



**RESPONSIBILITY TO RESPOND TO INTERNAL DISPLACEMENT IN THE  
ECOWAS REGION: CASE STUDIES OF COTE D'IVOIRE, LIBERIA AND  
NIGERIA**

**A JOINT STUDY ON INTERNAL DISPLACEMENT IN THE ECOWAS REGION  
AN ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) /  
UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)**

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## Acronyms

ADDR	-	Authority for Disarmament, Demobilisation and Reintegration
AU	-	African Union
CDVR	-	Commission Dialogue, Vérité et Réconciliation - (Dialogue, Truth and
CSO	-	Civil Society Organisation)
ECOWAS	-	Economic Community of West African States
IDMC	-	Internal Displacement Monitoring Centre
IDPs	-	Internally Displaced Persons
LRRC	-	Liberia Refugee Repatriation Commission
NCFR	-	National Commission for Refugees
NEMA	-	National Emergency Management Agency
NGO	-	Non-Governmental Organisation
NHRC	-	National Human Rights Commission
NHRI	-	National Human Rights Institution
OCHA	-	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	-	Office of the United Nations High Commissioner for Human Rights Reconciliation Committee)
UNHCR	-	United Nations High Commissioner for Refugees

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## Foreword and Acknowledgements

West Africa is one of the sub-regions of Africa most heavily affected by displacement. While several millions Internally Displaced Persons (IDPs) have returned home or resettled with the ending of civil wars in Liberia and Sierra Leone, large numbers remain in Ivory Coast, Mali, Nigeria and Senegal.

The Economic Community of West African States (ECOWAS) is one of Africa's leading sub-regional organizations and has increasingly become involved in issues of humanitarian concern, including internal displacement. At the First ECOWAS Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa, organized by the ECOWAS Commission in collaboration with the UNHCR and the African Union on July 7, 2011 in Abuja, those present adopted a declaration welcoming the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), World's newest, first ever comprehensive and innovative regional treaty that binds governments to protect and assist IDPs, and calling for its application by ECOWAS Member States. In order to successfully provide support to the Member States in respect of the above declaration's follow-up activities, UNHCR Commissioned consultants to conduct this study, titled, '**Responsibility to Respond to Internal Displacement in the ECOWAS Region: Case Studies of Cote D'Ivoire, Liberia and Nigeria**'.

This study uses the **Framework for National Responsibility in Addressing Internal Displacement** developed in 2005 by the Brookings Institution (acknowledged in chapter two of this study) as a useful tool for assessing the extent to which the three ECOWAS Member States studied have and have not, exercised their responsibility entrusted to them by both their national constitutions and international law, along each of the Framework's suggested **twelve benchmarks**, thereby seeking to strengthen government's accountability to IDPs.

Hence, Member States can see how other governments have put measures on ground to address similar challenges in preventing displacement, collecting data on IDPs or supporting durable solutions.

It is with profound gratitude to the Embassy of Finland that generously funded this study, our dedicated team of research consultants who carried out this study, led by Professor Muhammed Tawfiq Ladan (Nigeria), Lassana Kone (Cote D'Ivoire) and the Late Jasper Cummeh (Liberia) as well as our committed international reviewer (Lizzie Rushing of IDMC, Geneva), that I graciously introduce this study to all those interested in addressing the phenomenon of internal displacement and the plight of IDPs.

Special thanks to our committed team of project managers: - Wahid Ben Amor and Katja Susan Rytkenen (UNHCR) and Olatunde Olayemi (ECOWAS Commission) for working tirelessly with the research consultants, national authorities and colleagues in the UNHCR Offices in Abidjan and Monrovia.

It is my hope that this study will encourage civil society organisations and humanitarian actors in all the ECOWAS Member States to continue to play their part in the promotion and protection of the rights of IDPs.

Finally, responsibility for any omissions, errors of fact or interpretation rests with the research consultants.

**Angele Dikongue-Atangana**

UNHCR Representative to Nigeria/ECOWAS

April 2014

# Executive Summary

National authorities have primary responsibility to prevent internal displacement, provide protection and humanitarian assistance to internally displaced persons (IDPs) within their jurisdictions and seek durable solutions. In dealing with internal displacement, governments often face difficult challenges and questions: - What are the most effective ways to address internal displacement? What is the relevant normative framework? What constitutes a durable solution? What role should national, regional and international institutions/ humanitarian actors play?

This study seeks to shed light on how and to what extent the fundamental responsibility of governments toward IDPs is translated into effective response by three ECOWAS Member States, by using the **twelve benchmarks of the Framework for National Responsibility** as an assessment tool. In chapter one, the study provides for the contextual background analysis of the complex causes and constrained national responses to the phenomenon of internal displacement in the ECOWAS region; establishes the compatibility of the twelve benchmarks with the AU Kampala Convention on IDPs and the ECOWAS Humanitarian Policy/Plan of Action; and identifies major recent trends in addressing internal displacement in West Africa.

Chapter two of this study underscores the significant nexus between the concepts of state sovereignty and responsibility to protect and clarifies the following: - i. That there is no transfer or dilution of state sovereignty. But there is a necessary re-articulation from sovereignty as control to sovereignty as responsibility in both internal functions and external obligations; ii. The provisions of the Kampala Convention on State Sovereignty are in line with the concept of the 'responsibility to protect' that was adopted by the UN General Assembly in 2005, and which developed in large measure from efforts to design an international system to protect IDPs, i.e. "sovereignty as a responsibility"; iii. the model the study uses is based on the Framework for National Responsibility developed in 2005 by the Brookings Institution-University of Bern Project on Internal Displacement, which spells out the twelve benchmarks of national responsibility.

The comparative analysis across the three ECOWAS Member States presented in chapter three, is based on a systematic application of the Framework for National Responsibility in addressing internal displacement. Each of the benchmarks is summarized and compliance with each benchmark is analysed for all the three countries studied. These countries (Cote D'Ivoire, Liberia and Nigeria) represent varied experiences (between 1994 and 2014) with the number of IDPs and trend and impact of internal

displacement which is caused by conflict, generalized violence, human rights violations and natural disaster. Each of the twelve benchmarks is a lens allowing for government policy, practice or inaction vis-à-vis internally displaced persons to be viewed and assessed.

A more in-depth analysis of national response to internal displacement in the three countries studied is given in chapter four. Chapter Five concludes with major pointers of the study and recommendations to ECOWAS Member States on how best to discharge their responsibility to prevent internal displacement; protect the rights of IDPs and provide humanitarian assistance to their displaced populations.

Below are some of the major pointers and recommendations of this study: -

- 1) Evidence of a growing improvement and standardization of national responses in the ECOWAS region, particularly, pertaining to the political will to draft policies on IDPs, (as exemplified by Nigeria) sign and ratify the Kampala Convention (Cote D'Ivoire reported by the Ivorian case study to be the tenth member state of ECOWAS) or adopted the UN Guiding Principles on Internal Displacement as legally binding (in the case of Liberia) as well as the setting up of national focal points to coordinate the affairs of IDPs and humanitarian crises.
- 2) That assessing a government's performance on each of the twelve benchmarks of the Framework for National Responsibility provides an accurate picture of political will. For example, a government may collect data on internal displacement, set up an institutional focal point on IDPs, adopt an IDP law or take action toward meeting many or most of the benchmarks without necessarily having the genuine political will to protect the rights of IDPs and assist them in a sustainable manner. Even the indicators developed for each benchmark cannot give a complete picture of a government's exercise of its responsibility toward IDPs. That said, it does seem that action on the benchmarks can indicate a certain degree of political will; certainly it suggests that a government is ready to acknowledge IDPs as an issue and understands that doing so raises expectations for a government response. Furthermore, taking no action on certain benchmarks—for example, Benchmark 2 on acknowledgment of the existence of internal displacement—indicates a lack of political will to take certain actions on the issue. That is in and of itself quite revealing.
- 3) This comparative analysis has revealed certain trends for each benchmark in terms of the readiness and capacity of the included governments to mount an effective national response and in terms of the modality of response. In looking at the overall results of this analysis, it

must be said that no one government performed well on all twelve of the benchmarks; conversely, most governments were taking at least some measures in line with at least some of the benchmarks, at least for certain groups of IDPs. Overall, governments performed much better on the three benchmarks on legal frameworks, policies and institutional focal points (Benchmarks 5, 6 and 7, respectively) than the others, at least with respect to taking the basic minimum actions recommended; very often, however, effective implementation was limited.

- 4) While there is a dearth of information about living conditions for IDPs generally, much less is known about IDPs living outside of camp settings—for example, whether they are sharing a house with relatives or friends, whether they are squatting on public property, or whether they have joined the ranks of the urban poor. And little is known about their specific needs for protection and assistance. Are they generally eking out a living? Are they exploited and threatened? Do they face discrimination any different from that experienced by the urban poor? Answers to these important questions are simply unknown.
- 5) While recognising that years of armed conflict (as was the case with internal conflict/counter-insurgency operations negative impact on the capacity of nearly all of the countries studied, at the same time, the level of development of a country, including in terms of governance structures, does appear to have better equipped some government institutions to respond. Nigeria, with an active national coordinating body, NEMA, a well-established judiciary and an activist National Human Rights Commission and civil society/media, has developed comprehensive policies, plans of action and strategies for resource mobilization for responding to internal displacement and humanitarian crises, through many observers consider such efforts still inadequate to address the scale of displacement nationwide, especially in the Niger-Delta and North-Eastern parts of the country.
- 6) As discussed in chapters 2 and 4 of this study, although the Framework for National Responsibility has been widely used by government and international practitioners, and has been employed to analyze specific government responses to internal displacement, overall, the study found the Framework to be very useful tool for conducting assessments, although the collection of data for some of the benchmarks was especially challenging.



## Recommendations to ECOWAS Member States

First, Member States to implement the following key points of the Resolution of the First Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa, held in Abuja on 7 July 2011: -

- i. **“On the Prevention of Forced Displacement in the Economic Community of West African States:** to undertake to examine further all the factors that cause or contribute to forced displacement of people in our region, with a view to preventing displacement emanating from conflict and generalized violence and mitigating its devastating effects on our people; to encourage every Member State to install at the national level an early warning and rapid response system in close coordination with the already established system at the regional level run by ECOWAS and thereby facilitating its integration to the continental early warning system. The early warning system should cover all positive root causes of forced displacement in West Africa, guided by a comprehensive and participatory vulnerability analysis.
- ii. **On the Protection, Assistance and Durable Solution for Internally Displaced Persons:** to reaffirm our commitment to fully respect at all times the internationally recognized humanitarian principles of humanity, independence, impartiality and neutrality; in line with principles of the Kampala Convention, we commit ourselves to strengthen national and regional mechanisms for the promotion, respect and protection of human rights in our region, including of internally displaced persons; to urge Member States to undertake additional measures to ensure that the internally displaced persons enjoy all fundamental human rights on the same basis as all nationals.
- iii. **On the Promotion, Signing, Ratification, Domestication and Implementation of the African Union Kampala Convention on the Protection and Assistance of Internally Displaced Persons:** to commit ourselves to lead in the advocacy and promotion of the African Union Kampala convention in our countries so as to secure the rapid signing; ratification and deposit of the instruments at the AU Commission by Member States who have not signed and ratified the Convention; to agree and commit ourselves to lead in the national efforts towards the domestication and implementation of the Kampala convention in our countries.
- iv. **On Collaboration with the International Humanitarian Community:** to strongly reaffirm our commitment to continue the partnership that exists between the international community, ECOWAS and governments in our region in the provision of humanitarian assistance,

protection and finding durable solution for internally displaced persons, refugees and returnees; to commit to specially assure the coordinated and unfettered access of humanitarian actors to affected populations and grant them full access to all relevant information needed to facilitate the provision of assistance and to the observance of the highest international standards in the delivery of humanitarian assistance to displaced persons.”

Second, on domestic implementation of the Kampala Convention, the ten State parties (Benin, Burkina Faso, Gambia, Guinea-Bissau, Mali, Niger, Nigeria, Sierra Leone, Togo and Cote D'Ivoire) to the Kampala Convention in the ECOWAS region need to adopt the AU Model Law (See Annex I of this study) on domestic implementation of the Kampala Convention in their respective States as a practical demonstration of their political will to address the phenomenon of internal displacement and in the best interest and welfare of IDPs.

Third, while this study has given some indication of how various governments studied have implemented each of the benchmarks, which could well serve as practical advice to other governments in the ECOWAS region, much greater attention is needed to both ensuring that data on IDPs exist and collecting data on the benchmarks of the Framework for National Responsibility.

## **To ECOWAS**

- **Strengthen the engagement of ECOWAS on issues of internal displacement.** In this context, ECOWAS should place the issue of internal displacement on the agenda of its various decision making bodies and ensure compliance with the ECOWAS humanitarian policy and plan of action. In addition, ECOWAS should encourage member States to create emergency response mechanisms and focal points for internal displacement, and should facilitate the development of networks working on issues of internal displacement.
- **Reinforce the capacity of ECOWAS to advocate on issues of internal displacement.** ECOWAS should appoint a focal point dedicated to addressing issues of internal displacement in West Africa. This person may be an eminent dignitary responsible for raising awareness of displacement issues, investigating situations of displacement, and promoting protection and assistance for IDPs in West Africa. This body will complement the effort of the African Commission on Human and Peoples Rights (ACHPR) Special Rapporteur at the ECOWAS sub-regional level in

terms of information sharing and monitoring of implementation of the Kampala Convention in West Africa.

- **Encourage ratification and implementation of the Kampala Convention and other relevant ECOWAS Protocols.** ECOWAS has developed various norms and standards relevant to internal displacement, including the ECOWAS Protocol on Free Movement, the ECOWAS Protocol relating to the Mechanism on Conflict Prevention, Management, Resolutions, Peacekeeping and Security, and the Supplementary Protocol on Good Governance. States commitment to these Protocols should be consolidated through universal ratification or other process. ECOWAS should undertake regular monitoring of the implementation of these instruments especially the Kampala Convention that had been ratified by ten ECOWAS Member States as at January 2014.
- **Encourage stronger inter-regional dialogue on issues of internal displacement.** In particular, National Human Rights Institutions (NHRIs) from across Africa should meet and compare experiences in addressing internal displacement using the platforms of West African NHRIs and the West African Bar Association (WABA) whose secretariats are currently located in Abuja and Lagos respectively, to complement the efforts of the African Network of NHRIs.
- **Train the ECOWAS Stand-By Force on issues of internal displacement.** ECOWAS has recognized that its stand-by force should be trained on the Kampala Convention. Training at all levels should take place before deployment, and reinforced regularly.

# CHAPTER ONE

## Introduction

### Background

The plight of Internally Displaced Persons (IDPs) has over the years become a formidable problem of global significance and implications.<sup>1</sup> Around the world, as of the end of 2013, about 33.3 million people were internally displaced due to conflicts and generalized violence.<sup>2</sup> Sub-Saharan Africa recorded the highest number of IDPs with 12.5 million, more than a third of the global total.<sup>3</sup> Nigeria contributed to the rise with 3.3 million, making it the country with the highest figure both in ECOWAS sub-region and sub-saharan Africa.<sup>4</sup> In addition to the almost ten million African IDPs uprooted by conflicts, thousands if not millions more have been displaced by development projects, land grabbing and natural/environment disasters, many linked to the effects of climate change.<sup>5</sup>

The sharp increase in the number of African IDPs to over 10.4 million IDMC monitored<sup>6</sup> in 2012, up 7.5% from 9.7 million at the end of 2011, reversed to steady downward trend in the region since 2004, and was linked to worsening conflict and generalized throughout Sub-Saharan Africa, particularly in the DR Congo, Somalia and Nigeria.<sup>7</sup>

Their ever-increasing numbers pose enormous challenges to the international community and have even proved capable of sparking tensions in areas and regions that were previously untroubled. Basic requirements as to food, shelter, medical care and hygiene; through sheer quantitative needs create huge logistical problems in terms of procurement, adequate and equal distribution. The governments concerned see themselves in apparently insoluble dilemmas, including those presented by the repatriation of groups of people who fled their home country because of armed conflicts, gross human rights violations and other causes of displacement mentioned below. These groups of people are often afraid of return, while at the same time their presence in another country or region gives rise to insurmountable problems. The current international dimension of displaced persons does not in any way diminish its significance for law enforcement officials at the national level.<sup>8</sup>

Governments have primary responsibility for addressing the needs of displaced persons within their borders. Indeed, sovereignty is recognized as entailing national responsibility for ensuring the welfare and security of the people residing within a country's territorial jurisdiction. To this end, governments are expected to undertake measures, such as adopting policies and laws,

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<sup>1</sup> See International Committee of the Red Cross, Geneva (2009): - International Review of the Red Cross: - Humanitarian debate: - Law, Policy, Action: - Displacement at pp.463-465.

<sup>2</sup> See [www.internal-displacement.org](http://www.internal-displacement.org), IDMC/NRC Global Overview 2014: - People Internally Displaced by Conflict and Violence, at p.9;

<sup>3</sup> Ibid at p.18.

<sup>4</sup> Ibid.

<sup>5</sup> See IDMC/NRC op. cit. (2012): Internal Displacement in Africa, at pp.15-33; Also see Ladan M. T., (2011): - "Legal and Policy Imperatives for the Prevention, Protection, Assistance and Durable Solutions to the Plight of IDPs in Nigeria", in the African Yearbook on International Humanitarian Law, JUTA, South Africa, at p.79

<sup>6</sup> IDMC Supra note 2.

<sup>7</sup> Ibid

<sup>8</sup> Ladan, M.T. (2011) supra note 5, at pp.2-4.

setting up national institutions, allocating resources, and cooperating as appropriate with international and regional organisations as well as non-governmental organisations, to ensure the provision of assistance, protection and reintegration and development aid to their internally displaced populations.<sup>9</sup>

In dealing with internal displacement, governments often face difficult challenges and questions: What are the most effective ways to address displacement? What is the relevant normative framework? What role should national, regional and international institutions play? What constitutes a durable solution to displacement?<sup>10</sup>

To provide current and relevant information on national responses to the phenomenon of internal displacement in the ECOWAS region, the UN High Commissioner for Refugees/ECOWAS commissioned three consultants one each for Cote D'Ivoire, Liberia and Nigeria to carry out case studies on the nature, extent, issues and challenges in national responses to the phenomenon of internal displacement in the selected countries. The Lead Consultant/Nigeria Country Consultant was responsible for coordinating the conduct of the entire baseline study and preparing a draft consolidated regional report.

### **1.1 Rationale for the Study**

It is against this background that this study on internal displacement in the ECOWAS region seeks to achieve the following objectives: -

- i. To determine the causes, nature and extent of internal displacement as well as national response frameworks in the selected ECOWAS Member States;
- ii. To identify the factors hindering effective national responses to the plight of IDPs in the ECOWAS region consistent with the Kampala Convention;
- iii. To provide some recommendations for ECOWAS and its Member States.

### **1.2 Contextual Analysis of the Phenomenon of Internal Displacement in the ECOWAS Region: - Complex Causes and Constrained National Responses**

Prior to the adoption in 2009 of the African Union (Kampala) Convention for the Protection and Assistance of IDPs in Africa and the declaration made at the First Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa in 2011, an effort was made to better address the phenomenon by convening the First Regional Conference on Internal Displacement in West Africa, in Abuja, Nigeria from 26-28 April, 2006. The conference was hosted by the Federal Government of Nigeria and co-sponsored by the ECOWAS Commission, the Brookings-Bern Project on Internal Displacement, the Representative of the UN Secretary General on the Human Rights of IDPs and the UN High Commissioner for Refugees (UNHCR).<sup>11</sup>

The conference recognized that internal displacement was a pressing concern for individual ECOWAS Member States, as well as for the entire region. While conflict was acknowledged as the principal source of internal displacement in West Africa, a diverse

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<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> See Report of the First Regional Conference on Internal Displacement in West Africa, held in Abuja, ECOWAS Commission, between 26-28 April, 2006.

range of other factors contributed to internal displacement, including natural disasters, poverty and development projects.<sup>12</sup>

According to the 2006 ECOWAS Conference Report, of the 23.7 million people worldwide who were internally displaced due to conflict and communal violence more than half of them were in Africa, and of these, more than one million (1m) were reported to be in West Africa.<sup>13</sup>

In addition to being the most numerous, Africa's IDPs are also among the world's most vulnerable. Many are at high risk of ongoing armed attack, malnutrition, sexual violence and exploitation, enforced military recruitment, and disease including HIV-AIDS. Following the end of conflict, many struggles to return or to resettle and reintegrate in situations in which infrastructure is lacking and access to basic goods and services, including health and education facilities, remains limited.

Studies<sup>14</sup> have shown that West Africa faced an extremely complex displacement situation, both internally and across borders. While internal displacement was a severe problem deserving special attention, it was also recognized that the situation should not be measured in terms of numbers alone, as accurate statistics on IDPs in the ECOWAS region did not exist. That the figures used to reach the one million IDPs for West Africa in 2006 were rarely based on actual registration exercises, and even when registration took place, large numbers of IDPs were often excluded. Returnees were often not included in IDP statistics for the region, regardless of the conditions in their home communities. The lack of reliable figure posed a major hurdle for effective response, and several calls were made by the conference for improved data collection, analysis and management systems in the ECOWAS Member States.

Many conflicts in West Africa were characterized by severe human rights abuses, with IDPs experiencing the heightened vulnerability to crimes such as sexual and gender based violence and forced recruitment, including the recruitment of child soldiers. Adequate protection against these risks was extremely rare in West Africa, both during and in the aftermath of conflict. Indeed return programmes raised special protection concerns in ECOWAS countries such as Sierra Leone and Liberia. Non-registered IDPs and those who did not wish to return were often excluded from assistance and protection programmes. In fact, the inadequacy of long-term, post emergency assistance in the ECOWAS region, with specific needs such as counseling and psychosocial programming was often overlooked.<sup>15</sup>

Another finding<sup>16</sup> revealed that despite the fact that internal displacement in West Africa presents a humanitarian challenge of daunting proportions; the overall response has been far from adequate. The responses in numerous ECOWAS Member States, in varying degrees, have shared some common constraints: - weak or non-existent regional response capacities; endemic insecurity resulting in limited humanitarian access; an acute lack of

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<sup>12</sup> Ibid, at pp.1-3.

<sup>13</sup> Ibid at p.8 See [www.brookings.edu/fp/projects/idp/conferences/ECOWAS\\_rpt.pdf](http://www.brookings.edu/fp/projects/idp/conferences/ECOWAS_rpt.pdf).

<sup>14</sup> See IDMC/NRC (2006): - In need of durable solutions: - The Revolving door of internal displacement in West Africa, at pp.5-12

<sup>15</sup> Ibid.

<sup>16</sup> See 2006 Conference Report supra note 11 at pp.8-10. See [www.brookings.edu/fp/projects/idp/conferences/ECOWAS\\_rpt.pdf](http://www.brookings.edu/fp/projects/idp/conferences/ECOWAS_rpt.pdf).

funding for humanitarian programmes; and in many cases weak capacity and coordination at the international level particularly between UN Peacekeeping missions and humanitarian operations.

Accordingly, the First West African Regional Conference reviewed trends in the ECOWAS region and developed a set of recommendations that national authorities, regional bodies and international organizations could take to better prevent and manage displacement. Among the recommendations made by the Conference to governments were that they:

- Improve data collection on internally displaced populations and their needs;
- Develop national laws and policies on internal displacement;
- Promote and disseminate the *Guiding Principles on Internal Displacement*;
- Develop programs to address the needs of host communities – while it was common practice communities, this was proving burdensome over extended periods; and
- Undertake measures to address the root causes of displacement.

As for ECOWAS, the conference called for the appointment of a focal point on IDPs; the training of the ECOWAS stand-by force in the Guiding Principles; increased advocacy efforts; and the promotion of stronger inter-regional dialogue on internal displacement. Also emphasized the value of a regional approach, pointing out “Regional cooperation enables States to increase their capacity to run reliable early warning mechanisms and disaster prevention and mitigation systems.” It can also “channel the lessons learned by countries coping with internal displacement into the creation of sound policy at the national and regional levels.”

The Conference called upon the international community to:

- Integrate protection issues for IDPs into the design of peace operations;
- Strengthen the capacity of peacekeepers to respond to internal displacement;
- Ensure that international interventions on behalf of IDPs foster self-reliance and community sustainability; and
- Draw greater attention to the plight of IDPs through partnerships with the media.<sup>17</sup>

On a regional level, the Economic Community of West African States (ECOWAS) has played an important role in working towards the restoration of peace and stability in conflict-affected member states, through both military and political interventions. The first ECOWAS peacekeeping initiative (ECOMOG) was launched in Liberia in 1990, and was later extended to Sierra Leone in 1997 to assist the country's peace efforts, as well as to Guinea-Bissau in the wake of the 1998-1999 conflict. Although ECOMOG troops were withdrawn from Sierra Leone by the beginning of 2000, ECOWAS member states contributed troops to the UN peacekeeping mission there (UNAMSIL) as well as to various peace initiatives including patrolling the common borders of Guinea, Sierra Leone and Liberia. In 2003, ECOWAS troops worked alongside French peacekeepers in Cote d'Ivoire, maintaining a buffer zone between the government-controlled south and the rebel-held north of the country, and were subsequently “re-hatted” as part of a new UN peacekeeping

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<sup>17</sup> Ibid at pp. 32-36.

mission (UNOCI). ECOWAS and the UN have continued to cooperate in controlling the proliferation of small arms and light weapons in the region.<sup>18</sup>

ECOWAS has also initiated regional conflict resolution efforts on a political level, in some cases with the support of the African Union's Peace and Security Council. Examples include Togo, where both ECOWAS and the AU imposed sanctions after Faure Gnassingbe was installed as president in February 2005, and Cote d'Ivoire where both organizations have been involved in facilitating peace talks aimed at securing the full implementation of the country's successive peace agreements since January 2003.<sup>19</sup>

Further, the ECOWAS is one of Africa's leading sub-regional organizations and has increasingly become involved in issues of humanitarian concern, including internal displacement. At the ECOWAS Summit of Heads of State and Government in 2000, those present adopted a declaration welcoming the Guiding Principles on Internal Displacement and calling for their application by ECOWAS member states. In 2001 and 2002, ECOWAS, in conjunction with the International Organisation for Migration, held seminars on migration in which the issue of internal displacement was addressed. At the seminar in 2002, co-sponsored by the Brookings-Bern Project on Internal Displacement, participants raised the possibility of developing a model law on internal displacement in West Africa. Finally, at the Regional Experts Meeting on Sustainable solutions to Situations of Forced Displacement in West Africa held in Accra in June of 2005, different issues pertaining to internal displacement were addressed such as the need for legal standards, the importance of ECOWAS's advocacy role in the area of durable solutions and the need to involve refugees and IDPs in peace processes.<sup>20</sup>

### **1.3 Recent Trends in Internal Displacement in the ECOWAS Region**

While the causes of internal displacement range from natural/environmental disasters to major developmental projects, internal displacement in West Africa is primarily conflict and violence-induced. It has been found that in 21 African countries monitored in 2011 by IDMC, including Cote D'Ivoire, Liberia, Niger, Nigeria and Senegal, violent struggles between groups vying for access to natural resources, political power and representation were among the root causes of most of these displacements. These displacements were manifested either by armed conflicts between government forces and rebel opposition groups, or by inter-communal violence.<sup>21</sup>

While governments or associated armed groups were the main agents of displacement in the majority of situations, the role of armed opposition groups in forcing people to flee was also significant. Armed criminal groups, according to the above findings, also caused displacement, especially in areas where government security forces had little reach or capacity to combat banditry.<sup>22</sup>

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<sup>18</sup> See IDMC 2006 report, *supra* note 14

<sup>19</sup> *Ibid.*

<sup>20</sup> See Report of the First Regional Conference, *supra* note 11 at pp. 26-29.

<sup>21</sup> See IDMC/NRC 2011/12 Report *Supra* note 2.

<sup>22</sup> *Ibid.*



In 2011 as in previous years, West Africa witnessed massive displacement of population due to disputed elections. Hence, Presidential elections in Cote D'Ivoire and Nigeria were a context of new displacement. In Cote d'Ivoire, after both Alassane Ouattara and Laurent Gbagbo claimed victory in December 2010, a battle for national control between their respective supporters caused a four-month wave of new displacement. In Nigeria, violence that broke out after the results of the Presidential elections were released led to the displacement of some 65,000 people across the northern states. In both countries, internal displacement also followed inter-communal disputes over access to natural resources such as land, economic and political power, and attacks by non-state armed groups.<sup>23</sup>

According to the IDMC findings, the number of IDPs in Africa estimated at 9.7 million in 2011 was down from 11.1 million in 2010, continuing a sustained downward trend since 2004 when there were over 13 million. Despite the overall decline in IDP numbers, massive new displacements were reported in countries like Cote D'Ivoire, with about a million IDPs following the disputed elections.<sup>24</sup> The 2014 NRC/IDMC Report revealed that Sub-Saharan Africa recorded the highest number of IDPs with 12.5 million, more than a third of the global total.<sup>25</sup>

In terms of prospects for durable solutions in 2011, it was evident that insecurity prevented many IDPs in Cote D'Ivoire and Nigeria from achieving durable solutions. The movement of fighters and militia members from Libya and Cote D'Ivoire, and mercenaries from Liberia, further threatened the stability of ECOWAS region.

Efforts have been made in the last few years by ECOWAS member states like their counterparts in other African States to improve and standardize their responses to internal displacement. By the end of 2011, Liberia had developed a law on internal displacement based on the Guiding Principles in Internal Displacement. By the end of 2011, 33 out of the 53 African Union member states had signed the Kampala Convention on IDPs in Africa, 11 out of the 33 signatories being ECOWAS member states and four out of the first 9 to become states parties upon ratification were the following ECOWAS member states: - Gambia, Guinea-Bissau, Sierra Leone and Togo. The other 5 States Parties to the Kampala Convention in the ECOWAS Region are Benin, Burkina Faso, Mali, Niger and Nigeria.

The international response to internal displacement varied widely. In some countries like Nigeria, mechanisms to respond to internal displacement were limited to development cooperation, while in others the cluster system for coordinating humanitarian emergencies was fully implemented. Donor commitments to protect IDPs and to help countries make an early transition to recovery were limited, with the protection and early recovery sectors underfunded in all the appeals issued for African countries.<sup>26</sup>

UNHCR supports and protects over a million persons of concern (includes IDPs, returnees and refugees) in the West African sub-region. In 2014, the volatile security

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> See IDMC 2014 Global Overview Report op. cit. at p.18.

<sup>26</sup> Ibid.

situation is likely to mean that this number will increase. New internal displacement and movement across borders (from Mali and Nigeria) have increased financial requirements substantially in recent years. While the revised 2013 financial requirements for the sub-region are USD280.3 million, the 2014 requirements are set at USD254.7 million. This decrease mainly results from a reduction in UNHCR's people of concern in Cote D'Ivoire and Liberia, following the return of Ivorian IDPs and Refugees since 2011, as well as the expected return of some 10,000 Malian Displaced persons from Burkina Faso and Niger in 2014.<sup>27</sup>

More recent findings by UNHCR have shown that in 2013, an additional 111,000 IDPs, to the more than 227,000 displaced in 2012, were uprooted from their homes. About 42,000 were returnees to their original places of residence, bringing the year-end IDP figure to 255,000.<sup>27a</sup> In 2014, one of UNHCR's main challenges in Mali will be to address the constraints of this socio-economic environment with limited livelihood opportunities.<sup>28</sup> Similar findings by OCHA have shown that 353,455 IDPs to the north of Mali have continued to increase but cannot be described as large-scale. A mid-year review of the 2013 Mali consolidated Appeal for humanitarian aid raised the total requirements for the country from \$410 million dollars to 476 million. This increase is principally due to the re-evaluation of needs in the sectors of food security and protection to all the displaced Malians.<sup>29</sup>

Further, the March 2013 Report of the UN Secretary General on the situation in Mali submitted pursuant to Security Council Resolution 2085 (2012) and request from the President of the Council dated 27 February 2013, observed, *inter alia*, that the crisis in Mali is complex and multi-layered. Its impact on the everyday lives of people has been devastating. The humanitarian crisis continues to take a heavy toll on people across the country. Many of Mali's citizens are still displaced in difficult conditions, and reports of human rights violations are deeply disturbing. The current crisis has revealed a complex web of political, governance and security challenges. Exacerbated by the scourge of transnational crime and terrorism, which has beset the entire Sahel region, these challenges have provided fertile ground for the rise of extremists and organized criminal networks.<sup>30</sup>

Furthermore, as at October 2013, stability is reported by IDMC to be slowly returning to Mali but durable solutions remains a remote possibility for many IDPs. Significant security improvements, exemplified by the peaceful presidential elections in July and August 2013, have allowed many of the 311,000 IDPs still living in dire conditions to start thinking beyond their displacement. Indeed, tens of thousands have begun to return to their homes in Mali, but many obstacles remain for them to secure truly durable solutions to their displacement. Sporadic attacks and battles have continued in the north, particularly in Kidal. Fighting forces have left behind many explosive remnants of war, putting

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<sup>27</sup> See [www.unhcr.org/home/wherewework/africa/westafrica/mali](http://www.unhcr.org/home/wherewework/africa/westafrica/mali): UNHCR 2014 Country Operations Profile of Mali.

<sup>27a</sup> [www.unhcr.de/fileadmin/user\\_upload\\_upload/.../06/Globaltrends\\_2013/pdf](http://www.unhcr.de/fileadmin/user_upload_upload/.../06/Globaltrends_2013/pdf), UNHCR Global Trends 2013 at p.24.

<sup>28</sup> UNHCR op. cit. 2014, note 27.

<sup>29</sup> See OCHA Mali Report 2013 at pp.1-2

<sup>30</sup> See Report of the UN Secretary General on Mali Situation, March 2013 at pp. 1-8.

populations, especially children at risk of being associated with one group or the other. The overall situation remains tense and negotiations over the status of northern Mali as a whole are yet to start.<sup>31</sup>

Progress made in recent years to protect and assist IDPs in Nigeria is encouraging. The country ratified the African Union Convention on the Protection and Assistance of IDPs in Africa (Kampala Convention) in May 2012 and revised/updated the draft policy on IDPs in July 2012 to incorporate the provisions of the Convention. One and a half year on, however, the Federal Government is yet to adopt the policy, and or enact a domestic law to implement the Convention. Further, in 2013 Nigeria developed a Joint Humanitarian Action Plan (2013-2015) which seeks to address national humanitarian response challenges that may arise in emergencies and disasters. In addition, all sectors in the National Contingency Plan have been activated in 2013 and series of meetings were held to address humanitarian challenges in the country. Furthermore, a tripartite agreement was entered into in 2013 between three national agencies namely: National Orientation Agency (NOA), National Environmental Standards Regulations and Enforcement Agency (NESREA) and National Emergency Management Agency (NEMA) to collaborate in the development, implementation and organisation of projects and programmes targeted at sensitizing Nigerian citizenry on environmental and other natural and human induced hazards.

