to try crimes committed under the ICC Act was stalled due to the principle of non-retroactivity under the Ugandan Constitution and the provisions of the Amnesty Act 2000. This was because the alleged offences were committed long before the ICC Act came into force and that amnesty exonerated culprits from criminal liability.

iii) Geneva Conventions Act 1964

Uganda unlike Nigeria has apart from ratification domesticated the Geneva Conventions (I-IV) 1949 and the Additional Protocols of 1977 as Geneva Conventions Act¹⁵⁰ as part of Ugandan domestic laws.

¹⁴⁸ Act No. 39 Vol. CIII, June 2010. In this case, the accused who was a member of the Lord Resistance Army was arraigned for series of offences committed against the people following the attacks led by the LRA insurgent groups in Ugandan civil war. At the constitutional court, the accused was freed following the grant of amnesty under the Amnesty Act 2000. His subsequent trial by this court could not be sustained based on similar reasons. Even on further appeal to the Supreme Court of Uganda, Justice Vincent Zehurikize. Edward Anyoli on January 25, 2012 affirmed the decision of the constitutional court. However, with the rejection of this decision, amnesty certificate is yet to be issued to the accused.

¹⁴⁹ ICD Case No. 2 /2010.

¹⁵⁰ Act No. 31 of 1964 (Uganda)

The Ugandan Geneva Convention Act incorporated offences such as genocide and war crimes and the modalities of punishment as enshrined under the main Geneva Conventions by making the same applicable before the International Crimes Division (ICD) of the High Court of Uganda.

iv) National Policy on Disaster Preparedness and Management 2011

Beside the National Policy on Internally Displaced Persons 2004, Government of Uganda in April 2011 with a support from the United Nations Development Programme (UNDP) came up with yet another national policy that bears direct correlation with disaster-induced displacement.¹⁵¹

This policy document addresses particularly disaster induced displacement in Uganda. Its primary trust is aimed at improving preparedness and effective management of victims where it is unavoidable as well as providing multi sectorial intervention in a much more harmonious manner and as part and parcel of development process. It establishes institutional framework for responding to enthroned emergency arising from human-made disasters and natural hazards/ disasters. This policy derives from the 1995 Ugandan Constitution which convey core government objectives at halting any events or circumstances that will lead up to internal displacement in Uganda.¹⁵²

¹⁵¹ The National Policy on Disasters Preparedness and Management 2011, www.ug.undp.org/.../UNDPUG2014National%20Disaster%20Policy%20 (accessed on March 15, 2015) hereinafter simply called Ugandan National Policy on Disasters.

¹⁵² Paragraph XXIII of the National Objectives and Directive Principles of State Policy contained in the 1995 Ugandan Constitution.

The policy took into account all the applicable international and regional legal arrangements to which Uganda is signatory¹⁵³ and this makes the initiative to be up to speed. Its scope covers long list of natural hazards¹⁵⁴ and human – made hazards which include internal armed conflict¹⁵⁵ in the context of Uganda as a country with responsibilities shared among relevant government institutions and agencies for proper monitoring and implementation.

Like the 2004 National IDP Policy, responsibilities are decentralized from the top most level of the President to the Sub-County level. Various committees¹⁵⁶ with distinct mandates relevant to areas of operation are also set up by the Cabinet which is a leading body to advise the President on the exercise of his powers in situations of emergency.¹⁵⁷

In order to give the necessary legal backing to the policy,¹⁵⁸ the initiators proposed an Act titled “The Disaster Preparedness and Management Act” which is yet to be clothed with pre-requisite legal imprimatur.

Notable as the foregoing policy framework seems to be, its eventual implementation has been hampered due to inadequate funding and incoherent institutional intervention.

¹⁵³ Ibid., Clause 1.1.4.12 of Ugandan National Policy on Disasters.

¹⁵⁴ Id., Clauses 2.1.1 to 2.1.10.

¹⁵⁵ Id., Clauses 2.2 to 2.2.10.

¹⁵⁶ The Committees are Ministerial Policy Committee (MPC), Inter- Agency Technical Committee, National Emergency Coordination and Operation Centres (NECOC), City Disaster Policy Committee (CDPS), City Disaster Management Committee (CDMC), District Disaster Policy Committee (DDPC), District Disaster Management Committee (DDMC) among others.

¹⁵⁷ Under Article 110 of the 1995 Ugandan Constitution, the President has the power to declare state of emergency in any part of the country in an event of disaster.

¹⁵⁸ Chapter Six, Clause 6.1 of the National Policy on Disaster 2011.

v) National Policy on Land 2013

The Ugandan National Policy on Land was passed into law in 2013¹⁵⁹ to address property disputes and reaffirms existing provisions dealing with land and property issues in the 1995 Ugandan Constitution, the Land Use Act of 1978 and the National Policy on IDPs 2004.

This eight chapter policy which grew out of a wide consultative process involving relevant stakeholders was meant to restate the role of land in ensuring peaceful and harmonious relationship in Uganda with a view to dealing once and for all disputes over land arising from tribal considerations, intra-state border disputes and illegal evictions following growing rise in state led development projects¹⁶⁰ more so that majority of Ugandans depends on land as means of subsistence. The policy is guided by the considerations to ensure equal access to land for all citizens in a manner that abhors discrimination on whatever guise such as sex, age, tribe and history among others.¹⁶¹

Unlike Nigeria where land is held by the state in trust for all citizens,¹⁶² this policy innovatively and being one of the few in African states, vest real ownership of land in its citizens, restating this more clearly in consonance with the constitutional stipulations,¹⁶³ and harmonized complex legal rules applicable to land tenure systems in Uganda as stipulated in both the 1995 Constitution and the Land Use Act of 1998

¹⁵⁹ National Policy on Land 2013, http://www.landportal.info/.../the_uganda_national_land_policy-_february_2013.pdf (accessed on March 13, 2015).

¹⁶⁰ Executive Summary, National Land Policy of Uganda 2013.

¹⁶¹ Ibid., Chapter 2.

¹⁶² Section 1 of the Land Use Act 1978 now Cap L5 Laws of the Federation of Nigeria 2004.

¹⁶³ Chapter Three, Clause 3.2; See also art. 237 (1) of the 1995 Uganda Constitution as amended.

which in itself hampers resolution of dispute arising from project induced displacement which are common incidence in post-independence Uganda.¹⁶⁴

6.5 Stage Three (3): Post-Displacement Stage

This stage considers issues regarding legal and policy challenges in the management of internal displacement in the two foreign jurisdictions-Sri Lanka and Uganda with a view to unearthing areas of strengths and weaknesses.

The following headings will be covered under this sub-topic, namely:

- 1) Legal and Policy Challenges in Sri Lanka; and,
- 2) Legal and Policy Challenges in Uganda.

6.5.1a Legal and Policy Challenges in Sri Lanka

The following headings will be covered under this sub-topic, namely:

- 1) Mechanisms for Durable Solutions;
- 2) Accountability of Perpetrators; and,
- 3) Other Challenges.

6.5.1.1 Mechanisms for Durable Solutions

As the long inter-tribal battle came to an end by the 18th May 2009 following the defeat of the LTTE by government forces. The next agenda turns to issue of fast tracking the process of achieving durable solution for the war rattled victims in the forms of safe return, resettlement and reintegration.

¹⁶⁴ IDMC/NRC - Uganda, 9.

In Sri Lanka, the term “resettlement” which means the process of movement of victims or displaced populations from camps and other temporary place of abode to either their original habitual place of residence or to different locations within the country is used interchangeably with return and rehabilitation. This seeming nexus exhibited by the literal ambiguity is self-evident in most of the official document and reports as well as with the intervening agencies of government of Sri Lanka.¹⁶⁵

The Ministry of Resettlement of Sri Lanka through its Resettlement Authority Department is the lead agency charged with the function of resettling of IDPs following recurring conflicts in Sri Lanka and the formulation of day to day policies for implementing, coordinating and monitoring all spheres of resettlement.¹⁶⁶

Despite the formation of the authority, the government of Sri Lanka has not lived to her billings as there exist no properly called resettlement policy which ought to provide the policy nucleus for sustainable solutions.

However state practices suggest that government started the resettlement programme by creating the Manik Farm Camps in May 2009 following the end of crisis wherein the then President Rajapaska gave assurances of the 180 days resettlement plan. Though this plan necessitated the request for financial assistance from the International Monetary Fund (IMF) not all the IDPS were finally resettled though as the process continued more and more persons were resettled in piecemeal throughout

¹⁶⁵ Id.

¹⁶⁶ See sections 2, 13 and 14 of Resettlement Authority Act No. 9 of 2007 (Sri Lanka). This law established this body charged with the responsibility of ensuring safe return and resettlement of IDPs in Sri Lanka following the years of conflict induced displacement.

the later part of 2009 through 2010. The government of Sri Lanka finally announced IDPs camps closure on 5th September 2012.¹⁶⁷

6.5.1.2 Accountability of Perpetrators

After the end of the Sri Lankan war in 2009, there have been several calls from within and out the country on the imperativeness of thorough investigations into the heinous conflict and the attendant high level of atrocities committed by both parties to the conflict. The first came from the United Nations being a supranational organization flaunting its universal jurisdiction when the present Secretary General Ban Ki Moon expressed the organization intent to appoint a panel of experts to probe into offense carried out by government forces as well as the Tamils separatist force (LTTE).¹⁶⁸ The said panel was finally set up and thereafter released its report through UN Secretary General on 31 March 2012 indicating that there are wide range of violations of humanitarian and human rights stipulations by actors on both sides of the conflict amounting to “war crimes and crimes against humanity” and among others blasted them for failures to keep accurate of civilian casualties during the war though the Government of Sri Lanka have not shown any credence to the same.¹⁶⁹

Sri Lankan Government’s approach in dealing with issues of accountability was quite different even though it had cause to defend same profusely. President Rajapaksa in 2009 sought for alternative justice when set up the Lesson Learnt and Reconciliation

¹⁶⁷ Wikipedia: The Free Encyclopedia, Sri Lankan IDP Camps, https://en.wikipedia.org/wiki/Sri_Lankan_IDP_camps (accessed on September 15, 2015).

¹⁶⁸ Top western countries like United also exerted similar call and influence on Sri Lanka to do the same. So also are International civil organizations like Human Rights Watch and Amnesty International. See also International Crisis Group “War Crimes in Sri Lanka” *Asia Report* No. 191, Brussels, 17 May 2010, <http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/191-war-crimes-in-sri-lanka.aspx> (accessed on September 17, 2015).

¹⁶⁹ International Coalition for the Responsibility to Protect: Crisis in Sri Lanka, <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-sri-lanka>. Accessed on 15 September 2015.

Commission (LLRC). When the report of the committee came out later in the year, it exonerated Sri Lankan armed forces from criminal responsibility defending their actions as not deliberate but act of self-defence while laying the bulk of the blame on the LTTE which it accused of grave violations of principles of international humanitarian law, and in addition the commission failed woefully to come out with any meaningful recommendation to date.¹⁷⁰ The work of the commission have come under serious knocks by the United Nations as well.¹⁷¹

Beyond the domestic alternative justice process, Sri Lanka is not yet signatory¹⁷² to the Rome Statute of International Criminal Court (1998) which exercises jurisdiction over war crimes and crimes against humanity among others which was agreed to have been committed but with difference at who among the camps was responsible. The only way the world's criminal court would have intervened would have been through referral by the UN Security Council which was not possible in view of some membership of the council indifferent posture towards the need for accountability.¹⁷³

It is for the above stated reasons that up till date, not even one person has been charged let alone convicted locally or at the international level for the heinous atrocities committed in Sri Lanka. The consequence of which is the outright denial of golden opportunity of the desired accountability through an unbiased and transparent

¹⁷⁰ Amnesty International, "When Will They Get Justice? Failures of Sri Lanka's Lessons Learnt and Reconciliation Commission" September (2011):1-67, https://sydney.edu.au/arts/peace_conflict/docs/reports/failures_SL.pdf (accessed on April 20, 2016).