#### **1.4 The Kampala Convention: - A New Dawn in Preventing Internal Displacement and for the Protection and Assistance of IDPs in Africa**

The Kampala Convention was adopted in response to the gravity of IDPs as a source of continuing instability and tension for African States, and it is thus a reflection of Africa's determination to prevent and put to an end the phenomenon of internal displacement on the continent. While internal displacement is a global challenge, Africa has for long been the hardest hit, owing primarily to the prevalence of conflict and generalized violence as well as flagrant human rights violations.<sup>32</sup>

In this landscape of struggle by African IDPs to access essential humanitarian assistance and protection of their rights, the Kampala Convention stands out as a remarkable achievement that may, if taken seriously, make a concrete contribution to improving the lot of IDPs in Africa. The coming into force of the Convention on December 6, 2012 is a success being the world's newest, first ever comprehensive and innovative regional human rights treaty that binds governments to protect and assist IDPs. The Convention is an innovative legal framework that will fill the void of International Humanitarian Law by seeking to address the needs of IDPs and their host communities that take them in, and to help them find solutions to re-establish their lives. The Convention is comprehensive in that it addresses the multiple causes of internal displacement, is forceful in terms of responsibilities and goes beyond addressing the roles of States to those of others like the African Union, non-state actors and armed groups.<sup>33</sup>

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<sup>31</sup> See UNHCR 2014 *supra* note 26. See also, IDMC Report on Mali, October 2013.

<sup>32</sup> See the African Yearbook of International Humanitarian Law (2009/10): - JUTA, South Africa, at pp.20-42.

<sup>33</sup> See <http://www.brookings.edu/blogs/up-front/posts/2012/12/06-african-union-bradley>. Brookings Institution-Bern Project on Internal Displacement, USA, Press Release on December 6, 2012 at pp.1-3.

“UNHCR warmly welcomes the Republic of Uganda's ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). This first ratification, coming within the first four month's of the Convention's adoption, is an important milestone.

UNHCR also notes with satisfaction that twenty-five nations – or nearly half of the African Union Member States – have now signed the Convention, which was adopted during the first African Union Special Summit on Refugees, Returnees and Internally Displaced Persons convened in Kampala in October 2009.

UNHCR encourages other AU Member States to follow Uganda's example and ratify this historic Convention and – as called for by African leaders during the Special Summit – bring it in to force by the end of 2010. A total of fifteen ratifications are needed to achieve this.

The Convention is the first legally-binding international instrument on internal displacement having continental scope. Its adoption has come at a time when Africa is faced with complex and persistent internal displacement challenges affecting millions of people. When ratified and implemented, the Convention will provide a critically important legal framework for protecting, assisting and finding solutions for millions of IDPs in Africa, as well as for the prevention of future displacement by addressing the root causes.

At the beginning of last year, an estimated 11.6 million people were internally displaced by conflict in Africa, nearly 45 % of the world's IDPs. “.<sup>34</sup>

**Bringing together the Kampala Convention has been an enormous accomplishment, but this is not the end of the process. The challenge now is to transform these provisions into tangible improvements in the rights and wellbeing of IDPs across Africa. What would it take to make this happen?**

**First**, concerted efforts are needed to encourage those African countries that have not yet signed or ratified the Convention to do so as soon as possible. Several states with serious displacement crises such as the DRC, Somalia, Sudan and South Sudan have not yet ratified the agreement, but IDPs in these countries would undoubtedly benefit from Convention's protections.

**Second**, awareness-raising initiatives are required so that government and civil society actors at different levels across the continent can learn about the Convention and its implications for their work. Parallel efforts are needed amongst international organizations and donor officials that may be in position to help promote and support the implementation of the Kampala convention. Information about the Convention should also be shared with other regional organisations and governments outside of Africa, who may be interested in applying the insights form the Kampala Convention process toothier own contexts.

**Third**, the Kampala Convention's international supporters should help facilitate the development of an African-led implementation plan for the Convention. This would build on the activities that have already started to promote the agreement's implementation, such as the development and use of the AU Model Law on the Kampala convention. It would likely entail activities on several fronts, including trainings and support for the development of comprehensive national laws and policies on internal displacement that anchor states' obligations under the Convention in robust domestic frameworks. These domestic laws and

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<sup>34</sup> UNHCR Press Release, 19 February 2010

policies must ensure that adequate support is provided from national budgets to implement the Convention (as the Convention indeed requires), and that the specific national authorities responsible for upholding the Convention are clearly identified. Experiences in Africa and around the world have demonstrated that backing up innovative international agreements such as the Kampala Convention with strong domestic laws is essential to ensuring that the obligations laid out in these instruments do not just exist on paper, but translate into improved practice. This lesson needs to guide efforts to implement this new Convention on IDPs.

Timely support from UN agencies, donors and other international actors will be critical to backstopping the leadership shown on this issue by the AU and its member states. Five years from now, the Kampala Convention will, according to the terms of the agreement, come up for review. Our challenge is to ensure that 2017 is time for the celebration of another landmark for human rights: the comprehensive implementation of the Kampala Convention across the African continent.”<sup>35</sup>

No international treaty is perfect and the Kampala Convention does have a few weaknesses: - (i) concerns over the lack of effective enforcement mechanisms; (ii) insufficient guarantees for equality and non-discrimination have been raised by analysts; (iii) and there is some questions regarding the extent to which non-state actors and armed groups called upon by the Convention to protect IDPs can be bound by its provisions. Nevertheless, the Convention, which has benefitted from the inputs of international experts, is considered generally consistent with international standards such as the UN Guiding Principles on Internal Displacement.

## **1.5 ECOWAS Regional Response to the New Dawn in Preventing Internal Displacement, Protection and Assistance for IDPs in Africa: - 2011-2013**

Having considered and endorsed the report and recommendations of the ECOWAS Experts’ meeting of 5-6 July 2011 that preceded the First Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa on 7<sup>th</sup> July 2011, the Ministers of the Member States of ECOWAS representing their fifteen governments expressed their deep commitment to the prevention of further internal displacement and to finding durable solutions to the plight of IDPs in the region. Accordingly, the Ministerial Conference made far-reaching declarations on the following four core issues<sup>36</sup>: -

**i. On the Prevention of Forced Displacement in the Economic Community of West African States:** to undertake to examine further all the factors that cause or contribute to forced displacement of people in our region, with a view to preventing displacement emanating from conflict and generalized violence and mitigating its devastating effects on our people; to encourage every Member State to install at the national level an early warning and rapid response system in close coordination with the already established system at the regional level run by ECOWAS and thereby facilitating its integration to the continental early warning system. The early warning system should cover all positive root

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<sup>35</sup> Ibid at p.3

<sup>36</sup> See the Final Communiqué of the First ECOWAS Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa, held on 7<sup>th</sup> July 2011, in Abuja, Nigeria.

causes of forced displacement in West Africa, guided by a comprehensive and participatory vulnerability analysis.

**ii. On the Protection, Assistance and Durable Solution for Internally Displaced Persons:** to reaffirm our commitment to fully respect at all times the internationally recognized humanitarian principles of humanity, independence, impartiality and neutrality; in line with principles of the Kampala Convention, we commit ourselves to strengthen national and regional mechanisms for the promotion, respect and protection of human rights in our region, including of internally displaced persons; to urge Member States to undertake additional measures to ensure that the internally displaced persons enjoy all fundamental human rights on the same basis as all nationals.

**iii. On the Promotion, Signing, Ratification, Domestication and Implementation of the African Union Kampala Convention on the Protection and Assistance of Internally Displaced Persons:** to commit ourselves to lead in the advocacy and promotion of the African Union Kampala convention in our countries so as to secure the rapid signing; ratification and deposit of the instruments at the AU Commission by Member States who have not signed and ratified the Convention; to agree and commit ourselves to lead in the national efforts towards the domestication and implementation of the Kampala convention in our countries.

**iv. On Collaboration with the International Humanitarian Community:** to strongly reaffirm our commitment to continue the partnership that exists between the international community, ECOWAS and governments in our region in the provision of humanitarian assistance, protection and finding durable solution for internally displaced persons, refugees and returnees; to commit to specially assure the coordinated and unfettered access of humanitarian actors to affected populations and grant them full access to all relevant information needed to facilitate the provision of assistance and to the observance of the highest international standards in the delivery of humanitarian assistance to displaced persons.

In response to the above declarations, the following ten ECOWAS member states are now legally bound by the Kampala Convention having signed and ratified it: - Benin, Burkina Faso, Cote D'Ivoire, Gambia, Guinea-Bissau, Mali, Nigeria, Niger, Sierra Leone and Togo. The remaining six member states have signed the Convention. In fact, ECOWAS Member States made history by being the majority of States Parties that brought the Convention into force on December 6, 2012 by virtue of their needed ratifications to make a legally binding continental treaty on IDPs.<sup>37</sup>

While the national responses of Member States are improving towards developing legal, policy and operational frameworks on internal displacement, it is essential to strengthen efforts in favour of preventing displacement and IDP protection and assistance in the region. This requires a sustained awareness campaign, sustainable funding and effective coordination and collaboration among all stakeholders in the management of IDP affairs and humanitarian response.

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<sup>37</sup> See African Union, Addis Ababa (2012-13) table of status of signature and ratification of the Kampala Convention on IDPs.

ECOWAS Commission has equally developed a comprehensive Humanitarian Policy, Plan of Action, Humanitarian Response mechanism and the International Humanitarian Law Plan of Action to guide, monitor and evaluate the level of implementation by member states of their regional and other treaty obligations towards displaced persons, promotion of good governance and respect for the rule of law. Table 1 below depicts the compatibility of the ECOWAS Humanitarian Policy and Plan of Action with the Kampala convention in order to realize the benchmarks set out for this study.

**TABLE 1: - TWELVE (12) BENCHMARKS<sup>38</sup> FOR ACTION ON IDP PROTECTION AND ASSISTANCE IN ECOWAS: - COMPATIBILITY WITH THE KAMPALA CONVENTION AND ECOWAS HUMANITARIAN POLICY / PLAN OF ACTION**

S/N	BENCHMARKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
1	Prevention: Prevent and avoid conditions that lead to displacement, minimize unavoidable displacement and mitigate its adverse effects; ensure that displacement occurs for the shortest possible period.	By virtue of Articles 3(1)(a-b), States Parties shall refrain from, prohibit and <b>prevent</b> arbitrary displacement of populations; and shall <b>prevent</b> political, social, cultural and economic exclusion and marginalization, that are likely to cause displacement of populations or persons by virtue of their social identity, religion or political opinion. Further, under Article 4(1) to (2), States Parties are required to <b>prevent</b> and avoid conditions that might lead to the arbitrary displacement of persons by respecting and ensuring respect for their obligations under international	Under Chapter 3, the overall strategic objective guiding the ECOWAS Humanitarian Policy, is the forecast, <b>prevention</b> and overall management of disasters and conflicts towards limitation or elimination of effects thereby preventing death, human suffering and development losses; and enhancing the protection and social situations of all West African citizens and residents as basic conditions for regional integration, peace, security and development. Further, Strategic objective 4 requires member states to ensure compliance	In terms of both purpose and States obligations, significant nexus clearly exists between the Kampala Convention and the ECOWAS Policy/Plan of Action referred in the context of Benchmark 1, Indicators and Sub-indicators of this study.

<sup>38</sup> Developed by the Brookings Institution-University of Bern Project on Internal Displacement (April, 2005). This list of benchmarks is not exhaustive of the states obligations vis-à-vis IDPs but are 12 suggested areas of action that reflect and are consistent with international human rights, humanitarian and refugee laws as well as the Kampala Convention on IDPs and the UN Guiding Principles on internal displacement.

S/N	BENCHMARKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		law, including international human rights and humanitarian law.	with International Humanitarian Law as a means of <b>preventing or mitigating</b> conflict-related impacts on the civilian populace.	
2	Raise National Awareness : National recognition of the problem and government responsibility to address it; acknowledgement and use of the Guiding Principles; sensitization campaigns across all stakeholders.	Under Article 3(2)(c), States Parties shall adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels, taking into account the needs of host communities.	Under Chapter 3, strategic objective 6, the ECOWAS policy aims at maximizing the use of media and communication for highlighting humanitarian issues and as a tool for emergency management.	In terms of appropriate or priority measures to be taken to raise awareness about issues relating to internal displacement at the national and local levels, the Kampala Convention and the ECOWAS Policy are in tandem. Particularly the priority measures proposed under objective 6 requires member state to, inter alia, institute and carry out training and sensitization programmes on humanitarian issues for media organisations and specialized groups etc.
3	Data Collection : Age, gender and other key indicators ; should not undermine security, protection and freedom of movement ; programmatic focus.	Under Article 5(5) States Parties are obligated to assess or facilitate the assessment o the needs and vulnerabilities of IDPs and of host communities in cooperation with international organisations and agencies.	Under Strategic objective 2, the Plan of Action Activity 5 requires member states to conduct research on disaster management and integrate findings into the application of the disaster management cycle.	Consistent with Benchmark 3, both the Kampala Convention and the ECOWAS Policy / Plan of Action are significantly linked and self explanatory on the need for data through research on the subject.
4	Training on the Rights of IDPs : All responsible officials, policymakers and administrators ; awareness or rights and needs ;	States Parties general obligations under Article 3(1)(d) include, respecting and ensuring respect and	Under strategic objective 1, Activity 4 of the Plan of Action, ECOWAS and Member States are to	Hence the necessary strategic linkage on the need for capacity building of those responsible for the promotion and



S/N	BENCHMARKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
	understanding of official duties of protection and assistance.	protection of the human rights of IDPs, including humane treatment, non-discrimination, equality and equal protection of law.	promote and codify core instruments and standards for the protection of civilians within the context of crisis and emergencies and ensure compliance. Further, Activity 2 of strategic objective 2 under the Plan of Action requires ECOWAS and Member States to implement capacity building programmes for national platforms. Also strategic objective 3 provides for the responsibility of ECOWAS and Member States in enhancing the capacities of social actors in responding to humanitarian issues.	protection as well as providing assistance to vulnerable civilians, including IDPs in situations of displacement.
5	A National Legal Framework: Adopt laws on a specific phase of displacement; adopt comprehensive national laws; review existing legislation and revising legal and administrative regulations accordingly.	Article 3(2)(a) provides for States Parties' obligations to incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of, and assistance to, IDPs, in conformity with their obligations under international law.	Strategic objectives 1 and 5 seek to ensure that Member States adopt appropriate legal framework for preventing and responding to emergencies and disasters; and for protection of vulnerable persons, especially women, children and the disabled persons during emergency situations.	Obvious linkage between the Kampala Convention and the ECOWAS Policy/Plan on the necessary requirement for a legal regime.
6	A National Policy or Plan of Action: Establish national and local institutional responsibilities; define roles and responsibilities of	Article 3(2)(c) requires States Parties to adopt appropriate policy measures and other strategies on internal	Strategic Objective 1 requires Member States to adopt an appropriate policy framework for	The existing significant linkage between the Kampala Convention and the ECOWAS Policy / Plan relates to the

S/N	BENCHMARKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
	different government departures; identify a mechanism for coordination.	displacement at national and local levels, taking into account the needs of host communities.	preventing and responding to emergencies and disasters.	fundamental requirement of a national policy as a necessary step towards a domestic implementation of regional, continental and global obligations.
7	A National Institutional Focal Point: Assign responsibility to an existing government agency; designate a new body; establish an inter-departmental task force or committee.	Article 3(2)(b) places an obligation on States Parties to designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting IDPs and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international actors and Civil Society Organisations, where no such authority or body exists.	Under Activity 2 of Plan of Action and Strategic objective 1, Member States have an obligation to create a specific national agency for disaster management, preferably at the highest levels of government.	Link obvious because disaster management includes management of IDP issues.
8	A Role for National Human Rights Institutions: Monitoring; advising government; consultations with DPs on human rights violations, legal aid remedy.	Article 3(2)(b) places an obligation on States Parties to designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting IDPs and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international actors and Civil Society Organisations, where no such authority or body	Strategic objective 5 and Activities 1 – 9 of Plan of Action require Member States to ensure domestication and implementation of relevant international human rights and humanitarian law instruments related to vulnerable groups in humanitarian and emergency situations by appropriate national institutions.	There is an indirect link between the Kampala Convention and the ECOWAS Policy / Plan on the need for appropriate national institutions on the protection of the rights of vulnerable groups to be supported in mainstreaming vulnerable groups' plight in their work.

S/N	BENCHMARKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		exists.		
9	Participation by IDPs in decision-making: Inclusion without risk of punishment or harm; all phases of displacement including political participation in peace processes; special attention to vulnerable groups including women and children.	Article 9(2)k places an obligation on State Parties to <b>consult</b> IDPs and allow them to participate in decisions relating to their protection and assistance including public participation under 9(2)L in democratic governance.	Strategic objective 5 Activity 9 of the Plan of Action emphasizes the need for ECOWAS and Member States to integrate needs and vulnerability assessment in ensuring that special needs groups are adequately catered for during emergencies.	Though there is no direct linkage between the provisions/requirements of the Convention and the Policy, yet they both support the goal of this Benchmark with their different emphasis.
10	Supporting Durable Solutions: Voluntary return or resettlement; sustainable reintegration; addressing 'root causes'.	Under Articles 2(c), 3(2)(e) and 11, the Kampala Convention commits states to seeking lasting solutions to the problem of displacement and explicitly recognizes IDPs' right to voluntarily chose to return home, integrate locally in areas of displacement or relocate to another part of the country. States are responsible for promoting and creating satisfactory conditions for each of these options on a sustainable basis and in circumstances of safety and dignity. States must endeavour to incorporate relevant principles contained in the Kampala Convention into peace negotiations and agreements for the purpose of finding sustainable solutions to the problem of	Chapter 5 of the Policy provides for disaster management cycle, including rehabilitation and reconstruction, in order to return the community to normal.	The Policy and Plan of Action in this respect meet the Kampala Convention less than half way on the criteria/activities for durable solutions. (See Annex I of this study, the four core indicators for the benchmark on durable solutions).

S/N	BENCHMARKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		internal displacement.		
11	Allocation of Adequate Resources: National responsibility to protect and assist designated funds in the national budget; a role for the international community.	Under Articles 3(2)(d), 5(1) and (6), States Parties are obliged to: - provide, to the extent possible, the necessary funds for protection and assistance without prejudice to receiving international support; States Parties shall bear the primary duty and responsibility for providing protection of and humanitarian assistance to internally displaced persons within their territory or jurisdiction without discrimination of any kind; States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need.	Strategic objective 7 and Activities 1 – 7 of the Plan of Action provide for enhancing national and regional capacities for response to humanitarian concerns, including establishment of ECOWAS Humanitarian Relief Fund and provision of other human and material sources.	Strategic linkage exists on the need for pooling resources together between the Convention and the Policy/Plan and consistent with the benchmark under consideration.
12	Cooperation with International and Regional Organizations: Cooperation does not undermine national sovereignty; rapid and	Under Article 5(6), States Parties shall provide sufficient protection and assistance to internally	The closest clause for this requirement in both the policy and the plan is strategic objective 7, which is	There is no clear linkage on this benchmark between the convention and Policy/Plan.

S/N	BENCHMARKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
	unimpeded access to international humanitarian organizations; inviting and engaging in dialogue with the Special Rapporteur of the African Human Rights Commission on the rights of IDPs etc, and the Representative of the UN Secretary General on the Human Rights of IDPs.	displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need. Article 8(d) and (f) requires the African Union to support the efforts of the State Parties including cooperation directly with African States and international organizations / humanitarian agencies, civil society organizations as well as the special rapporteur of the African Human Rights Commission on the rights of IDPs etc.	not explicit on the need for cooperation as emphasized by the Convention and the benchmark.	

## 1.6 UNHCR's Support for the Ratification and Implementation of the Kampala Convention and IDP Response in the ECOWAS Sub-Region

- 1.6.1 UNHCR supports the advocacy efforts for the ratification and domestication of the Kampala Convention in cooperation with a wide array of stakeholders. IDMC and the Dakar Regional Office (RO) of UNHCR took the opportunity of the first anniversary of the entry into force of the Convention to organise, during the first week of December 2013, two training

workshops, one in English and one in French, for key humanitarian practitioners and stakeholders from West Africa.<sup>39</sup>

Participants from the Democratic Republic of Congo (DRC) and Kenya were also invited to share their experience regarding national efforts to develop internal displacement law and policy. In order to ensure sustainability, to encourage partnership, long-term follow-up and development of national implementation plans wherever possible, each country was represented by a member of the national authorities, a member of a relevant NGO and a UNHCR staff member who will then be able to commit to report on the state of advancement of the national working plan developed at the outcome of the workshop.

On December 6, 2013, the AU/IDMC/NRC organised the first anniversary of the entry into force of the Convention. Donors, embassies of African countries, UN agencies and various civil society organisations were invited. A panel composed of representatives of IDMC, UNHCR, the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the AU spoke on “The Kampala Convention: One year later” followed by a discussion. IDMC launched the AU/NRC progress report *The Kampala Convention: one year on: Progress and Prospects*.<sup>40</sup> The celebration was concluded by a press conference and a joint press release by IDMC and UNHCR.

On 27 November, a half day training for journalists was also organised by UNHCR and IDMC with a view to ensure that journalists invited to the first anniversary event were sensitised on the issue of internal displacement and with key concepts related to forced displacement.

As for joint support of ECOWAS and UNHCR to IDP response in the sub-region, the latest initiatives include the deployment of 4 ECOWAS Emergency Roster Team members to UNHCR operation in Mali for a period of 3 months from November 2013 to January 2014.

### **1.6.2 Support to AU/NEPAD (Period of July 2010 to June 2011) in Collaboration with UN agencies<sup>41</sup>**

The reporting period observed notable progress in achieving some of the key social, economic and political priorities of the African Union to promote and strengthen continental, regional and national measures for peace, stability and development. Such includes the growing number of member states who have signed and ratified the Convention on the Protection and Assistance of Internally Displaced Persons (Kampala Convention) within 18 months of its adoption. A total of 31 signatories and 10 ratifications have been secured, which is testimony to the seriousness with which Africa, home to around half of the global total of internally displaced persons (IDPs), considers conflict prevention, peace and stability as imperatives to the continent's

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<sup>39</sup> See UNHCR/NRC/IDMC Workshop Report: Regional Training Workshops on the Kampala Convention - Dakar, Senegal, 2-5 December, 2013.

<sup>40</sup> <http://www.internal-displacement.org/publications/2013/thekampala-convention-one-year-on-progress-and-prospects>

<sup>41</sup> UNCHR 2011 Report.

development. Member states who have ratified and deposited the ratification instrument at the AU are Uganda, Zambia, Sierra Leone and Gabon, whereas those who have ratified but yet to deposit the instrument of ratification are Central African Republic, Chad, Djibouti, Gambia, Somalia and Togo. UNHCR and partners continue to advocate with member states that have ratified the Convention to immediately deposit the Ratification instrument at the AU in order to support and facilitate the entry into force of the Convention.

In addition, UNHCR together with UN Agencies, the Special Rapporteur on the human rights of internally displaced persons and Civil Society Organisations continue to advocate for the speedy signature, ratification and implementation of the Kampala Convention and the 52 recommendations set forth in the Kampala Declaration adopted at the AU Special Summit on Refugees, Returnees and Internally Displaced Persons in Africa in October 2009.

Collaboration with the above-mentioned partners continued throughout the reporting period to realize the Plan of Action for implementation of the Outcomes of the Kampala Special Summit. The Plan of Action was endorsed by the AU Executive Council during the July 2010 AU Summit in Kampala (Exec Council Decision 19-23/07/2010). Linked to the AU Strategic Plan 2009 to 2012, it is built on the pillars of peace and security, shared values, institutional and capacity building. Its goal is to address root causes and the challenges of forced displacement to contribute towards sustainable peace, security and development in the continent. It serves as an implementation and accountability framework and provides a focused and structured platform for interaction between AU and its partners in dealing with the challenges of forced displacement in Africa. The Plan of Action is divided into two broad areas:..... Activities during the reporting period focused on the first area of the plan, mainly on short-term activities aimed at promoting the speedy signature, ratification/accession and domestication of the Kampala Convention. The second area addresses medium to long-term interventions aimed at preventing and addressing root causes of forced displacement in Africa, as well as durable solutions and assistance to affected populations. It is anticipated that more activities will be identified in the process of developing detailed annual work plans.

In support of the AU Year of Peace 2010, UNHCR in collaboration with other UN and International Agencies supported communication and outreach activities to advance the cause of peace at various levels, including a photo exhibition to raise awareness on the impact armed conflict has had on women and children on the continent. Some twelve UNHCR offices, in collaboration with its partners, commemorated the African Year of Peace by organising various peace educations, sports and cultural initiatives aimed at promoting peace and distributed additional humanitarian supplies to the most vulnerable displaced population as a sign of solidarity to end displacement in the continent.

## **Financial and Institutional Support**

During the reporting period, UNHCR continued to extend the full time secondment of a professional staff member at the P4 level and a driver to the Division of Humanitarian Affairs, Refugees and Displaced Persons in the Department of Political Affairs of the African Union Commission. Staff of the UNHCR Representation to the African Union and UNECA also collaborated with and provided support to the African Union in meeting the various priorities of the African Union.

In support of the AU, the UNHCR / OSSREA High Level Seminar to promote the AU Plan of Action for the implementation of the Outcomes of the Kampala Special Summit, UNHCR provided financial support (USD 130,000) towards the organization of the Seminar. In addition, UNHCR also contributed to printing costs for documents related to the Outcomes of the Kampala Special Summit and on other advocacy and awareness raising materials on the situation of forced displaced populations in the continent including on the AU COMMIT campaign strategy document on trafficking-in-persons.

UNHCR provided support to the AUCIL to hire a Consultant to develop a Model Law on the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention) which will be shared with member states to ease the domestication and implementation process. The model Law is expected to be completed by September 2011 and a meeting of Legal Experts from the continent will be organised by the AUCIL to promote the Model Law.

### **Advocacy work in support of African Development**

UNHCR undertook numerous advocacy activities to raise awareness on the AU Special Summit and to mobilize political and financial support for the implementation of its outcomes. In addition to activities highlighted in Para 1 above, UNHCR has also worked with the African Parliamentary Union to call for their support in ensuring that forced displacement matters affecting peace and stability and development in the continent gain the necessary attention of all stakeholders.

Following requests made by the African Union Commission's Peace and Security and Political Affairs Departments', UNHCR produced advocacy materials to raise awareness on the challenges faced by displaced populations in Africa. UNHCR also participated in the Seventh African Development Forum (ADF VII) to advocate for enhanced assessment and research on the potential consequences of climate change on populations who are already of concern to UNHCR including on the additional human displacement scenarios which climate change will cause.

UNHCR called for appropriate preparedness, adaptation and coping mechanisms to be in place soonest to mitigate the consequences climate change is likely to have on development efforts in the continent.



## Impact of UNHCR's support activities to NEPAD

The long standing and strong partnership that UNHCR enjoys with the African Union has enabled it to effectively collaborate with various Organs of the AU and its Member States and support the NEPAD programme. An example of a tangible impact of historic proportions resulting from this partnership is the adoption in October 2009 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, the Kampala Declaration and Recommendations. The new Convention, which came into force on 6 December, 2012, is expected to bring about significant changes in the conditions of the millions of IDPs in the continent and the prevention of forced displacement in the future. The Convention also sets a positive international precedent concerning the protection of IDPs worldwide.

UNHCR's engagement with partners in support of the AU's priorities, as outlined above, are geared towards supporting continental efforts to attain peace and stability and enhance development. Activities to raise awareness on the situation of women and children affected by armed conflict to the inclusion of marginalised populations in national CRVS systems are all aimed at supporting comprehensive, integrated development on the continent and addressing key social, economic and political priorities that will accelerate the integration of the African Continent into the global economy.

### 1.7 Methodology and Limitations of the Study

This study seeks to use the Framework for National Responsibility in particular its twelve (12) benchmarks (as in Table 2 below), to understand and assess the specific measures that national authorities have taken or have failed to take (because they are either unable or unwilling) to meet their obligations to provide assistance to, and to protect the human rights of, IDPs in the selected three countries: Cote D'Ivoire, Liberia and Nigeria. This is with a view to distilling further guidance on how best to encourage and support national institutions in this regard.

For the most part, the case study was based on the set of questionnaires administered and interviews conducted with in-country officials of relevant national institutions, practitioners/civil society activists and representatives of selected international actors.

**Table 2: - Benchmarks and Indicators for National Response on Internal Displacement**

S/N	BENCHMARKS	INDICATORS (MEASURES)	SUB-INDICATORS
1	Prevent Displacement / minimize its adverse effects	<ul style="list-style-type: none"><li>• Early warning system / mechanisms</li><li>• Disaster risk reduction and preparedness mechanisms / procedures</li><li>• Respect for International Human Rights Law (IHRL) / International Humanitarian Law (IHL) / Kampala Convention / UN Guiding Principles on Internal Displacement</li></ul>	See Annex II for all related questions
2	Raise National Awareness of the Problem	<ul style="list-style-type: none"><li>• Policy statements or declarations</li><li>• Sensitization campaign through mass media</li></ul>	See Annex II for all related questions
3	Collect data on Number /	<ul style="list-style-type: none"><li>• Magnitude, characteristics and needs of IDPs</li></ul>	See Annex II for all

	Conditions of IDPs	<ul style="list-style-type: none"> <li>• Mix of qualitative and quantitative techniques</li> </ul>	related questions
4	Support Training on Rights of IDPs	<ul style="list-style-type: none"> <li>• Efficient management of IDP affairs</li> <li>• Consistent application of IDP law/policy or related laws/policy.</li> </ul>	See Annex II for all related questions
5	Ensure a Legal Framework for upholding IDPs' Rights	<ul style="list-style-type: none"> <li>• Compatibility of existing law(s) with IDPs' rights internationally guaranteed.</li> <li>• Comprehensive coverage of all phases of displacement</li> </ul>	See Annex II for all related questions
6	Develop a National Policy on Internal Displacement	<ul style="list-style-type: none"> <li>• Inclusivity and transparency in the process of drafting an IDP policy</li> <li>• Comprehensiveness of content coverage of all causes, aspects, measures, rights and responsibilities.</li> </ul>	See Annex II for all related questions
7	Designate an Institutional Focal Point on IDPs	<ul style="list-style-type: none"> <li>• Sustain attention to internal displacement issues.</li> <li>• Development and regular dissemination of updated reliable data on the volume, trend, location, general characteristics and needs of IDPs.</li> <li>• Coordination of national response to all aspects / phases of internal displacement.</li> </ul>	See Annex II for all related questions
8	Support National Human Rights Institutions to Integrate Internal Displacement into their Work	<ul style="list-style-type: none"> <li>• Independence and capacity to promote and protect the rights of IDPs.</li> <li>• Periodic reporting, investigation, and monitoring of IDPs' rights abuses, legal assistance for access to justice / legal remedies</li> </ul>	See Annex II for all related questions
9	Ensure the Participation of IDPs in Decision Making	<ul style="list-style-type: none"> <li>• Existence of processes, mechanisms or channels through which IDPs participate in decision-making affecting their lives.</li> </ul>	See Annex II for all related questions
10	Support Durable Solutions	<ul style="list-style-type: none"> <li>• Sustainable reintegration at the place of origin;</li> <li>• Sustainable local integration in IDPs host communities;</li> <li>• Sustainable integration in another part of the country;</li> <li>• Remedies for displacement related human rights violations, including access to justice, reparations and information about the causes of violations</li> </ul>	See Annex II for all related questions
11	Allocate Adequate Resources to the Problem	<ul style="list-style-type: none"> <li>• Specific national budget line / allocation for internal displacement issues;</li> <li>• Quantum and regularity of releases to the relevant national authorities;</li> <li>• Monitoring and evaluation of funds utilization.</li> </ul>	See Annex II for all related questions
12	Cooperate with the International Community when National Capacity is Insufficient	<ul style="list-style-type: none"> <li>• Facilitation by national authorities of humanitarian assistance from international actors;</li> <li>• Nature and scope of request for technical,</li> </ul>	See Annex II for all related questions

		material, human and financial assistance from international actors.	
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Using this template of benchmarks, in addition to indicators developed for each benchmark (See Annex II below), data on national responses to internal displacement in Cote D'Ivoire, Liberia and Nigeria was collected, analyzed and case study reports were produced.

Various in-country stakeholder/validation workshops were held in Monrovia, Liberia; Abidjan, Cote D'Ivoire; and Abuja, Nigeria between 13<sup>th</sup> and 31<sup>st</sup> December 2013 to review the reports on case studies. The final reports of these three case studies incorporated the inputs of the various national stakeholders and international reviewers between December 2013 and February 2014.

On limitations of the study, **first**, is the very short period provided for each country study (roughly two months) and so the in-country consultants could not generate additional data from myriad sources for each benchmark. **Second**, the study was limited largely to published data available in each country. In some instance, information on particular indicators simply was not publicly available. For example, even when training on internal displacement was known to have occurred in a country, it was rarely reported in publicly available literature or websites. In other cases, it was difficult to determine from a desk study whether a government policy was in fact being implemented.

Nevertheless, through the comparative analysis and case studies, this study provides a first step in coming up with an empirical basis for determining whether and in what ways the primary duty of the state to protect its own citizens, especially IDPs, is being effectively exercised and through what legal, policy, institutional and other measures. Further, this study sheds light on how government can best translate abstract concepts into concrete national policies and practices that ensure protection, assistance and durable solutions for IDPs and persons at risk of becoming internally displaced. It is hoped that its findings offer insight into the often overlooked, but critical, element of responsibility to protect people, particularly IDPs.

The report is divided into four chapters:

- Chapter 1 provides for the rationale, methodology and contextual background analysis of the causes, trend and regional response to the phenomenon of internal displacement in the ECOWAS Region.
- Chapter 2 reviews the model framework for national responsibility in addressing internal displacement, the benchmarks and indicators for assessing national responses to internal displacement.
- Chapters 3 assess national approaches to internal displacement and highlight the findings from the three case studies.
- Chapter 4 provides a summary of the study's findings and conclusions.

## 1.7 Conclusion

It is evident from the above contextual background and situation analysis that responding to the plight of IDPs in West Africa remains a grave challenge. Displacement remains as critical factor of vulnerability for IDPs across the ECOWAS region. In addition to lack of access to physical security, basic human needs for survival and dignity, special category of IDPs like women and

children are the most vulnerable and targeted for gender-based violence. Essentially, there is a direct correlation between internal displacement and vulnerability and as such, IDPs are worthy of specific attention not only from national governments but also from the international community.

### **1.8 Major Pointers**

It is further evident from the above, the following major pointers pertaining to internal displacement in the ECOWAS region: -

1. A noticeable decline or downward trend of the volume of IDPs from 10.1 in 2010 to 9.7 million in 2011, continuing downwardly since 2004.
2. New agents of displacement have been reported by several findings in the last few years, namely the role of armed opposition groups and armed criminal groups (like mercenaries) in carrying out attacks and forcing civilians to flee their homes.
3. Noticeable protection concern is the growing incidence of gender-based violence against women and children while fleeing, in camps or settlements or in return to a believed safe haven.
4. Among the major barriers to durable solutions in West Africa is the level of insecurity and other threats to stability reported in at least Cote D'Ivoire, Nigeria and Liberia.
5. Evidence of growing improvement and standardization of national responses in West African States, particularly, pertaining to the political will to draft policies on IDPs, sign and ratify the Kampala convention as well as setting up national focal points to coordinate the affairs of IDPs and humanitarian crises.

## CHAPTER TWO

### Looking for a Model

This part of the report seeks to underscore the significant nexus between the concepts of state sovereignty and national responsibility to protect with a view to identifying a framework for national responsibility in addressing the phenomenon of internal displacement in the ECOWAS Region.

#### 2.1 State Sovereignty and the Responsibility to Protect (R2P)<sup>42</sup>

State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself.

The responsibility to protect embraces three specific responsibilities:

**The responsibility to prevent:** to address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk.

**The responsibility to react:** to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention.

**The responsibility to rebuild:** to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert.

Where a population is suffering serious harm, because of natural or human-made disasters including internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.

The foundations of the responsibility to protect, as a guiding principle for the international community of states, lie in: a) Obligations inherent in the concept of sovereignty; b) the responsibility of the security council, under Article 24 of the UN charter, for the maintenance of international peace and security; c) specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law; and d) the developing practice of states, regional organizations and the Security Council itself.

The Charter of the UN is itself an example of an international obligation voluntarily accepted by member states. On the one hand, in granting membership of the UN, the international community welcomes the signatory state as a responsible member of the community of nations. On the other hand, the state itself, in signing the Charter, accepts the responsibilities of membership flowing from that signature. **There is no transfer or dilution of state sovereignty. However, there is a necessary re-characterization involved: from sovereignty as control to sovereignty as responsibility in both internal functions and external duties.**<sup>43</sup>

Thinking of sovereignty as responsibility, in a way that is being increasingly recognized in state practice, has a three-fold significance. First, it implies that the state authorities are

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<sup>42</sup> See Report of the International Commission on Intervention and State Sovereignty (ICISS) (2001): The Responsibility to Protect at pp. xi-xiii.

<sup>43</sup> Ibid at p.13

responsible for the functions of protecting the safety and lives of citizens and promotion of their welfare. Secondly, it suggests that the national political authorities are responsible to the citizens internally and to the international community through the UN. Thirdly, it means that the agents of state are responsible for their actions; that is to say, they are accountable for their acts of commission and omission. The case for thinking of sovereignty in these terms is strengthened by the ever-increasing impact of international human rights norms and the increasing impact in international discourse of the concept of human security.

## **2.2 Protection and Assistance of IDPs versus State Sovereignty**

It was noted above that because of the doctrines of state sovereignty and non-intervention, the protection and assistance of IDPs had been, the province of individual states. Based on these doctrines, international law and actors can only intervene to protect and assist IDPs if the situation in question poses a threat to international peace and security. Humanitarian actors can “intervene” with their programs when the state concerned does not have the capacity to provide assistance and protection. They can offer their services and IDPs can seek international support and assistance. It is equally based on the doctrines that the international community has been reluctant to formulate global or regional treaties to safeguard the rights of IDPs. As such, the Kampala Convention – being a treaty that seeks to deal with an issue that ordinarily falls within the domestic jurisdiction of states – breaks off from tradition. It seeks to chart a delicate balance between the protection and assistance of IDPs, on the one hand, and the respect for states’ sovereignty and integrity, on the other.

To begin with, Kampala Convention upholds the sanctity of state sovereignty and integrity. It asserts that the primary duty and responsibility for providing protection and humanitarian assistance to IDPs rests with individual states within which they are found.<sup>44</sup> It also stipulates that nothing in the Convention shall be invoked for the purpose of affecting the sovereignty of a state or its responsibility to maintain or re-establish law and order within its jurisdiction or to defend its national unity and territorial integrity.<sup>45</sup> The Kampala Convention recognizes state sovereignty. It must however be clearly stated that the Convention very specifically constrains state sovereignty with a strong framework on responsibility, recognition of regional intervention and the role of international cooperation.

Thus, in keeping with the twin doctrines, a state, the AU or the Conference of States Parties established under article 14(1) of the Convention can only intervene to protect and assist IDPs in a state upon the request of the state.<sup>46</sup> This condition raises the question whether states reserve the right under the Convention to reject humanitarian assistance for IDPs when it is unsolicited,<sup>47</sup> or whether the international community can insist on providing assistance without the

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<sup>44</sup> Kampala Convention, art 5(1).

<sup>45</sup> Kampala Convention, art 7(2). See also art 5(12).

<sup>46</sup> Kampala Convention, art 5(2) & 8(2).

<sup>47</sup> In its 2008 Report, IDMC laments that ‘[i]n several countries, national authorities chose not to cooperate with the international community’s offers to help them fulfill their responsibility towards IDPs and fill the gaps in their own response, openly rejecting international assistance, imposing serious bureaucratic obstacles, and harassing humanitarian workers’. In Africa, the cited countries are: Ethiopia, Somalia, Sudan and Zimbabwe. See IDMC International Displacement: global overview of trends and developments in 2008 (2009) 9. See also UNHCR 2008 Global trends: Refugees, asylum-seekers, returnees, internally displaced and stateless persons (2009) 19.

consent of the concerned state.<sup>48</sup> The Convention does not fully address this question, but it obliges States Parties to cooperate in seeking the assistance of international organisations and humanitarian agencies when they are unable to sufficiently protect and assist IDPs within their jurisdictions.<sup>49</sup> It also requires states to allow rapid and unimpeded passage of all relief consignments, equipment and personnel to IDPs.<sup>50</sup>

The Convention, while upholding the sanctity of state sovereignty and non-intervention, recognizes that in certain situations internal displacement may pose a threat to the international community, or may amount to an international crime that shocks human conscience thus warranting international intervention. As such, article 8(1) of the Convention stipulates that the AU shall have the right to intervene in a member State pursuant to article 4(h) of the AU Constitutive Act. Article 4(h) empowers the AU to intervene in a Member State pursuant to a decision of the AU Assembly in respect of three grave circumstances: war crimes, genocide and crimes against humanity. Thus, where displacement amounts to these crimes or where the commission of these crimes occasions it, the AU has a right to intervene. However, practice as shown that so far the AU is not quick to invoke article 4(h). Thus, the potential of article 8 of the Convention as read with article 4(h) of the AU Constitutive Act to be invoked in favour of IDPs is remote at best. Nevertheless, the provisions of the Kampala Convention on state sovereignty are in line with the concept of the 'responsibility to protect' that was adopted by the UN General Assembly in 2005, and which 'developed in large measure from efforts to design an international system to protect IDPs'.<sup>51</sup>

## 2.3 Overview of a Framework for National Responsibility in Addressing Internal Displacement

The concept of national responsibility stems from the principle of State Sovereignty in international law, which lays the foundation of state primary responsibility to protect and assist all people residing on its territory, including IDPs.

Because internally displaced persons (IDPs) reside within the borders of their own countries and are under the jurisdiction of their governments, primary responsibility for meeting their protection and assistance needs rests with their national authorities. **The Guiding Principles on Internal Displacement** underscores this point, setting forth the rights of IDPs and the obligations of governments towards these populations. Developed within the context of Resolutions of the United Nations General Assembly and Commission on Human Rights, the 30 principles provide a normative framework for better understanding what national responsibility should entail. Indeed, the Principles have been recognized by governments worldwide as an important tool and

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<sup>48</sup> Katja Luopajarvi 'Is there an obligation on states to accept international humanitarian assistance to internally displaced persons under international law' 92003) 15 *International Journal of Refugee Law* 678.

<sup>49</sup> Kampala Convention, art 5(6).

<sup>50</sup> Kampala Convention, art 5(7).

<sup>51</sup> See 'Reconciling R2P with IDP Protection' available at [www.brookings.edu/articles/2010/0325\\_internal\\_displacement\\_cohen.aspx](http://www.brookings.edu/articles/2010/0325_internal_displacement_cohen.aspx) (accessed on 26 October 2013). The UN Secretary General reported in 2009 of his regret at the failure of the international community to stem the internal displacement occurring in Darfur, DRC and Somalia. He noted that this failure 'undermined...[the] collective espousal of the principles relating to the responsibility to protect'.

standard for addressing situations of internal displacement, and which states have been encouraged to widely disseminate and use.<sup>52</sup>

The Principles<sup>53</sup> should serve as a guide in designing an effective national response and developing the steps needed to address problems of internal displacement. To assist governments with this task, the Brookings Institution-University of Bern Project on Internal Displacement, put together in 2005 a **Framework for National Responsibility**, which spells out the benchmarks of national responsibility. Each benchmark marks a step that governments should consider taking to assume their obligations towards their internally displaced populations.

While governments will need to tailor the steps to fit their own national conditions, a number of the initiatives should prove common to all countries beset by internal displacement. In particular, governments should consider measures to: prevent or mitigate displacement; raise national awareness of the problem; collect data on the numbers and conditions of IDPs; support training on internal displacement and the Guiding Principles; create a national legal framework for upholding the rights of IDPs; develop a national policy on internal displacement; designate an institutional focal point on IDPs; encourage national human rights institutions to integrate internal displacement into their work; allocate adequate resources to the problem; ensure the participation of IDPs in decision-making; and support lasting solutions for the displaced. In addition, cooperation with the international community, when national capacity is insufficient to address the needs of the displaced, should be a key element in national policy.

This national responsibility framework is intended to help governments address the problem of internal displacement in their countries in all its aspects. Further, it should enable international organisations, regional bodies, national human rights institutions, civil society and the displaced themselves to evaluate the extent to which national responsibility is being effectively exercised and become the basis for advocacy efforts on behalf of the rights of the displaced.

A national response, by definition, needs to be inclusive, covering all situations of internal displacement and groups of IDPs without discrimination. Specifically, this means that national responsibility for internal displacement needs to be comprehensive in several different respects as table 3 below reveals:

**Table 3: - A Framework for Action: - Clarifying National Responsibility for Addressing Internal Displacement**

S/N	1. FUNDAMENTAL CHARACTERISTICS OF A NATIONAL RESPONSE
i	All Causes: Including people uprooted by conflict, communal strife and serious violations of human rights as well as those uprooted because of natural and human-made disasters, development projects and other causes.
ii	All Groups: National authorities have a responsibility to ensure that the special protection and

<sup>52</sup> United Nations General Assembly, Resolution 58/177 of 2004, para 7; and United Nations Commission on Human Rights, Resolution 2004/55 of 2004, para 6. See also United Nations, Economic and Social Council (ECOSOC), Resolution 2004/5 of 23 July 2004, para, 39; and ECOSOC, Resolution 2003/5 of 15 July 2003, para 9. Further See also Walter Kalin, *Guiding Principles on Internal Displacement. Annotations*, Studies in Transnational Legal Policy, No. 32 (American Society of International Law and the Brookings Institution Project on Internal Displacement, 2000); *Handbook for Applying the Guiding Principles on Internal Displacement* (Brookings Institution and United Nations Office for the Coordination of Humanitarian Affairs, 1999).

<sup>53</sup> The Annotations on the Guiding Principles on Internal Displacement, spell out the international legal standards on which the Principles are based. See Walter Kalin (2000), *Ibid*.



	assistance concerns of particular groups within IDP populations, including women, heads of households, unaccompanied minors, persons with disabilities, the elderly, and ethnic minorities, are addressed.
iii	All Needs: A national response requires an integrated approach that addresses protection as well as assistance concerns. This is true even in situations of natural disaster when, although material relief may be the most visible need, serious protection issues nonetheless can arise.
iv	All Phases: National responsibility extends across all phases of displacement. It includes preventing arbitrary displacement, ensuring the security and well-being of people once they are displaced, and creating the conditions for durable solutions to their plight, namely through voluntary and safe return or resettlement and reintegration.
v	All Authorities: A national response requires the collective contributions of all relevant branches of government. Authorities at the level, who are likely to be more directly in contact with displaced populations, need to ensure that national responsibility is effectively discharged in practice, not just in policy. The military and police have specific responsibilities for ensuring IDPs' physical safety. Non-State actors, including insurgent groups, also have responsibilities under international humanitarian law and must be held accountable.
vi	All affected areas: Especially in situations of internal armed conflict, government may not have effective control over all parts of the country. Around the world, millions of IDPs are found in areas under the control of non-State actors and out of reach of government assistance and protection. The effective exercise of national responsibility requires undertaking or at least facilitating efforts to access, assist and protect these IDPs. Opening humanitarian space in these areas provides an opportunity also to remind non-State actors of their responsibilities: under international humanitarian law and the <i>Guiding Principles</i> , they too have responsibilities to provide protection and assistance to the internally displaced persons. Governments may therefore find it valuable to enlist the support of NGOs, religious groups, donors or the UN and other international/regional organisations to help open humanitarian space to ensure the protection and assistance of IDPs in area under the control of non-State actors and, ultimately, also to resolve the conflicts in which these IDPs are caught.

### 2.3.1 Benchmarks and Indicators

Measurable indicators or benchmarks (as reflected in **Table 2** above and **Annex II** below) are needed to provide guidance to governments in discharging this responsibility and as a basis for assessing whether it is being effectively exercised. To this end, the **Framework for National Responsibility** is presented, which sets forth benchmarks for addressing internal displacement. In particular, 12 key steps for governments to take towards fulfilling national responsibility for internal displacement are identified:

- 1) Prevent displacement and minimize its adverse effects;
- 2) Raise national Awareness of the problem;
- 3) Collect data on the number and conditions of IDPs;
- 4) Support training on the rights of IDPs;

- 5) Create a legal framework for upholding the rights of IDPs;
- 6) Develop a national policy on internal displacement;
- 7) Designate an institutional focal point on IDPs;
- 8) Encourage national human rights institutions to integrate internal displacement into their work;
- 9) Ensure the participation of IDPs in decision-making;
- 10) Support durable solutions;
- 11) Allocate adequate resources to the problem;
- 12) Cooperate with the international community when national capacity is insufficient.

Taken collectively, these benchmarks constitute a framework for action for fulfilling national responsibility in situations of internal displacement.

The purpose of this Framework for National Responsibility is to provide guidance to assist governments in addressing internal displacement in their countries and in meeting their obligations towards their displaced populations. Its primary focus accordingly is on identifying a number of key steps that governments can take in situations of internal displacement. At the same time, this Framework recognizes the important role, and in some cases also responsibilities, of other actors, including national human rights institutions, regional bodies, international organizations, donors and civil society in promoting, reinforcing and assisting the fulfillment of national authorities' responsibilities to protect and assist the internally displaced. This Framework therefore is intended also to serve as a tool enabling international organisations and agencies, donors, regional bodies, national human rights institutions, civil society and, of course, IDPs themselves to monitor and assess the extent to which national responsibility is being effectively exercised, and thereby provide a basis for advocacy efforts for protecting the rights of the internally displaced.

### **2.3.2 Protection and Assistance to IDPs under the Guiding Principles on Internal Displacement**

The Guiding Principles on Internal Displacement ('Guiding Principles') are the first international standards specifically tailored to the needs of IDPs. Based on international humanitarian law, human rights law and refugee law by analogy, the Guiding principles set forth the rights of IDPs and explain the obligations of national authorities and non-state actors towards IDPs. They cover all phases of internal displacement: the pre-displacement phase; during displacement; and during return or resettlement and reintegration.

The Guiding Principles begin with an introduction explaining their scope and purpose. In the introduction, internally displaced persons are described as:

*Persons or groups or 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 conflicts, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border.*

This description highlights the two core elements of internal displacement: (1) the coercive or otherwise involuntary character of the movement; and (2) the fact that such movement takes

place within national borders. It is also important to note that the list of causes of displacement is not exhaustive. It covers persons who are obliged to leave their homes and place of residence because of conflict and large-scale human rights violations as well natural disasters and development projects. In this context, it is important to note that the notion of 'displacement' is neutral in the sense of covering both situations where persons are compelled to leave in violation of their rights and instances of evacuations and relocations/resettlements that are involuntary but legal.

Section I sets out general principles relating to the rights of IDPs and the responsibilities of national authorities. Importantly, Principle 3(1) explains that national authorities have the primary duty and responsibility to provide protection and assistance to IDPs within their jurisdiction. In addition, Principle (1) stipulates that IDPs are entitled to enjoy in full equality the same rights and freedoms as other persons in their country and shall not be discriminated against because of their displacement. At the same time, the Guiding Principles acknowledge that certain groups of IDPs – especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons – may require specific attention (see principle 4(2)).

Section II address the issue of protection from displacement and articulates to right not to be arbitrarily displaced. In practice, therefore, states are under an obligation to avoid the displacement of populations and in particular to protect against the displacement of groups with a special dependency on, or attachment to, their lands. When displacement is unavoidable, the Guiding Principles specify minimum guarantees to be observed.

The third and most extensive section of the Guiding Principles identifies the full range of civil, political, economic, social and cultural rights that all persons, including IDPs, should enjoy. This includes, for instance, the rights according to Principle 11(2)(a) – to be protected against acts of violence, torture and cruel, inhuman or degrading treatment or punishment as well as the right to be protected against the use of anti-personnel landmines (Principle 10(2)(e). Principle 22(d) specifically identifies the right of IDPs to vote and to participate in governmental and public affairs, whether or not they are living in camps. Principle 18 relates to the right to an adequate standard of living, including ensuring safe access to essential food, potable water, basic shelter and housing as well as appropriate clothing and essential medical services and sanitation. The third section also states that special attention should be given to the prevention of contagious and infectious diseases, (including AIDS, among IDPs (Principle 19(3)).

The fourth section deals with the issue of humanitarian assistance and specifies that when governmental authorities are unable or unwilling to provide assistance to the displaced, international organizations have the right to offer their services, and that consent for them to do so shall not be arbitrarily withheld.

The final section of the Guiding Principles emphasizes the importance of providing IDPs with long-term options, namely voluntary return in safety and dignity or resettlement in another part of the country. It also emphasizes the importance of ensuring durable solutions, including the need to provide IDPs with reintegration assistance, whether they return or resettle, and to ensure they have equal access to public services. In addition, this section explains the duty of national authorities to assist IDPs recover the property and possessions they lost upon displacement or,

when this is not possible, to assist them in obtaining compensation or another form of just reparation.

Throughout the Guiding Principles, emphasis is placed on the protection, assistance and reintegration needs of women and children. These two groups typically comprise the overwhelming majority of displaced populations. They are currently estimated as comprising 70-80% of the IDP population worldwide. The Guiding Principles call for the participation of women in the planning and distribution of relief supplies. They require special attention to be paid to the health needs of women, including access to female health care providers and services, and special efforts be made to ensure the full and equal participation of women and girls in educational programmes. They also prohibit sexual violence, stress the need for family reunification, and highlight the right of women to equal access to personal identity and other documentation and to have such documentation issued in their own names. Principle 23 recognizes the right to education and states that special efforts must be made to ensure that women and girls enjoy equal and full participation in educational programs. In relation to children, Principle 13 (2) adds that under no circumstances are children to be recruited or to be required or permitted to take part in hostilities.

The United Nations Commission on Human Rights and the Assembly requested the former Representative of the Secretary-General on Internally Displaced Persons, Francis M. Deng, to develop a normative framework on internal displacement. In 1998, he presented the Guiding Principles to the United Nations. Although not a binding document like a treaty, they have gained considerable international standing and authority. Both the Commission on Human Rights and the General Assembly, in resolutions adopted by consensus, have recognized the Guiding Principles as '*an important tool*' and '*standard*' for addressing situations of internal displacement, encouraged their wide dissemination and welcomed their increasing use by states, UN agencies and regional and non-governmental organizations.<sup>54</sup>

The UN Secretary-General has also called on the Security Council to encourage states to observe the Guiding Principles in situations of mass displacement, and in his 2005 report on UN reform, he urged member states to accept the Guiding Principles as '*the basic international norm for protection*' of internally displaced persons.<sup>55</sup> In addition, Heads of state and governments who assembled at the World Summit in New York in September 2005 recognized the Guiding Principles as an '*important international framework for the protection of internally displaced persons*' (Art. 132). All of the main international humanitarian, human rights and development organizations and umbrella groups have endorsed the Guiding Principles and taken steps to disseminate and apply them in the field. Around the world, regional organizations including the Organization for Security and Cooperation in Europe, the Council of Europe, and the Inter-American Commission on Human Rights of the Organization of American States, have expressed support for the Principles and use them as a monitoring tool, as a benchmark for measuring conditions on the ground and as a

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<sup>54</sup> See UN, Commission on Human Rights Resolution 2004/55; Geneva Assembly Resolution 2004/58; and Commission on Human Rights resolution 2005/46.

<sup>55</sup> UN Secretary-General Kofi Annan, In Larger Freedom: - Towards Development, Security and Human Rights for All, UN doc. a/59/2005 (2005), para. 210.

framework for IDPs programs and activities. Regional and sub-regional responses in Africa have expressed support for the Principles as well.<sup>56</sup>

Importantly, the Guiding Principles are being used at the national level in countries affected by internal displacement. Particularly note worthy is the development of national laws and policies based on the Principles. In Africa, Angola led the way as the first country in the world to incorporate the Guiding Principles into domestic legislation, with the Norms for the Resettlement of Displaced Populations. Adopted in January 2001 in anticipation of the end of the conflict in the country and the possibility of durable solutions for the displaced, the Norms set forth minimum standards for the protection and assistance of IDPs during their resettlement. For instance, they affirm that all returns must be voluntary and occur in conditions of safety. They specify that returning IDPs are to have access to land and should receive seeds and tools. Further, the Norms provided that rule of law and public infrastructure such as schools must be in place in areas of return. In West Africa, Nigeria is in the process of adopting a national policy on internal displacement, a recent draft of which reveals the comprehensive response that Nigeria takes to displacement, addressing all its causes including conflict, natural disasters and development projects. In Liberia, the President announced the endorsement of the Guiding Principles, which have been referenced in domestic law. Several other governments, including Burundi, Colombia, Georgia and Uganda, have also expressly referenced the Guiding Principles in their national laws and policies.<sup>57</sup>

National human rights institutions, for instance in Uganda and in countries in South Asia and the Americas, are also making use of the Guiding Principles to promote and protect the rights of the internally displaced. Even some non-state actors have begun to refer to the Guiding Principles as a guide for protecting and assisting the internally displaced in their zones of influence. Moreover, around the world, civil society groups have been instrumental in disseminating the Guiding Principles and using them as a basis for advocating for the rights of the internally displaced. IDPs themselves are using the Guiding Principles as an empowerment tool.<sup>58</sup>

The normative framework found in the Guiding Principles not only sets out the norms to be observed but also provides a framework for dialogue on IDP issues, thereby lending support to the development of effective strategies for preventing and effectively responding to internal displacement. In a number of countries, including in West Africa, training workshops bringing together representatives of national and local government, civil society, IDP communities and international agencies have raised awareness and understanding of the Guiding Principles and stimulated the development of national strategies promoting their application.<sup>59</sup>

As a sign of their broad use, the Guiding Principles have been translated from English into over 40 languages, including French, Portuguese, Hausa, Ibo and Yoruba.<sup>60</sup>

### **2.3.3 Protection and Assistance to IDPs under the Kampala Convention**

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<sup>56</sup> See Resolution on the mandate of the Special Rapporteur on Refugees, Asylum Seekers and IDPs in Africa, adopted at the 36<sup>th</sup> Ordinary Session of the African Commission on Human Peoples' Rights in Dakar, Senegal, on 7<sup>th</sup> December 2004.

<sup>57</sup> See Kalin W., Opening Speech at the 1<sup>st</sup> Regional Conference on IDPs in West Africa, held at the ECOWAS Secretariat, Abuja, 26-28 April 2006, Organized by Federal Government of Nigeria, ECOWAS, UNHCR and Brookings Institution, Washington D.C., USA, p. 1.

<sup>58</sup> Forced Migration Review, Supplement (October 2005): - Refugee Studies Centre, University of Oxford, UK., at pp. 17-18.

<sup>59</sup> Ibid

<sup>60</sup> See supra note 50.

The Kampala Convention provides that states shall bear the primary duty and responsibility for providing protection and assistance to IDPs, without discrimination of any kind.<sup>61</sup> Accordingly, the Convention imposes obligations on states to assess the needs and vulnerabilities of IDPs and host communities (or to facilitate such assessments)<sup>62</sup>, and to provide adequate humanitarian assistance to IDPs, in all phases of displacement.<sup>63</sup> Where appropriate, such assistance must be extended to local and host communities.<sup>64</sup>

The Kampala Convention highlights the specific needs of separated and unaccompanied children, female heads of household, expectant mothers, mothers with young children, the elderly and the disabled.<sup>65</sup> Steps must be taken to protect displaced people against sexual and gender-based violence, harmful practices, recruitment of children as well as human trafficking and smuggling.<sup>66</sup>

“States shall provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities”.<sup>67</sup>

States must allow the rapid and unimpeded passage of relief consignments, equipment and humanitarian personnel to IDPs. They must also enable and facilitate the role of local and international organisations and humanitarian agencies, Civil Society Organisations (CSOs) and other actors in providing protection and assistance to IDPs.<sup>68</sup>

At the same time, the Kampala Convention requires international organisations and humanitarian agencies to act in conformity with international law and the laws of the country, to respect the rights of IDPs under international law and to conduct activities in accordance with the principles of humanity, neutrality, impartiality and independence, as well as international standards and codes of conduct.<sup>69</sup>

“States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organisations may offer their services to all those in need.”<sup>70</sup>

### **2.3.4 State Parties Obligation on Domestic Implementation of the Kampala Convention**

The Kampala Convention expressly requires States Parties to domesticate the provisions of the Convention. The express requirement for domestication in the Kampala Convention

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<sup>61</sup> Article 5(1).

<sup>62</sup> Article 5(5)

<sup>63</sup> Articles 3, 4, 5, 7, 9, 10 and 11.

<sup>64</sup> Articles 9(2)(b).

<sup>65</sup> Articles 9(2)(c).

<sup>66</sup> Articles 9(2)(d).

<sup>67</sup> Kampala Convention, Article 9(2)(b)

<sup>68</sup> Articles 3(1)(j) and 5(7)

<sup>69</sup> Article 6.

<sup>70</sup> Kampala Convention, Article 5(6)

recognizes the fact that the full and proper implementation of the Convention is crucial to the advancement of the protection and assistance of IDPs on the Continent. Thus, article 3(2)(a) of the Kampala Convention enjoins States Parties to incorporate their obligations under the Convention into domestic law by enacting or amending relevant legislation on the protection and assistance of IDPs.

The Kampala Convention also requires States Parties to designate an authority or body responsible for coordinating activities aimed at protecting and assisting IDPs.<sup>71</sup> This is an important requirement considering that most responses to the plight of IDPs are always inefficient due to lack of coordination amongst actors. In addition, the Convention obliges States Parties to adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels.<sup>72</sup> Such policies and strategies will no doubt go far in complementing domestic legislation on IDPs. As Mooney rightly observes, '[t]he adoption of a national policy or strategy on internal displacement is a distinct, but complimentary measure to the enactment or amendment of national legislation.'<sup>73</sup> The Convention also requires that the adoption of national legislation, policies and strategies on internal displacement should be accompanied by the provision of necessary funds for protection and assistance of IDPs.<sup>74</sup> Finally, States Parties should incorporate the relevant principles contained in the Convention into peace negotiations and agreements for finding sustainable solutions to the problem of internal displacement.<sup>75</sup>

### **2.3.5 Dual Monitoring Compliance Mechanism under the Kampala Convention**

The Kampala Convention establishes a dual monitoring mechanism under article 14 entitled 'monitoring compliance'. It requires firstly that the implementation of the objectives of the Convention shall be monitored and reviewed by a Conference of State Parties to the Convention.<sup>76</sup> It is under the auspices of this Conference that states are expected to enhance their capacity for cooperation and mutual support.<sup>77</sup> The Convention stipulates that the Conference shall be convened regularly.<sup>78</sup> In effect, the Convention does not stipulate in precise terms how regularly the Conference should be convened, casting doubt on the feasibility of the Conference as a monitoring mechanism. According to Kellenberger, the Conference of States Parties "is not a mechanism that would lead directly to sanctions but it is (sic) creating pressure for compliance".<sup>79</sup>

Secondly, the Kampala Convention establishes a reporting mechanism that is linked to the reporting procedure under the African Charter, and under the African Peer Review Mechanism ('APRM'). In essence, States parties would be required, when presenting their bi-annual reports

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<sup>71</sup> Kampala Convention, art 3(2)(b)

<sup>72</sup> Kampala Convention, art 3(2)(c)

<sup>73</sup> Erin Mooney 'Developing national law, policy and strategies around the African Union Convention for the protection and Assistance of Internally Displaced persons in Africa', statement delivered at the African Union-Civil Society Organizations Pre-Summit on internally Displaced persons in Africa, Kampala, Uganda, 13-15 October 2009.

<sup>74</sup> Kampala Convention, art 3(2)(d)

<sup>75</sup> Kampala Convention, art 3(2)(e)

<sup>76</sup> Kampala Convention, art 14(1)

<sup>77</sup> Kampala Convention, art 14(2)

<sup>78</sup> Kampala Convention, art 14(3)

<sup>79</sup> See 'Challenge seen in ensuring Africa respects pact on displaced – ICRC', available at [www.alertnet.org/db/an\\_art/57964/2009/09/22-110706-1.htm](http://www.alertnet.org/db/an_art/57964/2009/09/22-110706-1.htm), (accessed on 10 October 2013).

under article 62 of the African Charter,<sup>80</sup> and under APRM, to also report on the legislative and other measures they have taken to give effect to the Convention.<sup>81</sup> By extension, therefore, while the Kampala Convention does not establish its own monitoring body, it empowers the African Commission and the APRM to monitor state compliance with the Convention. Indeed, the AU is enjoined under the Convention to share information with the African Commission on the situation of displacement on the continent,<sup>82</sup> and to cooperate with the Special Rapporteur of the African Commission for Refugees, Returnees, IDPs and Asylum Seekers in addressing issues of IDPs.<sup>83</sup>

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<sup>80</sup> See Malcolm Evans & Rachel Murray “The state reporting mechanism of the African charter’ in Malcolm Evans & Rachel Murray *The African Charter on Human and Peoples’ Rights: The system in practice, 1986-2006* (2008) 49.

<sup>81</sup> Kampala Convention, art 14(4)

<sup>82</sup> Kampala Convention, art 8(3)(e)

<sup>83</sup> Kampala Convention, art 8(3)(f)



## CHAPTER THREE

### Assessing National Approaches to Internal Displacement: - Findings from three Case Studies

#### 3.1 Overview of the Findings

This chapter contains a comparative analysis of each of the twelve benchmarks of the Framework for national Responsibility across the three countries studied: - Cote D'Ivoire, Liberia and Nigeria. These countries represent varied experiences (between 1994 and 2014) with the number of IDPs, trend and impact of internal displacement due to conflict, generalized violence, human rights violations and natural disaster. Each of the twelve benchmarks is a lens allowing for government policy, practice or inaction vis-à-vis internally displaced persons to be viewed and assessed.

#### Benchmark 1: - Prevent Displacement and Minimize its Adverse Effects

Respecting the fundamental human rights of civilian populations in armed conflict and other situations of violence is the best prevention against displacement. Guiding Principles 10-13 reaffirm the following basic rights and guarantees of IDPs, namely, the rights to life, integrity, dignity and security, which, if respected would prevent many of the conditions and threats that compel people to flee.

One fundamental step that states can take to exercise their responsibility with regard to internal displacement is to take steps to prevent it. Such measures should focus on both preventing unnecessary displacement and, when displacement is unavoidable, taking steps in advance to mitigate its harmful effects. As set out in Guiding Principle 5, the most important factor in preventing displacement is to accord full respect to international law, in particular human rights and humanitarian law – an undertaking that goes beyond the drafting of laws and policies and has implications for all branches of government. All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, to prevent and avoid conditions that might lead to displacement of persons.<sup>84</sup>

Concrete steps to prevent and mitigate displacement should include a review of relevant aspects of their national laws and policies to ensure that they incorporate basic international law protection as set out in the Guiding Principles<sup>85</sup> and the AU Kampala Convention. The objectives of this convention are to: a) promote and strengthen regional and national measures to **prevent or mitigate**, prohibit and eliminate root causes of internal displacement as well as provide for durable solutions; b) establish a legal framework for **preventing** internal displacement, and protecting and assisting internally displaced persons in Africa; c) establish a legal framework for solidarity, cooperation, promotion of durable solutions and mutual support between the States Parties in order to combat displacement and address its consequences; d) provide for the obligations and

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<sup>84</sup> See Article 5 of the Guiding Principles on Internal Displacement endorsed by the UN General Assembly, as an important internal framework for the protection of IDPs. See the 2005 World Summit Outcome document (A/RES/60/1), paragraph 132, as well as, for example, A/RES/62/153(2007), paragraph 10, and A/HRC/RES/6/32 (2007), paragraph 5.

<sup>85</sup> See Principles 6-9.

responsibilities of State parties, with respect to the **prevention** of internal displacement and protection of, and assistance, to internally displaced persons; and e) provide for the respective obligations, responsibilities and roles of armed groups, non-state actors and other relevant actors, including civil society organizations, with respect to the **prevention** of internal displacement and protection of, and assistance to, internally displaced persons.

Internal displacement is often the consequence of violations of IHL during armed conflict or failure to comply with other norms intended to protect people in situations of violence, such as human rights law. When civilians flee a conflict zone, this is a good indication that the warring parties are indifferent to their rights under IHL or, worse, are deliberately targeting them.<sup>86</sup>

IHL expressly prohibits the displacement of civilians. In addition, the rules of IHL intended to spare civilians from the effects of hostilities play an important role in preventing displacement, as it is often violations of these rules that cause civilians to flee their homes.<sup>87</sup>

Of particular relevance are: the prohibition on attacking civilians or civilian property and on indiscriminate attacks; the prohibition on starving civilians as a method of warfare and on destroying objects indispensable to their survival; the prohibition on reprisals against civilians and civilian property; the prohibition on using civilians as “human shields”; the prohibition on collective punishment, which, in practice, often consists in destroying homes and thus leads to displacement; the obligation for all States and all parties to a conflict to allow the unhindered passage of relief supplies and the provision of assistance necessary for the survival of civilians.<sup>88</sup>

Preventing displacement is a matter of addressing the reasons for involuntary or forced migration of civilians, largely the vulnerable groups. In the case of ECOWAS Region, the 2011 First ECOWAS Ministerial Conference earlier referred to, declared that “Member States undertake to examine further all the factors that cause or contribute to forced displacement of people in our region, with a view to preventing displacement emanating from conflict and generalized violence and mitigating its devastating effects on our people; to encourage every Member State to install at the national level an early warning and rapid response system in close coordination with the already established system at the regional level run by ECOWAS and thereby facilitating its integration to the continental early warning system. The early warning system should cover all positive root causes of forced displacement in West Africa, guided by a comprehensive and participatory vulnerability analysis.” In the case of Nigeria, that will require dealing squarely and sincerely with the common and complex causes of displacement highlighted below. Accordingly, respect for civilians’ rights would go far to reduce common threats to their security and welfare. This approach accords with the constitutional obligations imposed on the government (at all levels) by chapter 2 of the 1999 Nigerian Constitution, namely, **to promote the security and welfare of the people as the primary purpose of government** (section 14(2) (b)); and to ensure the progressive realization of the fundamental social, economic, political, educational, foreign policy and environmental objectives for the common good of all citizens<sup>89</sup>.