¹⁷¹ See for example UN Human Rights Council Resolution dated 22 March 2012 and Report of the Office of the United Nations Commissioner for Human Rights on advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka, A/HRC/22/38 of 11 February 2013.

¹⁷² See List of States Parties to the Rome Statute of the ICC, www.icc.cpi.int/.../states%20parties/.../the%20st. (accessed on September 14, 2015).

¹⁷³ ICG: Sri Lanka, 34. Note that under Chapter VII of the UN Charter the Security Council has the power to refer to the ICC Prosecutor any conduct in which one or more of the crimes which the Rome Statute bestow jurisdiction on the ICC. Similar provisions exists under article 13 of the ICC statute.

mechanism to the citizens who would have wished that the impunity which characterized the bloody war was duly accounted for as a form of deterrence against reoccurrence.¹⁷⁴

6.5.1.3 Other Challenges

The Sri Lankan internal wars posed a lot of challenges to both government and the citizens especially the embattled and shattered persons-IDPs as a result of the 26 years old crisis especially going by the nature of operation and coordination of the state led resettlement plan which is not IDPs oriented.¹⁷⁵

First and foremost, in Sri Lanka, IDPs were forcefully encamped to shield them away from the horror of violence orchestrated by the combined insurgency of the Tamils' LTTE forces and the counter insurgency led by government forces. In this wise their freedom of movement was somehow restrained. This has attracted criticisms to the effect that the camp life was in fact act of detention or "open prisons"¹⁷⁶ in contravention of international laws.¹⁷⁷

In addition, humanitarian intervention as in the case of NGOs, relatives and media personnel was scuttled by the Sri Lanka military forces who denied local and international actors of access to IDPs in camps though relaxed after much

¹⁷⁴ Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka, 31 March (2011):1-214, which berated the Sri Lanka's notion of accountability as falling below the threshold of internationally acceptable standards among others, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf (accessed on April 20, 2016).

¹⁷⁵ Integrated Regional Information Networks (IRIN) Asia, SRI LANKA: Concerns Growing Over Pace of IDP Resettlement", 30 September 2009, <http://www.irinnews.org/report/86371/sri-lanka-concerns-growing-over-pace-of-idp-resettlement> (accessed on September 15, 2015).

¹⁷⁶ Amnesty International, "Unlock the Camps in Sri Lanka: Safety and Dignity for the Displaced now" *Briefing Paper*, ASA 37/016, London, 12 June (2009):1-31, www.amnesty.ch/...sri-lanka/0908_sri_lanka.pdf (accessed on September 17, 2015).

¹⁷⁷ For example articles 9 and 12 of the International Covenant on Civil and Political Rights which frowns at arbitrary detention inter alia, www.ohchr.org/Documents/.../ccpr.pdf (accessed on September 18, 2015). This rights are also laid down in Principles 12 and 14 of the UN Guiding Principles on Internal Displacement 1998.

criticisms.¹⁷⁸ Even where access are granted, there were sharp distinction between the ruling party and those in opposition evidencing selective and biased treatments.

The reasons for the restriction is not far-fetched. It was made to limit accurate account and extent of the catastrophe. This inevitably affected the degree of assistance that these agencies would have offered the displaced persons in Sri Lanka if they were seized of sufficient information.¹⁷⁹

Local and international agencies willing to assist IDPs in Sri Lanka were also restricted in their operation as they were made to sign an agreement with the Ministry of Resettlement and Disaster Relief Services before they could provide and also restricted from making public such provision.¹⁸⁰ The denial of access also hampered effective coordination and monitoring as well hampering reporting of the catastrophe by agencies like the Red Cross and the UN World Food Project.¹⁸¹

Furthermore there was also health related challenges taking into account the number of IDPs forcefully encamped as a result of the internal war, it is not in doubt that health facilities were overstretched beyond limits. The influx also led to shortage in food supply and other necessities especially as at April and May 2009.¹⁸² There was heavy overcrowding in Vavuniya camp before Manik Farm camp was established.

¹⁷⁸ In September 2008, the then Defence Minister Gotabhaya Rajapaksa rolled out the order decreeing the removal of all equipments and vehicles of all humanitarian and UN agencies to leave Vanni. See also Amnesty International (2009):11.

¹⁷⁹ Ibid., Amnesty International.

¹⁸⁰ Id. 14.

¹⁸¹ European Center for Constitutional and Human Rights (ECCHR) "Study on Criminal Accountability in Sri Lanka as of January 2009," Berlin, June (2010):12, www.ecchr.eu/...crimes...accountability/sri-lank (accessed on September 19, 2015).

¹⁸² Ibid., 18.

Sanitary conditions was not excluded from the arrays of challenges faced by the IDPs in Vavuniya camp and Manik farm camp areas.¹⁸³

Large scale flooding and very terrifying high winds were also experienced in the Manik farms where large number of IDPs were camped thereby exacerbating the precarious situations of the inmates in those make shift shelters hurriedly put in the wake of the mass influx of persons to the Manik farms which housed the largest number of displaced persons.. This incidence created more health concerns for IDPs within the period.¹⁸⁴

6.5.1b Legal Frameworks

Sri Lanka is signatory to several international treaties¹⁸⁵ dealing with the protection and advancement of human rights which are considered inalienable. The cardinal rules and principles inherent in those international regulations though not specifically targeted at IDPs they operate to confer on them prescriptions that accord some forms of general entitlements to all citizens which invariably include IDPs. Unfortunately, Sri Lanka is not a party to the Rome Statute of ICC which punishes international crimes committed within the border of State Party in the context of violent internal conflicts.

Beside international conventions which are products of positive acts¹⁸⁶ and binding on Sri Lanka¹⁸⁷ there are other international legal rules and principles which operate

¹⁸³ See Amnesty International, August (2009), 19.

¹⁸⁴ ECCHR, 19.

¹⁸⁵ Including but not limited to International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR), Guiding Principles on Internal Displacement.

¹⁸⁶ It is explicit that international law does not have automatic application in national jurisdictions except where there are ratified and are not inconsistent with domestic laws.

to bind non-state party by reasons of their elevation to the threshold of customary international laws justiciable before national courts by common rules of precedence.¹⁸⁸

For instance, Government of Sri Lanka had gone beyond the mere ratification of the Geneva Conventions (I-IV) and the Additional Protocols I and II, to concrete domestication of its provisions into national legislation.¹⁸⁹ However Sri Lanka excluded the application of article 3 common to the Geneva Conventions which resonates the extant customary international humanitarian law.¹⁹⁰

The Geneva Conventions and the Additional Protocols having assumed the status of customary international law in the context of armed conflicts and humanitarian assistance provides the broad legal basis of protection to civilians including IDPs in situation of international and internal armed conflicts.

6.5.2a Legal and Policy Challenges in Uganda

The following headings will be covered under this sub-topic, namely:

- 1) Mechanisms for Durable Solutions;
- 2) Accountability of Perpetrators; and,
- 3) Other Challenges.

¹⁸⁷ See *Sinharasa Case* (2006) where the Supreme Court of Sri Lanka declared null and void Optional Protocol to ICCPR for being inconsistent with the Sri Lankan Constitution.

¹⁸⁸ See article 38 of Statute of International Court of Justice for legal definition of such norms.

¹⁸⁹ Geneva Conventions Act (Sri Lanka).

¹⁹⁰ Article 3 which is common to the Four Geneva Conventions and article 2 of the Additional Protocol II are not reiterated in the Geneva Convention Act of Sri Lanka. This makes it doubtful of the sincerity of the government.

6.5.2.1 Mechanisms for Durable Solutions

Ugandan Government took several steps at ensuring that the victims of internal conflicts are rehabilitated and integrated into the society following their involuntary removal consequent upon the endless crises in the Northern Uganda in particular.

The first began with the establishment of the regional ministries of state in the early 1990s to oversee issues concerning regions devastated by the impact of the particular conflict such as the Luwero triangle being the worst scene of hostilities between 1980 to 1986, the Department of Karamoja for the Karamoja areas described till date as an area known for “spasmodic outburst of armed fighting...” in which cattle raiding caused several displacement and deaths, and the ministry that was responsible for the 18 districts worst affected by the rebellion orchestrated first by the Holy Spirit Movement of Alice Lakwena and later taken over by Joseph Kony’s Lord’s Resistance Army in the Northern Uganda generally.

The cumulative mandates of the states’ ministries and department set up by Museveni’s regime was to ensure effective planning and coordination of rehabilitation and development of the areas torn apart following the end of the liberation wars.¹⁹¹

Following the enactment of the National IDP policy in August 2004, the responsibility for ensuring the coordination of durable solution to victims of internal conflicts in Uganda was legitimately passed on to the Office of the Prime Minister through its specialized department¹⁹² as the lead agency charged with the onerous

¹⁹¹ Quinn, 17.

¹⁹² Department of Disaster Preparedness and Refugees.

task of protecting and supporting IDPs search for lasting solution. There are also four additional committees¹⁹³ at the national and local level charged with the functions of coordinating humanitarian assistance to those displaced by the crisis.¹⁹⁴

Government of Uganda in a bid to fast track durable solution for the displaced persons set up the Peace Recovery and Development Plan. This comprehensive plan launched in 2008 when the return of IDPs was already ongoing represents one of the solutions engendered by government to situations of displacement in the country by stabilizing Northern Uganda so as to bridge the gaps between it and other parts of the country in the areas of provisions of socio-economic infrastructures need for safe return, rehabilitation and re-integration in the local communities in the Northern part of Uganda battered by the war. However its full implementation have been hampered by lack of funds which caused unnecessary delays in achieving its projected target.¹⁹⁵

6.5.2.2 Accountability of Perpetrators

Accountability for horrific atrocities committed during the Northern Uganda conflict is pivotal to resolving the age long internal conflict that left devastating impact on Uganda. In this wise, the government of Uganda carried out several initiatives at ensuring that the raging impunity exhibited by perpetrators are duly accounted for. For example, a commission of inquiry was set up in 1986¹⁹⁶ followed by the

¹⁹³ These are, Inter- Ministerial Policy Committee, Inter- Agency Technical Committee, Human Rights Promotion and Protection Sub Committee and District Disaster Management Committee.

¹⁹⁴ Freidarike Santner, "Uganda's Policy for Internally Displaced persons: A Comparison with the Colombian Regulations on Internal Displacement," *International Law Review*, Colombia, Jan/June 2013:97, www.redalyc.org/pdf/824/82429191004.pdf (accessed on March 19, 2015),

¹⁹⁵ Internal Displacement Monitoring Centre (IDMC): New Displacement in Uganda Continues alongside Long-term Recovery Needs" 24 January 2014: 10.