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<sup>86</sup> Ibid, Principle 6

<sup>87</sup> See Articles 48, 49, 51 and 52 of the Additional Protocol I of 1977; and articles 13, 14, 17 & 18 of Protocol II to the Geneva Conventions of 1949.

<sup>88</sup> Ibid. see also Rules 2, 7, 9, 10, 11, 12, 14, 97 of Customary International Humanitarian Law

<sup>89</sup> Sections 13-20 of Cap. 2 of the Constitution

The Kampala Convention<sup>90</sup> imposes an obligation on state parties to refrain from, prohibit and prevent arbitrary displacement of populations; and to prevent political, social, cultural and economic exclusion and marginalization, that are likely to cause displacement of populations or persons by virtue of their social identity, religion or political opinion. Further, under Article 4, State Parties are required to **prevent** and avoid conditions that might lead to the arbitrary displacement of persons by respecting and ensuring respect for their obligations under international law, including international human rights and humanitarian law; states are obliged to devise early warning systems, in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures and, where necessary, provide immediate protection and assistance to internally displaced persons.<sup>91</sup>

One of the aims of the Kampala Convention is to “promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement”.<sup>92</sup> To this end, it requires states to prevent displacement arising from conflict and human rights violations, by respecting their obligations under international law, including human rights and humanitarian law, in order to prevent and avoid conditions that might lead to arbitrary displacement.<sup>93</sup> In relation to displacement caused by natural disasters, the Convention requires states to devise, establish and implement early warning systems, and to adopt measures for disaster preparedness and disaster management.<sup>94</sup>

The Convention provides that all people have a right to protection against arbitrary displacement. Prohibited acts causing arbitrary displacement include policies of racial discrimination or other similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the population; harmful practices,<sup>95</sup> generalized violence; collective punishment; violations of human rights or international humanitarian law.

In the case of development or other projects whether carried out by public or private actors, states must ensure that feasible alternatives to displacement are explored, that the socio-economic and environmental impact of development projects are assessed prior to the undertaking of such a project, and that people likely to be displaced are informed and consulted.<sup>96</sup>

States are also required to “endeavour to protect” communities with special attachment to and dependency on land due to their particular culture and spiritual values from being displaced from such land, except where the displacement is justified by “compelling and overriding public interests”.<sup>97</sup>

Table 4 and the case studies below reveal that all the three countries assessed had adopted some preventive measures on paper, but all seem to be grappling with challenges of implementation or of actually preventing displacements in practice. Further revealed by Table 4

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<sup>90</sup> Adopted by the Special Summit of the Union held in Kampala, Uganda, 23<sup>rd</sup> October, 2009

<sup>91</sup> Kampala Convention, Articles 3(1)(a) – (b) and 4(1) – (2).

<sup>92</sup> Article 2

<sup>93</sup> Article 4(1)

<sup>94</sup> Article 4(2)

<sup>95</sup> Article 1 defines harmful practices as “all behavior, attitudes and/or practices which negatively affect the fundamental rights of persons, such as not limited to their right to life, health, dignity, education, mental and physical integrity and education”.

<sup>96</sup> Article 10.

<sup>97</sup> Article 4(5).

and the case studies below, the fact that both Nigeria and Cote D'Ivoire have taken greater steps to prevent displacement due to natural disasters than due to conflict or development projects, indicating that the former is perhaps less politically taboo and/or particularly less difficult to implement than the latter.

**Table 4: - BENCHMARK 1: - PREVENTIVE MEASURES**

ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	NIGERIA	COTE D'IVOIRE	LIBERIA	COMMENT
Under Chapter 3, the overall strategic objective guiding the ECOWAS Humanitarian Policy, is the forecast, <b>prevention</b> and overall management of disasters and conflicts towards limitation or elimination of effects thereby preventing death, human suffering and development losses; and enhancing the protection and social situations of all West African citizens and residents as basic conditions for regional integration, peace, security and development.	<p><b>a) Fundamental Rights of IDPs under the Constitution:</b> - IDPs remain citizens of Nigeria irrespective of how they were displaced: - either by Natural or Human – made Disasters, armed conflict, generalized violence or development project induced. Hence it is the primary responsibility of government through its national institutions to ensure the promotion and protection of the constitutionally guaranteed rights of IDPs under chapter 4, Sections 33-43. These are the Rights to life, human dignity, personal liberty, privacy and family life, fair hearing, freedoms of religion, expression, assembly, association, movement, from non-discrimination and to acquire and own immovable property. Further, as the primary purpose of government, under section 14(2)(b) the State is Constitutionally obligated to ensure the promotion of the security and welfare of all the people (including IDPs). This can be done by ensuring the progressive realization of the Fundamental, political, social, economic, educational, environmental and foreign policy objectives of the state listed under sections 15-20 of chapter 2 of the Constitution.</p> <p><b>b) The July 2012 Revised Draft National Policy on IDPs:</b> - This draft policy provides a framework for national responsibility towards prevention and protection of citizens from incidences of arbitrary and other forms of internal displacement, meet their assistance and protection needs during displacement, and ensure their rehabilitation, return, re-integration or resettlement after displacement. The draft policy spells out principles guiding humanitarian assistance and implementation of durable solutions in situations of internal displacement in Nigeria. This draft policy has adopted</p>	<p>The Minister of the Environment, Urban Sanitation and Sustainable Development, in partnership with the UNDP and UEMOA, officially launched the national Disaster Risk Reduction and Management Platform (National DRR Platform) on Wednesday 24 April 2013.<sup>98</sup> The platform was established by Presidential Decree in October 2012.<sup>99</sup> The platform identifies five priority areas of action, including the classification of disaster risk reduction as a priority area; risk identification and acting on this identification;</p>	<p>Guiding Principles was adopted by the Liberia Government in 2004, and was used as a basis for repatriation and management of IDP camps. There is however no Disaster Management plans yet, though one is being created by the National Disaster Relief Commission. The Commission itself does not have an agency law yet, but a draft bill has been sent to the President for review. The Kampala Convention is not yet ratified; but the Ministry of Foreign Affairs has reviewed the convention for consistency analysis and has submitted draft</p>	<p>In terms of both purpose and States obligations, significant nexus clearly exists between the Kampala Convention and the ECOWAS Policy/Plan of Action referred to in the context of Benchmark 1, Indicators and Sub-indicators of this study.</p> <p><b>Note:</b> - Article 4(2) of the Kampala Convention on Early Warning</p>

<sup>98</sup> Article from “L'Intelligent d'Abidjan”, published on 25 April 2013 on <http://news.abidjan.net/h/457903.html>

<sup>99</sup> Decree N° 2012-988 dated 10 October 2012, Establishing, and Defining the Attributes, Organisation and Functions of the National Disaster Risk Reduction and Management Platform.

<p>Further, Strategic objective 4 requires member states to ensure compliance with International Humanitarian Law as a means of <b>preventing or mitigating</b> conflict-related impacts on the civilian populace.</p>	<p>to a large extent the human rights-based approach and its principles. The intension is to accommodate as much as possible the provisions of existing international conventions, treaties and protocols on internal displacement, and guided by the dictates of international humanitarian and human rights laws. This draft policy therefore draws extensively from the guidance of international and national frameworks on the prevention of internal displacement, as well as those on protection and assistance of internally displaced persons. The African Union convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention), the UN Guiding Principles on internal displacement and the SPHERE standards for humanitarian assistance have significantly defined the direction of this draft policy. The draft policy therefore, without prejudice to other existing frameworks and policy guidelines for protection and assistance of vulnerable populations, specifically seeks to address: a) <b>All causes</b> of internal displacement as identified in Section (1.3) of this Policy; b) <b>All groups</b> of internally displaced persons including those with special needs and vulnerabilities including host communities; c) <b>All needs</b> of internally displaced persons, including assistance and protection needs thereby ensuring the realisation of the full range of their political, civil, social, economic and cultural rights; d) <b>All phases</b> of displacement spanning from the emergency and relief phases to recovery including rehabilitation, re-integration, return and resettlement phases thereby creating conditions for durable solutions; e) <b>All levels</b> and arms of government from the local to State and federal levels, including all ministries, departments and agencies of government charged with diverse responsibilities for guaranteeing the rights of internally displaced persons and adequately meeting their assistance and protection needs; f) <b>All affected areas</b> by opening up the humanitarian space as well as facilitating, coordinating and ensuring access to internally displaced persons by all State and non-State humanitarian actors, irrespective of where internal displacement has occurred within the country.</p> <p><b>c) Human Rights of IDPs under the African charter on</b></p>	<p>creation of an understanding and awareness of risk; risk reduction; preparation and preparedness. The national DRR platform is comprised of an Inter-Ministerial Committee, an Inter-sectoral Technical Committee and an Executive Secretariat. It is regrettable that the Ministry of Solidarity, Women, Family and Children Affairs is not included on this Committee.</p>	<p>report to the President. An IHL working group to advocate the ratification of all Liberia's International Human Rights obligations. Liberia has so far ratified ICCPR and ICESCR.</p>	<p>System and Disaster Risk Reduction Strategies and preparedness is adequately captured in Nigeria by NEMA's Early Warning System, Disaster Risk Reduction Strategies and Preparedness (See column 2 of this bench mark paras f,g,h).</p>
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	<p><b>Human and Peoples' Rights, Cap. A9, Laws of the Federation of Nigeria, 2004:</b> - In addition to the above constitutional rights, IDPs in Nigeria like any other individual or group, are guaranteed their civil, political, social, economic, environmental and developmental rights under Articles 2-24 of the African charter. This cluster of rights includes rights to education, housing/shelter, health, food, employment, social security, adequate standard of living, safe environment, cultural life and development.</p> <p><b>d) NEMA Act, 1999:</b> Having established NEMA under Section I, the Act goes further to list out fifteen (15) broad functions of the Agency as follows under section 6(1): - The Agency shall – (a) Formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level; (b) Co-ordinate and promote research activities relating to disaster management at the national level; (c) Monitor the state of preparedness of all organizations or agencies which may contribute to disaster management in Nigeria; (d) Collate data from relevant agencies so as to enhance forecasting, planning and field operation of disaster management; (e) Educate and inform the public on disaster prevention and control measures; (f) Co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call; (g) Co-ordinate the activities of all voluntary organizations engaged in emergency relief operations in any part of the Federation; Receive financial and technical aid from international organizations and non-governmental agencies for the purpose of disaster management in Nigeria; (h) Receive financial and technical aid from international organizations and non-governmental agencies for the purpose of disaster management in Nigeria; (i) Collect emergency relief supply from local, foreign sources and from international and non-governmental agencies; (j) Distribute emergency relief materials to victims of natural or other disaster and assist in the rehabilitation of the victims where necessary; (k) Liaise with State Emergency Management committees established</p>			
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	<p>under section 8 of this Act to assess and monitor where necessary, the distribution of relief materials to disaster victims; (l) Process relief assistance to such countries as may be determined from time to time; (m) Liaise with the United Nations Disaster reduction Organization or such other international bodies for the reduction of natural and other disaster; (n) Prepare the annual budget for disaster management in Nigeria; and (o) Perform such other functions which in the opinion of the Agency are required for the purpose of achieving its objectives under this Act.</p> <p><b>e) The NHRC (Amendment) Act, 2010</b> has conferred on the Commission additional independence and strengthened the Commission's powers with respect to promotion and protection of human rights, investigation of alleged violations of human rights and enforcement of decisions. The new Act has also widened the scope of Commission's Mandate to include vetting of legislations at all levels to ensure their compliance with human rights norms. Specially, the NHRC is mandated to: (a) Deal with all matters relating to the promotion and protection of human rights guaranteed by the constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the Internal Convention on Civil and Political Rights, the International Convention on the Elimination of all form of Racial Discrimination, the Internal Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child, the African charter on Human and Peoples' Rights and other international and regional instruments on human rights to which Nigeria is a party; (b) Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;</p> <p><b>f) NEMA</b> has been active in preventing and mitigating internal displacement through the following instruments: -</p> <ul style="list-style-type: none"> <li>• National Disaster Management Framework (MDMF)</li> <li>• National Platform for Disaster Risk Reduction</li> </ul>			
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	<ul style="list-style-type: none"> <li>• Mainstreaming Disaster Risk Reduction into basic and post basic school curricula</li> <li>• Vulnerability and Capacity Analysis (VCA) implementation</li> <li>• Awareness Creation, Advocacy and Capacity building</li> <li>• Sustainable Livelihood Option for Disaster Mitigation, Preparation and Response</li> <li>• Lake Nyos Disaster Response Manual</li> <li>• Multi-Disciplinary Epidemic Early Warning System</li> <li>• Disaster Volunteerism</li> </ul> <p><b>g) Early Warning Strategies<sup>99a</sup> in 2013:</b> - In 2013 NEMA responded to the early warning from NIMET on the rainfall outlook for year 2013 and the possibility of floods disasters by activating its early warning mechanism which provides different roles for stakeholders in disaster management in the country.</p> <p><b>h) Promoting the culture of Prevention through Disaster Risk Reduction (DRR) and Response Activities<sup>99b</sup> (2013):</b>  - The agency undertook comprehensive initiative to reduce disaster risks through improved response mechanism which include the following: -</p> <ol style="list-style-type: none"> <li>i. Mainstreaming of Disaster Risk Reduction (DRR) into Basic and Post Basic Educational curriculum in Nigeria in collaboration with the Nigerian Educational Research and Development Council (NERDC) by infusion of disaster risk reduction and Climate Change Adaptation (DRR/CCA) into 4 core subjects.</li> <li>ii. Establishment of Disaster Risk Reduction Clubs in Secondary Schools as part of strategies to inculcate the culture of prevention and risk reduction among the youth in Nigeria etc.</li> </ol> <p><b>i) NEMA National Disaster Response Plan (2001):</b> - The National Disaster Response Plan (NDRP) establishes a process and structure for the systematic, coordinated and effective delivery of federal assistance, to address the consequences of any major disaster or emergency declared by the President of the Federal Republic of Nigeria. The NDRP: (1) sets forth fundamental policies, planning</p>			
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	<p>assumption, a concept of operations, response and recovery actions and Federal agencies and private sector responsibilities. (2) Describes the array of Federal response recovery and mitigation, resources available to augment State and local efforts to save lives: protect public health safety and property; (3) organizes the forms of federal response assistance that a State is most likely to require under 13 Support Service Areas (SSAs) each of which has a designated primary agency; (4) spells out the process and methodology for implementing and managing federal recovery and mitigation programmes and support/technical services; (5) addresses linkages to other Federal emergency operations plans developed for specific incidents; (6) provides a focus for interagency and intergovernmental emergency preparedness, planning, training, exercising, coordination and information exchange; and (7) serves as the foundation for the development of detailed, supplemental plans and procedures to implement federal response and recovery activities rapidly and efficiently.</p> <p><b>j) NEMA Search and Rescue (SAR), and Epidemic Evacuation Plan for Nigeria (2008):</b> - The general objectives of the Plan are to coordinate and mobilize the resources of Government and non-Governmental agencies to achieve the following: - (i) save lives and property; (ii) minimize damage to the environment and infrastructure; (iii) prevent escalation of a disaster incident; (iv) restore normalcy as soon as possible; (v) relieve suffering of the victims of a disaster/ emergency.</p> <p><b>k) National Emergency Management Agency and Stakeholders: National Contingency Plan (2011):</b> - The National Contingency Plan is a multi-hazard contingency plan with a focus on hazards with the highest probability of occurrence and severity in Nigeria. These include floods, conflicts, droughts and epidemics. The multi hazard scenario approach has been adopted to ensure the accommodation of forecasted hazard, as well as those that have not been forecasted, in view of recent global happenings and climate change and the uncertainty to determine occurrence of</p>			
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	<p>disasters and their impacts. The multi-hazard contingency plan, therefore, is a first step towards mitigating the impact of quick onset disasters when the level of forecast cannot be ascertained.</p> <p><b>l) National Disaster Management Framework (NDMF) (2011):</b> - The National Disaster Management Framework (NDMF) has now been developed to serve as a foundation upon which all plans, policies and programmes and procedures for Disaster Management can be created, developed and sustained. To provide a transparent and inclusive framework encompassing the broad spectrum of disaster management; from Institutional Capacity, Coordination, Risk Assessment, Risk Reduction, Preparedness, Prevention, mitigation, Response, Relief, Recovery through to information management, education and communication. The framework defines measurable, flexible and adaptable coordinating structures, and aligns key roles and responsibilities of disaster management stakeholders across the nation. It describes specific authorities and best practices for managing disasters, and explains a paradigm shift in disaster management beyond mere response and recovery. Section 4 (disaster preparedness, prevention and mitigation) deals with strategies to prevent the occurrence of such disaster from having devastating impact on people, infrastructures and the economy; curtail the occurrence of disaster events; and reduce the impact of disasters, if they do occur. Section 4 (disaster risk reduction) introduces planning and implementation as DRR strategies to inform development-oriented approaches to plans, programmes and projects that reduce disaster risks.</p> <p><b>m) The Nigerian Red Cross Society: - Strategic Development Plan (2011-2013):</b> - The Nigerian Red Cross Society in 2007 drafted a three-year Strategic Development Plan (SDP) for the period 2008 to 2010. These efforts and the lifecycle of the documents produced made the development of this Strategic Development Plan (2011-2013) imperative. From the onset, S-2013 was designed to be fully participatory, taking into consideration inputs from 37</p>			
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	<p>branches of the Nigerian Red Cross Society. By so doing, all branches were able to take ownership of this document in its entirety and ensure implementation for the period under plan. The S-2013 addresses the fundamental challenges of NRCS in responding to victims of natural and manmade disasters in the country. It also focuses on the problems relating to volunteer management, human resource tool and management, financial and accounting system, problem of self reliance or donor dependency, strategic relief fund and warehousing, monitoring and evaluation. This document provides a strategic direction towards surmounting the aforementioned challenges and fulfilling the primary mandate of the National Society as enshrined in the Nigerian Red Cross Act 1961 CAP. 324 of the Law of the Federation. S-2013 is hinged on four pillars: Disaster Management (DM); health and care; dissemination and communication and organizational development Disaster preparedness and Restoring Family Links (RFL) activities are the bedrock of the DM plan while infectious diseases prevention and control; HIV/AIDS; water and sanitation; non-remunerated blood donor recruitment; maternal, neonatal and child health as well as in emergencies constitute the core of health and care components of this plan. On the other hand, promotion of respect for human dignity and diversity is rooted in systematic dissemination of the RCRC Principles and IHL, advocacy, partnering and networking and capacity building.</p> <p><b>n) Mainstreaming Peacebuilding in Development Programming in Nigeria: A Framework (2006):</b> - The framework for mainstreaming peacebuilding into development programming in Nigeria is a tool for conflict sensitive development planning, implementation, monitoring and evaluation. This framework for mainstreaming peace building in development programming is the outcome of institutional collaboration between the Institute for Peace and Conflict Resolution (IPCR), The Presidency, Nigeria; and the United Nations Children Fund (UNICEF). The purpose of the framework is to introduce conflict sensitivity and peacebuilding into the development programming processes in Nigeria.</p>			
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	<p><b>o) Draft National Peace Policy (2009):</b> - The draft National Peace Policy (NPP) of Nigeria seeks to provide a framework for peaceful social transformation. It is a set of fundamental objectives and principles evolved by stakeholders in Nigeria to serve as guidelines for every Nigerian citizen, decision makers, implementers and people resident in Nigeria to respect peace in the pursuit of their individual and collective aspirations as guaranteed by the Constitution of the Federal Republic of Nigeria (1999). The 1999 Constitution in its Preamble affirms the resolve of the people of Nigeria to: “live in unity and harmony as one indivisible and indissoluble Sovereign nation under God dedicated to the promotion of inter-Africa solidarity, world peace, international cooperation and understanding.” Also, in Section 19(a), the Constitution pledges the pursuit of “the promotion of international cooperation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestations.”</p> <p><b>p) The Kabiru Turaki-led presidential Committee on Dialogue and Peaceful Resolution of Security Challenges in the North,</b> in November 2013 submitted its report to President Goodluck Jonathan at the Presidential Villa, Abuja. The committee recommended among others, the setting up of an advisory committee on continuous dialogues that will have powers to advise the President on all matters related to dialogue and resolution of crisis. It also recommended the setting up of a Victims Support Fund for victims of insurgency to be administered by a new agency established specially to assist the victims.</p> <p><b>q) National Action Plan for the Promotion and Protection of Human Rights in Nigeria: - 2009-2013:</b> - This Nigerian National Action Plan is an integrated and systematic national strategy to help realize the advancement of human rights in Nigeria. At one and the same time, it is also: a) an audit of the human rights situation in Nigeria, identifying areas in need of promotion and protection, as well as improvement; b) a commitment to concrete measures that can be adopted to</p>			
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	build and entrench a culture of human rights for the enjoyment of all; c) a framework for sustained and coordinated ways for the Country as a whole to promote and protect human rights in the four covered years. The NAP presents an opportunity for identifying and agreeing on areas of cooperation between Government Departments, the Private Sector, Civil Society in general, and other role players, so that together, all stakeholders can improve the protection and promotion of human rights in the country. It will also be used by Government, organs of the Civil Society and the international Community to monitor and assess the observance of human rights, and to gauge the commitment of the Government to the promotion and protection of human rights in the Country.			
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<sup>99a</sup> See NEMA: An accomplished institutional disaster management strategist in 2013. Advertorial in the Daily Trust News Paper, Abuja, Wednesday December 18, 2013 at pp.30-33.

<sup>99b</sup> Ibid.

### **Table 5: Benchmark 2: - Raising National Awareness on Internal Displacement**

Under Article 3(2)(c) of the Kampala Convention, States Parties shall adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels, taking into account the needs of host communities.

Raising awareness of the existence and nature of internal displacement among all relevant stakeholders and of the steps necessary to address it is an important precondition for the implementation of laws and policies on internal displacement. As set out in the Framework for National Responsibility, sensitization or awareness-raising campaigns can help promote national solidarity with the displaced and counteract the stigma associated with displacement. National awareness is especially important in the context of IDP laws and policies, which often may be required to respond to the particular vulnerabilities of IDPs through special measures, such as targeted humanitarian aid or facilitated document replacement, that are not available to others. It is therefore crucial for members of the public and especially those living in communities hosting large numbers of IDPs to understand that such measures are neither politicized nor arbitrary, but rather necessary to place fellow citizens disadvantaged by displacement in a position of legal and material equality.

Further, table 5 reveals that nearly all the three countries at least at some point, have exercised their responsibility to IDPs by acknowledging the existence of internal displacement and their responsibility, to address it as a national priority, for example, in the case of Cote D'Ivoire and Nigeria, by drawing attention to IDPs' plight. However, as exemplified by Liberia, government efforts to raise awareness of internal displacement through public statements was not always a useful indicator of a government's commitment to upholding the fundamental human rights and freedoms of IDPs.

<b>ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION</b>	<b>NIGERIA</b>	<b>COTE D'IVOIRE</b>	<b>LIBERIA</b>	<b>COMMENT</b>
<p>Under Chapter 3, strategic objective 6, the ECOWAS policy aims at maximizing the use of media and communication for highlighting humanitarian issues and as a tool for emergency management.</p>	<p>The Government of Nigeria has over the years been involved in regional and international discourse and consultations on internal displacement and its impact on national economies and regional security. In April 2006, the first Regional Conference on internal displacement in West Africa was held in Abuja, hosted by the Federal Government of Nigeria. One of the recommendations of the conference was that countries should develop national laws and policies on internal displacement based on the UN Guiding Principles on Internal Displacement, with support from the highest level of government. Following this Conference, the relevant agencies and stakeholders in the sector drafted the first national policy on internally displaced persons in Nigeria, but this was not adopted by the then administration. In July 2011, Nigeria also hosted in Abuja the 1<sup>st</sup> ECOWAS Ministerial Conference on Humanitarian Assistance and Protection of Internally Displaced Persons, with the support of the African Union Commission, ECOWAS and UNHCR and the funding of the Government of Finland.</p> <p>In 2008, directed by the Vice President, the Secretary to the Government of the Federation (SGF) established a committee to fine-tune the policy, particularly with regards to an implementation framework. The Committee submitted its recommendations to the SGF in January 2009. In February 2009, the then President approved one of the recommendations affirming the expansion of the mandate and a change in the nomenclature of the National Commission for Refugees to include the resettlement and rehabilitation of IDPs. As a necessary follow-up, the National Commission for Refugees in concert with the office of the Attorney General of the Federation came up with a draft bill</p>	<p>The Ivorian Government recognises the existence of internal displacement, and acknowledges its responsibility in facing up to the challenges confronting the IDPs. This is no doubt the reason why the CNCAH has been replaced by the CCE.</p> <p>Nonetheless, the enlightenment actions/campaigns on this issue are generally initiated by international NGOs and humanitarian actors. For example, it was the International Rescue Committee (IRC) which enlightened IDPs as to the possibility of a voluntary return to their places of origin, within the framework of the</p>	<p>There are no campaigns. The LRRRC runs a need basis radio program. It is not regular, and now focuses on Refugees.</p>	<p>In terms of appropriate or priority measures to be taken to raise awareness about issues relating to internal displacement at the national and local levels, the Kampala Convention and the ECOWAS Policy are in tandem. Particularly the priority measures proposed under objective 6 requires member State to, inter alia, institute and carry out training and sensitization programmes on humanitarian issues for media organisations and specialized groups etc.</p>

	<p>and submitted the original draft IDP Policy to the Federal Executive Council in October 2010.<sup>100</sup></p> <p>Nigeria's instrumental role, between 2009-2012, in the adoption and coming into force of the African Union Kampala Convention as the new dawn in preventing internal displacement, protecting and assisting IDPs in Africa, is evident in her being, timely, a signatory and a State Party to that Convention. It also responded faithfully to the July 2011 ECOWAS Ministerial Conference Resolution on internal displacement held in Abuja, as the first ever gathering at the highest level. It is based on these new commitments, responsibilities and obligations bestowed on Member States by the Convention that in 2012, the government found it necessary to revisit the 2008-10 draft policy on IDPs, with the purpose of reviewing and aligning it with the provisions of the Kampala Convention, and as a first step to domesticating it. This led to the formation of the multi-sectoral technical working group drawn from relevant national agencies, civil society organisations and the academia that undertook the revision of the draft IDP policy between May and July 2012. The outcome of this thorough and inclusive process with significant contributions made by multi-stakeholders, is the current final draft IDP policy awaiting adoption by government.</p> <p>The reported displacement of about 65,000 IDPs due to the 2011 post presidential election violence was highly visible because of the scope and magnitude of the crisis, its impact on national security and there was a massive domestic and international response. This prompted the government to set up shortly after the crisis, a Presidential Panel of enquiry whose report contained a key recommendation to compensate the victims, largely IDPs, for their losses. The President approved the payment of a total sum of \$34.5 million dollars or N5.7 billion naira based on the assessment of damages and losses carried out by the panel.<sup>101</sup></p>	<p>cohesion and social component of its "Governance and Rights" programme. In this regard, the IRC and OCHA organised enlightenment sessions on voluntary return for the IDPs on April 11 and 13, 2012.<sup>106</sup></p> <p>In general political terms, it should be noted that neither the Linas Marcoussis Agreements nor those of Accra or Lomé, much less the Ouagadougou Political Agreement, make specific reference to the problems of IDPs. The various peace agreements drawn up over the years in order to put an end to the conflict, and the attempts to transition speedily from humanitarian to development actions, (for example, at the</p>		<p>Some minimal awareness is said to have been carried out by the Liberian Kampala Convention Taskforce but it has certainly not made any significant penetration in the media on the issue</p>
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<sup>100</sup> See the Foreword to the July 2012 Draft IDP Policy at p.6

<sup>101</sup> See OCHA (2013) *supra* note 29.

<sup>106</sup> OCHA, *Humanitarian Bulletin*, Côte d'Ivoire, Edition N° 13, dated 16 April 2012.



	<p>The more devastating effect of the deadly attacks by the Boko Haram insurgents and the counter-insurgency operations in the north-eastern states of Adamawa, Borno and Yobe carried out by the security forces against the group between 2012 and 2013, triggered significant displacement in recent years.<sup>102</sup> This informed the President of Nigeria to set up in April 2013 a Presidential Committee on Dialogue and Peaceful Resolution of security challenges in the North led by the Minister of Special Duties. The committee whose tasks include identification and constructive engagement of key leaders of Boko Haram and development of a workable framework for amnesty and disarmament of members of the group, submitted its report in November 2013 to the President. Among its key recommendations under review is the need for compensation and rehabilitation schemes for the over 90,000 reported victims of the Boko Haram attacks and clashes with the security forces.<sup>103</sup></p> <p>The government has established institutional frameworks for addressing internal displacement and providing protection and assistance to IDPs. The National Emergency Management Agency (NEMA), the National Commission for Refugees (NCFR), the Nigerian Red Cross Society (NRCS) and the National Human Rights Commission (NHRC) coordinate within their respective mandates and competences appropriate responses to various phases of internal displacement and the different needs of IDPs as well as compilation of information on progress and challenges to addressing the phenomenon of internal displacement and the IDP problem.<sup>104</sup></p> <p>The National Contingency Plan developed by NEMA in collaboration with Stakeholders provides for humanitarian sectors and meaningful collaboration with relevant international actors in addressing the plight of IDPs in Nigeria. NEMA facilitates the development of the NCP based on its mandate as a coordinating Agency. The protection, early recovery, water and sanitation clusters highlight the need for</p>	<p>beginning of 2010), without paying sufficient attention to reconciliation and durable solutions, have all been unsuccessful.<sup>107</sup></p> <p>It should also be noted at this point, that the Ministry of Internal Affairs, working in collaboration with agencies such as SAARA, took measures to facilitate access to official documents. Thus, national identity and birth certificates were sometimes issued at fairgrounds, while the decision of the authorities to extend the deadline for registration of births from one to three months is very opportune. Similarly, the validity of identification papers was extended from 3 months to one year.</p>		
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<sup>102</sup> See IDMC (2013) supra note 39.

<sup>103</sup> See The Punch Newspaper, Lagos, November 5, 2013: - <http://www.punchng.com/news/boko-haram>.

<sup>104</sup> See ECOWAS/UNHCR Study Report on Desk Review on National Response to Internal Displacement in Nigeria, November 2013, at pp. 9-15.

	adequate assistance, protection and recovery needs of IDPs and advocate strongly for government swift action and sustainable support. <sup>105</sup>			
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<sup>107</sup> HRC/23/44/Add.1, Report of the Special Rapporteur on Human Rights of Displaced Persons, Chaloka Beyani : Mission in Côte d'Ivoire (22-31 July 2012), P. 10.

<sup>105</sup> See Sunday Newswatch Report dated 29-10-2013 online: - <http://www.mydailynewswatch.com/2013/10/29.....>

### **Table 6: - Benchmark 3: - Collect Data on Number and Conditions of IDPs**

Under Article 5(5) of the Kampala Convention, States Parties are obligated to assess or facilitate the assessment of the needs and vulnerabilities of IDPs and of host communities in cooperation with international organisations and agencies. Under Art. 11.1 States Parties shall create and maintain an up-dated register of all internally displaced persons within their jurisdiction or effective control. In doing so, States Parties may collaborate with international organizations, humanitarian agencies, or civil society organizations.

Accurate information on the number, location, and condition of displaced populations is essential to implementing legislation and policies in a manner that meets IDPs' needs for protection. Proceeding with the implementation of laws and policies without a sound base of information on IDP populations presents the risk that scarce resources will be allocated to protection and assistance measures that IDPs do not need or that risks faced by specific vulnerable subgroups of IDPs will be left unaddressed.

Collection of relevant data—including on the number and composition of displaced communities, their locations, specific needs, and vulnerabilities—should begin at the moment of displacement and should continue, as systematically as possible, until durable solutions have been sustainably achieved.<sup>108</sup> Continuously updating data allows not only for correction of any inaccurate information gathered early on, but also for taking into account changes in the IDP population (such as ongoing or new displacement flows, statistics on new births and mortality, and so forth).

Data collection is not identical with registration, but registration may serve as one source of information among others. There is no single correct way to collect accurate information on internal displacement, but international agencies have developed a number of approaches to assessing the number, characteristics, and needs of IDPs that may be helpful as a starting point. The state authorities bear primary responsibility for compiling information on IDPs and often may have access to important sources of data such as census information, property registration databases, and other official records. Although it is crucial to protect the privacy of individuals by preventing the release of information specifically identifying them, the data in such administrative records may nevertheless be helpful in aggregate to gain a better understanding of key characteristics and protection needs of IDP groups. Clear standards on collection, storage, and use should ensure the security and confidentiality of data.

National authorities in displacement crises should encourage and facilitate the gathering and consolidation of data on displacement by international actors. Methodologies such as those set out in “The UNHCR Tool for Participatory Assessments in Operations” or the IDMC/OCHA’s “Guidance on Profiling Internally Displaced Persons” reflect lessons learned over the course of field experience in numerous displacement settings.<sup>109</sup> When international assistance in data collection is available, the state has an important role to play in facilitating international access to IDPs and providing an institutional framework for coordinating data collection and disseminating the results.

Table 6 below reveals, despite improved data collection system in Nigeria, that there is no reliable cumulative figure and a lack of comprehensive information on the situation of those displaced. This is in part due to complex displacement patterns, but also because national

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<sup>108</sup> For more details, see the chapters in Part 3. See also IDMC/OCHA, “Guidance on Profiling Internally Displaced Persons” (April 2008) ([www.humanitarianreform.org/humanitarianreform/Portals/1/cluster%20approach%20page/clusters%20pages/Protection/IDP\\_Profiling\\_Guidance\\_2007.pdf](http://www.humanitarianreform.org/humanitarianreform/Portals/1/cluster%20approach%20page/clusters%20pages/Protection/IDP_Profiling_Guidance_2007.pdf)).

<sup>109</sup> UNHCR, “The UNHCR Tool for Participatory Assessments in Operations” (May 2006) ([www.unhcr.org/publ/PUBL/450e963f2.html](http://www.unhcr.org/publ/PUBL/450e963f2.html)); IDMC/OCHA, “Guidance on Profiling Internally Displaced Persons” (April 2008) ([www.humanitarianreform.org/humanitarianreform/Portals/1/cluster%20approach%20page/clusters%20pages/Protection/IDP\\_Profiling\\_Guidance\\_2007.pdf](http://www.humanitarianreform.org/humanitarianreform/Portals/1/cluster%20approach%20page/clusters%20pages/Protection/IDP_Profiling_Guidance_2007.pdf)).

authorities in Nigeria, Cote D'Ivoire and especially more pronounced in Liberia have limited capacity and poor methodologies when it comes to collating, collecting, analyzing, using and disseminating reliable data on IDPs. These gaps result in an alarming lack of understanding of the ECOWAS region's displacement dynamics and lead to response efforts that are poor/weak or fragmented and generally inadequate.

ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	NIGERIA	COTE D'IVOIRE	LIBERIA	COMMENT
Under Strategic objective 2, the Plan of Action Activity 5 requires member states to conduct research on disaster management and integrate findings into the application of the disaster management cycle.	<p>Data is only occasionally disaggregated by age, sex and location. Three main organisations collect data on IDPs, but there is currently no official mechanism to standardise their methods or harmonise their findings.<sup>110</sup></p> <ul style="list-style-type: none"> <li>• NEMA collects information via State Emergency Management Agencies (SEMAs) on IDPs who seek refuge in camps or camp like settings and who receive assistance. Staffs are sent to displacement-affected areas to collect information on IDPs' age, places of origin and, in some cases, vulnerabilities. While recently NEMA has standardized form for collecting data from primary and secondary sources, comparisons and trends of such generated data are at times difficult to establish.</li> <li>• NCFR uses a standardized form to collect data in camps, but it relies heavily on information provided by other organisations, as its own presence and resources are limited.</li> <li>• The Nigerian Red Cross Society (NRCS) collects data through its local branches and volunteers across the country. It registers IDPs when it provides relief, but maintains no centralized database.</li> <li>• This indicates that the most reliable national level data is that of NEMA. The other two sources can only be used for triangulation, which had been done during the validation process with zonal coordinators, SEMAs, Red Cross and OCHA.</li> </ul> <p>While data collection efforts focus on camps and camp-like settings, most IDPs find refuge with host families</p>	<p>Most of the data collected by the humanitarian agencies classify IDPs according to whether they are currently living in host families or in sites/camps. The update of data on IDPs is contingent on the publication dates of situation reports compiled by the international humanitarian actors.</p> <p>At the height of the crisis, close to one million persons were internally displaced in Côte d'Ivoire as a result of violence and insecurity, and more than 700,000 of that</p>	None available	<p>Consistent with Benchmark 3, both the Kampala Convention and the ECOWAS Policy / Plan of Action are significantly linked and self explanatory on the need for data through research on the subject.</p> <p>No data available. LRRRC thought the NDRC had some but they</p>

<sup>110</sup> See ECOWAS/UNHCR Study Report on Desk Review on National Response to Internal Displacement in Nigeria, November 2013, at pp. 38-39.

	<p>and communities. Providing shelter for people in need is part of Nigerian culture, and many people would not let their relatives stay in camps, where large households also lack space and privacy. There is almost no data or information on these IDPs or their hosts, and estimates of the number of people displaced during crises are sometimes produced by simply counting destroyed and damaged homes in the towns and villages people have fled.<sup>111</sup></p> <p>Estimates rarely capture return movements, or secondary or protracted displacement. Of the millions of people forced to flee their homes during the 2012 floods, for example, it is unknown how many had previously been displaced or were still living in displacement as a result of flooding or violence in preceding years.<sup>112</sup></p> <p>Figures that are available vary significantly and are widely considered to be underestimates, with data usually collected on an ad hoc basis when large-scale or serious crises occur. At the height of the 2012 floods, the National Emergency Management Agency (NEMA) estimated that 7.7 million people had been affected across the country, of whom 2.1 million had registered as IDPs in order to receive assistance.<sup>113</sup> At least 63,000 people were newly displaced by conflict and violence across the country in 2012, and another 55,000 are thought to have been evicted, 25,000 from Abonnema waterfront in Port Harcourt and 30,000 from the Makoko slum in Lagos. NEMA estimates put the number of people displaced by inter-communal clashes between January and April 2013 at nearly 50,000.<sup>114</sup></p> <p>There is no reliable cumulative figure and a lack of comprehensive information on the situation of those displaced. This is in part due to complex displacement patterns, but also because government agencies have limited capacity and poor methodologies when it comes to collecting and collating reliable data. These gaps result in an alarming lack of understanding of the country's displacement dynamics</p>	<p>number were displaced to Abidjan, while 150,000 were displaced to the West of the country.<sup>116</sup></p> <p>The 35 camps located across the country sheltered up to 70,000 IDPs. In September 2011, five months after the end of the conflict, there were still an estimated 247,000 IDPs in Côte d'Ivoire, while in March 2011, the estimate rose to between 700,000 and one million.</p> <p>Profiling of by the Ivorian Government of persons who fled the protected forests of Niégré and Mount Péko reveals that, of the 27,045 subjects, 11,454 wished to return to Burkina Faso, 8,054 others had somewhere to go if they needed to flee, while the remaining</p>		<p>did not.</p>
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<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> IDMC, Global Overview Report, 29 April 2013; also see OCHA, 1 March-May 2013.

	<p>in Nigeria, and lead to response efforts that are fragmented and generally inadequate.<sup>115</sup></p>	<p>7,546 had nowhere to go. About 90% of the persons living in the forests had no identification papers.</p> <p>Since the expulsions from the protected forests in June 2013, many of the displaced persons are believed to have left their host communities and headed for new spaces/areas where they are not known, as a result of the inability to monitor relocation flows. Some of these persons are believed to have relocated to other protected forests such as Goin Dèbé, and will probably be expelled in the same way within the next few months.<sup>117</sup></p> <p>The authorities in charge (SODEFOR; the Ministry</p>		
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<sup>116</sup> Internal Displacement Monitoring Centre (IDMC) and the Norwegian Refugee Council, *Côte d'Ivoire : Internally Displaced Persons Rebuilding Lives amid a Delicate Peace*, 28 November 2012.

<sup>115</sup> Desk Review Report (2013) supra note 110.

<sup>117</sup> IPS, 9 July 2013.

		of Water Resources and Forestry) have put no mechanism in place for the surveillance or monitoring of the movements of these displaced persons.		
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**Table 7: - Benchmark 4: - Training on the Rights of IDPs**

States Parties general obligations under Article 3(1)(d) of the Kampala Convention, include, respecting and ensuring respect and protection of the human rights of IDPs, including humane treatment, non-discrimination, equality and equal protection of law.

Provision of training on internal displacement issues to government officials at all levels is a key element of the exercise of national responsibility and can contribute to all aspects of an official response. With respect to IDP laws and policies, it is especially crucial to ensure that all officials tasked with directly implementing such instruments understand

1. that IDPs retain their rights as citizens or habitual residents but that they face particular displacement related risks and vulnerabilities that may prevent them from fully enjoying their rights;
2. precisely how officials themselves should proceed in carrying out their duties with regard to IDPs;
3. how any new routines and procedures for IDPs differ from the ordinary routines and procedures that officials are responsible for carrying out under normal circumstances; and
4. why the changes in the way that officials carry out their work are necessary.

Many of the specific measures recommended in this manual involve provision of special protections and assistance to IDPs or vulnerable subgroups of IDPs. For local administrative officials, in practice that may mean that they are expected to continue doing what they normally do (for example, registering people to vote, processing requests for identity documents, or certifying teachers) but on the basis of different requirements, such as lowered standards of evidence or otherwise relaxed criteria that appropriately reflect the particular circumstances of IDPs. Mastering new procedures in crisis circumstances may impose significant burdens on local officials.

Such pressures can lead to arbitrary or inconsistent application of the law—or even bureaucratic obstruction—if officials are not given clear guidance and explanations. IDP laws and policies should not only be clearly drafted and endorsed at the highest political levels but also be accompanied by training sufficient to allow the officials charged with implementing them to do so in an effective manner. Such training should provide not only guidance on the narrow technical and logistical issues raised by the application of new laws and policies but also a broader explanation of the problem of internal displacement—including the risks that it poses for those affected, particularly inherently vulnerable categories of IDPs—and the obligation of state authorities at all levels to provide protection and assistance.

Further, table 7 below depicts the poor responses to this benchmark/whose focus for assessment was on indicators such as when, for whom with what content and at whose initiative the training was conducted rather than on speculation about the impact of training on government policy and practice. Indeed, the difficulty of quantifying impact is a well recognized limitation of any training conducted on any topic. The same can be said for the three countries studied in the ECOWAS region.

<b>ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION</b>	<b>NIGERIA</b>	<b>COTE D'IVOIRE</b>	<b>LIBERIA</b>	<b>COMMENT</b>
Under strategic objective 1, Activity 4 of the Plan	In accordance with this mandate, the Protection Sector Working Group (PSWG), currently lead by NHRC, has	<b>Educators</b> : Education	Training support is	Hence the necessary



<p>of Action, ECOWAS and Member States are to promote and codify core instruments and standards for the protection of civilians within the context of crisis and emergencies and ensure compliance thereto. Further, Activity 2 of strategic objective 2 under the Plan of Action requires ECOWAS and Member States to implement capacity building programmes for national platforms. Also strategic objective 3 provides for the responsibility of ECOWAS and Member States in enhancing the capacities of social actors in responding to humanitarian issues.</p>	<p>conducted in 2012-2013 with the support of UNHCR and IDMC three training workshops for CSOs and staff of NCFR and NEMA on the domestication of the Kampala Convention and the rights of IDPs as enshrined in the Nigerian Constitution and other human rights treaties to which Nigeria is a party as well as the UN Guiding Principles on Internal Displacement.<sup>118</sup> The CCCM Working Group led by NEMA with the support of UNHCR and IOM provided further technical Camp Coordination Camp Management (CCCM) capacity building through three training workshops in 2012 and 2013.<sup>119</sup></p> <p>Between November 26-29, 2013, the NHRC also conducted a public hearing on Forced Eviction that recorded a number of IDPs in Lagos.</p> <p>The National Emergency Management Agency also has reportedly conducted series of training sessions for grass root emergency volunteers, National Youth Service Corps (NYSC) disaster management vanguards, for executive disaster/emergency management volunteers and simulation exercise with strategic stakeholders and in collaboration with the Nigerian Air Force, among others.<sup>120</sup></p> <p>The July 2012 Draft IDP Policy in Nigeria reiterates at various points the need for capacity building of various stakeholders through training workshops and other educational means on the plight, needs and rights of IDPs irrespective of the cause of displacement.<sup>121</sup></p>	<p>on the rights of IDPs is usually dispensed by local NGOs and international organisations.</p> <p><b>The Content</b> of the training programme generally focuses on the theme of protection, instruments of protection such as guiding principles or conflict prevention mechanisms, and causes of displacements.</p> <p><b>Target Audience:</b> The training programmes are usually targeted at Government officials, Members of Parliament, Judges and civil administrators – Heads and Deputy Heads of Local Government (Préfets and Sous-Préfets). They are also targeted at law</p>	<p>limited</p>	<p>strategic linkage on the need for capacity building of those responsible for the promotion and protection, as well as providing assistance to vulnerable civilians, including IDPs in situations of displacement.</p> <p>There is no financial support for training in the budgets of LRRRC or NDRC.</p>
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<sup>118</sup> On file with the researcher – December 2013.

<sup>119</sup> UNHCR and CCCM Working Group

<sup>120</sup> Ibid.

<sup>121</sup> See Chapter 1-2 Policy.

		enforcement agents such as the police, gendarmes or the military.		
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**Table 8: - Benchmark 5: - Providing a Legal Framework for the Defence of the Rights of IDPs**

Article 3(2)(a) of the Kampala Convention provides for States Parties' obligations to incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of, and assistance to, IDPs, in conformity with their obligations under international law.

An important starting point in addressing displacement in laws and policies is the question of whether the current legislative framework needs to be changed. Experience shows that an effective response to displacement usually requires legislative action. That is typically because (1) current laws pose unintended obstacles to the ability of IDPs to realize their rights or (2) they do not, on their own, provide a sufficient basis for addressing the needs of IDPs.

Most countries have a hierarchy of legal norms that must be respected in the process of responding to displacement. The strongest rules, such as laws of a constitutional character, also are the hardest to make or change, while less binding forms of regulation can be passed more quickly and with less deliberation and consensus. The most binding norms in most systems are laws with constitutional status, which typically require passage by a qualified majority of the legislature. However, constitutional frameworks are generally very broadly framed and tend to include bills of rights that reinforce international human rights obligations at the domestic level, protecting the whole population, including IDPs. As a result, only in rare instances should constitutional change be necessary to respond to internal displacement.

Problems are more likely to arise at the level of ordinary laws, which may often be passed by national or regional legislatures by a simple majority. Ordinary laws rarely explicitly mention human rights; they tend to set out the concrete procedures and modalities through which individuals are able to realize internationally guaranteed rights in their daily lives. In playing this important role, laws often are supplemented by other types of regulation, such as executive orders or decrees (which may, under certain circumstances, have the force of law) and administrative regulations (which often are passed by the ministry or agency responsible for implementing a law in order to regulate any issues not covered in detail under the law).

One must keep in mind the many variations among the domestic legal orders of countries experiencing displacement, and it also is important to recall that rules or laws can be changed only by rules or laws of equal or greater weight. For instance, in some situations, it may be most expedient to issue a decree or administrative regulation addressing the most urgent aspects of a displacement crisis. While such a decree should include language affirming the rights of all IDPs, it cannot by itself amend pre-existing legislative provisions that may effectively prevent IDPs from exercising their rights. Rather, problematic legislative provisions must be identified and amended by new law. For example, while a decree or policy on IDPs should confirm the right of IDP children to education and set out institutional responsibilities and concrete steps for realizing that right, it does not on its own change the fact that existing legal provisions may make it practically impossible for displaced children to enroll in schools where they are displaced—for example, where enrolment would require proof of local residency or documentation from the child's previous school.

Taking that into account, the legal framework for responding to displacement can include at least two elements:

1. **Review and analysis of existing national legislation** with a view to identifying and amending provisions incompatible with international human rights and humanitarian law underlying the Guiding Principles. While some rules may be obviously problematic, others might appear nondiscriminatory but raise issues in practice. For instance, requirements that individuals produce detailed documentation in order to exercise certain rights may be impossible to meet for IDPs, who typically lose access to their personal documents. Amendments to such rules should set out exceptions or alternative procedures for IDPs and should quickly be accompanied by any necessary implementing regulations in order to ensure that local authorities tasked with giving effect to the changed procedures have clear instructions on how to proceed.
2. **Passage of national laws** specifically regulating the response to internal displacement. Typically, such laws should be comprehensive, covering all phases of displacement, although, depending on the circumstances prevailing in a particular country, the emphasis may be on a specific phase of displacement. While the passage of such laws is to be encouraged, the drafting process should take place along with more rapid adoption of decrees and policies that support timely responses to internal displacement crises through measures requiring neither legal amendment nor the passage of new legislation.

As a final note, the capacity of some countries to legislate or uniformly implement legislation may be severely limited in the context of humanitarian crises giving rise to displacement. In such cases, any existing domestic law and, when applicable, local customary rules should be interpreted in the spirit of the Kampala Convention and the Guiding Principles in order to provide protection and assistance to IDPs. Such laws and rules cannot be invoked when they would contradict the generally accepted norms of international human rights and humanitarian law underlying the Kampala Convention and the Guiding Principles.

Further, table 8 below shows that despite the ratification of the Kampala Convention by Nigeria and Cote D'Ivoire and the adoption by Liberia of the UN Guiding Principles on Internal Displacement, all the three countries studied lacked a national legislative framework on IDPs but had generic legislations relevant to IDPs. Laws relevant to IDPs must be viewed in the context of other domestic legislations and administrative acts applicable to the general population. For example, those related to documentation, housing, land, property, residency, and personal status as well privacy/data protection.

ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	NIGERIA	COTE D'IVOIRE	LIBERIA	COMMENT
Strategic objectives 1 and 5 seek to ensure that Member States adopt appropriate legal framework for preventing and responding to emergencies and	This is supplemented by the guaranteed civil, political, social, economic, environmental and development rights of all people and individuals, including IDPs, under the African Charter on Human and peoples' Rights domesticated as Cap. A9 Laws of the Federation of Nigeria, 2004.  Further supplemented by the provisions of the Child Rights	National legislation does not, in general, correspond to the specific needs created by internal displacement	There is no domestic framework that responds to the specific needs of IDPs.	Obvious linkage between the Kampala Convention and the ECOWAS Policy/Plan on

disasters; and for protection of vulnerable persons, especially women, children and the disabled persons during emergency situations.	Act, 2003 on the comprehensive/specific guarantee, promotion and protection of children's rights in Nigeria consistent with both the UN Convention on the Rights of the Child and the AU charter on the Rights and Welfare of the Child. This includes how to treat and protect IDP children with special needs due to their added vulnerability.	<p>situations, and provides only ill-defined support to the displaced persons seeking to establish their rights. Indeed the Constitution of 1st August 2000 contains a vague list of the provisions and fundamental principles applicable to all citizens without distinction.</p> <p>However, the recent ratification of the Kampala Convention by the Ivorian Government is significant. It is to be hoped that the instruments of ratification will be deposited with the supervisory authority for the Treaty, the African Union (AU), in a timely manner. The Kampala Convention will then be the reference regulatory framework for the protection of the rights of IDPs in Côte d'Ivoire. This is, without a doubt, a positive development in terms of providing a</p>		<p>the necessary requirement for a legal regime.</p> <p>Efforts to get a domestic framework seemed to be scattered, because of lack of communication between the LRRRC and the NDRC. A more collaborative and coordinated approach that brings both agencies together could prove worthwhile because disaster is also a cause of internal displacement.</p>
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		<p>legal framework for the promotion and protection of IDP rights.</p> <p>There is no recourse mechanism in existence to address violations of the rights of IDPs. There is virtually no legal assistance available for IDPs. The sequel to the Nahibly camp attack clearly illustrates the ineffectiveness of the government response to violations of the human rights of IDPs.</p>		
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**Table 9: - Benchmark 6: - Develop a National Policy on Internal Displacement**

Article 3(2)(c) of the Kampala Convention requires States Parties to adopt appropriate policy measures and other strategies on internal displacement at national and local levels, taking into account the needs of host communities.

National policies, strategies, or plans of action can be adopted with less formal procedures and therefore often more rapidly than laws. They therefore may be appropriate in lieu of formal legislation, or they may be used to elaborate and implement legislation that is adopted. National policies, strategies, or plans of action should provide a clear overall framework for organizing the response to internal displacement. Such policies, strategies and plans of actions should

- identify priorities for legislative drafting and amendment;
- complement existing laws by identifying priority actions and allocating specific roles to existing national and local government departments or agencies, as well as national human rights institutions (NHRIs) and civil society actors; and
- create or identify a mechanism for national coordination of the response to displacement.

While policies and plans may be drafted and adopted with fewer formalities than laws, the process should nevertheless be transparent and inclusive. The drafting of policies provides an unparalleled opportunity to consult with IDPs to ensure that their capacities, as well as those of relevant civil society actors, are harnessed in formulating a response to the problem of displacement. National policies should be broadly framed in

order to allow for quick and coordinated action in response to future waves of displacement as well as existing situations. To that end, they should include provisions regarding all causes of displacement (in particular armed conflict and natural disasters) and all aspects of displacement (prevention, protection and assistance during displacement, and durable solutions), as well as specific measures to be taken to identify and protect especially vulnerable IDPs. Finally, policies and plans should be both accessible to IDPs (including through translation into languages understood by all displaced communities and through broad dissemination) and clearly implementable for local officials, who should be given uniform training on application of policies and plans and follow-up clarifications through official circulars when questions or problems arise.

Further, table 9 shows that of the three countries studied, only Nigeria had developed a comprehensive draft national policy on IDPs, revised in July 2012, awaiting, formal adoption by the federal government. Incidentally, Nigeria has also the highest number of IDPs in the entire ECOWAS region.

Furthermore, all the three countries studied had developed a specific plan, strategy or guidelines for mitigating conflict-induced and/or environmental/climate change-induced displacement and plan of action on disaster risk reduction, implemented to varying degrees. While in some cases positive steps had been taken, by and large implementation of sectoral policies, plans or strategies on disaster management remains a challenge and has, in some cases, stalled, due to duplication of efforts or unhealthy rivalry among national authorities.

<b>ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION</b>	<b>NIGERIA</b>	<b>COTE D'IVOIRE</b>	<b>LIBERIA</b>	<b>COMMENT</b>
Strategic Objective 1 requires Member States to adopt an appropriate policy framework for preventing and responding to emergencies and disasters.	<p>The 56 page Revised Draft National Policy on IDPs in Nigeria is yet to be adopted by the Federal Government. It however contains six broad chapters as follows: -</p> <p>Chapter one deals with the introduction by providing for the definition of key terms, contextual background and situation analysis on IDPs in Nigeria.</p> <p>Chapter two on policy thrust, covers the policy framework, scope, justification, goals, objectives, guiding principles and declaration of vision and mission statements.</p> <p>Chapter three outlines the rights and duties of IDPs consistent with Nigeria's constitutional and treaty obligations.</p> <p>Chapter four deals with the responsibilities of government at all levels to prevent internal displacement, protect and assist IDPs in Nigeria; responsibilities of host communities and armed groups.</p>	<p>Policies, strategies or action plans at the national level are subject to fewer official approval procedures and can therefore be adopted more rapidly than laws. They are thus more suitable than official legislation in this instance, and may be used as the basis for the formulation or application of newly promulgated legislation. National</p>	<p>This has not been done due to the absence of framework legislation. LRRRC and the Taskforce plan to commence this immediately following ratification.</p>	<p>The existing significant linkage between the Kampala Convention and the ECOWAS Policy / Plan relates to the fundamental requirement of a national policy as a necessary step towards a domestic implementation of regional, continental and</p>

	<p>Chapter five covers matters relating to the broad implementation strategies, institutional mechanism for coordination and collaboration and necessary legal framework to back up the policy.</p> <p>Finally, chapter six provides for the funding, monitoring, evaluation and policy review.</p>	<p>policies, strategies and action plans should be used to provide clear guidelines for the preparation of an appropriate response to the internal displacement problem.<sup>122</sup></p> <p>There is no coherent national policy in existence for the promotion and respect of IDP rights. Policy on this issue appears to be split between several Ministries, namely, the Ministries of Solidarity, Women, Family and Children Affairs, Planning, Water Resources and Forestry, the Environment and Sustainable Development etc.</p> <p>Duplication of procedures and programmes, as well as the splitting of responsibilities between multiple national actors are an obstacle to the</p>		<p>global obligations.</p> <p>A policy must seek to have some retroactive measures in them. For an example, as of 2002, only those in official displaced camps were considered displaced. Several displaced and undocumented people reside in different parts of the country without livelihoods rights. These could be secured in some ways, especially in urban areas, even on a temporal basis.</p>
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<sup>122</sup> Ibid., p.29.

		formulation of a coherent national policy on internal displacement in Côte d'Ivoire.		
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**Table 10: - Benchmark 7: - Designate an Institutional Focal Point for IDPs**

Article 3(2)(b) of the Kampala Convention places an obligation on States Parties to designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting IDPs and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international actors and Civil Society Organisations, where no such authority or body exists.

Appointment of a national focal point is a crucial step both to ensure sustained attention to internal displacement issues and to facilitate coordination, both among various branches and bodies of government and between them and other relevant actors, particularly domestic civil society groups, national human rights institutions, and international humanitarian agencies. National focal points take a number of forms in practice, including

- existing government agencies with relevant mandates that also are charged with coordination of IDP issues;
- new agencies or offices specifically set up to coordinate responses to displacement, often at the level of the Office of the President or Prime Minister;
- standing committees, working groups, or task forces institutionalizing the collaboration of all involved ministries and agencies.

In decentralized states where the mandates of sub-national, regional, and/or local officials may give them significant responsibilities vis-à-vis IDPs, coordination should be vertical as well as horizontal, in the sense that it should not only facilitate decision-making among the various relevant actors at the central level but also ensure that clear guidance, follow-up actions, and information flow smoothly between those actors and regional and/or local coordination bodies. Whether coordination is achieved through existing or new structures, the responsible bodies must be provided with adequate mandates and resources to carry out their tasks. In order to function, such bodies must have sufficient political weight to ensure that all relevant government ministries fully commit to the process and that the resulting proposals and recommendations can quickly be taken up to the highest levels of authority for approval.

In terms of the development and implementation of national laws and policies on internal displacement, institutional focal points have a vital role to play at almost every stage of the process. In particular, coordination bodies should have a mandate to

- request and receive all relevant data and records on IDP populations from other government agencies and ministries, both to develop and update a reliable body of data on the general characteristics and needs of IDP populations and to



assist, whenever possible, in generating bodies of evidence to support facilitated replacement of IDPs' personal documentation;

- coordinate exercises to count ("profile"), gather relevant information on, and when necessary register internally displaced populations, as well as to compile, analyze, and disseminate updated information on the numbers, locations, characteristics, and needs of IDPs on a regular basis;
- assume responsibility for ensuring that the national response through every phase of the displacement crisis is guided by effective consultation with IDPs, including especially vulnerable groups;
- take all necessary steps to facilitate and coordinate the provision of assistance and, when relevant, protection by domestic and international humanitarian actors; identify necessary amendments to existing laws and oversee the drafting process for new laws and national policies on internal displacement;
- develop training materials for all officials at the national, regional, and local level charged with the implementation of laws and policies on internal displacement; provide ongoing follow-up, including responses to questions of legal interpretation and application; and disseminate best practices and guidance—for example, in the form of circulars;
- exercise authority and have the means to ensure the accountability of individual ministries, agencies, and departments mandated with specific responsibilities under the law.

Further, table 10 below reveals that each of the three countries studied had in actual practice, a national coordinating institution for displacement management and other matters connected therewith. However, none of these national authorities studied was established, mandated and empowered to manage IDP affairs in all phases by a specific national legislative or policy framework on internal displacement or IDPs. Available information indicates that efforts are underway to address the ongoing unhealthy rivalry/competing claims on the above issue in Nigeria between NEMA and NCFR.

ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	NIGERIA	COTE D'IVOIRE	LIBERIA	COMMENT
Under Activity 2 of Plan of Action and Strategic objective 1, Member States have an obligation to create a specific national agency	<ul style="list-style-type: none"> <li>• <b>National Emergency Management Agency (NEMA):</b> - NEMA, having been established by Section 1 of the NEMA Act,<sup>123</sup> the Act further established a Governing Council under the Chairmanship of the Vice-President, Federal Republic of Nigeria, for the management of the Agency.</li> </ul>	Under the provisions of Decree N° 2013-506, dated 25 July 2013, assigning portfolios to members of the Cabinet,	The institutional focal point is LRRRCs but it is more focused on refugee issues, and its agency legislation	Link obvious because disaster management includes

<sup>123</sup> Cap. N.34, Vol.10, Laws of the Federation of Nigeria, 2004.

for disaster management, preferably at the highest levels of government.	<p>Under section 6(1): - The Agency shall –</p> <ol style="list-style-type: none"> <li>Formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level;</li> <li>Co-ordinate and promote research activities relating to disaster management at the national level;</li> <li>Monitor the state of preparedness of all organizations or agencies which may contribute to disaster management in Nigeria;</li> <li>Collate data from relevant agencies so as to enhance forecasting, planning and field operation of disaster management;</li> <li>Educate and inform the public on disaster prevention and control measures;</li> <li>Co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call;</li> <li>Co-ordinate the activities of all voluntary organizations engaged in emergency relief operations in any part of the Federation;</li> <li>Receive financial and technical aid from international organizations and non-governmental agencies for the purpose of disaster management in Nigeria;</li> <li>Collect emergency relief supply from local, foreign sources and from international and non-governmental agencies;</li> <li>Distribute emergency relief materials to victims of natural or other disaster and assist in the rehabilitation of the victims where necessary;</li> <li>Liaise with State Emergency Management committees established under section 8 of this Act to assess and monitor where necessary, the distribution of relief materials to disaster victims;</li> <li>Process relief assistance to such countries as may be determined from time to time;</li> <li>Liaise with the United Nations Disaster reduction Organization or such other international bodies for the</li> </ol>	<p>the Ministry of Solidarity, Family, Women and Children Affairs is charged with responsibility for the monitoring of Government policy on solidarity, and protection of women, the family and the child.</p> <p>The MSFE is the parent Ministry and Government go-between with humanitarian partners on issues relating to internal displacement. In this capacity it has the initiative and bears responsibility for maintaining and strengthening solidarity and cohesion between all the components of the Ivorian nation, as well as for the implementation of all actions in favour of communities in distress.</p> <p>An Expanded Coordinating Committee (CCE) was set up to</p>	<p>inadequate to cover IDPs. NDRC does not cover IDP,s and has no record of them, it only provides emergency assistance, no more.</p>	<p>management of IDP issues.</p> <p>The Government should make the policy decision as to which agency should be the prime focus. It is not within the domain of the researcher domain to say.</p>
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	<p>reduction of natural and other disaster;</p> <p>n) Prepare the annual budget for disaster management in Nigeria; and</p> <p>o) Perform such other functions which in the opinion of the Agency are required for the purpose of achieving its objectives under this Act.</p> <p>Section 6(2) of the Act further provides: - for the purpose of paragraphs (e), (f), (j), (k) and (m) of subsection (1) of this section –</p> <p>“natural or other disasters” include any disaster arising from any crisis, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country.</p> <ul style="list-style-type: none"> <li>• <b>National Commission for Refugees (NCFR):</b> - Decree No. 52 of 1989 to provide 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 established The NCFR. The Decree now an Act prohibits the expulsion or return of refugees; provides for the Office of Secretary to Federal Government with the responsibility for matters relating to refugees or refugee status; provides for the establishment and composition of the National Commission for Refugees; the appointment of the Federal Commissioner for Refugees; establishment of the eligibility committee under the supervision of the federal commissioner; establishment of Refugee Appeal Board; procedures for seeking refugee status; treatment of members of the family of a refugee; rights and duties of refugees; detention and expulsion of refugees; naturalisation and conditions for giving special assistance to refugees. The Act provides for the functions of the Commission to include the following: a) lay down general guidelines and overall policy on general issues relating to refugees and persons seeking asylum in Nigeria; b) advise the Federal Government on policy matters in relation to refugees in Nigeria; c) consider such matters</li> </ul>	<p>coordinate humanitarian actions between the MSFE, international humanitarian partners and national NGOs. The CCE is jointly headed by the MSFE and the United Nations System Resident Coordinator.</p>		
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	<p>as the Secretary to the Federal Government may, from time to time, refer to it and make recommendations thereon to the Secretary to the Federal Government.</p> <ul style="list-style-type: none"> <li>• <b>National Human Rights Commission (NHRC) :</b> - The National Human Rights Commission was established by the National Human Rights Commission (NHRC) Act, 1995, as amended by the NHRC Act, 2010, in line with the resolution of the United Nations General Assembly which enjoins all Member States to establish national human rights institutions for the promotion and protection of human rights. The Commission serves as an extra-judicial mechanism for the enhancement of the enjoyment of human rights. Its establishment is aimed at creating an enabling environment for the promotion, protection and enforcement of human rights. It also provides avenues for public enlightenment, research and dialogue in order to raise awareness on human rights issues.</li> </ul> <p>Mandate: - The NHRC (Amendment) Act, 2010 has conferred on the Commission additional independence and strengthened the Commission's powers with respect to promotion and protection of human rights, investigation of alleged violation of human rights and enforcement of decisions. The new Act has also widened the scope of Commission's Mandate to include vetting of legislations at all levels to ensure their compliance with human rights norms.</p> <ul style="list-style-type: none"> <li>• <b>Nigerian Red Cross Society (NRCS):</b> - The NRCS was established by the Nigerian Red Cross Act 1961 Cap. 324 of the Law of the Federation as a Voluntary Aid Organisation. The Nigerian Red Cross Society in 2007 drafted a three-year Strategic Development Plan (SDP) for the period 2008 to 2010. These efforts and the lifecycle of the documents produced made the development of this Strategic Development Plan (2011-2013) imperative. From the onset, S-2013 was designed to be fully participatory, taking into consideration inputs from 37 branches of the Nigerian Red Cross Society. By so doing, all branches were able to take ownership of</li> </ul>			
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	<p>this document in its entirety and ensure implementation for the period under plan. The S-2013 addresses the fundamental challenges of NRCS in responding to victims of natural and manmade disasters in the country. It also focuses on the problems relating to volunteer management, human resource tool and management, financial and accounting system, problem of self reliance or donor dependency, strategic relief fund and warehousing, monitoring and evaluation. This document provides a strategic direction towards surmounting the aforementioned challenges and fulfilling the primary mandate of the National Society as enshrined in the Nigerian Red Cross Act 1961 CAP. 324 of the Law of the Federation. S-2013 is hinged on four pillars: Disaster Management (DM); health and care; dissemination and communication and organizational development</p> <p>Disaster preparedness and Restoring Family Links (RFL) activities are the bedrock of the DM plan while infectious diseases prevention and control; HIV/AIDS; water and sanitation; non-remunerated blood donor recruitment; maternal, neonatal and child health as well as in emergencies constitute the core of health and care components of this plan. On the other hand, promotion of respect for human dignity and diversity is rooted in systematic dissemination of the ICRC Principles and IHL, advocacy, partnering and networking and capacity building.</p> <p>The July 2012 Draft IDP Policy in its Chapter five, item 5.3 provides for a proposed institutional mechanism on IDPs in Nigeria as follows: 5.3.1 Designation of an IDP focal coordinating institution; 5.3.2 Establishment of internal displacement coordination sectors; 5.3.3 Terms of Reference for sector coordination leads. Item 5.4 provides for broad institutional framework and implementing agencies.</p>			
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### **Table 11: - Benchmark 8: - Support National Human Rights Institutions (NHRIS) to integrate IDP's into their work**

Article 3(2)(b) of the Kampala Convention, places an obligation on States Parties to designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting IDPs and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international actors and Civil Society Organisations, where no such authority or body exists.

Monitoring is essential both to ensure that the existing provisions of IDP laws and policies are being fully and consistently implemented and to identify gaps in those provisions and other areas in which national protection activities need to be organized and implemented. IDP laws and policies should not only include internal mechanisms for accountability (such as appeals or complaint mechanisms for persons denied benefits) but should also, when relevant, designate external monitoring processes. Such processes should be guided not only by the benchmarks and by indicators identified in the process of collecting data on IDPs' protection needs but also on the standards set out in international human rights law and reflected in the Kampala Convention and the Guiding Principles. In most cases, the ideal body for monitoring the implementation of laws and policies on internal displacement will be national human rights institutions established in accordance with the Paris Principles<sup>124</sup> or ombudspersons. The Office of the Attorney General may also play an important monitoring role. The monitoring role should in any case be sufficiently broad to ensure the consistency and effectiveness of national responses to displacement.<sup>125</sup>

In recent years, an increasing number of NHRIs around the world have begun to integrate attention to internal displacement into their work. NHRIs have played an important role in raising awareness of internal displacement, monitoring displacement situations and returns, investigating individual complaints, advocating for and advising the government on the drafting of national law/policies to address internal displacement, and monitoring and implementation of national policies and legislation. In particular, table 11 reveals that the NHRIs of the three countries studied had made some efforts to promote the rights of IDPs in their countries. Interesting, almost all of their work with IDPs is largely funded by international sources, raising the question whether national governments themselves should not be doing more to increase their funding of NHRIs in order to support their engagement with IDP issues.

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<sup>124</sup> UN General Assembly, "Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights" (Paris Principles), UN Doc. A/Res/48/134 (20 December 1993).

<sup>125</sup> For more information on specific steps that can be taken by NHRIs to effectively monitor responses to internal displacement, see the Brookings Institution–University of Bern Project on Internal Displacement, "Addressing Internal Displacement: A Framework for National Responsibility" (April 2005), pp. 19–20; IASC, "Human Rights and Natural Disasters: Operational Guidelines on Human Rights Protection in Situations of Natural Disaster," Section I.4. (2007).

ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	NIGERIA	COTE D'IVOIRE	LIBERIA	COMMENT
<p>Strategic objective 5 and Activities 1 – 9 of Plan of Action require Member States to ensure domestication and implementation of relevant international human rights and humanitarian law instruments related to vulnerable groups in humanitarian and emergency situations by appropriate national institutions.</p>	<ul style="list-style-type: none"> <li>Among the activities carried out by the NHRC between 2012-13 are: In 2012, the UNHCR in collaboration with NHRC carried out an assessment of the impact of flood in some affected states; further, in collaboration with UNHCR, NEMA and IDMC, the NHRC organised series of training of trainers sessions for civil society organisations in the states of the federation on the rights of IDPs; On conflict induced IDPs, NHRC created an early warning system by bringing together community leaders, chiefs and other stakeholders and sensitized them on the need for them to take preventive measures, promote dialogue and reconciliation for peaceful co-existence and sustainable development at the community and national levels; one enlightenment programme on the protection of the rights of IDPs was carried out in Plateau State.<sup>126</sup></li> </ul> <p>The National Human Rights Commission was established by the National Human Rights Commission (NHRC) Act, 1995, as amended by the NHRC Act, 2010, in line with the resolution of the United Nations General Assembly, which enjoins all Member States to establish national human rights institutions for the promotion and protection of human rights. The Commission serves as an extra-judicial mechanism for the enhancement of the enjoyment of human rights. Its establishment is aimed at creating an enabling environment for the promotion, protection and enforcement of human</p>	<p>The CNDHCI (Côte d'Ivoire National Human Rights Commission) must therefore include the IDP issue in its mandate, and take all necessary action aimed at realising the objectives outlined above.<sup>127</sup></p> <p>However, if the CNDHCI is to realise these objectives, it must, first of all, cultivate the internationally recognised characteristics of independence and autonomy<sup>128</sup> which will enable it to fulfil its mandate successfully.</p> <p>The pre-2012 CNDHCI lacked the requisite characteristics and was not organised in accordance</p>	<p>The commission is now concentrating on more peace and reconciliation as a preventive mechanism to conflict and displacement, although public opinion prefers transitional justice, reparations, and memorialization.</p>	<p>There is an indirect link between the Kampala Convention and the ECOWAS Policy / Plan on the need for appropriate national institutions on the protection of the rights of vulnerable groups to be supported in mainstreaming vulnerable groups' plight in their work.</p> <p>The INHRC could be a forum for</p>

<sup>126</sup> On file with the Researcher, December 2013. NHRC Desk Officer on the rights of IDPs.

<sup>127</sup> For more information on the specific measures which can be taken by the INDH in terms of effective monitoring of actions taken in response to the problem of displacement, see The Brookings Institution –University of Bern: Project on Internal Displacement, “Addressing Internal Displacement : a Framework for National Responsibility” (April 2005), pp.19-21; ‘Protecting Persons Affected by Natural Disasters : IASC Operational Guidelines on Human Rights and Natural Disasters” Section 1.4 (2007).

<sup>128</sup> See the Paris Principles. National Human Rights Institutions are generally defined as being independent structures, established officially either by national legislation or by the Constitution, with a specific mandate for the protection and promotion of human rights.

	<p>rights. It also provides avenues for public enlightenment, research and dialogue in order to raise awareness on human rights issues.</p> <p><b>Mandate:</b> - The NHRC (Amendment) Act, 2010 has conferred on the Commission additional independence and strengthened the Commission's powers with respect to promotion and protection of human rights, investigation of alleged violations of human rights and enforcement of decisions. The new Act has also widened the scope of Commission's Mandate to include vetting of legislations at all levels to ensure their compliance with human rights norms.</p> <p><b>Activities of the Commission:</b> - Since its establishment, the Commission has demonstrated an expansive capacity to tackle issues of human rights through various activities, ranging from public enlightenment and education, investigation of complaints, mediation and conciliation, conflict resolution, peace building, research, advocacy and training programmes on contemporary issues in the field of human rights. These were given effect through an effective complaint treatment mechanism, regular hosting of enlightenment seminars, workshops, rallies, and continuous reengineering of strategies, which culminate in the National Action Plan (NAP) for the promotion and protection of human rights. The NAP has been deposited with the office of the United Nations High Commissioner for Human Rights (UNHCHR) as a benchmark for assessing Nigeria's human rights records, as well as government's commitment towards the promotion and protection of human rights.</p> <p><b>Thematic Focus of the Commission's Work:</b> - For effective performance and result oriented approach to its work, the</p>	<p>with the Paris Principles, with the result that its overall human rights performance left much to be desired.<sup>129</sup> In fact, it failed to meet any of the Paris Principles-based levels<sup>130</sup> required by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.</p> <p>The Commission was reorganised in 2012<sup>131</sup> and is now actively engaged in the operationalisation phase of its reform which took off on 21 June 2013. At this stage in the life of the "new" Commission, it would be hazardous to try and assess its aptitudes and operational capacity for the conduct of its mission in general, and particularly with regard to internal displacement. The Commission faces many challenges in the conduct</p>		<p>addressing and monitoring IDP rights, as well taking action to mitigate violation of such rights. IHRC could be an arbitrator, administrative forum for handling claims from forceful evictions, demolitions and disputes arising from inter-tribal disputes.</p>
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<sup>129</sup> See Bruno Menzan 'A Scrutiny of the Ivorian National Human Rights Commission: Beyond the Paris Principles'; LAP Lambert Academic Publishing AG & Co. KG; January 23, 2012.

<sup>130</sup> Level A (compliant in all aspects with the Paris Principles); B (partially compliant with the Paris Principles); C (not compliant with the Paris Principles).

<sup>131</sup> Law N°2012-1132 dated 13 December 2012 establishing the CNDHCI and defining its powers, organisation and functions.



	<p>Governing Council of the Commission identified seventeen (17) thematic areas of focus and these include: - Women and gender Matters; Children; Corruption and Good Governance; Detention Centres and Regulatory Agencies; Environment and Niger-Delta; Education; Freedom of Religion and Belief; Torture, Extra-judicial Killings and Terrorism; Law Reform and Law Review; Independence of the Judiciary and Access to Justice; Labour; Food and Shelter; Communal Conflicts and Other Related Violence; Health; Freedom of Expression and the Media; Human Rights and Business and Rights of Persons with Disability.</p> <p><b>Promotion:</b> - The Commission, realizing that human rights campaign cannot be achieved solely through the development of protective laws or establishment of mechanisms to implement those laws, engages in series of educational and public enlightenment programmes to raise public awareness on human rights issues. The Commission regularly holds workshops, seminars, conferences, and interactive sessions within relevant stakeholders. The Commission has also engaged in continuous media advocacy and periodic publications aimed at disseminating appropriate human rights messages. Sensitization, the Commission in collaboration with NGOs and CBOs, to raise awareness on human rights throughout the country, has also carried out education and enlightenment programmes. Village Square meetings are also held across the country to discuss the mandate of the Commission and other issues of relevance to specific local environments.</p> <p><b>Protection:</b> - A robust and effective complaint treatment mechanism has been put in place at the Headquarters and all the Six Zonal Offices to handle all complaints of human rights violations. Additional offices are now being established to increase access to the Commission's complaint-treatment mechanism. All victims of human rights violations can therefore access the services of the Commission free of charge, at any of the Commission's offices.</p>	<p>of its mission, but it must be said that the authorities show great enthusiasm and commitment to the transformation of this institution into a veritable champion, promoter and protector of all human rights. The structure which has emerged after the judicial review of its founding texts, taken in conjunction with the capacity building efforts of stakeholders in the Commission send out a strong signal which augurs well for the future of the institution.<sup>132</sup></p>		
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<sup>132</sup> See the CNDHCl website for the capacity building activities in question <http://www.cndhci.net>

	<p><b>Enforcement:</b> - There has been a high level of compliance with the decisions of the Commission by alleged violators of human rights since its establishment in 1995. The NHRC (Amendment) Act, 2010 has however conferred on the Commission express powers to enforce her decisions. Under this provision, decisions of the Commission's Governing Council are registrable as decisions of the High Court.</p>			
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**Table 12: - Benchmark 9: - Participation by IDPs in decision-making**

Article 9(2)k of the Kampala Convention places an obligation on State Parties to **consult** IDPs and allow them to participate in decisions relating to their protection and assistance including public participation under 9(2)L in democratic governance.

The need to consult IDPs in all decisions affecting them and to facilitate their participation more broadly in community affairs is not simply a matter of courtesy; it is a matter of necessity founded on three key considerations:

1. IDPs have a right to participation. The internationally guaranteed rights to freedom of expression and political participation include rights to seek, receive, and impart information and to take part in the conduct of public affairs.<sup>133</sup> As a result, ensuring that IDPs are provided with full information and that their views are sought and taken into account is a matter of human rights.
2. IDP participation contributes to a more effective response. The only way to truly understand the risks and threats that IDPs face, their capacities and coping mechanisms, and their aspirations for the future is to ask them directly. In doing so, care must be taken to ensure that vulnerable or marginalized subgroups within IDP populations are given opportunities to speak in security and/or confidentiality. Experience shows that programming built on the experience of IDPs will be better informed and therefore more effective both in meeting IDPs needs and efficiently allocating public resources.
3. IDP participation reduces dependency and facilitates reintegration. Encouraging IDP participation in decision-making can empower IDPs to take steps on their own to mitigate and end their displacement. By clearly identifying the problems that they face, IDPs can be encouraged to not only suggest what state responses would be most appropriate but also to develop their own complementary responses. In many cases, that might involve self-organization, which could begin as a response to very basic needs (for example, to maintain and clean latrine areas), but it could provide a platform for the assumption of more important roles over time.

Experience has shown that agencies carrying out participatory processes at the operational level should take into consideration

<sup>133</sup> See, for example, ICCPR, Articles 19 and 25.

- their ability to access the population;
- their mandate, expertise, and relationship with the community;
- understanding of the IDP community and awareness of relationships between different groups within the community;
- the extent to which there are recognized IDP leaders who are representative of the population.

Each of these factors may influence how participatory mechanisms are employed. For example, it may be easier to conduct personal interviews than focus group discussions with urban IDPs who live scattered across a city.

When possible, trained facilitators should carry out the participatory activities. There are risks involved in these processes, and experienced staff may be better equipped to manage them. It is important to consider the needs of participants as well: a facilitator trained to work with children may be best in child consultations, and female staff members may be needed to lead sessions when it is more socially or culturally appropriate.

When planning a participatory exercise, it is important to consider IDPs' availability. Working IDPs may be too busy to attend meetings during the day, so holding events at different times could allow for a wider participation. It typically is best to use accessible languages and avoid jargon. The location of participatory exercises should be considered. For example, in situations in which IDPs are visible to community bystanders, they may not feel comfortable or secure participating.

A variety of methods has been successful in conducting participatory exercises with IDPs, such as surveys, focus groups, personal interviews, and storyboarding. Each has benefits and limitations, and one method may be more appropriate than another in a given situation. It may also be useful to use more than one method in order to reach different beneficiaries.

IDPs have particular needs for reliable information when making decisions about whether to return to the community of origin, integrate into the community of displacement, or settle in another part of the country.

In order to make a voluntary, informed decision, IDPs need to have not only a choice of alternatives, but also the information necessary to make a choice. That may include provision of telephone cards/mobile phones so that individuals can speak with members of their community, go-and-see visits by IDP representatives to communities of potential return, and information from authorities about available reintegration assistance. In situations in which local integration or settlement in another part of the country is being considered, it is important to consult with the host communities and local authorities as well as with the IDPs.

Further, table 12 below reveals the difficulty in assessing governments' promotion of the right of IDPs to participate in decision making process affecting their lives. Available information indicates that efforts by all the three countries studied to promote the above rights of IDPs have largely been inadequate or in the case of Liberia practically non-existent.

ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	NIGERIA	COTE D'IVOIRE	LIBERIA	COMMENT
Strategic objective 5 Activity 9 of the Plan of Action emphasizes the need for ECOWAS and Member States to integrate needs and vulnerability assessment in ensuring that special needs groups are adequately catered for during emergencies.	<p>While efforts are being made by national institutions to give IDPs a voice in the management of camps by including them as members of camp management committees, many IDPs across the federation had complained to IDP protection analysts and human rights activists that most often, interventions and support provided to IDPs are determined without consulting with them, nor taking into consideration their priorities or peculiar needs. Where they are consulted, it is tokenistic in nature.<sup>134</sup></p> <p>The July 2012 draft IDP Policy emphasizes the need for the observance of the policy guiding principles under chapter two, item 2.5, particularly, that of participation. This is because the draft policy is predicated on core humanitarian assistance and human rights protection principles enshrined in various bodies of international humanitarian and human rights laws and codes of conduct. For purposes of specificity, the following principles are cardinal to the effective implementation of this policy: <b>Principle of Humanity and the Humanitarian Imperative; Principle of Neutrality; Principle of Impartiality and Non-discrimination; Principle of Respect for Sovereignty; Principle of Independence; Principle of Gender Equality; Principle of Empowerment; Principle of Participation; Principle of Accountability; and Principle of Protection from Harm and Abuse.</b></p> <p>The Principle of participation is to the effect that designing, planning, implementation, monitoring and evaluation of interventions targeting internally displaced</p>	<p>The fact of consulting the IDPs on all decisions concerning them and facilitating their enjoyment of a higher level of participation in the affairs of the community is not a matter of simple courtesy – it is a matter of necessity based on three key considerations<sup>136</sup></p> <ul style="list-style-type: none"> <li>- IDPs have a right of participation which is guaranteed by the principal international instruments such as the right of political participation and the right to participate in the</li> </ul>	No policy framework that ensures such mandatory participation. Elections Commission still holds on to its policy of 'vote where you registered'.	<p>Though there is no direct linkage between the provisions/requirements of the Convention and the Policy, yet they both support the goal of this Benchmark with their different emphasis.</p> <p>Article 7 of the Liberian constitution calls for 'maximum feasible participation'. Any future policy could use this basis.</p>

<sup>134</sup> See ActionAid Nigeria, Abuja (2008), Policy Brief: - Dealing with the recurrent crises in Jos, Plateau State: - Policy Options for Conflict Transformation and International Displacement.

<sup>136</sup> Protection of Internally Displaced Persons: *Manual for Law and Policy Makers*, p.32.

	<p>persons or their host communities must actively involve them at all stages. They must be carried along in decision-making processes, and be duly consulted and informed on decisions related to their relocation, provision of relief, rehabilitation, return, resettlement or re-integration. They must also be actively involved in the management of relief, resettlement and rehabilitation camps, and conscious effort must be made to include women and children in such decision-making processes.<sup>135</sup></p>	<p>conduct of public affairs;<sup>137</sup></p> <ul style="list-style-type: none"> <li>- IDP participation contributes to a higher degree of effectiveness in the actions taken;</li> <li>- IDP participation reduces their dependency and facilitates their reintegration.</li> </ul> <p>With regard to the case of those IDPs who fled the protected forests of Niégré and Mount Péko, the people living in those forests participated in enlightenment and information sessions on the modalities for their expulsion. However, these meetings were not preparatory meetings in that they were not convened with a view to finding durable solutions for a vulnerable group.</p>		
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<sup>135</sup> See July 2012 Draft IDP Policy.

<sup>137</sup> See, for example, The International Covenant on Civil and Political Rights (ICCPR), Articles 19 and 25.

		<p>The absence of proper communication mechanisms or channels between the IDPs and other actors must be condemned. The absence of institutional platforms for exchange and interaction constitutes an obstacle to the inclusion of the concerns of IDPs and their day-to-day problems in the decision-making process.</p> <p>The haste which characterises all internal displacements resulting from war or natural disaster is a constant in the Ivorian situation : most IDPs and babies born shortly before, during or even long after the displacement have no official identity papers.</p> <p>It seems, therefore, that IDP participation in the</p>		
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		<p>electoral process was obstructed because up to 80% of them had lost their official documents. Furthermore, 90% of the people living in the protected forests of the Western region had no identity papers.</p> <p>Without identity papers, these people will be denied the right to vote in the next elections. Many adult IDPs will therefore be unable to exercise their right to political and public participation, in so far as they have no papers attesting to their citizenship and to other requirements granting them the right to vote or be voted for.<sup>138</sup></p> <p>In addition, the fact of their displacement takes them away from their constituency of origin, whereas, according to the Electoral Code, the</p>		
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<sup>138</sup> See Country Visit (Côte d'Ivoire) of the Special Rapporteur on IDPs

		right to vote may only be exercised at the constituency indicated in the Voters' Register.		
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**Table 13: - Benchmark 10: - Support for Durable Solutions**

Under Articles 2(c), 3(2)(e) and 11, the Kampala Convention commits States to seeking lasting solutions to the problem of displacement and explicitly recognizes IDPs' right to voluntarily chose to return home, integrate locally in areas of displacement or relocate to another part of the country. States are responsible for promoting and creating satisfactory conditions for each of these options on a sustainable basis and in circumstances of safety and dignity. States must endeavour to incorporate relevant principles contained in the Kampala Convention into peace negotiations and agreements for the purpose of finding sustainable solutions to the problem of internal displacement.

The specific needs and human rights concerns of internally displaced persons (iDps) do not automatically disappear when a conflict or natural disaster ends. Nor do they fade away when people initially find safety from ongoing conflict or disaster. Rather, the displaced—whether they return to their homes, settle elsewhere in the country or try to integrate locally—usually face continuing problems, requiring support until they achieve a durable solution to their displacement.

A durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. it can be achieved through:

- Sustainable reintegration at the place of origin (hereinafter referred to as “return”);
- Sustainable local integration in areas where internally displaced persons take refuge (local integration);
- Sustainable integration in another part of the country (settlement elsewhere in the country)

The search for any of these durable solutions for IDPs should be understood as:

- A gradual, often long-term process of reducing displacement-specific needs and ensuring the enjoyment of human rights without discrimination;
- A complex process that addresses human rights, humanitarian, development, reconstruction and peace-building challenges;
- A process requiring the coordinated and timely engagement of different actors
- The primary responsibility to provide durable solutions for IDPs needs to be assumed by the national authorities. International humanitarian and development actors have complementary roles.
- The authorities concerned should grant and facilitate rapid and unimpeded access to humanitarian and development actors that assist IDPs in achieving a durable solution.
- The needs, rights and legitimate interests of IDPs should be the primary considerations guiding all policies and decisions on durable solutions.



- All relevant actors need to respect the right of IDPs to make an informed and voluntary choice on what durable solution to pursue and to participate in the planning and management of durable solutions.
- An IDP's choice of local integration or settlement elsewhere in the country, in the absence of the option to return, must not be regarded as a renunciation of his/her right to return should that choice later become feasible.
- Under no circumstances should IDPs be encouraged or compelled to return or relocate to areas where their life, safety, liberty or health would be at risk.
- IDPs seeking a durable solution must not be subject to discrimination for reasons related to their displacement.
- Likewise, populations and communities that (re-)integrate IDPs and whose needs may be comparable, must not be neglected in comparison to the displaced.
- IDPs who have achieved a durable solution continue to be protected by international human rights, and where applicable, humanitarian law.

National and local authorities, humanitarian and development actors need to work together to effectively support IDPs and set up a rights-based process so that:

- IDPs are in a position to make an informed and voluntary decision on the durable solution they would like to pursue;
- They participate in the planning and management of the durable solution so that their needs and rights are considered in recovery and development strategies;
- They have safe, unimpeded and timely access to all actors supporting the achievement of durable solutions including non-governmental and international humanitarian or development actors;
- They have access to effective mechanisms that monitor the process and the conditions on the ground; and,
- In situations of displacement resulting from conflict or violence, they are at least indirectly involved in peace processes and peacebuilding efforts and such efforts reinforce durable solutions.

Processes to support a durable solution should be inclusive and involve, based on full equality, all parts of the displaced population, including women, children (in accordance with their age and level of maturity), persons with special needs and persons who are potentially marginalized.

A number of criteria determine to what extent a durable solution has been achieved. IDPs who have achieved a durable solution will enjoy without discrimination:

- Long-term safety, security and freedom of movement;
- An adequate standard of living, including at a minimum access to adequate food, water, housing, health care and basic education;
- Access to employment and livelihoods;
- Access to effective mechanisms that restore their housing, land and property or provide them with compensation.

In a number of contexts, it will also be necessary for IDPs to benefit, without discrimination, from the following to achieve a durable solution:

- Access to and replacement of personal and other documentation;

- Voluntary reunification with family members separated during displacement;
- Participation in public affairs at all levels on an equal basis with the resident population;
- Effective remedies for displacement-related violations, including access to justice, reparations and information about the causes of violations.

Further, from Table 13 below, the three countries studied reflect a global tendency to emphasize return, as the durable solution most often supported by the governments, excluding or with little or inadequate support to the other two: - local integration and settlement elsewhere. Yet for solutions to be voluntary, IDPs must be able to choose among them, and local integration or settlement elsewhere in the country may in fact be some IDPs' preferred solution. Especially in situations of protracted displacement, those may be the only feasible solutions, at least in the near future.

<b>ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION</b>	<b>NIGERIA</b>	<b>COTE D'IVOIRE</b>	<b>LIBERIA</b>	<b>COMMENT</b>
Chapter 5 of the Policy provides for disaster management cycle, including rehabilitation and reconstruction, in order to return the community to normal.	<p>The Nigerian Government provides for different intervention measures that aim at supporting durable solutions to the plight of IDPs in Nigeria. For example, NEMA provides equipments, materials and working tools to many IDPs to enable them rebuild their sources of livelihood. It further provides boats, boat engine, sewing machines, nets, building materials, etc. to aid in the resettlement and rehabilitation of IDPs.</p> <p>Further, the Minister of Special Duties, Kabiru Turaki-led presidential Committee on Dialogue and Peaceful Resolution of Security Challenges in the North, which submitted in November 2013 submitted its report to the President. The Committee recommended among others the setting up of an advisory committee on continuous dialogues that will have powers to advise the President on all matters related to dialogue and resolution of crisis. It also recommended the setting up of a Victims Support Fund for victims of insurgency to be administered by a new agency established specially to assist the victims, largely IDPs.<sup>139</sup> The Committee's mandate does not specifically deal with IDP issues.</p>	<p>In Côte d'Ivoire, Government, in the interests of normalisation and for strategic reasons, has placed much more emphasis on the return solution than on that of local integration or resettlement. IDPs do not, in general, want to return home, for security or economic reasons (expropriation from their farms and other properties).</p> <p>They are in fact forced to return to their homes where security conditions are usually not yet right for a return, or to hang on to their host families, which are themselves too fragile to be resilient under the weight of the burdens of all kinds which the IDPs bring</p>	Liberia current unspoken, de facto policy approach that places emphasis only on addressing and maintaining data only for displacement of persons formally encamped, from conflict, and human rights abuses while ignoring the other causes is not sustainable.	The Policy and Plan of Action in this respect meet the Kampala Convention less than half way on the criteria/activities for durable solutions. (See Annex I of this study, the four core indicators for the benchmark on durable solutions).

<sup>139</sup> Ibid.

	<p>The July 2012 Draft IDP Policy provides under chapter five for the policy implementation framework and strategy for achieving durable solutions. All government agencies with responsibility for protecting and assisting internally displaced persons and other local and international humanitarian actors will put in place measures to ensure that all internally displaced persons achieve a durable solution and can enjoy without discrimination the following: a) Long-term safety, security and freedom of movement; b) An adequate standard of living, including at a minimum access to adequate food, water, housing, health care and basic education; c) Access to employment and livelihoods; d) Access to effective mechanisms that restore their housing, land and property or provide them with adequate compensation; e) Access to and replacement of personal and other documentation lost during displacement; f) Voluntary reunification with family members separated during displacement; g) Participation in public affairs at all levels on an equal basis with the resident population; h) Effective remedies for displacement-related violations, including access to justice, reparations and information about the causes of violations.</p> <p>The search for any of these durable solutions for internally displaced persons should be understood as a gradual, often long-term process of reducing displacement-specific needs and ensuring the enjoyment of human rights without discrimination.</p> <p>In seeking durable solutions, intervening agencies must avoid creating <b>dependence</b> and facilitate return as soon as conditions permit, by providing aid that is <b>adequate</b> but not creating living conditions of a higher standard than those in the IDPs' areas of origin which could become an incentive for not seeking voluntary return or resettlement.</p>	<p>upon them.</p> <p>Nonetheless, some measures have been taken in the field to try and reduce the weight of the IDP burden. These include a constant review of security plans in order to guarantee peace in return or settlement areas, particularly through control of the proliferation of small arms, elimination of check points (dozo) along the roads, and introduction of measures aimed at resolving land disputes, as well as giving the IDPs adequate means with which to make a fresh start, including rehabilitation of their homes in some cases, and creation of income-generating activities. The most important reason given by the IDPs for the decision to return is the improvement in the security situation, as evidenced by the dismantlement of illegal checkpoints at the end of June. 77% of returnees questioned feel safe in their return zones.<sup>140</sup></p> <p>The creation of the ADDR was a guarantee of improvement in the prevailing security situation and evidence of the search for</p>		<p>Future policy framework should be aimed at providing durable outcomes as a final policy outcome, measurable through evaluation only political pronouncements.</p>
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<sup>140</sup> Joint CARE, DRC, OXFAM Report : Towards Durable Solutions for Displaced Ivorians, P.7.

		<p>lasting solutions to the internal displacement crisis, following on the heels of the post-electoral crisis in Côte d'Ivoire.</p> <p>Mention must also be made of recent Government initiatives aimed at calming the political atmosphere, which was concretised by the conditional release, in August 2013, of a number of prominent members of the Ivorian Popular Front, the party of the former Ivorian President, Laurent Gbagbo. As a further gesture of reconciliation and appeasement, more conditional releases were announced by the Ivorian President, Alassane Ouattara, in his Address to the Nation on 31 December 2013.</p> <p>It should be recalled that Government had initiated a number of support measures with regard to the voluntary return of IDPs towards the end of 2011, so that the operation was able to produce globally tangible results. Out of an estimated IDP population of 80,000 in 118 sites in May 2011, there remained only 6,118 persons in 12 sites by April 2012.<sup>141</sup></p>		
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<sup>141</sup> Ministry of State, Ministry of Labour, Social Affairs, and Solidarity – *Note of Information on the Voluntary Return of Internally Displaced Persons to Sites*.

		<p>These returns were facilitated by the redeployment of civil service workers back to their duty stations, and the restoration of State control nation-wide, as well as the implementation of certain government programmes such as the PPU and PCAP.</p> <p>In order to create enabling conditions for the return of IDPs in the Lagoon Region, for example, each family planning to return received a package containing the following items:</p> <ol style="list-style-type: none"> <li>1. A grant jointly donated by the Ministry of State, Ministry of Labour, Social Affairs and Solidarity and UNHCR, and allocated as follows: <ul style="list-style-type: none"> <li>• 100 000 FCFA for a family of 1 to 6 persons;</li> <li>• 150 000 FCFA for a family of 7 to 10 persons;</li> <li>• 200 000 FCFA for a family of more than 10 persons</li> </ul> </li> <li>2. A pack of foodstuff (50 kg of rice, 5 litres of oil, salt) donated by WFP;</li> <li>3. A pack of non-food items (1 basin, 1 bucket and 2 cakes of soap) donated by</li> </ol>		
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		the Ministry of ex-Combatants and War Victims and the African Foundation for Peace through Development (AFPD).		
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**Table 14: - Benchmark 11: - Allocate Sufficient Resources**

Under Articles 3(2)(d), 5(1) and (6) of the Kampala Convention, States Parties are obliged to: - provide, to the extent possible, the necessary funds for protection and assistance without prejudice to receiving international support; States Parties shall bear the primary duty and responsibility for providing protection of and humanitarian assistance to internally displaced persons within their territory or jurisdiction without discrimination of any kind; States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need.

In order to be effective, any national response to internal displacement clearly needs to be backed with sufficient resources to be implemented as planned. That has several implications for IDP laws and policies.

First, it is important that the drafters of laws and policies have a realistic understanding in advance of what budgetary funds, human resources, and humanitarian goods (medicine, food, and so forth) are likely to be available. That underlines the importance of advance consultation with IDPs in situations in which displacement already has occurred in order to make sure that laws and policies serve to allocate scarce resources to meet clearly understood and prioritized needs. However, it is also crucial that laws and policies take into account—and facilitate—the role of domestic and international humanitarian actors in providing aid and assistance to supplement domestic aid in a coordinated manner.

Second, once a decision is made to draft an IDP law or policy, care should be taken to begin coordinating its development with annual budget cycles and personnel and procurement procedures in order to minimize the time lag between the passage of the law or policy and the arrival of budgetary resources, appointment and/or hiring of dedicated staff, or authorization of purchase of the materials and/or premises necessary to give it effect. Such preparation is especially important in decentralized states, where responses to internal displacement must take place through coordination between central and regional and/or local levels of government.

Third, where responsibility is assigned to a particular authority (for example, municipalities), it must be ensured that the authority is provided with the necessary financial means. That may require amending certain laws and regulations (for example, those relating to fiscal decentralization).

Further, table 14 shows the difficulty in assessing national governments' commitment of financial resources to address internal displacement and the plight of IDPs, but some trends were identified. In all the three countries studied, the national authorities clearly understood that addressing internal displacement, especially over time, is a capital-intensive venture. While it was difficult to obtain a full picture of a country's budgetary allocation and expenditure on IDPs, countries like Nigeria and Cote D'Ivoire mobilized funds on ad-hoc basis to assist IDPs. National authorities in all

the three countries studied seem to generate sizeable funds/resources from international assistance to IDPs and the private sector donations rather than from national budgetary allocation on a sustainable basis. For example, in Nigeria, NEMA received relief items worth N104 million naira (52 million Yen) from the government and people of Japan for victims of flood in three states of Benue, Kogi and Rivers.

ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	NIGERIA	COTE D'IVOIRE	LIBERIA	COMMENT
Strategic objective 7 and Activities 1 – 7 of the Plan of Action provide for enhancing national and regional capacities for response to humanitarian concerns, including establishment of ECOWAS Humanitarian Relief Fund and provision of other human and material resources.	<p>Funding for IDP related activities, including durable solutions, has been ad hoc or irregular and mostly hampered by bureaucratic delays.<sup>142</sup></p> <p>To address this problem the July 2012 draft IDP Policy seeks to provide easy access to available resources and sustainable funding regime as indicated below:</p> <p>Funding &amp; Resource Mobilization: Funding and resource mobilisation for humanitarian purposes including support for prevention and all phases of displacement shall include a number of mechanisms including:</p> <p>Joint Humanitarian Funding Mechanisms: There shall be established a joint humanitarian fund under the Designated IDP Focal Coordinating Institution. During complex emergencies, disasters and displacement, the Designated IDP Focal Coordinating Institution shall oversee an annual <b>consolidated appeals process</b> (CAP). This entails formulating a Common Humanitarian Action Plan (CHAP); a joint strategy analysing the political, social and security situation of the particular situation or crisis; projecting short-term and long-term humanitarian needs; assessing the capacities of the agencies involved in addressing these needs; and proposing a common set of objectives, actions and indicators for success. A CAP, then, sets out the specific projects and resources required to meet these objectives. Together, these documents serve as the primary tool to mobilize resources at the field level. The joint humanitarian fund shall serve as a joint donor basket for humanitarian</p>	<p>As of present, there is no budget head specifically or specially dedicated to the resolution of the IDP problem.</p> <p>Nonetheless, some Government measures which could help in resolving the IDP issue have been included in the national budget. These cover the security sector, national reconciliation and even land dispute issues.</p> <p>It is relevant to note that the Ivorian Government is actively engaged in mobilising funds within the PND/NDP framework in order to respond to social needs and to the humanitarian situation in general. The fund-raising</p>	<p>There is no specific budget line for IDPs, the emergency is over, and so the issue has not been a priority;</p> <p>Agency funding mostly covers overheads and administrative cost ; no adequate research, advocacy, training or program costs for NDRC or LRRRC.</p>	<p>Strategic linkage exists on the need for pooling resources together between the Convention and the Policy/Plan and consistent with the benchmark under consideration.</p> <p>This is one of the key issues of challenge that could hinder any eventual policy implementation. The Liberian Government is cash strapped</p>

<sup>142</sup> Ibid.

	agencies to furnish in preparation for interventions. All intervening donor agencies shall be required to contribute a minimum of 5% of their resources for intervention into the joint humanitarian funding basket that shall be deployed on need basis by the Designated IDP Focal Coordinating institution.	mission led from 16 to 20 October 2011 by the Humanitarian Coordinator and the Minister of State, Minister of Labour, Solidarity and Social Affairs, to European donors, is an illustration of the fact, as is the meeting of the Consultative Group held in Paris from 4 to 5 December 2012, to address the issue of financing for the PND.		on a cash based budget, with increasing demand from all sectors.
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**Table 15: - Benchmark 12: - Cooperation with International and Regional Organizations**

Under Article 5(6) of the Kampala Convention, States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need. Article 8(d) and (f) requires the African Union to support the efforts of the State Parties including cooperation directly with African States and international organizations / humanitarian agencies, civil society organizations, as well as the Special Rapporteur of the African Human Rights Commission on the rights of IDPs etc.

Cooperation with international and regional organizations that can offer expertise and humanitarian assistance is an exercise of sovereignty that benefits both state authorities and the internally displaced. In the case of humanitarian assistance, such cooperation is also a matter of international legal obligation. In sudden and large-scale displacement situations, states can also immediately benefit from cooperation with humanitarian organizations with the mandates and expertise to assist with resource intensive and technically complex tasks such as the tracing of missing persons.

For the purpose of drafting IDP laws and policies, international and regional organizations with experience in addressing internal displacement can offer increasingly specialized technical assistance in both the drafting process and the essential elements of IDP regulations. Such technical advising typically draws not only on knowledge of the latest developments in international law in various sectors of humanitarian work but also on experience in assisting implementation and analyzing effects of other such laws and policies in the increasing number of countries that have taken this important step in exercising national responsibility.



Further, table 15 reveals that all the three countries studied appreciated the critical role of international and regional organisations in providing the much needed humanitarian, technical material and financial support to addressing the plight of IDPs and for national authorities to enhance their capacity and improve on their service delivery. Hence the recognition of the need for collaboration and cooperation in all phases of internal displacement. Of course, effective coordination and collaboration remains always a noticeable challenge in all the case studies.