¹⁹⁶ As Commission of Inquiry into Violation of Human Rights (CIVHR) pursuant to its charter-Commission of Inquiry Act Legal Notice No. 5, Cap 56 of 16 May 1986 with the mandate to investigate cases of violation of human rights following two decades of internal crises in Uganda.

enactment of the Amnesty Act 2000¹⁹⁷ and the referral of the perpetrators to the International Criminal Court in 2004.¹⁹⁸

The Commission of Inquiry into Violation of Human Rights travelled extensively to all the regions in Uganda to gather evidence in addition to questionnaires sent out to several respondents and eventually handed over its report to Government of Uganda on 10th October 1994. Unfortunately, this lofty engagement could not translate to meaningful gains as it was hampered by host of problems such as lack of capacity, paucity of funds and the dearth of necessary political will which owing to the state of affairs at the time was more preoccupied by revenge rather than real reconciliation.¹⁹⁹

Amnesty is a reconciliation model that supports restorative rather than punitive or retributive justice.²⁰⁰ In Uganda traditional justice mechanism like the *Mato Oput*²⁰¹ rituals have been advocated by the Acholi people as a means of engendering reconciliation. Amnesty is incongruence with African tradition of forgiveness rather than penal based contemporary justice.²⁰²

¹⁹⁷ Which is meant to provide amnesty to all Ugandans involved in war-like crises in every part of the country and other matters connected thereto.

¹⁹⁸ International Criminal Court, "Situation in Uganda: Decision Assigning the Situation in Uganda to Pre-Trial Chamber II, ICC 02/04 of 5 July 2004, <https://www.icc-cpi.int/iccdocs/doc/doc271808.PDF> (accessed on April 20, 2016). The purpose of the referral is to seek international assistance in the arrest and prosecution of Joseph Kony and his colleagues who were members of the Lord Resistance Army over their involvement in the internal wars in Uganda.

¹⁹⁹ The Republic of Uganda, The Report of CIVHR, sections 3-4. The Commission's Report tagged it "vastness of the exercise". See also sections 2.9 (II).

²⁰⁰ Lino Owor Ogora, "Moving Forward: Traditional Justice and Victim Participation in Northern Nigeria," *Institute for Justice and Reconciliation*, Wynberg, South Africa (2009): 3.

²⁰¹ Acholi's traditional justice model of truth telling through ritual ceremony as means of forgiven perpetrators of war crimes. Ibid., Ogora,

²⁰² Bishop Desmond Tutu, the Chairman of South African Truth and Reconciliation Commission attested to this more frontally. See Ogora, 4.

In 2000 Amnesty Act was passed into law so as to grant amnesty to all the rebel actors following internal armed conflicts in the west and North Uganda.²⁰³ In obedience to the amnesty over 13,000 combatants of the Lord Resistance Army took advantage of the measure to obtain pardon and amnesty certificates which protect them from criminal prosecution.²⁰⁴

Despite the hallowing applaud that amnesty has contributed to the enduring peace in Uganda²⁰⁵ it was met with plethora of criticisms, chief among which is its naked affront to some of the international obligations²⁰⁶ binding on Uganda and the fact that it undermines accountability and condone impunity. In other jurisdiction where amnesty law operate international institutions with quasi-judicial competence have pronounced it to be inconsistent with the general right to investigation violation of fundamental right of citizens.²⁰⁷

²⁰³ Section 2 of Ugandan Amnesty Act 2000, <https://www.icrc.org/.../Ugandan+Amnesty+Act> (accessed on September 15, 2015).

²⁰⁴ Ugandan LRA Rebel Thomas Kwoyelo Granted Amnesty, BBC News, September 22, 2011, <http://www.bbc.co.uk/news/world-africa-15019883> (accessed on April 20, 2016). See also Kristy McNamara, "Seeking Justice in Ugandan Courts: Amnesty and the Case of Thomas Kwoyelo" *Washington University Global Studies Law Review*, Vol. 12 Issue 3 (2013):653-671, http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1457&context=law_globalstudies (accessed on April 20, 2016).

²⁰⁵ UN Office of the High Commissioner for Human Rights, "UN Position on Uganda's Amnesty Act 2000, Submission to the Hon. Minister of Internal Affairs", May 2012, <http://jlos.go.ug/uploads/UN%20Position%20on%20Uganda%20Amnesty%20Law%20.pdf> (accessed on September 15, 2015).

²⁰⁶ Section 3 of Ugandan Amnesty Act bars prosecution of crimes committed during the conflict which clearly breaches international obligations under several treaties to which Uganda is signatory such as Geneva Conventions and its Additional Protocol I and II and Rome Statute of ICC among others. It does not also offer or encourage effective and adequate remedy to the victims. See also Similar fate has befall the Salvadoran Amnesty Act which is on all fours with Ugandan Amnesty Act wherein

²⁰⁷ Kristy McNamara at 670 where the author cited the case of *Masacre Law Hojas v. El Salvador*, Case 10.287, *Inter-Am. Comm'n H.R., Report No. 26/92 OEA/Ser. L/V/II.83.doc* 14, at 83 (1993) in comparison so as further support his view regarding the ills of Ugandan Amnesty Act 2000. In this case the Inter-American Commission on Human Rights held that the "application of the Salvadoran amnesty decree constitutes a clear violation of the Salvadoran Government to investigate and publish the violations of the rights of the Las Hojas victims.

Owing to the failure of the foregoing alternative justice mechanisms,²⁰⁸ in 2003 Government of Uganda being signatory to the Rome Statute of the International Criminal Court, in 2003 referred the situations in Uganda to the International Criminal Court in respect of the Lord's Resistance Army probably those who ostensibly failed to take the advantage of the amnesty granted by it in 2000.²⁰⁹

Pursuant to this referral, the ICC Prosecutor commenced investigations in 2004 culminating in the historic unsealing of arrest warrants against five top officers²¹⁰ of the LRA in 2005 for crimes proscribed by the ICC statute, which has not been executed against them till today.²¹¹

Divergent arguments have been advanced for and against ICC's intervention in resolving the Ugandan conflicts. One version is to the effect that the referral to the ICC was meant to paint government of Uganda with an integrity of avowed resolve at engendering international criminalization of the atrocities of the LRA and its propensity in eroding atmosphere of impunity characterizing years of violence and brutality coupled with the fact that it sends the remnants of LRA leadership in disarray.

²⁰⁸ See Paragraph 6, Government of Uganda, "Referral of the Situation Concerning the Lord's Resistance Army" which reads "Having exhausted every other means of bringing an end to this terrible suffering, the Republic of Uganda now turns to the newly established ICC and its promise of global justice. Uganda pledges its full cooperation to the Prosecutor in the investigation and prosecution of LRA crimes, achievement of which is vital not only for the future."

²⁰⁹ Adam Branch, "Uganda's Civil War and the Politics of ICC Intervention," *Ethics and International Affairs*, 21 (2) 2012:179-19, www.gemba.sdsu.edu/~abbranch/.../Ethics%20and%20 (accessed on September 20, 2015).

²¹⁰ Which of course include Joseph Kony the leader of LRA. See Ted Dagne, "Uganda: Current Conditions and the Crisis in Uganda," *Congressional Research Service*, June 8, (2011):10, <https://www.fas.org/sgp/crs/row/RL33701.pdf> (accessed on September 25, 2015).

²¹¹ Such as war crimes and crimes against humanity among others.

On the other hand, it has been contended that the referral to the ICC obstructed the path of peace thereby making it difficult to resolve the age long crisis as no member of the LRA will ever agree to a round table discussion for fear of arrest and possibly prosecution. Second, the referral constituted an affront to the popular demand as shown in the Amnesty Act 2000 which was an answer to the Acholi people call for a lasting solution rather than the military option which usually undermine peace process.²¹²

6.5.2.3 Other Challenges

In Uganda, achieving durable solutions for IDPs especially safe return which is most preferred by the Acholis in relation to the other two options-rehabilitation and reintegration²¹³ has been made difficult by convergence of factors. Firstly, basic infrastructural facilities such as health and education in the rural areas are still in short supply till date. People especially women and children are still perplexed with health challenges due to incessant outbreak of epidemics such as HIV/AIDS and other related ailments ²¹⁴ after the end of the war up to 2013 and beyond. Children of the displaced still travel long distance to access schools because majority of those located nearby their place of return have been destroyed during the war.

Safe return has been hampered as well by property related disputes especially in the Acholi sub region of the Northern Uganda where their subsistence is based primarily on agriculture. This is worsened by the complicated land tenure system prevailing in

²¹² Branch, 186-188.

²¹³ Michelle Berg, "A Sort of Homecoming...: Local Integration in Northern Uganda" in Elizabeth Ferris (ed.) *Resolving Internal Displacement: Prospect for Local Integration*, The Brookings Institution, London, June 2011:126-127, www.brookings.edu/.../resolving_id_prospects_for_local_integration_ju (accessed on September 26, 2015).

²¹⁴ Racheal Ninsiima, "Nodding Syndrome Preys on the Displaced" *Africa Report*, 30 July 2013, www.theafricareport.com/...Africa/nodding-syn (accessed on September 25, 2015).

Uganda coupled with absence of accurate data of communal and individual land holdings rights. This has given rise to plethora of litigations upon return.²¹⁵

6.5.2b Legal Frameworks

Like Nigeria, Uganda is signatory to a number of international and regional treaties bearing on protection and assistance of IDPs. Prominent among them is the Great Lakes Pact which includes an IDP Protocol in 2006 and the African Union Convention for the Protection and Assistance of Internally Displaced which was indeed adopted in Kampala in 2009.

As founding member of the International Conference of the Great Lakes Region (ICGLR), the Great Lakes Pact which builds on the UN Guiding Principles is a precursor to the Kampala convention as various national policies in Uganda dealing with protection and assistance of victims of internal displacement graciously refer to it as foundational document. The Great Lakes IDPs Protocol addresses all causes and phases of internal displacement had great influence on Ugandan IDP policy.

Finally, rules and principles of international humanitarian laws, international human right law and international criminal law embedded in several international instruments²¹⁶ to which Uganda is a party majority of whom have been domesticated also had enormous influence on Uganda's policies on IDPs.²¹⁷

²¹⁵ IDMC, 24 January (2014), 8.

²¹⁶ Such as the Geneva Conventions and its Additional Protocol II (in particular), Universal Declaration of Human Rights, International Convention on Civil and social Rights and the Rome Statute of the International Criminal Court (2002) among numerous others; For comprehensive list of some of the instruments ratified by Uganda with bearing on IDPs' protection, see the Guiding Principles to the National Policy on IDPs 2004 (Uganda) Chapter One, Clause 1.

²¹⁷ For example, Geneva Convention Act 1964 which domesticated the Geneva Conventions I-IV of 1948, and International Criminal Court Act 2010 which domesticated the Rome Statute of International Criminal Court adopted in 1998 and entered into force in 2002.

6.6 Lessons Learnt from Study of Sri Lanka and Uganda

The following headings will be covered under this subtopic namely,

- 1) Lessons from Sri Lanka, and,
- 2) Lessons from Uganda.