<b>ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION</b>	<b>NIGERIA</b>	<b>COTE D'IVOIRE</b>	<b>LIBERIA</b>	<b>COMMENT</b>
The closest clause for this requirement in both the policy and the plan is strategic objective 7, which is not explicit on the need for cooperation as emphasized by the Convention and the benchmark.	<p>The July 2012 draft IDP Policy provides for a complementary system of cooperation with the international community as indicated below.</p> <p>Designation of IDP Focal Coordinating Institution.<sup>143</sup> In order to address the coordination gaps in responding to internal displacement, there shall be created an IDP Focal Coordinating institution, with the following responsibilities:</p> <ul style="list-style-type: none"> <li>a) Advising the president, government and inter-governmental agencies and donor partners on IDP policy issues;</li> <li>b) Promotion of Donor commitment to humanitarian response by organizing missions, liaising on an ongoing basis on developments, achievements and funding requirements for humanitarian interventions</li> <li>c) Organizing and maintaining the relationship with relevant national authorities (MDAs) and if required, the provision of appropriate advice and capacity support. National authorities are the primary actors in programming for the displaced persons and must have the capacity to do so. Where they lack the capacity, they must liaise with the relevant UN agencies to provide assistance as required to relevant MDAs</li> <li>d) Ensure the integration of approaches for protecting and assisting displaced persons and host communities are mainstreamed into the policies/practices of relevant agencies, line ministries and local authorities.</li> <li>e) Undertaking comprehensive multi-agency situational</li> </ul>	<p>The Ivorian Government must be commended for acknowledging the existence of residual humanitarian needs, and setting up the CCE, which is a strategic consultative forum and think tank on humanitarian issues in Côte d'Ivoire. It is worth recalling that the CCE is jointly chaired by the United Nations System Resident Coordinator and the Minister of Solidarity, Women, Family and Children Affairs.</p> <p>The publication titled "Côte d'Ivoire 2013: Humanitarian Need in Transition" draws attention to the advisability of taking Government and United Nations plans/programmes into</p>	The only meaningful cooperative framework is the Kampala Taskforce which was not formed until recently. Irrespective of its recent formation, presents the best opportunity for bringing all actors together.	<p>There is no clear linkage on this benchmark between the Convention and Policy/Plan.</p> <p>Funding has even declined for UNHCR on Displaced Persons issue since 2009, and there is no record of renewed Liberian Government renewed Government of Liberia appeal for international assistance through trust funds</p>

<sup>143</sup> See Chapter Five item 5.31 of the Policy.

	<p>analyses using participatory assessment methodologies to identify threats to the rights of the displaced (and host) populations and assess protection risks, assistance gaps, resources and opportunities available within the displaced and host communities as well as those offered by the national and international players;</p> <p>f) Identifying, mobilizing and coordinating camp management agencies and other sectoral partners, ensuring that there is co-ordination among other sectoral clusters;</p> <p>g) Ensuring that assessment, protection activities, programme delivery and camp governance are all conducted through community-based approaches and with an age, gender and diversity perspective</p> <p>h) Evaluating the performance of camp managing agencies and addressing issues related to under-performing agencies, misuse of assets and strong religious agendas, in an objective and transparent manner;</p> <p>i) Monitoring and regularly reviewing on an ongoing basis the development, implementation and evaluation of protection mechanisms and assistance programmes;</p> <p>j) Identifying and promoting best practices in camp management, including harmonizing protection/assistance standards between camps, taking into consideration the host community.</p>	<p>consideration in addressing the problem of residual humanitarian needs.</p> <p>In addition, United Nations special mechanisms pay regular, unhindered visits to Côte d'Ivoire. The country visit by the Special Rapporteur in charge of IDPs, Chaloka Beyani, from 22 to 31 July 2012 should be noted in this regard<sup>144</sup>.</p>		<p>arrangement for this purpose. The Government has however received international assistance for support to service delivery areas like water, education, sanitation, health.</p>
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<sup>144</sup> Report of the Special Rapporteur on Human Rights of Displaced Persons, Chaloka Beyani: Mission in Côte d'Ivoire (22-31 July 2012).

## CHAPTER FOUR

### Case Studies

#### 4.1 Case Study 1: - Report on National Response to Internal Displacement in Nigeria: - Progress, Challenges and Prospects BY Prof. Muhammed Tawfiq Ladan (PhD)

##### 1. Introduction

Internal displacement in Nigeria is a recurring and large-scale phenomenon and has affected most of the country's 36 states. Africa's largest populated country has seen many waves of displacement, both small and large scale, caused essentially by conflict, generalized violence, natural disasters and human rights violations.

It is a paradox that Nigeria is a rich<sup>145</sup> country inhabited by the poor<sup>146</sup> and accounted for about 13% (1.4 million) of Africa's 11.1 million people internally displaced by conflict and generalized violence as at the end of 2010.<sup>147</sup> More than a third of the world's 28.8 million conflict induced IDPs in 2012 were displaced in Africa. This does not include internal displacement<sup>148</sup> induced by development projects<sup>149</sup> that are regulated by states. Between July and October 2012, National Emergency Management Agency (NEMA) estimated in a published report that a total of 7.7 million people were affected by the flood disaster across the federation. Out of the affected population, 2.1 million people were internally displaced (IDPs); 363 persons died and 18,282 people were treated for injuries they sustained during the flooding.<sup>150</sup>

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<sup>145</sup> The 2012-13 Human Development Index (HDI) released on 14<sup>th</sup> march, 2013 by the UNDP places Nigeria 153 out of 187 countries on UN quality of life index in terms of education, income and life expectancy. Nigeria, Africa's Second biggest economy and largest producer of oil with a Gross national income (GNI) per capita of 2,069 dollars, lags behind (in 2011 index) Equatorial Guinea (17,068 USD), Botswana (13,049 USD) and Gabon (12,249 USD). Quoted from the Daily Trust Newspaper, Abuja, November 3, 2011 at p.2; See also Trust Index Daily Trust, January 10, 2012 at P.15.

<sup>146</sup> Ibid.

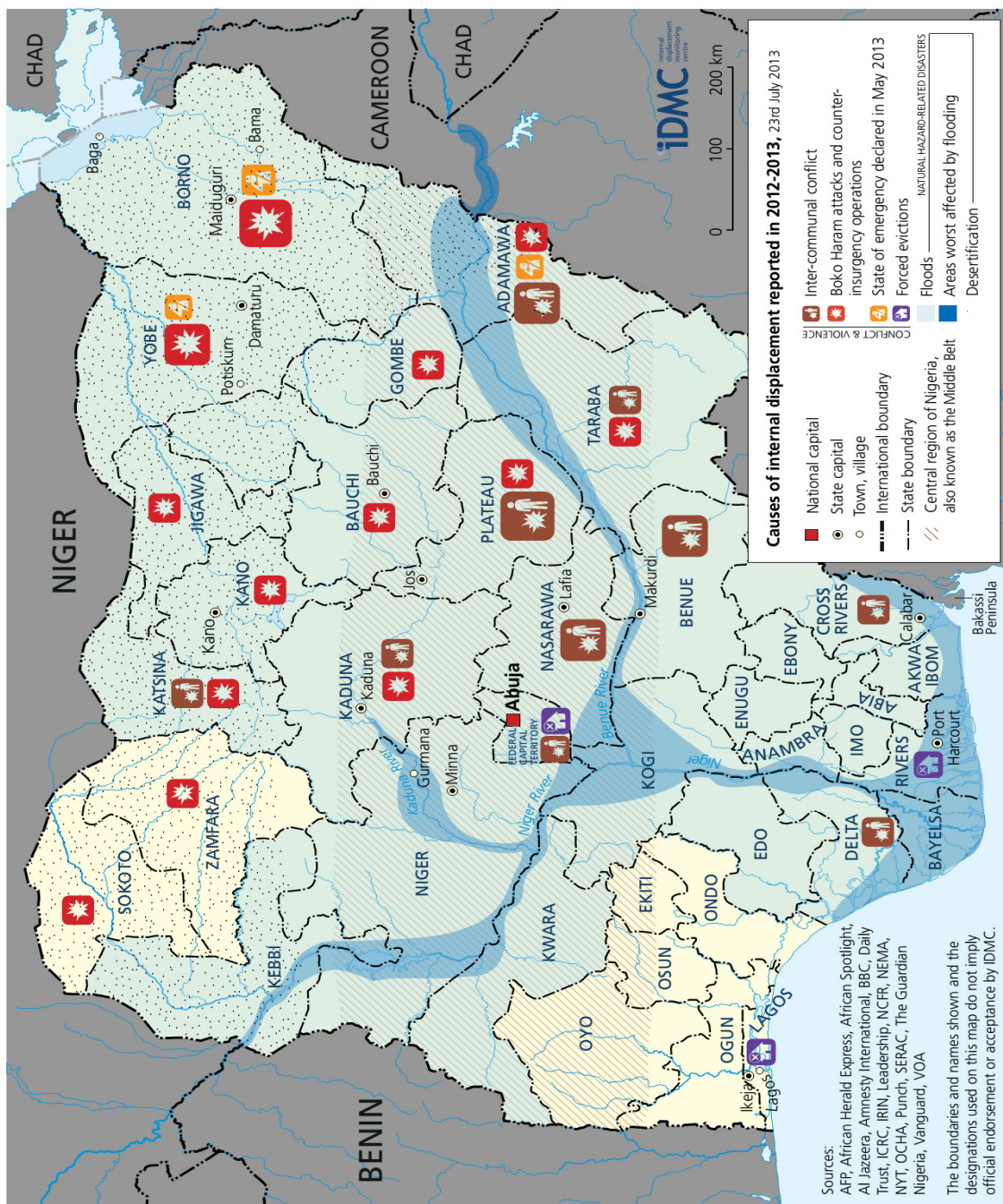
<sup>147</sup> In 2010, the 21 African States monitored by the Internal Displacement Monitoring Centre (IDMC) accounted for 11.1 million people that were internally displaced by conflict and generalised violence at the end of 2010. See [www.internal-displacement.org/countires/Nigeria](http://www.internal-displacement.org/countires/Nigeria) - visited on Jan 10, 2012. Also see IDMC-NRC (2012): - Global Overview 2012: People internally displaced by conflict and violence, at pp.1-19, see <http://www.internal-displacement.org/global-overview/pdf>.

In January 2011, the National Commission for Refugees (NCFR), Abuja, revealed the existence of about 1.4 million IDPs in Nigeria due to complex causes. See NCFR, Abuja, a paper presented by the Federal Commissioner to the Canadian Embassy delegation on Jan 10<sup>th</sup> 2011, table 1 titled: - Persons of concern to the NCFR in Nigeria.

<sup>148</sup> See Article 1 of the African Union Convention (Kampala Convention) for the Protection and Assistance of IDPs in Africa, 2009.

<sup>149</sup> Such as urban development programmes, the creation of industrial parks, infrastructure projects or industrial processes such as natural resource extraction.

<sup>150</sup> See NEMA Newsletter Vol. 4 No 11 November 2012 at p.3. IDMC holds that this figure of 2.1 million people were those who were registered to receive assistance as IDPs, and thus this figure was possibly not exhaustive but perhaps much larger.



In the early 2006, the increasing number of IDPs due to conflict induced internal displacement informed the Nigerian Government to consider a National Policy on IDPs the draft of which was tabled for consideration in 2007 but the then administration could not adopt it.<sup>151</sup> The draft was revised thrice in 2009 and 2010-11 and by December 2011, it remained a draft yet to be adopted.<sup>152</sup> A team of consultants and Multi-Stakeholders Forum between 30 May and August 2012 further revised this draft. This revised draft is also awaiting adoption by the federal government.

Having recognized that in Nigeria and elsewhere in the world, IDPs<sup>153</sup> are amongst the most vulnerable populations,<sup>154</sup> the Federal Government of Nigeria signed<sup>155</sup> and approved the ratification<sup>156</sup> of the African Union (Kampala Convention) for the Protection and Assistance of IDPs in Africa.<sup>157</sup> Nigeria formally ratified the convention on 17 April 2012.

In July 2011, the First Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa jointly organized by the Economic Community of West African States (ECOWAS), The UNHCR, The AU with the funding of the Government of Finland in Abuja, under the leadership of Nigeria, underscored the importance of every African Union Member State to signing, ratifying, domesticating and implementing the Kampala Convention.<sup>158</sup> More importantly, the Conference stressed the need to strengthen good governance and the full respect of all human rights and international humanitarian law (IHL) in ECOWAS member states, with a view to preventing internal displacement, notably caused by the lack thereof, or emanating from conflict and generalized violence as well as mitigating its devastating effects on the region's citizens.<sup>159</sup>

It is against this background that this case study of Nigeria aims at realizing the following objectives: -

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<sup>151</sup> Official reason unknown to this author, but believed by many analysts to be a slow process in adopting it. The Government was not influenced by the recommendations and resolutions of the 1<sup>st</sup> Regional Conference on internal displacement in West Africa, held between April 26-28, 2006 in Abuja and hosted by the Federal Government of Nigeria in collaboration with the Economic Community of West African States (ECOWAS), the Office of the UN High Commissioner for Refugees (UNHCR), the Representative of the UN Secretary-General on the Human Rights of IDPs and the Brookings Institution – University of Bern Project on Internal Displacement. One of the recommendations of the Conference was that ECOWAS Member States should undertake measures to address the root causes of internal displacement including developing laws and policies on IDPs consistent with states obligations under international human rights and humanitarian laws.

<sup>152</sup> See the Foreword to the Draft National Policy on IDP dated March 11 2011 made by the then Minister for Special Duties, Abuja. Also, see the same Foreword to the same draft policy dated September 6 2011, in Abuja, made by President Jonathan.

<sup>153</sup> For the definition of IDPs, see Article 1(k) of the African Union Convention for the Protection and Assistance of IDPs in Africa adopted by the AU Special Summit in Kampala, Uganda, on 23 October 2009.

<sup>154</sup> Such as: - they have no special legal status under international law because upon displacement, they remain within their national borders and therefore, are normally not entitled to the assistance and protection afforded refugees.

<sup>155</sup> Date of signature: 23 October 2009.

<sup>156</sup> On Wednesday, 14 September 2011, the Federal Executive Council in Abuja approved the ratification of the Kampala Convention on IDPs but was deposited at the AU Secretariat in Addis Ababa, Ethiopia as required by article 16(2) of the Convention on 22<sup>nd</sup> May 2012.

<sup>157</sup> The Kampala Convention on IDPs needing 15 ratifications under article 17(1) came into force on December 6, 2012. Signed by 42 and ratified by 20 AU States including nine ECOWAS Member States: - Gambia, Guinea-Bissau, Mali, Sierra Leone, Togo Benin, Burkina Faso, Nigeria and Niger Republic as of November 30, 2013. Source: - Table of status of signature/ratification of the AU Kampala Convention.

<sup>158</sup> See Para 10 of the Preamble to the Final Communiqué of the Conference dated 7 July 2011 in Abuja, Nigeria.

<sup>159</sup> Ibid, points 1-3 of the Conference declaration contained in the Communiqué.

1. To provide an overview of the contextual background of the complex causes and impact of internal displacement in Nigeria;
2. To examine the progress, challenges and prospects in implementing the measures set out against the twelve (12) benchmarks in the Framework for National Responsibility in preventing internal displacement, protecting and assisting IDPs; and
3. To conclude with some major pointers pertaining to internal displacement in Nigeria.

## **1. OVERVIEW OF THE COMPLEX CAUSES AND IMPACT OF INTERNAL DISPLACEMENT IN NIGERIA**

### **1.1 Causes of Internal Displacement in Nigeria**

In Nigeria, internal displacement is a regular occurrence because of violent conflicts with ethnic, religious and political undertones.<sup>160</sup> Millions are annually internally displaced as a result of natural disasters<sup>161</sup> including flooding in the North and West, erosion in the East, oil spillage and development projects in the Niger Delta (South-South).<sup>162</sup> Some incidences also occur because of clashes between Fulani herdsmen and farmers<sup>163</sup> and between government forces and armed groups.<sup>164</sup> This is in addition to the Bakassi returnees<sup>165</sup> that were internally displaced from the oil rich Bakassi Peninsula that was handed over by Nigeria to Cameroon in 2008 resulting from 10 October 2002 ruling of the International Court of Justice.<sup>166</sup>

<sup>160</sup> Ibid at pp. 1-2. See also the Draft National Policy on IDPs in Nigeria, supra note 152; and IDMC supra note 147.

<sup>161</sup> Recently, the Nigerian Red Cross Society revealed that in 2010 alone about 1.5 million people were affected nationwide. The Red Cross carried out a vulnerability analysis and identified about 5,000 vulnerable families were most affected by the 2010 floods. See the Proceedings of the Multi-stakeholders conference, on IDP Protection in Nigeria and the African Union (Kampala) Convention on the Protection and Assistance to IDPs in Africa. Organized by Civil Society Legislative Advocacy and IDMC/NRC, Geneva, in Abuja between November 21-22, 2011. In the same Proceedings, see also, Ladan, M. T., (2011): Overview of International and regional Frameworks on Internal Displacement: - A Case Study of Nigeria. Being a paper presented. Communiqué issued on 23 November, 2011.

<sup>162</sup> See the United Nations Environment Programme (UNEP) Nairobi, Kenya (2011): - Report on Environmental Assessment of Ogoni land, Niger Delta region, Nigeria.

<sup>163</sup> Where farmers and cattle breeders or Fulani Pastoralists or grazers live in the same geographic space, violent clashes often occur over claims of trespass. The literature on the Nigeria's pastoral development suggests that the major environmental limitations to Fulani herdsmen are water and grass shortages, which account for their frequent movement from one place to another. Added to this is the absence of the right conditions for grazing lands in Nigeria. See Ladan M. T., Materials and Cases on Environmental Law in Nigeria (2004) (ECONET Publishing Co. Zaria, Nigeria, at pp. 108-111.

<sup>164</sup> Such as the Muslim youth religious militia otherwise known as 'Boko Haram' whose deadly activities in the north-eastern part of Nigeria have resulted in the massive displacement of affected population in the last three years and attracted the declaration of the state of emergency in Adamawa, Borno and Yobe States, on 14 May 2013 by President Jonathan.

<sup>165</sup> The case of the Bakassi returnees is unique in the sense that about 400,000 Nigerians were displaced when Nigeria finally ceded Bakassi Peninsula to the Republic of Cameroon on 14<sup>th</sup> August 2008, with a large number of them moving to Cross Rivers and Akwa-Ibom States of Niger Delta region. Hence, the indigenous people were left landless, homeless and cut off from their means of livelihood for years. See NCFR Abuja 2011, supra note 147. See also Tony Nyong: 'Bakassi returnees overwhelm Akwa-Ibom', in Sunday Vanguard, Lagos, 31<sup>st</sup> August 2008.

<sup>166</sup> Dispute over ownership of Bakassi Peninsula postcolonial period continued for many years and climaxed in 1981 when Nigeria and Cameroon took the matter to the International Court of Justice (ICJ) on 29<sup>th</sup> March 1994, for final determination by the World Court. In its judgement of 10<sup>th</sup> October 2002, the ICJ gave Bakassi to Cameroon based largely on a 1913 Treaty between former colonial powers, Britain and Germany, which defined spheres of Control in the region as well as two agreements signed between Nigeria and Cameroon in 1971 and 1975.

Analysts have always expressed fears that the level of conflict and with it the level of internal displacement, may increase each time a general election<sup>167</sup> year draw nearer. These fears were confirmed when the National Emergency Management Agency (NEMA) reported that about 65,000 persons were displaced internally due to post-election violence and are spread across the following six northern States: - Bauchi, Kaduna, Kano, Niger, Katsina and Sokoto.<sup>168</sup>

Recent findings<sup>169</sup> have shown that the plight of IDPs in Nigeria is rooted in complex causes, phases and types of displacement; the need for return to a safe and secured environment and reintegration assistance, but unfortunately in a fragmented humanitarian response.

Recent studies<sup>170</sup> have also shown that socio-economic elements, such as poverty and unemployment among youths, have been exacerbated by conflict and natural disasters – becoming a barrier to return and an underlying phenomenon of migration.<sup>171</sup>

It is noted however, that lack of a comprehensive strategic framework to address the plight of internally displaced populations<sup>172</sup> and to provide durable solutions to all types of displacement, is further evidenced by the absence of an endorsed national policy framework on IDPs tabled and re-tabled before the Federal Executive Council in 2007 and 2010-11 for due consideration.<sup>173</sup>

The endorsement of the IDP policy by the Federal Government is a necessary political will to providing durable solutions to the plight of IDPs and a practical admission of the fact that ensuring IDP protection and assistance primarily lies with national authorities mandated to protect and care for them.<sup>174</sup>

## **1.2 Recent Trends in Internal Displacement in Nigeria: - 2011-2013**

First, increasing violence, which often stems from competition for access to political power and access to resources, as well as failure to address past socio-economic and political

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<sup>167</sup> See Ladan M.T. and Aisha I.K. (ed.) (2005): - Election Violence in Nigeria. AFSTRAG – Nigeria, Lagos with support from the Ford Foundation. For the analysis of the factors responsible for pre, during and post election violence in Nigeria.

<sup>168</sup> Quoted from the 9pm National Network News broadcast on Nigerian Television Authority (NTA) Abuja on April 22, 2011. Per the Director-General of NEMA, Abuja. To date majority of such IDPs are still in camps with no hope of return, while others are unseen or uncared for due to lack of political will for durable solution to the plight of IDPs in Nigeria.

<sup>169</sup> See Ladan M.T. (2011) *supra* note 161. Also see IDMC (2012) *supra* note 147.

<sup>170</sup> **Ladan M.T., (2009-10)** Introduction to ECOWAS Community Law and Practice: Integration, Migration, Human Right, Peace and Security in West Africa (2010); ABU Press, Zaria, Nigeria; Alhassan, N., NEMA, Abuja (2011) Proceedings of the multi-stakeholders, *supra* note 161.

<sup>171</sup> See the Proceedings and Communiqué of the 2011 Multi-stakeholders conference on Internal Displacement in Nigeria, *supra* note 161.

<sup>172</sup> Ladan (2011) *supra* note 161 and Ladan (2009-10) *supra* note 170.

<sup>173</sup> See NCFR (2011) Draft National Policy on IDPs in Nigeria, *supra* note 151.

<sup>174</sup> Section 14(2) (b) of the 1999 Nigerian Constitution imposes an obligation on the government, at all levels, to promote the security and welfare of the people as the primary purpose of government. This accords with Article 3(2) of the Kampala Convention on IDPs in Africa which requires States Parties to adopt, implement national legal and policy frameworks on the protection and assistance of IDPs. Further, the Convention's Article 4 is to the effect that State Parties are obliged to ensure that all persons are protected against arbitrary displacement as a human right. Furthermore, by virtue of the Convention's Article 7, both parties in armed conflict are obliged to respect the provisions of International Humanitarian Law (IHL) and Human Rights Law in the protection and assistance to IDPs. Violators of the rights of IDPs shall be held responsible for their acts under both international and national laws.



imbalances, injustices and inequities across the federation, continues to cause internal displacement in Nigeria.<sup>175</sup>

On the situation in Nigeria, the more recent OCHA May 2013 findings<sup>176</sup> revealed that at least 446 fatalities and 22,000 IDPs were recorded in April 2013 from inter-communal conflict/violence, political crisis, disaster and insurgency/counter-insurgency. It also revealed that, 32 out of 36 States in Nigeria are experiencing natural disaster such as flooding and that victims of elections' induced violence internally displaced from 9 States (Bauchi, Sokoto, Zamfara, Niger, Katsina, Jigawa, Kano, Adamawa and Akwa Ibom) of the 14 States affected by the 2011 post presidential election violence will benefit from the 1<sup>st</sup> phase of the compensation. An assessment of damages and losses is yet to be carried out in the other 5 States affected (Borno, Yobe, Gombe, Kaduna and Nasarawa States). The compensation ranges from \$290,000 to \$10.5 million per State as of the 25 April approved \$34.5 million dollars or N5.7 billion naira by President Jonathan. The recommendation to compensate the victims, who are largely IDPs, for their losses was part of the report by the panel of enquiry formed shortly after the 2011 election violence arising from unhealthy competition for access to power.

Second, the role of armed militant/insurgent/criminal groups as new agents in forcing people to flee from their habitual places of residence is also a significant trend, especially in areas where government security forces had little reach or capacity to combat such groups or deploy actual counter-insurgency operations.<sup>177</sup> One of the latest largest waves of internal displacement took place in late December 2011, following a series of attacks by Boko Haram<sup>178</sup> insurgents/armed groups<sup>179</sup> and subsequent clashes with the army, which caused the displacement of about 90,000 people. Since January 2012, thousands of IDPs have reportedly moved and families split up in order for women and children to flee to safer areas outside the troubled north-eastern States of Adamawa, Borno and Yobe.<sup>180</sup>

Third, is the upward trend of displacement figures and patterns, coupled with the absence of appropriate system to monitor such displacement comprehensively, with the State lacking population profiling or tracking mechanism to identify IDPs. This has left the current numbers of IDPs as well as the full scope of displacement unknown. These gaps have rendered protection and

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<sup>175</sup> See Institute for Peace and Conflict Resolution, Abuja (2013): - Peace and Security as imperatives for National Development (Ed.) Golwa, G.H.P., at pp.1-29. See also IDMC-NRC (2012): - Nigeria: - A Profile of Internal Displacement, pp. 1-46.

<sup>176</sup> See OCHA Report May 2013 at pp.1-3.

<sup>177</sup> See IPCR (Ed.) Golwa (2013) at pp.46-57 quoted from a paper presented at the Institute by Prof. M.T. Ladan on Criminal Justice System and the New Security Challenges in Nigeria.

<sup>178</sup> The Federal Government of Nigeria has secured eleven (11) convictions in its prosecution of Boko Haram insurgents in the last one year (2012-2013). The Attorney-General of the Federation and Minister of Justice disclosed this at the 12<sup>th</sup> Session of the ICC Rome Statute Assembly of State Parties, World Forum Theatre at The Hague, Netherlands. Quoted in the Punch Newspaper, Lagos, Nigeria, November 2013: - accessed online on 30 November, 2013 at <http://www.punchng.com/news/bharam>.

<sup>179</sup> Ibid, reported also that the findings of the International Criminal Court (ICC) Prosecutor under the Rome Statute, categorized the crimes committed by Boko Haram insurgents as crimes against humanity under the Rome Statute. Further reported by the Citizen Newspaper on November 24, 2013, accessed on Saturday, November, 30, 2013, that the International Criminal Court declared the violent conflict between Boko Haram and the Federal Government Forces (JTF) as an internal armed conflict to which International Humanitarian Law applies, particularly, Article 3 common to the Geneva Conventions of 1949 to which Nigeria is a signatory/State party. Similar declaration was made by the International Committee of the Red Cross (ICRC) early this year (2013) based on the levels of intensity and of organization of parties to the conflict.

<sup>180</sup> See IDMC (2012) Supra note 175.



assistance inadequate. In 2011, estimates of people displaced by conflict and violence, reported in news reports and by different governmental sources, ranged between 400,000 and one million. During 2012, according to media and civil society reports, close to 200,000 people were displaced by conflict, violence and human rights violations, while the government estimated that as many as two million people had been displaced by large-scale floods between July and October.<sup>181</sup>

Another trend of displacement is the fact of protracted and neglected situations: Many of Nigeria's IDPs are believed to have been displaced for years due to conflicts, generalized violence and/or natural disaster and continue not to enjoy a number of rights, such as the right to an adequate standard of living. IDPs who return home soon after the event that made them flee their home are sometimes faced with the destruction of property, crops, infrastructure and acute ethnic and/or religious tensions, particularly in central and northern Nigeria. These adverse conditions prolong their situation of hardship, render them unable to access durable solutions following their displacement, and regain the full enjoyment of their rights.<sup>182</sup>

More than two million urban Nigerians, particularly slum-dwellers and other marginalized people have been forcibly evicted from their homes since 2000. Most notable in Lagos, Abuja and Port Harcourt. These government-sanctioned evictions are usually carried out in the name of security and urban renewal programmes. In 2012, tens of thousands of people were forcefully evicted in Abonnema and Makoko slums in Rivers and Lagos States respectively. Further demolitions took place in 2013, mostly because of development programmes.<sup>183</sup>

In 2009 and 2010, Nigeria ranked 12<sup>th</sup> and 11<sup>th</sup> amongst countries with the highest reported levels of displacement by sudden-onset disasters worldwide, according to the Internal Displacement Monitoring Centre's (IDMC) global data. Floods reportedly displaced 140,000 people in 2009. The 2010 floods were notably triggered by the opening of floodgates on the Challawa and Tiga dams by the authorities, following heavy rains. Flooding and soil erosion in the States along the Niger River and its tributaries regularly cause internal displacement. About a million people living in the low-lying plains of the River Niger are considered at risk. According to the National Emergency Management Agency, floods and storms displaced up to two million people in 2010 and thousands of people in 2011, mainly in Jigawa, Sokoto and Kebbi States.<sup>184</sup>

Between June and October 2012, over two million people were displaced by devastating floods throughout the country and after the release of overspill water from several dams in Cameroon and Nigeria.<sup>185</sup>

Fourth, is the fact that adhoc registration exercises have hinted at the scale of the phenomenon of internal displacement, but those who seek shelter and support from extended families, friends, faith-based organisations and in obscure and unknown locations, and who likely

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<sup>181</sup> See NEMA News Letter (2012) Supra note 150.

<sup>182</sup> See Ladan, M. T., (2011): Legal and Policy Imperatives for the Prevention, Protection, Assistance and Durable solution to the Plight of Internally Displaced Persons (IDPs) in Nigeria: in African YearBook on International Humanitarian Law, JUTA, South Africa at pp. 79-106.

<sup>183</sup> See Social and Economic Rights Action Centre (SERAC), Lagos, (2012), IDMC – NRC (2013): Nigeria: Fragmented response to internal displacement amid Boko Haram attacks and flood season. 23 July, 2013, pp.1-14.

<sup>184</sup> Ibid.

<sup>185</sup> See NEMA Supra note 150. This was the second largest event of internal displacement caused by a natural disaster worldwide in 2012. See <http://www.internal-displacement.org/natural-disasters>

make up the majority of IDPs, tend not to be counted by relevant authorities for the purpose of humanitarian relief assistance.

Mapping of IDPs remains a challenge in Nigeria. In July 2012, due to torrential rainfall as well as the release of water from the Lagdo dam in neighbouring Cameroon, many coastal and inland cities in Nigeria witnessed unprecedented floods, which submerged about a third of the country; setting off a large scale humanitarian crisis. According to statistics from National Emergency Management Agency (NEMA), more than 2.1 million people were internally displaced, about 400 lives lost and 7.4 million Nigerians were affected as at November 2012.

Finally, progress made in recent years to protect and assist IDPs in Nigeria is encouraging. For example, NEMA in collaboration with relevant stakeholders have reasonably been attending to the needs of the IDPs in terms of camp coordination and camp management with reasonable safety and security measures, provision of food and nutrition, access to basic health, reproductive health, education, water and sanitation services, emergency shelter and non-food items. After the relief phase of displacement, NEMA in collaboration with relevant stakeholders organized programmes for rehabilitation of survivors, reintegration of displaced persons, reconstruction of infrastructure and environmental remediation.<sup>185a</sup>

The country ratified the Kampala convention on 17 April 2012 and rewrote the draft policy on IDPs in July 2012 to incorporate the provisions of the Convention. One year on, however, the Federal Government is yet to adopt the policy, and/or enact a domestic law to implement the Convention. The absence of such frameworks as a means of clearly defining roles and responsibilities has, and will continue to, hamper humanitarian and development efforts to mitigate the effects of internal displacement. They are also essential to a holistic approach in supporting IDPs' search for durable solutions, and in preparing for and preventing future displacement.<sup>185b</sup>

### **1.3 Impact of Internal Displacement on IDPs in Nigeria**

During the human induced and natural disaster, which forced IDPs to leave, most houses and properties are destroyed, looted or burnt down. Most IDPs in Nigeria flee to neighbouring communities that are safe, usually taking refuge in temporary shelters such as schools, public buildings and places of worship among others; having been deprived of their homes and sometimes their land and livelihoods.<sup>186</sup> Hence, they lack access to necessities of life such as food, water and shelter.

While some efforts are made by government agencies, humanitarian and faith-based organisations to address some of the basic needs of IDPs, there are still challenges in accessing health care, education, employment, economic activities and information for participation in decision-making affecting their lives. With some IDPs camped in school buildings, education is usually disrupted for both local communities and displaced children.<sup>187</sup>

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<sup>185a</sup> See NEMA DG's Statement at the 6<sup>th</sup> United Nations High Commission for Refugees Dialogue on protection Challenges held at the Palais Des Nations, Geneva, Switzerland, 11<sup>th</sup> – 12<sup>th</sup> December 2013, at para 6.

<sup>185b</sup> See [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/ADE0DE4E48EDC8B6C1257BB1003EF1BA/\\$file/nigeria-overview-july2013.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/ADE0DE4E48EDC8B6C1257BB1003EF1BA/$file/nigeria-overview-july2013.pdf)

<sup>186</sup> See IDMC, Geneva, (2010-11), NCFR (2011) *supra* note 147; and Alhassan N., NEMA, Abuja (2011), Ladan, M.T., (2011) and Nigerian Red Cross Society (2011) *supra* note 161.

<sup>187</sup> *Ibid*; See also ActionAid Nigeria, Abuja (2008), Policy Brief: - Dealing with the recurrent crises in Jos, Plateau State: - Policy Options for Conflict transformation and international displacement at pp. 1.6.

Further, IDPs in Nigeria faced insecurity and all forms of exploitation and abuse, including rape, having camped in congested shelters, isolated, insecure or inhospitable areas.<sup>187a</sup> IDPs are also largely separated from their families especially, unaccompanied children and teenagers, the elderly and sick, the handicapped and pregnant women, whose special needs and privacy are not attended to, due to fragmented and uncoordinated humanitarian response to the needs of IDPs.<sup>188</sup>

IDPs in Nigeria also faced lack of access to justice, whether in relation to cases of human rights violations such as discrimination against ethnic and religious minorities, sexual violence, and deprivation of means of livelihood.<sup>189</sup>

Even when the situation of most IDPs improves, potentially durable solutions have remained out of the reach of specific groups with particular needs or vulnerabilities.<sup>190</sup> These include the elderly or sick people, widows barred from recovering the property they had lived in, or members of minorities facing discrimination, marginalisation and exclusion or whose livelihoods depend on a particular attachment to their areas of origin or settlement.<sup>191</sup> For such groups, strategies or incentives that had encouraged others to move towards a durable solution may not have been effective or accessible, and the tailored support they needed to rebuild their lives was not available.<sup>192</sup>

## 2. METHODOLOGY

This study seeks to use the Framework for National Responsibility in particular its twelve (12) benchmarks (as in Table 1 below), to understand and assess the specific measures that national authorities have taken or have failed to take (because they are either unable or unwilling) to meet their obligations to provide assistance to, and to protect the human rights of, IDPs in Nigeria. This is with a view to distilling further guidance on how best to encourage and support national institutions in this regard.

For the most part, the case study was based on the set of questionnaires administered and interviews conducted with in-country officials of relevant national institutions, practitioners/civil society activists and representatives of selected international actors.

**Table 1: - Benchmarks and Indicators for National Response on Internal Displacement**

S/N	BENCHMARKS	INDICATORS (MEASURES)	SUB-INDICATORS
1	Prevent Displacement / minimize its adverse effects	<ul style="list-style-type: none"> <li>• Early warning system / mechanisms</li> <li>• Disaster risk reduction and preparedness mechanisms / procedures</li> </ul>	See Annex II for all related questions

<sup>187a</sup> Ibid ActionAid Nigeria.