6.6.1 Lessons from Sri Lanka

The study of Sri Lankan laws and practices governing internal displacement revealed as follows that:

- i. In Sri Lanka, internal displacement was provoked by ethnic and religious rivalries between the Sinhalese who are in the majority and the Tamils who are of minority ethnic group as religious followership followed ethnic lines;
- ii. Secondly, Sri Lanka is not a secular state despite the fact that it is ethnically and religiously fragmented like Nigeria. It adopted Buddhism as states' religion²¹⁸ to further heighten the existing polarizations;
- iii. Thirdly, there are legal guarantees in Sri Lankan constitution against discrimination and other forms of unfair treatment on the basis of sex, place of birth, religion and political opinion among others.²¹⁹ However, these legal provisions are not justiciable;²²⁰
- v. Sri Lanka adopted in its constitution "single status citizenship" as a tool to diffuse ethnicity and religious polarizations and to encourage national integration by outlawing any distinction that is embedded in the mode of acquisition of citizenship;²²¹

²¹⁸ Article 9 of the Sri Lankan Constitution 1978 as amended.

²¹⁹ Article 27(6) of the Sri Lankan Constitution 1978 as amended.

²²⁰ Ibid. Article 29.

²²¹ Id. Article 26(1).

vi. International humanitarian law was applicable to the internal conflicts in Sri Lanka because the conflicts satisfied the criterion of armed conflict under article 2 common to the Geneva Conventions. However the application of common article 3 and common article 2 of the Geneva Conventions and relevant articles of Additional Protocols are excluded from application with respect to victims of internal crises in Sri Lanka;

vii. Sri Lanka Government enacted Assistance to and Protection of Victims of Crime and Witnesses Act²²² in compliance with international treaty obligations on compensation, restitution, rehabilitation and reparation of victims of crimes for losses suffered as a result of conflicts;

viii. Sri Lanka institutionalized mechanism for attainment of durable solution by creating a statutory body called “National Authority” with responsibility to protect and uphold the law on protection to and assistance of victims of crime.²²³ There are no such legal and institutional guarantees in Nigeria;

ix. Government of Sri Lanka created the Ministry of Resettlement for the purpose of fast tracking resettlement and rehabilitation of IDPs. This is an institutional strategy that is novel in many ways;

x. Sri Lanka do not have legal framework on IDPs’ protection in a single comprehensive document as existing regimes are informal and ad-hoc and scattered in several documents in response to a particular disaster that have occurred in the country;

²²² Act No. 4 of 2015 (Sri Lanka)

²²³ Ibid. Article 11.

- xi. In Sri Lanka there is a dedicated body established by law²²⁴-(Resettlement Authority) that handles issue of provision of durable solutions such as return, rehabilitation and resettlement of IDPs;
- xii. Application of international conventions relating to the prosecution and punishment of crimes committed during the Sri Lankan crises is limited because, Sri Lanka is not a party the Rome Statute of International Criminal Court and thus transnational justice cannot be pursued against perpetrators;
- xiii. Domestic capacity for fast tracking the prosecution and punishment of crimes is limited given that there are no special criminal courts with jurisdiction to try international crimes committed in the course of internal crises in the country;
- xiv. There exists a robust and effective witness protection law in Sri Lanka. This law operate in two folds namely, Assistance to and Protection of Victim and Witnesses of Crime Act (2015) with the object of protecting witnesses and victims of crime against harm; and,
- xv. Finally, Sri Lanka excluded the application of article 3 Common to the Geneva Conventions and thus limit the application of international humanitarian law to the crises that occurred within the country even though it has domesticated the said treaty as Geneva Convention Act.

6.6.2 Lessons from Uganda

The study of law and practices governing internal displacement in Uganda revealed the following lessons:

²²⁴ Section 2 and 14 of the Resettlement Authority Act No. 9 of 2007 (Sri Lanka).

- i. Uganda like Nigeria is a multi-ethnic and religiously diverse country ravaged by politically induced internal conflicts for over 28 years resulting in colossal deaths, destruction of properties and forced displacement of citizens;
- ii. Ugandan conflicts unlike Nigeria resulted into full blown civil war with far reaching implications in terms of human and capital losses;
- iii. There are sufficient legal provisions in Ugandan Constitution unlike Nigeria that safeguard against reference to sex, place of origin. Religion and political opinion in the spirit of national integration;²²⁵
- iv. Unlike Nigeria, in Uganda guided by its constitution, the composition of its government at all levels is based on broad representation that does not align with issue of ethnic origin and other social diversities;²²⁶
- v. Strong commitment of the Government of Uganda by making it a constitutional stipulation to respect institutions charged with protection and promotion of human rights by providing adequate resources so that they would function effectively;²²⁷
- vi. In Uganda, the Office of the Prime Minister with Uganda Bureau of Statistics (UBOS) in collaboration with the United Nations Strategy on Disaster and established National Disaster Loss Data Base was used to solve the problem of dearth of data on IDPs in the country;
- vii. Uganda has a single document-National IDP Policy that comprehensively defines the roles of ministries and agencies thereby erasing the issue of conflicting mandates more so in designating the office of the Prime Minister as the lead agency in matters of IDP protection and assistance;

²²⁵ General Provisions, Item II (iv) of the Constitution of the Republic of Uganda 1995 as amended.

²²⁶ Ibid. Item V (i).

²²⁷ Item V of the Fundamental Objectives and Directive Principles of State Policy, Constitution of the Republic of Uganda, 1995.

viii. Ugandan Government unlike its Nigerian counterpart established and managed the IDPs' camps which it called "protected villages" as part of its national responsibility as State Party to norms and conventions on IDPs;

ix. Uganda is the first state to have adopted a truly comprehensive national IDP Policy in 2004 christened "National Policy on Internally Displaced Persons" following the adoption of the Guiding Principles on Internal Displacement in 1998;

x. To ensure fast track and effective prosecution of perpetrators before national courts, Uganda in 2011 established a special court called "International Criminal Division of the High Court of Uganda"²²⁸ and equipped it with best available legal and technical expertise and capacity to try serious crimes such as genocide, war crimes and crimes against humanity contrary to Ugandan criminal laws.²²⁹ It also designated special unit in the Director of Public Prosecution with the sole responsibility of prosecution as well as Criminal Investigation Department of the Police with investigation and presentation of evidence in Court;

xi. Uganda also enacted the Whistleblowers Protection Act in 2010²³⁰ to assist in the protection of witnesses against harm to their persons, property and family, court actions, in addition to offering of reward for disclosures;²³¹

xii. Funding of humanitarian assistance to IDPs in Uganda is mainly through supplementary emergency releases to the Office of the Prime Minister in charge of emergency and disaster. There is yet no Contingency Fund to be drawn pending budgetary allocation to Office of the Prime Minister as the legislative bill is still pending before the parliament;

²²⁸ The High Court (International Crimes Division) Practice Directions ("ICD Practice Directions"), Legal Notice no. 10 of 2011, Legal Notices Supplement, Uganda Gazette, No. 38, Vol. CIV, May 31, 2011.

²²⁹ Ibid. ICD Practice Directions, para. 6(1). For example, Geneva Conventions Act (1964), International Criminal Court Act (2010) and Penal Code Act (1950).

²³⁰ Whistleblowers Protection Act 2010 (Uganda), www.ulrc.go.ug/.../whistle-blowers-act-2010.p... (accessed on February 11, 2016).

²³¹ Ibid. Sections 9, 10, 11 and 19 respectively.

xiii. Uganda have domesticated the Four Geneva Conventions and Rome Statute of International Criminal Court as part of Ugandan national laws.²³² These bold measures have removed the problems of non-enforcement of international treaties before Ugandan's International Crimes Division (ICD) as these laws penalize serious crimes such as genocide, war crimes, crimes against humanity and terrorism among others in line with the Rome Statute of ICC;

xiv. In Uganda, dedicated camps were deliberately constructed for IDPs following the internal conflicts to cater for the welfare and safety of victims as opposed to the experience in Nigeria, Government labelled them "protected villages" and provided security by deploying the Ugandan Peoples Defence Force (UPDF) to these camps;
²³³ and,

xv. Ugandan government designated the Office of the Prime Minister's Department of Disaster Preparedness and Refugees in accordance with the National IDP Policy 2004 as the lead agency in matters of emergency and disaster to coordinate other stakeholders. It is insightful to note that designating such a high profile office for the purpose of coordination of assistance attests to the high premium, Ugandan government placed on IDPs related issues and clearly resonates impressive political will.²³⁴

²³² Enacted as Geneva Conventions Act (1964) and International Criminal Court Act (2010) respectively.

²³³ Human Right Watch, "Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda" Vol. 17, No. 12(A) September (2005):41-45 <https://www.hrw.org/reports/2005/uganda0905/uganda0905.pdf> (accessed on April 24, 2016).

²³⁴ Chapter 2 of Ugandan National Policy on IDPs 2004.

6.7 Summary

In this chapter we have been able to assess three stages involved in the study of laws and practices governing internal displacement in Sri Lanka and Uganda for the purposes of applying the lessons learnt to Nigeria.

From the study it is crystal clear that in these two countries like Nigeria, internal displacement was mostly provoked by internal armed conflicts and generalized violence while ethnic rivalries which predates their colonial experience is implicatively connected. Whereas religious intolerance among the Sinhalese and Tamils underpinned a number of conflicts in Sri Lanka. Like Nigeria where ethnicity, religion and politics are inseparable,²³⁵ in Uganda religion played no visible role in the more than two decades of internal conflicts in Uganda despite the fact the three countries namely Sri Lanka, Uganda and Nigeria are religiously fragmented.

The national policies on internal displacement in Sri Lanka and Uganda which were drawn following wide humanitarian crises that engulfed the two countries, focuses on different aspect of the needs of IDPs. Whereas the Sri Lankan policy is resettlement and rehabilitation based, its Ugandan counterpart is development focused thereby shifting attention from particular needs of IDPs in the respective states.

Like Nigeria, there is no specific domestic legislation that addresses the special plight of IDPs in Sri Lanka holistically. Existing national frameworks regarding

²³⁵ Jessica Skinner, "The People in – Between. IDPs, Space and (Dis) placement in Sri Lanka," *Sussex Migration Working Paper*, No. 25, February (2005):4, www.sussex.ac.uk/migration/documents/mwp25.pdf (accessed on March 19, 2015).

IDPs' protection and assistance are scattered in several documents in swift response to the needs at the time.²³⁶ Few regulations in Sri Lanka that are relevant to IDP deals only with specific aspects of their rights in the same pedestal as every other Sri Lankan citizens.²³⁷

However some form of protection exists though limited in the Sri Lankan constitution, national laws and policies, and host of international treaties to which Sri Lanka is signatory even though no special distinction is made in favour of internally displaced persons.²³⁸ In essence, there are profound efforts to develop a truly IDP law and policy, but like Nigeria, the commendable efforts have been hampered by factors such as absence of necessary political will and misplacement of priorities.²³⁹

One limitation that characterized national IDP policies in the two states comparatively studied is that fact there are in the realm of soft laws devoid of legal force and sanction. This singular snag renders obedience and compliance with the norms setting standard difficult as no sanction/penalties is envisaged. Effective protection of rights of IDPs to be properly put in context ought to be buried in the letters of binding law in order to command habitual obedience.

There is certainly room for improvement in the case of Uganda being signatory to the African Union IDP treaty and the Great Lakes Pact which are binding on member

²³⁶ Andres Angel, "National Legal Framework for IDPs in Sri Lanka: A Critical Analysis," *Research Papers* No. 17, Institute of Peace and Conflict Studies, September (2008):9, www.ipcs.org/pdf_file/issue/1905030534RP17-Andre-SriLanka.pdf (accessed on March 20, 2015).

²³⁷ Ibid.

²³⁸ Id. 13.

²³⁹ Id.

states. This will continue to influence the same as “push factors” in order to give the National Policy on IDPs the needed legal clout required of protective regimes.²⁴⁰

Interestingly, both IDPs’ policies (Sri Lanka and Uganda) drew enormously from the bill of rights entrenched in their respective constitutions, though of nature of general entitlement to all citizens shows high regards that the two countries have for fundamentally guaranteed rights of its citizens and the extent that general norms can be tailored towards the protection of vulnerable persons.

Despite the foregoing, the Sri Lankan and Ugandan examples provide a foundational template for Nigeria especially now that the National Policy on IDPs is yet to be adopted. Germane contributions such as recognition and ceding of responsibilities to leading agency of government and the decentralization of roles are beautiful innovations that can greatly influence Nigeria in her quest to develop her own policy regarding IDPs.

Furthermore, Uganda’s continued leadership in the quest to address the problem of internal displacement is indisputable. Uganda has scored many firsts. Uganda is among the few countries in the world and first in Africa to develop a formal national policy on internal displacement²⁴¹ following the clarion call for domestication of the UN Guiding Principles and the first to ratify the African Union IDP treaty.²⁴²

²⁴⁰ Santner, 117.

²⁴¹ National Policy on Internally Displaced Persons 2004.

²⁴² African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa 2009 (hereinafter simply called Kampala Convention; See also Jessica Wyndham, 7.

To this end, even where laws, policies and institutions bearing on IDPs abound like the study revealed, national authorities having these humanitarian burdens should aggregate the required political will necessary to translate the set out standards into reality. Effective protection for IDPs is far beyond the mere existence of laws, policies and institutions.



CHAPTER SEVEN

FINDINGS AND RECOMMENDATIONS

7.1 Introduction

This chapter examines findings based on the previous chapters as well as legal issues and problems from the case studies I and II which focused on Jos internal crises and the study of laws and practices governing internal displacement in Sri Lanka and Uganda as examined in chapters four, five and six of this research.

It also highlight the findings and recommendations of this research in line with chapter three, four, five and six of this research in order to delineate the issues and thus satisfy the objectives of the study and its research questions. The import of which is to strengthen legal and policy frameworks for the protection and assistance to IDPs due to internal conflicts in Jos in particular and Nigeria in general.

The practical purpose of juxtaposing the findings derivable from the study which involves laws and practices of other jurisdictions which had experienced incessant internal conflicts with the case study at hand is to generate useful suggestions that will assist in solving the same problems in Nigeria.

7.2 Stage One (1): Pre-Displacement Stage

This section summarizes the findings in respect of stage one of the preceding chapters three, four, five and six of this research.

The following headings will be covered under this sub topic, namely:

- 1) Findings; and,
- 2) Recommendations.

7.2.1 Findings

The following findings are revealed below:

- i) There was a widespread discrimination on the basis of ethnicity and religion by virtue of the multi ethnic composition of the country coupled and the close link between matters of ethnic identities and religious beliefs;
- ii) There is no legal definition of indigeneship in Nigerian Constitution despite the ease with which the term is used in the national settings as an affirmative tool to bolster majority interest and minority inclusion;
- iii) There is a problem of absence of legal provision on the meaning of a citizen given Nigeria's multi ethnic character, the constitutional stipulations on the subject is hasty and mere descriptive;
- iv) The internal crises which led to displacement in case study I was due to the long years of ethnic animosity that exists between the major ethnic groups-Berom, Afizere and Anaguta (indigenes) and Hausa Fulani (settlers) in Jos, Plateau State;

v) The internal crises subject of case study II is as a result of the increasing rate of acts of terrorism orchestrated by Boko Haram insurgency in Nigeria. The conflicts in both case study are mere internal disturbances;

vi) The problem of “indigene/settler dichotomy” which underlined recurring crises in Jos is strengthened by the constitutional provisions that recognizes ethnic groups; and,

vii) The internal crises in the two case studies were prompted by different underlining causes such as ethnic and religious intolerance and act of terrorism.

7.2.2 Recommendations

The following headings will be covered under this sub-topic namely:

- 1) Review of Nigerian Constitution;
- 2) Promoting Residency as Basis of Indigeneship
- 3) Establishing Inter-Tribal and Religious Commission.

7.2.2.1 Review of Nigerian Constitution

Under this heading this study recommends the followings:

- i) This study recommends that in order to avoid series of extraneous interpretations accorded to the duplicitous provisions of Nigerian Constitution with respect to discrimination amongst the ethnically diverse and religiously fragmented nationalities in the country, a legislative review of those provisions regarding citizenship’s rights and entitlements is crucial, so as to also diffuse the furore

surrounding the vexed dichotomy between indigenes and settlers. The review should deal more strongly with section 14 (3) by deleting the phrase “*from a few ethnic or sectional groups*” and secondly with sections 25 (1) (a) by also deleting the word “*indigenous to*” and adding “*in*”. These phrases which is suggested for review are jointly used to ignite conflicts and thus endanger peaceful co-existence among divergent ethnic groups in Nigeria. This researcher proposes that these provisions in themselves are spent and in reality, they no longer perform the affirmative role of minority inclusion. The suggested amendments are as follows:

Amendment to section 14(3) of 1999 Nigerian Constitution:

‘The Composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few State in that Government or in any of its agencies’

Amendment of section 25(1) (a) of 1999 Nigerian Constitution:

*‘The following persons are citizens of Nigeria by birth-namely-
(a) Every person born in Nigeria before the date of independence, either of whose parents or any of whose grandparents belongs or belonged to a community in Nigeria; (Emphasis added)*

Provided that a person shall not become a citizen of Nigeria by virtue of this section if neither of parents nor any of his grandparents was born in Nigeria’ (Emphasis added).

ii) Secondly, indigeneship should be defined by the Nigerian Constitution in clear and precise language setting out parameters that are not offensive or irritating to non-indigenes. In this wise, this research proposes an additional subsection 4 to section 147 of the Constitution in order to define the word “indigene” borrowing a leaf from the recommendations of Plateau Peace Commission¹ which defines the

¹ Established in 2004.

term “indigene” as “*people who are first to have settled permanently on a particular land and who are considered natives*”. In this wise the recurring conflicts between the indigenous tribes of Berom, Afizere and Anaguta and the Hausa Fulani in Jos will be constitutionally solved once and for all. The suggested amendment regarding the definition of indigene is as follows:

Proposed additional subsection 4 to section 147 of 1999 Nigerian Constitution:

‘(1)...;

(2)...;

(3)...;

(4) An indigene of a State is any person either of whose parents or any of whose grandparents were the first to have settled permanently on a particular land and is considered a native’ (Emphasis added).

iii) Thirdly, in view of the foregoing, the researcher recommends consequential amendment of section 147 (3) of the Nigerian Constitution which relates to the appointment of Ministers by the President by deleting the phrase “*who shall be an indigene of such a State*” which recognizes that there is division between indigenes and settlers with potential to ignite crises and substituting it with the phrase “*who shall be a citizen of such a State*”.² The suggested amendment is as follows:

Amendment of section 147(3) of 1999 Nigerian Constitution:

‘(1)...;

(2)...;

(3) Any appointment under subsection (2) of this section by the President shall be in conformity with the provisions of section 14(3) of this Constitution

² Uchenna Emelonye and Robert M. Buergenthal (ed), *Nigeria: Peace Building Through Integration and Citizenship*, (Italy: International Development Law Organization, 2011), 120.

Provided that in giving effect to the provisions aforesaid the President shall appoint at least one Minister from each State who shall be an indigene of such State' (Emphasis added).

iv) Finally, the suggested amendment of the foregoing provisions would directly impact on sections 153 (1) and 197(3) regarding adherence to section 14(3) of the Constitution in the delivery of their functions as well as their composition as stipulated in the third schedule to the Constitution. This is because in carrying out their functions-observing federal character principle, these federal bodies listed therein are duty bound to promote preference for place of origin rather than merit thus encouraging ethnic animosity which this study found as the bane behind recurring conflicts in Jos.

7.2.2.2 Promoting Residency as Basis of Indigeneship

It is also recommended as a corollary to the constitutional amendment regarding indigene settler controversy, that the National Assembly should expedite actions on the Residency Rights Bill³ which confer rights by virtue of residence in a particular place rather than on the basis of place of origin as a way of promoting peaceful co-existence.⁴ Legislative provision aims at according residency in a particular place and over a period of time as primary determinant of indigeneship is long overdue in Nigeria considering incessant clashes between indigenes and settlers.

³ Sponsored by Senator Jonathan Silas Zwingina from Adamawa Central Senatorial District. And abandoned after the 6th Senate.

⁴ International Crisis Group, "Curbing Violence in Nigeria (1): The Jos Crisis" *Africa Report* No. 196, 17 December (2012), 1-37

7.2.2.3 Establishing Inter-Tribal and Religious Commission

From the practical point of view, this researcher recommends the use of inter-tribal religious fora to preach peace and harmonious relationship among the various ethnic groups in Jos. The researcher suggests the setting up of inter-tribal and religious peace conference comprising of membership drawn from representatives of the tribes and religious denominations in Plateau State. Government too should be proactive in congregating the political will to implement reports and recommendations from such bodies.

7.3 Stage Two (2): Displacement Stage

This stage dealt with the problems faced by the victims based on chapter three and the two case studies of this research. The following headings will be covered in this sub-topic, namely:

- 1) Findings;
- 2) Recommendations.

7.3.1 Findings

The following findings are revealed in respect of this stage as follows:

- i) This stage reveals that victims of internal crises in Jos as investigated in the case studies qualify as IDPs because they individually satisfy the two legal conditions to wit; their movement was involuntary as a result of armed conflicts and generalized violence and secondly, they remained at all times within the territory of Nigeria.⁵ In

⁵ See Paragraph 2 of the Guiding Principles on Internal Displacement 1998 and article 1 (k) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention).

that wise they are accordingly entitled to protection and assistance under the direct responsibility of Nigerian government;⁶

ii) It also revealed proven cases of violation of victims' rights as enshrined and guaranteed by Nigerian constitution;

iii) There is the problem of lack of comprehensive legal provision for compensation of victims regarding losses associated with deaths, housing and other properties in consequence of the crises. Protection and assistance granted to victims by way of general entitlement falls below the international standards and best practices in line with international and regional conventions to which Nigeria is a party;

iv) There is the problem of dearth of accurate official record of number of deaths, injured and displaced, and other losses suffered by victims in this study. The near absence of reliable and authoritative data on deaths, loss of properties and number of IDPs during the successive Jos crises is problematic; and,

v) In addition, the case studies found that Nigerian law regarding abandonment of properties⁷ in particular is oblivious of the special plights of IDPs as it makes repossession of landed property practically impossible for the victims after lapse of time.

⁶ *Ibid.*, Principles 3 and article 5 of the Kampala Convention.

⁷ Abandonment of Properties Act Cap A1 Laws of the Federation of Nigeria 2004.

7.3.2 Recommendations

The following headings will be covered under this sub-topic, namely:

- 1) Adoption of National Policy on IDPs;
- 2) Domestication and Implementation of Kampala Convention;
- 3) Designation of Lead Agency on IDPs' Management,
- 4) Provision of Robust Compensation for Victims of Internal Violence; and,
- 5) Expediting Capacity Building on Data Collection.

7.3.2.1 Adoption of National Policy on IDPs

This researcher recommends that Nigerian government should without delay adopt National Policy on IDPs. This becomes imperative given its comprehensiveness pertaining to several issues relating to protection and Assistance of IDPs. In this wise, this researcher suggests that the draft policy should align with the Ugandan National IDP Policy 2004 for reasons that it followed the precepts of the Guiding Principles and it is contained in a single document and addresses all phases of displacement-pre-displacement, displacement and post-displacement.

7.3.2.2 Domestication and Implementation of Kampala Convention

Beyond ratification, this researcher recommends to Nigerian government to expedite the process of domestication of the Kampala Convention-African Union Convention on Protection and Assistance of IDPs to make part and parcel of Nigerian law and enforceable before national courts. This becomes obvious given that the Convention as presently constituted is not applicable in Nigeria for reason that it has not transformed from mere voluntary principles to binding precedent.

7.3.2.3 Designation of Lead Agency on IDPs' Management

This study recommends that a high powered official of government should be designated for coordination of interventions in matters of IDPs protection and assistance to erase the problem of overlapping mandates and lack of coordination. This researcher suggests that the Office of the Vice President should be vested with that responsibility to act as lead agency as it is done in Uganda where the Office of the Prime Minister is shouldering this important mandate in line with their National Policy on Internally Displaced Persons 2004. This research suggests a replication of the same in the draft Nigerian National Policy on IDPs which is yet to take effect other than merely situating it within the Presidency.⁸ This research suggests the following provisions to be included in the said draft.

**Addition to Clause 3 of Chapter 5 of the Draft IDP Policy:
Institutional Mechanism for Coordination and Collaboration**

5.3(a) Appointment

'There shall be appointed in the Office of the Vice President, Department of Coordination and collaboration on Protection and Assistance of internally Displaced Persons who shall be the lead agency' (Emphasis added).

5.3(b) Objectives

(i) 'The Office of the Vice President/Department of Coordination and collaboration shall supervise and ensure that the response of Ministries, humanitarian and development agencies in situation of internal displacement are well coordinated' (Emphasis added).

(ii) 'To ensure the effective and timely protection and provision of assistance to IDPs in Nigeria' (Emphasis added).

5.3(c) Strategy

'Harmonize and integrate all efforts in support of the protection and assistance of IDPs in Nigeria' (Emphasis added).

⁸ Chapter 5 clause 3 of the Draft Nigeria's National Policy on IDPs.

5.3(d) Functions:

(i) *'It shall be responsible for all matters relating to IDPs in Nigeria'* (Emphasis added).

(ii) *'It shall coordinate and supervise all activities of all other Ministries and humanitarian and development agencies relating to internal displacement in Nigeria'* (Emphasis added).

7.3.2.4 Provision of Robust Compensation for Victims of Internal Violence

Given that under the present system, there are no sufficient legal guarantees for compensation of IDPs' with regard to harm or losses suffered as a result of internal crises in Nigeria, this research recommends the passing into law in the form of an executive bill from the Ministry of Justice a robust compensation law that protects and assist victims (IDPs in particular) of crimes against all direct and incidental losses sustained by virtue of their plight. The Sri Lanka's Assistance to and Protection of Victim of Crimes and Witnesses Act 2015 presents a classic precedent for such legislative engagement in Nigeria. This is obvious given that the provisions contained therein are elaborate coupled with the establishment of a body called National Authority to enforce and implement the provisions. The essential features of the suggested model law is highlighted below.

Proposed Model Legislation for Assistance and Protection of Victims of Crime and Witnesses:

Citation / Short Title of the Act

Section 1: This Act may be cited as the Assistance to and Protection of Victims of Crime and Witnesses Act'

Objects of the Act

'Section 2. The object of this Act shall be to-

- (a) *set out, uphold and enforce the rights and entitlements of victims of crime and witnesses and to provide for a mechanism to promote, protect, enforce and exercise such rights and entitlements;*
- (b) *provide assistance and protection to victims of crime and witnesses;*

- (c) *enable victims of crime to obtain compensation from persons convicted of having committed offences against them;*
- (d) *provide for obtaining redress by victims of crime, including restitution, compensation, reparation and rehabilitation of such victims;*
- (e) *set out duties and responsibilities of the State, judicial officers and public officers towards the promotion and protection of the rights and entitlements of victims of crime and witnesses ;*
- (f) *stipulate offences that may be committed against victims of crime and witnesses and the penal sanctions that may be imposed on persons who commit such offences ; and,*
- (g) *provide for the adoption and implementation of best practices relating to the protection of victim of crime and witnesses’*

Rights and Entitlements of Victims of Crime and Witnesses

‘Section 3. A victim of crime shall have the right to-

- (a) *to be treated with equality, fairness and with respect to the dignity and privacy of such victim ;*
- (b) *where the victim is a child victim, to be treated in a manner which ensures the best interests of such child ;*
- (c) *in accordance with procedures as may be prescribed, to receive prompt, appropriate and fair redress, including reparation and restitution, for and in consideration of any harm, damage or loss suffered as a result of being a victim of a crime ;*
- (d) *to be appropriately protected from any possible harm, including threats, intimidations, reprisals or retaliations ;*
- (e) *to be medically treated for any mental or physical injury, harm, impairment or disability suffered as a victim of a crime etc.*

Entitlement of a Victim of Crime

‘Section 4.

(1). A victim of crime shall be entitled to receive a sum of money from the Authority, in consideration of the expenses incurred as a result of the offence committed and his participation in any judicial or quasi-judicial proceedings before a court or Commission, pertaining to the alleged commission of an offence or an alleged infringement of a fundamental right or a violation of a human right.

(2) Where necessary resources are available with the State, a victim of crime shall be entitled to claim and obtain from the State any required medical treatment, including appropriate medical services, medicine and other medical facilities, in respect of physical or mental injury, harm, impairment or disability suffered as a result of being a victim of crime and for necessary rehabilitation and counselling services.

(3) Where due to absence or lack of necessary resources the State is unable to provide the services claimed by a victim of crime under

subsection (2), such victim shall be entitled to apply to the Authority for financial assistance for the purpose of obtaining the required medical treatment for any physical or mental harm, injury or impairment suffered as a result of being a victim of crime and for any necessary rehabilitation and counselling service etc.

Entitlement of Witnesses

Section 5

(1) A witness shall be entitled to receive from investigational, quasi-judicial and judicial authorities fair and respectful treatment, with due regard to the dignity and privacy of such witness.

(2) A witness shall not be harassed or intimidated, coerced or violated during or thereafter, due to or as a consequence of-

- (a) providing information relating to the commission of an offence or to the infringement of any fundamental right or the violation of any human right;*
- (b) volunteering to make a statement during an investigation into any offence or an investigation or inquiry into the infringement of any fundamental right or the violation of any human right; or*
- (c) providing testimony in a court or before a Commission relating to the alleged commission of an offence or an alleged infringement of a fundamental right or a violation of a human right.*

(3) A witness shall be entitled to protection against any real or possible harm, threat, intimidation, reprisal or retaliation resulting from such witness having provided information or lodged a complaint or made a statement to any law enforcement authority or for having provided any testimony in any Court or before a Commission or for instituting legal proceedings, pertaining to the commission of an offence or for the infringement of a fundamental right or for a violation of a human right, by any person.

Offences against Victims of Crime and Witnesses

Section 6(1)

Any Person who-

- (a) threatens a victim of crime or a witness with injury to his person, reputation or property or to the person or reputation or property of any other in whom such victim of crime or witness has an interest, with the intention of causing alarm to such victim of crime or witness or to cause such victim of crime or witness to refrain from lodging a complaint against such person with a law enforcement authority or testifying at any judicial or quasi-judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person ; or*
- (b) voluntarily causes hurt to a victim of crime or a witness, with the intention of causing such victim of crime or witness to refrain from lodging a complaint against such person with a law enforcement authority, or testifying at any judicial or quasi-*

judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person, or in retaliation for a statement made or testimony provided by such victim of crime or witness in any court of law or before a Commission, against such person, commits an offence, and shall on conviction by a High Court, be sentenced to a term of imprisonment not exceeding ten years and to a fine of One Hundred Thousand Naira’

Establishment of the National Authority for the Protection of Victims of Crime and Witnesses

‘Section 7

(1) There shall be established an Authority which shall be called the National Authority for the Protection of Victims of Crime and Witnesses (in this Act referred to as the “Authority”).

(2) The Authority shall, by the name assigned to it by subsection (1), be a body corporate with perpetual succession and have a common seal, and may sue and be sued in such name

Composition of the Management of the Authority

Section 8

(1) The administration and management of the affairs of the Authority shall be vested in a Board of Management (hereinafter referred to as the “Board”) which shall consist representatives from the Ministries in charge of Disasters, Women’s Affairs and Youth Development, the Police, Attorney General’s Office, National Human Rights Commission and five of other persons who are academically and professional skilled in criminal justice administration and protection of human rights and or medicine to be appointed by the President

(2) The President shall, designate as the Chairman of the Board, a member from among the members of the Board who shall also be the chairman of the Authority’

Powers of the Authority

‘Section 9

(1) The Authority shall have the power to-

- (a) conduct an investigation or an inquiry into an alleged or an imminent infringement of a right or entitlement of a victim of crime or witness, to:-*
- (b) require any person other than a judicial officer or a Commissioner of a Commission to appear before the Authority and to participate in an investigation or inquiry;*
- (c) require any person other than a court or a Commission, to produce before the Authority any document, a certified copy thereof or other material in his or its possession or custody, including the reports of investigations, information book, extracts and officers visiting book extracts of the police, for examination and copying;*

- (d) *require any person other than a court or a Commission to provide to the Authority in writing, any information which it or he is likely to possess;*
- (e) *interview and record the statement of any person other than that of a judicial officer or a Commissioner of any Commission;*
- (f) *make an application to any court or Commission and be entitled to obtain certified copies of any proceedings of any case, action or other proceedings of such Court or Commission and documents and other material that may be filed of record in a case record or a file of such court or Commission;*
- (g) *enter into, inspect, examine or observe and record any event, location or process taking place in any place, including an investigation, inquiry, trial or other proceeding;*
- (h) *make an appropriate order and to direct, advice or recommend the adoption of such measures for the promotion or protection of the rights and entitlements of the victim of crime or a witness or for remedying any damage caused as a result of the infringement of the rights or entitlement of the relevant victim of crime or the witness;'*

Fund of the Authority

'Section 10

(1) The Authority shall have its own Fund.

(2) There shall be credited to the Fund of the Authority:-

- (a) all such sums of money as may be voted from time to time by National Assembly for the use of the Authority; and,***
- (b) all such sums of money as may be received by the Authority by way of donations, gifts, bequests and grants from sources within or outside Nigeria'***

7.3.2.5 Expediting Capacity Building on Data Collection

By way of proffering solution to problems of dearth of statistics on IDPs, this study recommends continuing training of staff of the relevant agencies on available technical knowledge on data collection and management. In this regard, this researcher recommends engaging international collaborators such as is done in the case of Uganda with United Nations Strategy on Disaster wherein a national data based was created for IDPs' profiling.

Secondly, Nigerian government should take advantage of the current leadership provided by International Organization for Migration (IOM) by consolidating on the knowhow and technical expertise on data collection and management provided with respect to Data Tracking Matrix (DTM) to fast track the development of a comprehensive and reliable data base of IDPs in Nigeria.

7.4 Stage Three (3): Post-Displacement Stage

This stage examines the legal and institutional issues and problems in the case studies. The following headings will be covered in this sub-topic, namely:

- 1) Findings; and,
- 2) Recommendations.

7.4.1 Findings

The following findings below are revealed from the analysis of the preceding chapters:

- i) There are no robust legal provisions to facilitate the attainment of durable solutions such as rehabilitation, resettlement and re-integration of victims after the incessant crises in Jos owing to lack of authoritative national policy on IDPs in Nigeria .
- ii) There are no comprehensive prosecution of perpetrators due to lack of evidence, inadequate expertise in handling and aggregating of evidence in mass crimes and lack of legal provision for robust protection of prospective witnesses.

iii) There are no special court to try offences related to internal security and other allied crimes in Nigeria. The ceding of jurisdiction to existing courts such as Federal High Court and State High Court resulted in unnecessary delays and in consequence stalled the process of accountability from reign of impunity.

iv) The case studies also revealed that lack of adequate funding as one great challenge to protection and assistance of IDPs in Nigeria. This derives from the mode of budgetary allocations to institutions⁹ responsible for the same which does not entitle them to a first line charge on national revenue despite the increasing waves of violence in the country.

v) There are no domestic legal provisions that replicate international and regional arrangements regarding IDPs in Nigeria to ease application and enforcement before national courts in spite of the gravity of the problems of internal displacement in the country.

vi) There are problems of lack of clear cut institutional guidelines on intervention as a result of overlapping mandates of several institutions dealing with IDPs related issues in Nigeria.¹⁰

vii) There is the problem of lack of dedicated or purpose-built IDP's camps for the victims of Jos crisis and security of victims.¹¹

⁹ NEMA and NCFRMI.

¹⁰ *Ibid.*, by virtue of section 6 (2), internal displacement is categorized as disaster over which NEMA can validly intervene in addition to NCFRMI.

¹¹ Oduwole Tajudeen A. and Fadeyi Adebayo O., "Issues of Refugees and Displaced Persons in Nigeria" *Journal of Sociological Research* Vol. 4, No.1 (2013), 5.

7.4.2 Recommendations

In respect of stage three above, the following headings will be covered under this sub-topic, namely:

- 1) Domestication of Other International Instruments Relevant to IDPs;
- 2) Establishment of Special Criminal Court;
- 3) Facilitating Victims' Access to Justice;
- 4) Improving Funding of National Institutions Relevant to IDPs; and,
- 5) Enacting National Legal Frameworks on IDPs.

7.4.2.1 Domestication of Other International Instruments Relevant to IDPs

This research recommends that beyond ratification, Nigerian government should go a step further by domesticating¹² into national legislations,¹³ the Four Geneva Conventions and the Additional Protocols, Rome Statute of International Criminal Court and the African Union Convention for the Protection and Assistance of Internally Displaced Persons.

By doing this, these treaties become part and parcel of Nigerian laws and applicable before national courts to punish wilful killings, torture and wanton destruction of properties and other criminal acts characterizing internal armed conflicts. Where they have reached the threshold of the crimes of genocide, crimes against humanity and war crimes, or breach of the Geneva Conventions and the Additional Protocols and

¹² Under section 12 of Nigerian Constitution (1999) an international treaty to be applicable as part of Nigerian Law must be so passed as an Act of the National Assembly.

¹³ This is also recommended by most scholars on internal displacement in Nigeria. See for instance, M.T 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, and 19th -20th August 2015. <http://www.ssm.com/abstract=2649377> (accessed on October 4, 2015).

within the meaning of international armed conflicts or non-international armed conflicts, the instruments must be domesticated as well to ease the application of guarantees entrenched therein. The researcher's suggestion is in line with Ugandan practice in which these treaties have domestic equivalents such as the Geneva Convention Act 1964 and the International Criminal Court Act 2010.

7.4.2.2 Establishment of Special Criminal Court

This research recommends that Nigerian government should follow the Ugandan practice by establishing special criminal court for trial of perpetrators of international crimes committed in context of internal conflicts instead of waiting for the International Criminal Court to assume jurisdiction consequent upon referrals. However this option will only become operational if the necessary national penal legislations are put in place to reflect international standards like the case of Ugandan International Criminal Court Act 2010 on the basis of which the International Crimes Division of the High Court of Uganda assumed jurisdiction in *Republic of Uganda v. Thomas Kwoyelo*.¹⁴

7.4.2.3 Facilitating IDPs' Access to Justice

IDPs' right should be further guaranteed beyond the mere prescriptions in the Nigerian Constitution through additional safeguards such as provision of free legal representation by the Legal Aid Council of Nigeria. In this manner effective and adequate remedy as encapsulated in the existing norms on internal displacement can be pursued more vigorously.

¹⁴ The brief facts of this case is already presented in chapter six of this research.

This research recommends an amendment to section 10 of Legal Aid Council Act ¹⁵ which provides for those entitled to legal assistance, for reason that is not wide enough to incorporate IDPs as the benchmark of earning below national minimum wage is no longer realistic given the economic crunch in the country and the resultant poverty. This researcher proposes that IDPs be specifically mentioned in the said provision as suggested below:

Amendment to section 10(1) of Legal Aid Council Act:

'Section 10 (1) Legal aid shall only be granted to a person whose income does not exceed the national minimum wage and to internally displaced persons in particular' (Emphasis added).

7.4.2.4 Adequate Funding of National Institutions Relevant to IDPs

The source of funding humanitarian assistance in Nigeria is limited and does not take cognizance of the extensive nature of mandate of these key institutions and the number of persons displaced by reasons of emergencies. This will entail a review of the enabling laws.

This researcher recommends the review of section 13 of NEMA Act regarding financial provisions to the agency by increasing from the current 20 percent out of the 2 percent ecological fund¹⁶ to 40 percent at least in view of the disproportionate rise in internal conflicts in Nigeria. This will also led to further amendment of this provision by adding the phrase "ecological disasters and internal displacement" in place of "ecologically related disasters" as presently constituted to make it more

¹⁵Cap L9 Laws of the Federation of Nigeria 2004.

¹⁶ Section 13 (2) (b) of National Emergency Management Agency (Establishment) Act 1999 now Cap N34 Laws of the Federation of Nigeria 2004.

legally accessible in an event of displacement occasioned by internal conflicts. The suggested amendment is as follows:

Amendment of section 13 (b) of NEMA Act:

Section 13(1):...;

Section 13(2): There shall be paid and credited to the fund established pursuant to subsection 1 of this section-

- (a) ...;*
- (b) 40 percent of the 2 percent of the Ecological Fund for the management of ecological disasters and internal displacement' (Emphasis added).*

With respect to NCFRMI Act, it is the researcher's recommendation that a brand new provision dealing with source of funding to the Commission consistent with the foregoing proposal be included in the proposed amendment sent to the National Assembly to confer on it the financial autonomy to deliver its mandate towards IDPs' protection and assistance. The suggested provision on funding is highlighted below.

Proposed Financial Provision in the NCFRMI Act.

'Section 7

(1) The Commission shall establish and maintain a fund from which shall be defrayed all expenditures incurred by the Commission in respect of the provision of assistance to refugees, migrants and internally displaced persons

(2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section-

- (a) monies from first line charge on the Consolidated Revenue Fund of the Federation Account;*
- (b) such monies as may, from time to time, be granted or lent to the Commission by the Federal Government, or a State Government or a Local Government;*
- (c) such monies as may, from time to time, be granted or received from -*
 - (i) the organized private sector; and,*
 - (ii) international or donor organisations and non-Governmental organizations.*
- (d) all monies raised for the purposes of the Commission by way of gifts, loan, grants-in-aid, testamentary disposition or otherwise; and,*

- (e) *all other assets that may, from time to time, accrue to the Commission.'*

7.4.2.5 Enacting National Legal Frameworks on IDPs

This study recommends that Nigerian government should follow Ugandan example in the proposed draft National Policy on IDPs which establishes the Office of the Prime Minister with special powers to handle issue of coordination and collaboration in the overall management of IDPs concerns in line with the stipulations in the Kampala Convention.¹⁷ By this singular measure, assistance to IDPs would be purpose driven.

The relevant clauses of the Ugandan National Policy on IDPs in this regard are to be included in its Nigerian counterpart.

7.5 Summary

This chapter deals with findings of this study in the light of the three stage structure adopted in this study and juxtaposing the same with lessons drawn from the study of two foreign jurisdictions-Sri Lanka and Uganda. It also delves into proposing legal and policy recommendations to Nigerian Government and other relevant stakeholders.

From stage one the findings reveals that the internal crises subject of this study happened as a result of convergence of factors ranging from ethnic, religion and politics. These factors are also confirmed to be so implicated in the comparative

¹⁷ See article 2(c), 3 (2) (e) and 11.

study as well. The researcher's recommendations in respect of this stage entails review of constitutional provisions that have been exploited to fan sectional interests and also engaging in practical measures to sustain harmonious existence irrespective of ethnic, religious and political diversities.

With respect to stage two, it was revealed that IDPs were confronted with several challenges and problems consequent upon the internal crises. Such problems include but not limited to forceful displacement, death and loss of property. It also reveals lack of legal provisions for protection and assistance of IDPs. In this respect, the study recommends the adoption of national IDP policy and the establishment of institutions with legal mandates on IDPs and robust compensation programme among several other recommendations drawing lessons from the study of Sri Lanka and Uganda.

Finally, this study finds in respect of stage three dearth of legal and institutional frame work on IDPs in Nigeria, low rate of prosecution of crimes connected with internal crises and data challenges among others and recommended that relevant international instruments on international crimes committed in the context of internal conflicts in which Nigeria is a signatory be domesticated to ease their application. This is suggested to be complimented by in-depth and review of statutes of some key institutions to align their mandates with IDP protection and assistance among others.

Be that as it may once Nigerian government is able to holistically abide by proposed recommendations in this study which is based on primary investigation as distilled out of the case studies in this study, effective legal and policy protection for victims

of recurring conflicts in Jos devoid of avoidable gaps and challenges as presently experienced would be an achievable feat.



CHAPTER EIGHT

CONCLUSION

This research focuses on legal frameworks for protection of IDPs in Nigeria using the phenomena of recurring conflicts in Jos as a case study is underpinned by the perception that formulation of effective legal and policy frameworks is key in this regard.

In chapter one, this research commenced by introducing the concept of internal displacement insofar as it was evidenced from recurring internal conflicts in Jos, Plateau State Nigeria with some of the negative impacts desecrating the image of the country internationally. It examined in brief historical account of Nigeria and its multi-ethnic characterizations. The chapter also captured the problems that informed this study, the research questions derived from the said problems and the research objectives. The significance of the study from the perspectives of IDPs, Nigerian government and other relevant stakeholders and academics was also dissected.

The methodology adopted in the examination of the delineated issues and problems in this research and its salient components such as the designs, scope, types of data, methods of data collection in so far as it relates to socio-legal research which is evidently qualitative in method as applicable in the instant study was examined and in addition review of related literature which comprised of different related themes bearing on the subject of this chapter was highlighted.

Chapter two dealt with an overview of displacement caused by conflicts in Nigeria. Three eras were identified namely; pre-independence, post-independence and current democratic dispensation for the purposes of illustrating the gravity of the problems of internal crises in Nigeria. Similarly three patterns of conflict induced displacement namely, ethno religious, political and communal were examined as well.

In chapter three, this research examines legal frameworks for the protection of IDPs in Nigeria. The chapter analysed these legal frameworks in terms of their application to situations of internal displacement as a result of internal conflicts in Nigeria. It employed relevant case law authorities from international courts and domestic courts to illustrate the application of the rules and principles embedded in these laws.

Chapters four and five are the case studies I and II components of this research. The Chapters dealt with the analysis of data and information drawn from field work and rely on sources such as in-depth interview of victims, stakeholders, police and legal experts as well as researcher's observation. It also relied on other primary and secondary sources. The case studies covered internal conflicts in Jos in 2010 and the sudden emergence of bomb related violence in Jos. The chapters were structured into three (3) stages in the light of the research questions and objectives so as to ensure that that investigation is thorough and in-depth. The chapters conclude with legal analysis of emerging issues arising from the investigation in congruence with the sequential order adopted in the case studies.

In line with the research questions and objectives of this study, a study of laws and practices in Sri Lanka and Uganda on similar challenges of internal displacement

was undertaken vis-à-vis Nigeria in chapter six of this research for the purpose of advancing lessons that were adopted as parts of recommendations in this research. The rationale behind the selection of these countries was highlighted in chapter one of this research. Like the preceding chapter, this chapter was also patterned into three (3) stages to wit; pre-displacement, displacement and post-displacement.

Chapter seven focused on the discussion on findings based on the primary data obtained in respect of the case studies I and II, and the secondary data in respect of legal issues elaborated in chapter three and study of the two (2) foreign jurisdictions. The Chapter is patterned on three (3) stage structure and it thoroughly examined the research questions in this study as adopted and pointed out in chapters four, five and six respectively. The research made several recommendations among which are advocating review of the duplicitous provisions in Nigerian constitution and their treacherous interpretations, speedy adoption of the National IDP Policy, amendment of the NCFRMI Act and other policy matters,. The cumulative dearth of the foregoing was found to be responsible for the incessant outbreak of internal conflicts in the study area in particular and Nigeria as a whole coupled with the uncoordinated, haphazard and informal humanitarian assistance.

Internal displacement has gradually become problem of great concerns in Nigeria when considered from the backdrop of the number of persons uprooted and rendered homeless by the ever increasing incidences of internal conflicts in all parts of the country.¹ This problem which gradually became popular predated both the pre-independence and post-independence years and it is ongoing till date.

¹ As of April 2015, it was estimated that 1, 538,982 persons has been displaced in Nigeria following the ongoing brutal clashes orchestrated by Boko Haram militia in the North East as well as the

The problem of internal displacement has unleashed in addition to the enthroned deprivation of the rights of the citizens, socio-economic hardships on the country's nascent democracy as more and more scarce revenues are channelled towards the provision of security to the reckless abandonment of infrastructural development.²

The findings in this research showed that the causes of recurring internal violence in Jos are multiple but ethnic/communal rivalries heightened by the monster called indigene settler dichotomy and acts of terrorism aggravated by series of bomb explosions were heavily implicated as profound drivers of crises. Religion and politics are merely used as a bait to bolster ethnic differences.

Several legal and policy recommendations were made in the light of the findings in tune with the objectives of the study which was based on identifying the gaps and/or gaps. This research proposed model laws and highlighted some amendments to the extant Nigerian legal and policy frameworks on IDPs drawing from the Sri Lankan and Ugandan experiences.

In sum, it is hoped Nigerian Government will take the lead provided by the recommendations in this research in her bid to ensure that appropriate laws and

counterinsurgency of the armed forces and the communal crises in the North Central States. See Internal Displacement Monitoring Centre (IDMC): Nigeria IDP Figure Analysis, www.internaldisplacement.org/.../nigeria/figure (accessed on October 11, 2015).

² Chris I. Nwagboso "Security Challenges and Economy of the Nigerian State (2007-2011)" American International Journal of Contemporary Research, Vol.2, No.6 (2012):244-258. www.ajcrnet.com/journals/Vol_2.../28.pdf (accessed on August 28, 2015); Nwanego Chukwuemeka Jaja, "Internal Conflicts and African Development: The Nigerian Experience" *Journal of Humanities and Social Sciences* Vol. 5 issue 4 (2012):23-33, files.figshare.com/1842592/C0542333.pdf (accessed on August 28, 2015).

policies are put in place to guarantee effective protection of IDPs beyond the present *ad-hoc* and uncoordinated arrangement.

While it is true that some of the recommendations would as a matter of necessity involve legislative imprimatur, they are not insurmountable, if the necessary political will and commitment is shown by government in the overall interest of the country and her nearly 200 million people.

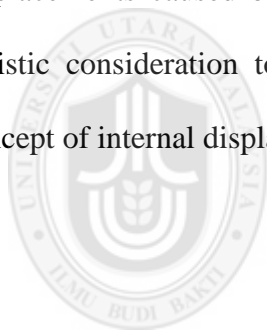
This socio-legal research contributes theoretically to the existing literature on internal displacement in Nigeria as it investigated the causes of internal crises, and problems faced by victims with specific reference to conflict induced displacement using a case study method which relied on primary data drawn from multiple sources and supported with secondary sources.

This research brought to the fore the weaknesses and gaps in the existing legal and institutional frameworks for protecting and assisting IDPs in an elaborate context beyond national settings in that it rigorously appraised international and regional instruments relevant to IDPs and which applies to Nigeria by virtue of it being signatory.

In addition to the foregoing, this research set the stage for orderly formulation of legal and policy frameworks for IDPs protection and assistance in Nigeria in that it provided several useful suggestions for reviews of extant Nigerian laws in line with lessons and findings drawn from comparison of laws and policies on internal displacement from Sri Lanka and Uganda.

With respect to area of further study, this research focuses mainly on internal displacement caused by internal conflicts in Nigeria using Jos, Plateau State as case study. Apart from conflict induced displacement which preponderates the present research, there is disproportionate rise in massive displacement due to development projects such as extraction of mineral resources, state led eviction programmes and impact of natural disasters such as flooding among others. By reason of the scope of this study, internal displacement attributed to these factors were as a matter of necessity left out in this research.

There is an imperative need for further study to be undertaken in these areas of displacements caused by development projects and natural disasters so as to give holistic consideration to legal issues and practical problems associated with the concept of internal displacement generally in Nigeria.



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APPENDIX A

INFORMED CONSENT FORM

STATEMENT OF INFORMED CONSENT

Thank you for volunteering to participate in this interview which is an important part of my PhD research at the Universiti Utara Malaysia titled “Formulating Legal and Policy Frameworks for the Protection of Internally Displaced Persons in Nigeria: A Case Study of Internal Conflicts in Jos, Plateau State.”

In the course of the interview session, we shall engage in discussions covering the causes, challenges and management of the crises in Jos from January to March 2010 and also the new spate of bomb explosions in the city from 2010 to 2015. The session will last for two hours or less and may be audio and video recorded if you indicate your consent.

You may elect not to participate in the interview and you are not required to give reason for your refusal.

Your background and other information given in this interview will be confidential.

Your participation in the interview will not attract any pecuniary or non-pecuniary benefit from the interviewer.

Name.....

Address.....

Phone No.....

Age.....

Sex.....

Signature and date.....

APPENDIX B

INTERVIEW RESEARCH QUESTIONS GUIDE

Interview questions	Probing Questions
1. From your experience and observations what in your view are the root causes of recurring internal crisis in Jos?	Were you personally affected in any the crises?
2. What are the challenges you faced during the crises?	Were you satisfied with the provisions of shelter, food and other basic necessities during the crises?
3. How were the victims of the crises treated by government?	Did Plateau State Government make any provisions for victims during the crises?
4. How does this internal crises impact on the peace and order in the city of Jos?	Was there mass movement of people out of Jos following the crises?
5. Does the conflict have any ethnic, political or religious colouration?	
6. What is the relationship of the various ethnic tribes in Jos with one another?	
7. a) Does the conflict in 2010 share any similarities with prior cases of violence in Jos? 7. b) Why the new waves of bomb related violence in Jos?	
8. Does the state possess the requisite capacity to manage the conflicts?	Does Nigeria have any specific legislation for the protection of Internally displaced persons?
9. How did the security agencies responded to the crises?	
10. Does the enabling statutes creating NCFRMI and NEMA have clear mandates for internally displaced persons protection?	What are the gaps in the statutes? How many persons has been prosecuted for their involvement in the violence in Jos?

APPENDIX C

BACKGROUND INFORMATION OF PARTICIPANTS IN THE FIELD STUDY IN RESPECT OF CASE STUDY I

S/No	Location in the Study Area	Occupation	Status	Sex	Unit of Analysis
R1	Abuja	Public Servant	Planning Officer	Male	Institution
R2	Abuja	Public Servant	Director	Female	Institution
R3	Jos City Centre	Business	Victim	Male	Individual
R4	Jos City Centre	Teacher	Victim	Female	Individual
R5	Zaria Road Jos	Clergy	Victim	Male	Individual
R6	Gangere Jos	Civil Servant	Victim	Male	Individual
R7	Bukuru Jos	Business	Victim	Male	Individual
R8	Gada Biu	Business	Eye Witness	Male	Individual
R9	Zenta Adamu	Clergy	Senior Pastor	Male	Individual
R10	Dadin Kowa	Civil Servant	Victim	Male	Individual

Legend: R means Respondent in the Case Study

Source: Researcher's Field Study 2015

APPENDIX D

BACKGROUND INFORMATION OF PARTICIPANTS IN THE FIELD STUDY IN RESPECT OF CASE STUDY II

S/No	Location in the Study Area	Occupation	Status	Sex	Unit of Analysis
R1	Jos	Police Officer	O/C Legal Prosecution	Male	Institution
R2	Jos	Security Personnel	Chief Security Officer	Male	Institution
R3	Jos	Pastor	Victim I	Male	Individual
R4	Jos	Medical Personnel	Senior Medical Officer	Male	Institution
R5	Jos	Police Officer	Investigating Police Officer	Male	Institution
R6	Jos	Resident I	Victim II	Male	Individual
R7	Jos	Resident II	Victim III	Male	Individual
R8	Anyigba	Legal Practitioner	Professor of Law/Legal Expert	Male	Individual
R9	Anyigba	Legal Practitioner	Senior Lecturer/Legal Expert	Male	Individual

Legend: R means Respondent in the Case Study

Source: Researcher's Field Study 2015/2016

APPENDIX E

LETTER OF DATA COLLECTION FOR PhD THESIS

1. LETTER OF DATA COLLECTION FOR PhD THESIS TO NATIONAL EMERGENCY MANAGEMENT AGENCY ABUJA NIGERIA.
2. LETTER OF DATA COLLECTION FOR PhD THESIS TO NATIONAL COMMISSION FOR REFUGEES, MIGRANTS AND INTERNALLY DISPLACED PERSONS, ABUJA NIGERIA.
3. LETTER OF DATA COLLECTION FOR PhD THESIS TO COMMISSIONER OF POLICE. PLATEAU STATE COMMAND JOS, NIGERIA.
4. LETTER OF DATA COLLECTION FOR PhD THESIS TO HON. ATTORNEY GENERAL AND COMMISSIONER FOR JUSTICE, JOS, PLATEAU STATE.
5. LETTER OF DATA COLLECTION FOR PhD THESIS TO HIS ROYAL MAJESTY GBONG GWOM JOS, PLATEAU STATE.