<sup>188</sup> See Ladan M.T., (2011) supra note 161 at p. 18.

<sup>189</sup> See ActionAid Nigeria, Abuja; supra note 187 at pp. 3-4.

<sup>190</sup> Ibid

<sup>191</sup> See Human Rights Watch, New York (2006): Report on Government Discrimination Against “Non-indigenes” in Nigeria: - They do not own this place”. Vol. 18 No. 3(A) April 2006.

See also Canadian International development Agency, Quebec, (2003): - Gender Equality and Humanitarian Assistance: - A guide to the issue, at pp. 1-14.

<sup>192</sup> See The Brookings Institution – University of Bern Project on Internal Displacement (2007): - When Displacement Ends: - A Framework for Durable Solutions.

See also Ladan. M.T., (2011), supra note 161.

S/N	BENCHMARKS	INDICATORS (MEASURES)	SUB-INDICATORS
		<ul style="list-style-type: none"> <li>Respect for International Human Rights Law (IHRL) / International Humanitarian Law (IHL) / Kampala Convention / UN Guiding Principles on Internal Displacement</li> </ul>	
2	Raise National Awareness of the Problem	<ul style="list-style-type: none"> <li>Policy statements or declarations</li> <li>Sensitization campaign through mass media</li> </ul>	See Annex II for all related questions
3	Collect data on Number / Conditions of IDPs	<ul style="list-style-type: none"> <li>Magnitude, characteristics and needs of IDPs</li> <li>Mix of qualitative and quantitative techniques</li> </ul>	See Annex II for all related questions
4	Support Training on Rights of IDPs	<ul style="list-style-type: none"> <li>Efficient management of IDP affairs</li> <li>Consistent application of IDP law/policy or related laws/policy.</li> </ul>	See Annex II for all related questions
5	Ensure a Legal Framework for upholding IDPs' Rights	<ul style="list-style-type: none"> <li>Compatibility of existing law(s) with IDPs' rights internationally guaranteed.</li> <li>Comprehensive coverage of all phases of displacement</li> </ul>	See Annex II for all related questions
6	Develop a National Policy on Internal Displacement	<ul style="list-style-type: none"> <li>Inclusivity and transparency in the process of drafting an IDP policy</li> <li>Comprehensiveness of content coverage of all causes, aspects, measures, rights and responsibilities.</li> </ul>	See Annex II for all related questions
7	Designate an Institutional Focal Point on IDPs	<ul style="list-style-type: none"> <li>Sustain attention to internal displacement issues.</li> <li>Development and regular dissemination of updated reliable data on the volume, trend, location, general characteristics and needs of IDPs.</li> <li>Coordination of national response to all aspects / phases of internal displacement.</li> </ul>	See Annex II for all related questions
8	Support National Human Rights Institutions to Integrate Internal Displacement into their Work	<ul style="list-style-type: none"> <li>Independence and capacity to promote and protect the rights of IDPs.</li> <li>Periodic reporting, investigation, and monitoring of IDPs' rights abuses, legal assistance for access to justice / legal remedies</li> </ul>	See Annex II for all related questions
9	Ensure the Participation of IDPs in Decision Making	<ul style="list-style-type: none"> <li>Existence of processes, mechanisms or channels through which IDPs participate in decision-making affecting their lives.</li> </ul>	See Annex II for all related questions
10	Support Durable Solutions	<ul style="list-style-type: none"> <li>Sustainable reintegration at the place of origin;</li> <li>Sustainable local integration in IDPs host communities;</li> <li>Sustainable integration in another part of the country;</li> <li>Remedies for displacement related human rights violations, including access to justice, reparations and information about the causes of violations</li> </ul>	See Annex II for all related questions
11	Allocate Adequate Resources to	<ul style="list-style-type: none"> <li>Specific national budget line / allocation for</li> </ul>	See Annex II for all

S/N	BENCHMARKS	INDICATORS (MEASURES)	SUB-INDICATORS
	the Problem	internal displacement issues; • Quantum and regularity of releases to the relevant national authorities; • Monitoring and evaluation of funds utilization.	related questions
12	Cooperate with the International Community when National Capacity is Insufficient	• Facilitation by national authorities of humanitarian assistance from international actors; • Nature and scope of request for technical, material, human and financial assistance from international actors.	See Annex II for all related questions

Using this template of benchmarks, in addition to indicators developed for each benchmark (See Annex II below), data on national responses to internal displacement in Nigeria was collected and analyzed (see below).

### 3. UNDERSTANDING THE FRAMEWORK FOR NATIONAL RESPONSIBILITY TO PREVENT INTERNAL DISPLACEMENT, PROTECT AND ASSIST IDPs

National responsibility is fundamental to ensuring an effective approach to internal displacement. The fact that IDPs remain within the borders of their country means that it is their own State that bears primary responsibility for protecting and assisting them and for safeguarding them against forced displacement in the first place. This principle is affirmed in international standards, namely the Guiding Principles on Internal Displacement (1998), the African Union (Kampala) Convention on IDPs (2009), and regularly restated, both by the international community and by individual States. Although there exists broad consensus on the normative principle of national responsibility, realizing it often proves challenging in practice.

For example, governments may lack adequate capacity to address internal displacement, especially if large numbers of people are involved, if they constitute a large percentage of the country's population,<sup>193</sup> or if the displacement persists for several years.

The State's exercise of its national responsibility for IDPs, therefore, must be the basis for an effective response to internal displacement. It is not a matter of navigating around the principle of national responsibility but of being guided by that principle and consciously gearing all efforts to achieve an effective response.

The primary role of the State is clear, both recognized in international law and regularly reaffirmed in international statements. Most notable is UN Resolution 46/182 (1991), "Strengthening the Coordination of Humanitarian Assistance," which remains the normative basis for international humanitarian action:

*The sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations. In this context, humanitarian assistance should be provided with the consent of the affected country and in principle based on an appeal by the affected country.*

<sup>193</sup> According to the latest available estimates, the countries with the largest IDP populations in Africa as of 2012 as a proportion of total population, are Somalia, Sudan and DR Congo, although Nigeria was listed as undetermined and could otherwise have possibly been included on this list. IDMC, Internal Displacement: Global Overview of Trends and Developments in 2012.

*Each State has the responsibility primarily to take care of victims of natural disasters and other emergencies occurring on its territory. Hence, the affected State has the primary role in the initiation, organization, coordination, and implementation of humanitarian assistance within its territory.*<sup>194</sup>

Humanitarian organizations are acutely aware of this foundational principle, particularly as it affects their ability to enjoy safe and unimpeded humanitarian access to the populations that they seek to protect and assist.<sup>195</sup> In practice, however, as a recent report observes, “international relief efforts have often been criticized for ignoring, sidelining or actively undermining local capacities,” thereby leading to “tense and even dysfunctional relations between States and international agencies.”<sup>196</sup>

Part of the problem is that humanitarian actors almost automatically regard the core concept of national responsibility for addressing internal displacement often as a constraint. Certainly, there is no shortage of examples around the world today in which state practices pose real barriers—whether political, legal, administrative or operational—to ensuring that IDPs have access to the protection and assistance that they require. However, even in those cases, effective—and perhaps creative—ways need to be found to promote, support and reinforce the exercise of national responsibility for addressing internal displacement, because ultimately that is the only sustainable solution.<sup>52a</sup>

Important to note is that the Framework is being applied to and used in all types of internal displacement. The country examples cited above all relate to conflict induced displacement. However, the Framework also is being promoted and used to advocate and guide national responses to internal displacement caused by natural disasters. For example, in the United States of America, lawyers’ groups have drawn upon the Framework to advocate for the protection of persons displaced by Hurricane Katrina.<sup>197</sup> More generally, UN OCHA refers UN Resident Coordinators and Humanitarian Coordinators to the Framework as among the sources of guidance in situations of natural disaster.<sup>198</sup> In addition, the World Bank is among those promoting reference to the Framework in examining responses to displacement in the context of development.<sup>199</sup>

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<sup>194</sup> UN General Assembly Resolution 46/182, 19 December 1991. This is based on the principle of sovereignty (e.g. Art. 2(7) UN Charter) (Kälin, Annotations to GPs, 2008, p.19).

<sup>195</sup> See, for example, Jan Egeland, Adele Harmer, and Abby Stoddard, *To Stay and Deliver: Good Practice for Humanitarians in Complex Security Environments*, an independent study commissioned by the Office for the Coordination of Humanitarian Affairs (OCHA), United Nations, February 2011 ([http://ochanet.unocha.org/p/Documents/Stay\\_and\\_Deliver.pdf](http://ochanet.unocha.org/p/Documents/Stay_and_Deliver.pdf)).

<sup>196</sup> *The Role of National Governments in International Humanitarian Response*, ALNAP Meeting Paper, 26th Annual Meeting, 16–17 November 2010, Kuala Lumpur, Malaysia (London: Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP), 2011), p. 5. See also *Guiding Principles on Internal Displacement*: 3.1.-3.2.

<sup>52a</sup> The Guiding Principles on the right to humanitarian assistance also state that: “The primary responsibility to protect and assist the victims of emergencies is that of the authorities of the territory in which the emergency causing urgent humanitarian needs occurs.” (this is an excerpt from IIHL, *Guiding Principles on the right to humanitarian assistance*, April 1993, in reference to Principle 4).

<sup>197</sup> Hon. Cynthia Diane Stephens and Jerome Reide, “Katrina & Internally Displaced Persons: More than Mere Semantics,” *Human Rights*, Fall 2006, vol. 33, no. 4, p.2-4 ([www.americanbar.org/publications/human\\_rights\\_magazine\\_home/irr\\_hr\\_fall06\\_stephensreide.html](http://www.americanbar.org/publications/human_rights_magazine_home/irr_hr_fall06_stephensreide.html)).

<sup>198</sup> See, for example, “Protection in Disasters,” presentation by UN OCHA at Resident Coordinators Regional Workshop on Humanitarian Coordination, 16-18 June 2008, Panama City, Panama.

<sup>199</sup> Asger Christensen and Niels Harild, *Forced Displacement – The Development Challenge*, The World Bank Group, December 2009, p. 7 ([http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1164107274725/3182370-1164201144397/Forced\\_Displacement.pdf](http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1164107274725/3182370-1164201144397/Forced_Displacement.pdf)).

The wide dissemination and use that the Framework (as in table 2 below) has enjoyed by governments and other actors supporting the promotion of IDP rights protection since its publication in 2005 is testament to the interest in and need for guidance on IDP protection and assistance.

**Table 2: - A Framework for Action: - Clarifying National Responsibility for Addressing Internal Displacement**

S/N	5. FUNDAMENTAL CHARACTERISTICS OF A NATIONAL RESPONSE
i	All Causes: Including people uprooted by conflict, communal strife and serious violations of human rights as well as those uprooted because of natural and human-made disasters, development projects and other causes.
ii	All Groups: National authorities have a responsibility to ensure that the special protection and assistance concerns of particular groups within IDP populations, including women, heads of households, unaccompanied minors, persons with disabilities, the elderly, and ethnic minorities, are addressed.
iii	All Needs: A national response requires an integrated approach that addresses protection as well as assistance concerns. This is true even in situations of natural disaster when, although material relief may be the most visible need, serious protection issues nonetheless can arise.
iv	All Phases: National responsibility extends across all phases of displacement. It includes preventing arbitrary displacement, ensuring the security and well-being of people once they are displaced, and creating the conditions for durable solutions to their plight, namely through voluntary and safe return or resettlement and reintegration.
v	All Authorities: A national response requires the collective contributions of all relevant branches of government. Authorities at the level, who are likely to be more directly in contact with displaced populations, need to ensure that national responsibility is effectively discharged in practice, not just in policy. The military and police have specific responsibilities for ensuring IDPs' physical safety. Non-State actors, including insurgent groups, also have responsibilities under international humanitarian law and must be held accountable.
vi	All affected areas: Especially in situations of internal armed conflict, government may not have effective control over all parts of the country. Around the world, millions of IDPs are found in areas under the control of non-State actors and out of reach of government assistance and protection. The effective exercise of national responsibility requires undertaking or at least facilitating efforts to access, assist and protect these IDPs. Opening humanitarian space in these areas provides an opportunity also to remind non-State actors of their responsibilities: under international humanitarian law and the <i>Guiding Principles</i> , they too have responsibilities to provide protection and assistance to the internally displaced persons. Governments may therefore find it valuable to enlist the support of NGOs, religious groups, donors or the UN and other international/regional organisations to help open humanitarian space to ensure the protection and assistance of IDPs in area under the control of non-State actors and, ultimately, also to resolve the conflicts in which these IDPs are caught.

#### 4. ASSESSMENT OF NATIONAL RESPONSE TO INTERNAL DISPLACEMENT IN NIGERIA

Below is the assessment of national response to internal displacement in Nigeria benchmark by benchmark.

##### 4.1 Prevent and avoid conditions that lead to displacement, minimize unavoidable displacement and mitigate its adverse effects; ensure that displacement occurs for the shortest possible period.

The government of Nigeria has taken some measures to prevent displacement and minimize its adverse effects. Institutional frameworks are in place and a number of initiatives have been taken to formulate policies and enabling legislations to prevent and respond to displacement consistent with Nigeria's Constitutional and treaty obligations. These initiatives and the challenges faced are discussed in table 3 below.

**Table 3: - Benchmark 1: - Twelve (12) Benchmarks\* for Action on IDP Protection and Assistance in ECOWAS: - Compatibility with the Kampala Convention and ECOWAS Humanitarian Policy / Plan of Action**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
1	Prevention: Prevent and avoid conditions that lead to displacement, minimize unavoidable displacement and mitigate its adverse effects; ensure that displacement occurs for the shortest possible period.	<b>a) Fundamental Rights of IDPs under the Constitution:</b> - IDPs remain citizens of Nigeria irrespective of how they were displaced: - either by Natural or Human – made Disasters, armed conflict, generalized violence or development project induced. Hence, it is the primary responsibility of government through its national institutions to ensure the promotion and protection of the constitutionally guaranteed rights of IDPs under chapter 4, Sections 33-43. These are the Rights to life, human dignity, personal liberty, privacy and family life, fair hearing, freedoms of religion, expression, assembly, association, movement, from non-discrimination and to acquire and own immovable property. Further, as the primary purpose of government, under section 14(2)(b) the State is Constitutionally obligated to ensure the promotion of the security and welfare of all the people (including IDPs). This can be done by ensuring the progressive realization of the Fundamental, political, social, economic, educational, environmental and foreign policy	By virtue of Articles 3(1)(a-b), States Parties shall refrain from, prohibit and <b>prevent</b> arbitrary displacement of populations; and shall <b>prevent</b> political, social, cultural and economic exclusion and marginalization, that are likely to cause displacement of populations or persons by virtue of their social identity, religion or political opinion. Further, under Article 4(1) to (2), States Parties are required to <b>prevent</b> and avoid conditions that might lead to the arbitrary displacement of persons by respecting and ensuring respect for their obligations under international law,	Under Chapter 3, the overall strategic objective guiding the ECOWAS Humanitarian Policy, is the forecast, <b>prevention</b> and overall management of disasters and conflicts towards limitation or elimination of effects thereby preventing death, human suffering and development losses; and enhancing the protection and social situations of all West African citizens and residents as basic conditions for regional integration, peace, security and development. Further, Strategic objective 4 requires member states to ensure	In terms of both purpose and States obligations, significant nexus clearly exists between the Kampala Convention and the ECOWAS Policy/Plan of Action referred to in the context of Benchmark 1, Indicators and Sub-indicators of this study.  <b>Note:</b> - Article 4(2) of the Kampala Convention on Early Warning System and Disaster Risk Reduction Strategies and preparedness is adequately captured by NEMA's Early Warning System, Disaster Risk



S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>objectives of the state listed under sections 15-20 of chapter 2 of the Constitution.</p> <p><b>b) The July 2012 Revised Draft National Policy on IDPs:</b> - This draft policy provides a framework for national responsibility towards prevention and protection of citizens from incidences of arbitrary and other forms of internal displacement, meet their assistance and protection needs during displacement, and ensure their rehabilitation, return, re-integration or resettlement after displacement. The draft policy spells out principles guiding humanitarian assistance and implementation of durable solutions in situations of internal displacement in Nigeria. This draft policy has adopted largely the human rights-based approach and its principles. The intension is to accommodate as much as possible the provisions of existing international conventions, treaties and protocols on internal displacement, and guided by the dictates of international humanitarian and human rights laws. This draft policy therefore draws extensively from the guidance of international and national frameworks on the prevention of internal displacement, as well as those on protection and assistance of internally displaced persons. The African Union convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention), the UN Guiding Principles on internal displacement and the SPHERE standards for humanitarian assistance have significantly defined the direction of this draft policy. The draft policy therefore, without prejudice to other existing frameworks and policy guidelines for protection and assistance of vulnerable populations, specifically seeks to address: a) <b>All causes</b> of internal displacement as</p>	<p>including international human rights and humanitarian law. While art. 3 concentrates on the duty to refrain from and prevent arbitrary displacement, the provision article 4(2) requests that States Parties shall devise early warning Systems, in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures and, where necessary provide immediate protection and assistance to internally displaced persons.</p>	<p>compliance with International Humanitarian Law as a means of <b>preventing or mitigating</b> conflict-related impacts on the civilian populace.</p>	<p>Reduction Strategies and Preparedness (See column 2 of this bench mark paras f,g,h)</p>

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>identified in Section (1.3) of this Policy; b) <b>All groups</b> of internally displaced persons including those with special needs and vulnerabilities including host communities; c) <b>All needs</b> of internally displaced persons, including assistance and protection needs thereby ensuring the realisation of the full range of their political, civil, social, economic and cultural rights; d) <b>All phases</b> of displacement spanning from the emergency and relief phases to recovery including rehabilitation, re-integration, return and resettlement phases thereby creating conditions for durable solutions; e) <b>All levels</b> and arms of government from the local to State and federal levels, including all ministries, departments and agencies of government charged with diverse responsibilities for guaranteeing the rights of internally displaced persons and adequately meeting their assistance and protection needs; f) <b>All affected areas</b> by opening up the humanitarian space as well as facilitating, coordinating and ensuring access to internally displaced persons by all State and non-State humanitarian actors, irrespective of where internal displacement has occurred within the country.</p> <p><b>c) Human Rights of IDPs under the African charter on Human and Peoples' Rights, Cap. A9, Laws of the Federation of Nigeria, 2004:</b> - In addition to the above constitutional rights, IDPs in Nigeria like any other individual or group, are guaranteed their civil, political, social, economic, environmental and developmental rights under Articles 2-24 of the African charter. This cluster of rights includes rights to education, housing/shelter, health, food, employment, social security, adequate standard of living, safe environment, cultural life</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>and development.</p> <p><b>d) NEMA Act, 1999:</b> Having established NEMA under Section I, the Act goes further to list out fifteen (15) broad functions of the Agency as follows under section 6(1): - The Agency shall – (a) Formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level; (b) Co-ordinate and promote research activities relating to disaster management at the national level; (c) Monitor the state of preparedness of all organizations or agencies which may contribute to disaster management in Nigeria; (d) Collate data from relevant agencies so as to enhance forecasting, planning and field operation of disaster management; (e) Educate and inform the public on disaster prevention and control measures; (f) Co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call; (g) Co-ordinate the activities of all voluntary organizations engaged in emergency relief operations in any part of the Federation; Receive financial and technical aid from international organizations and non-governmental agencies for the purpose of disaster management in Nigeria; (h) Receive financial and technical aid from international organizations and non-governmental agencies for the purpose of disaster management in Nigeria; (i) Collect emergency relief supply from local, foreign sources and from international and non-governmental agencies; (j) Distribute emergency relief materials to victims of natural or other disaster and assist in the rehabilitation of the victims where necessary; (k)</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>Liaise with State Emergency Management committees established under section 8 of this Act to assess and monitor where necessary, the distribution of relief materials to disaster victims; (l) Process relief assistance to such countries as may be determined from time to time; (m) Liaise with the United Nations Disaster reduction Organization or such other international bodies for the reduction of natural and other disaster; (n) Prepare the annual budget for disaster management in Nigeria; and (o) Perform such other functions which in the opinion of the Agency are required for the purpose of achieving its objectives under this Act.</p> <p><b>e) The NHRC (Amendment) Act, 2010</b> has conferred on the Commission additional independence and strengthened the Commission's powers with respect to promotion and protection of human rights, investigation of alleged violations of human rights and enforcement of decisions. The new Act has also widened the scope of Commission's Mandate to include vetting of legislations at all levels to ensure their compliance with human rights norms. Specially, the NHRC is mandated to: (a) Deal with all matters relating to the promotion and protection of human rights guaranteed by the constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the Internal Convention on Civil and Political Rights, the International Convention on the Elimination of all form of Racial Discrimination, the Internal Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child, the African charter on Human and Peoples' Rights and other</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>international and regional instruments on human rights to which Nigeria is a party; (b) Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;</p> <p><b>f) NEMA</b> has been active in preventing and mitigating internal displacement through the following instruments: -</p> <ul style="list-style-type: none"> <li>• National Disaster Management Framework (MDMF)</li> <li>• National Platform for Disaster Risk Reduction</li> <li>• Mainstreaming Disaster Risk Reduction into basic and post basic school curricula</li> <li>• Vulnerability and Capacity Analysis (VCA) implementation</li> <li>• Awareness Creation, Advocacy and Capacity building</li> <li>• Sustainable Livelihood Option for Disaster Mitigation, Preparation and Response</li> <li>• Lake Nyos Disaster Response Manual</li> <li>• Multi-Disciplinary Epidemic Early Warning System</li> <li>• Disaster Volunteerism</li> </ul> <p><b>g) Early Warning Strategies<sup>199a</sup> in 2013:</b> - In 2013 NEMA responded to the early warning from NIMET on the rainfall outlook for year 2013 and the possibility of floods disasters by activating its early warning mechanism which provides different roles for stakeholders in disaster management in the country. After the release of the seasonal rainfall prediction for 2013, NEMA in collaboration with other stakeholders analysed the prediction and came up with the disaster management implication</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>of the forecast. This served as working document for different key players and sectors against the threat of floods in 2013. There are defined roles for preparedness and mitigation for all stakeholders at the federal, State and local levels. The communities are expected to participate and to play their own part in the entire process. The following were the notable initiatives undertaken on early warning:</p> <ul style="list-style-type: none"> <li>• Dissemination of Early Warning Message to the 36 States Governors based on NIMET Seasonal Rainfall Prediction to be used by all stakeholders as working document.</li> <li>• Development of web-based surveillance system (NEMA Disaster Surveillance Map) to facilitate sharing, access and usage of spatial data in disaster management. The website, which can be accessed at <a href="http://www.gis.nema.gov.ng/">http://www.gis.nema.gov.ng/</a>, is a real-time, web-based database system that helps in collecting, viewing and retrieval of spatially based disaster data.</li> <li>• Flood risk assessment and critical infrastructure mapping were carried at Kashimbilla District, Takum LGA in Taraba State; in preparation for the possible Lake Nyos flood risk.</li> <li>• Maintenance of Early Warning Equipment, which was installed in Kashimbilla, Taraba State to mitigate the negative impact of the possible collapse of Lake Nyos.</li> </ul> <p><b>h) Promoting the culture of Prevention through Disaster Risk Reduction (DRR) and Response Activities<sup>199b</sup> (2013):</b> - The agency undertook comprehensive initiative to reduce disaster risks through improved response mechanism which include the following: -</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>iii. Mainstreaming of Disaster Risk Reduction (DRR) into Basic and Post Basic Educational curriculum in Nigeria in collaboration with the Nigerian Educational Research and Development Council (NERDC) by infusion of disaster risk reduction and Climate Change Adaptation (DRR/CCA) into 4 core subjects.</p> <p>iv. Establishment of Disaster Risk Reduction Clubs in Secondary Schools as part of strategies to inculcate the culture of prevention and risk reduction among the youth in Nigeria.</p> <p>v. The GIS Unit of the NEMA carried out investigation and research into the root causes of flood in Ikorodu, Lagos State; Kubwa in Abuja; and soil erosion in Imo State. Recommendations were made on how to mitigate the risk faced by these communities.</p> <p>vi. A fieldwork study was carried on the causes of flooding, erosion and rock fall in some affected Local Government Areas in Osun State, Edo State and Benue State respectively in 2011. These were done to identify measures that would reduce disaster risks in these areas.</p> <p>vii. NEMA produced Vulnerability Maps for all the States affected during 2012 flood disaster caused by the released of water from Kainji and Lagdo Dams, which caused an overflow of River Niger and Benue. It also carried out impact assessment using GIS in Kogi, Nasarawa, Taraba, Edo, Adamawa, Imo, Anambra, Benue, Cross River, Delta, Jigawa, Kebbi, Niger, Rivers and Kwara States.</p> <p>iii. Conducted vulnerability and Capacity Analyses (VCA) in six States and FCT. These were assessments of hazard, population and infrastructure vulnerabilities and capacities, as well as risk analysis to support mitigation,</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>preparedness and response.</p> <p>ix. Mainstreaming of gender into Disaster Risk Reduction (DRR) and Climate Change by having a gender desk and building the capacity of desk officers in gender mainstreaming.</p> <p>x. Development of National Action Plan for Disaster Risk Reduction (DRR) in Nigeria.</p> <p>xi. Collaboration with World Bank/Global Facility for Disaster Reduction and Recovery (GFDRR). This has led to the development of capacity of Nigerians at Federal and States, including the academia on Disaster Damage and Loss Assessment (DDLA). It also resulted in the support of the World Bank and GFDRR in conducting a comprehensive Post Disaster Needs Assessment (PDNA) after the flood of 2012.</p> <p>xii. Collaboration with European Union (EU) on developing early warning systems. This has resulted in EU Technical Assistance Mission to Nigeria and offer for expert training at the European Joint Research centre in Italy.</p> <p><b>i) NEMA National Disaster Response Plan (2001):</b> - The National Disaster Response Plan (NDRP) establishes a process and structure for the systematic, coordinated and effective delivery of federal assistance, to address the consequences of any major disaster or emergency declared by the President of the Federal Republic of Nigeria. The NDRP: (1) sets forth fundamental policies, planning assumption, a concept of operations, response and recovery actions and Federal agencies and private sector responsibilities. (2) Describes the array of Federal response recovery and mitigation,</p>			



S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>resources available to augment State and local efforts to save lives: protect public health safety and property; (3) organizes the forms of federal response assistance that a State is most likely to require under 13 Support Service Areas (SSAs) each of which has a designated primary agency; (4) spells out the process and methodology for implementing and managing federal recovery and mitigation programmes and support/technical services; (5) addresses linkages to other Federal emergency operations plans developed for specific incidents; (6) provides a focus for interagency and intergovernmental emergency preparedness, planning, training, exercising, coordination and information exchange; and (7) serves as the foundation for the development of detailed, supplemental plans and procedures to implement federal response and recovery activities rapidly and efficiently.</p> <p><b>j) NEMA Search and Rescue (SAR), and Epidemic Evacuation Plan for Nigeria (2008):</b> - The general objectives of the Plan are to coordinate and mobilize the resources of Government and non-Governmental agencies to achieve the following: - (i) save lives and property; (ii) minimize damage to the environment and infrastructure; (iii) prevent escalation of a disaster incident; (iv) restore normalcy as soon as possible; (v) relieve suffering of the victims of a disaster/emergency.</p> <p><b>k) National Emergency Management Agency and Stakeholders: National Contingency Plan (2011):</b> - The National Contingency Plan is a multi-hazard contingency plan with a focus on hazards with the highest probability of occurrence and</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>severity in Nigeria. These include floods, conflicts, droughts and epidemics. The multi hazard scenario approach has been adopted to ensure the accommodation of forecasted hazard, as well as those that have not been forecasted, in view of recent global happenings and climate change and the uncertainty to determine occurrence of disasters and their impacts. The multi-hazard contingency plan, therefore, is a first step towards mitigating the impact of quick onset disasters when the level of forecast cannot be ascertained.</p> <p><b>I) National Disaster Management Framework (NDMF) (2011):</b> - The National Disaster Management Framework (NDMF) has now been developed to serve as a foundation upon which all plans, policies, programmes, and procedures for Disaster Management can be created, developed and sustained. To provide a transparent and inclusive framework encompassing the broad spectrum of disaster management; from Institutional Capacity, Coordination, Risk Assessment, Risk Reduction, Preparedness, Prevention, mitigation, Response, Relief, Recovery through to information management, education and communication. The framework defines measurable, flexible and adaptable coordinating structures, and aligns key roles and responsibilities of disaster management stakeholders across the nation. It describes specific authorities and best practices for managing disasters, and explains a paradigm shift in disaster management beyond mere response and recovery. Section 4 (disaster preparedness, prevention and mitigation) deals with strategies to prevent the occurrence of such disaster from having devastating impact on people, infrastructures and the economy; curtail the</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>occurrence of disaster events; and reduce the impact of disasters, if they do occur. Section 4 (disaster risk reduction) introduces planning and implementation as DRR strategies to inform development-oriented approaches to plans, programmes and projects that reduce disaster risks.</p> <p><b>m) The Nigerian Red Cross Society: - Strategic Development Plan (2011-2013):</b> - The Nigerian Red Cross Society in 2007 drafted a three-year Strategic Development Plan (SDP) for the period 2008 to 2010. These efforts and the lifecycle of the documents produced made the development of this Strategic Development Plan (2011-2013) imperative. From the onset, S-2013 was designed to be fully participatory, taking into consideration inputs from 37 branches of the Nigerian Red Cross Society. By so doing, all branches were able to take ownership of this document in its entirety and ensure implementation for the period under plan. The S-2013 addresses the fundamental challenges of NRCS in responding to victims of natural and manmade disasters in the country. It also focuses on the problems relating to volunteer management, human resource tool and management, financial and accounting system, problem of self reliance or donor dependency, strategic relief fund and warehousing, monitoring and evaluation. This document provides a strategic direction towards surmounting the aforementioned challenges and fulfilling the primary mandate of the National Society as enshrined in the Nigerian Red Cross Act 1961 CAP. 324 of the Law of the Federation. S-2013 is hinged on four pillars: Disaster Management (DM); health and care; dissemination and communication and organizational</p>			

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		<p>development Disaster preparedness and Restoring Family Links (RFL) activities are the bedrock of the DM plan while infectious diseases prevention and control; HIV/AIDS; water and sanitation; non-remunerated blood donor recruitment; maternal, neonatal and child health as well as in emergencies constitute the core of health and care components of this plan. On the other hand, promotion of respect for human dignity and diversity is rooted in systematic dissemination of the RCRC Principles and IHL, advocacy, partnering and networking and capacity building.</p> <p><b>n) Mainstreaming Peacebuilding in Development Programming in Nigeria: A Framework (2006):</b> - The framework for mainstreaming peacebuilding into development programming in Nigeria is a tool for conflict - sensitive development planning, implementation, monitoring and evaluation. This framework for mainstreaming peace building in development programming is the outcome of institutional collaboration between the Institute for Peace and Conflict Resolution (IPCR), The Presidency, Nigeria; and the United Nations Children Fund (UNICEF). The purpose of the framework is to introduce conflict sensitivity and peacebuilding into the development programming processes in Nigeria. The spate of violent conflict in the country's recent history tends to undermine human rights, exacerbate underdevelopment, and intensify poverty. It is believed that the integration of conflict analysis into the traditional programming processes for development interventions in the country will address these challenges. The framework could thus be used for maximizing the opportunities for peacebuilding in development planning and</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>implementation, thereby helping to minimize the impact of dysfunctional conflicts on the family, community, local, State, and national governments. The potential users of the frameworks are development programmers, government officials at all levels, international development partners, national and international non-governmental organizations, community based organizations, and the private sector. This framework is therefore a <i>vade-mecum</i> for policy formulators and development practitioners.</p> <p><b>o) Draft National Peace Policy (2009):</b> - The draft National Peace Policy (NPP) of Nigeria seeks to provide a framework for peaceful social transformation. It is a set of fundamental objectives and principles evolved by stakeholders in Nigeria to serve as guidelines for every Nigerian citizen, decision makers, implementers and people resident in Nigeria to respect peace in the pursuit of their individual and collective aspirations as guaranteed by the Constitution of the Federal Republic of Nigeria (1999). The 1999 Constitution in its Preamble affirms the resolve of the people of Nigeria to: "live in unity and harmony as one indivisible and indissoluble Sovereign nation under God dedicated to the promotion of inter-Africa solidarity, world peace, international cooperation and understanding." Also, in Section 19(a), the Constitution pledges the pursuit of "the promotion of international cooperation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestations." The draft National Peace Policy is shaped by Nigeria's national interest and founded on the shared values, goals and aspirations of her citizenry as the primary stakeholders. The Peace</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>Policy is designed to ensure that the opportunities and resources in Nigeria are harnessed and dispensed in a fair, just and equitable manner, with a view to preventing those tendencies that generate social discord and violence. The policy therefore calls for re-strategizing of all stakeholders, particularly the government, to deal with the sources of (internal) threats to Nigeria's corporate existence – inter and intra communal conflicts over land and chieftaincy, issues of identity, resources, ethnicism, exclusion, religious intolerance, etc. The principles enshrined in the draft National Peace Policy seek to make every Nigerian an instrument of peace by encouraging friendships, tolerance and networking among the citizenry in a manner that makes everyone and each institution contribute to the sustenance of peace and security. The NPP is visualized as a strategic compass that ensure the use of peaceful means to deal with the root causes of conflict disorders in Nigeria through robust confidence-building measures among the stakeholders in the Nigerian Project.</p> <p>p) The Kabiru Turaki-led presidential Committee on Dialogue and Peaceful Resolution of Security Challenges in the North, in November 2013 submitted its report to President Goodluck Jonathan at the Presidential Villa, Abuja. The committee recommended among others, the setting up of an advisory committee on continuous dialogues that will have powers to advise the President on all matters related to dialogue and resolution of crisis. It also recommended the setting up of a Victims Support Fund for victims of insurgency to be administered by a new agency established specially to assist the victims.</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p><b>q) National Action Plan for the Promotion and Protection of Human Rights in Nigeria: - 2009-2013:</b> - This Nigerian National Action Plan is an integrated and systematic national strategy to help realize the advancement of human rights in Nigeria. At one and the same time, it is also: a) an audit of the human rights situation in Nigeria, identifying areas in need of promotion and protection, as well as improvement; b) a commitment to concrete measures that can be adopted to build and entrench a culture of human rights for the enjoyment of all; c) a framework for sustained and coordinated ways for the Country as a whole to promote and protect human rights in the four covered years. The NAP presents an opportunity for identifying and agreeing on areas of cooperation between Government Departments, the Private Sector, Civil Society in general and other role players, so that together, all stakeholders can improve the protection and promotion of human rights in the country. It will also be used by Government organs of the Civil Society and the international Community to monitor and assess the observance of human rights, and to gauge the commitment of the Government to the promotion and protection of human rights in the Country.</p> <p>d) Section 43 of the 1999 Nigerian Constitution protects the property rights of citizens and guarantees the freedom to own land in any part of the country. Section 44 goes further to safeguard both movable and immovable property of both citizens and aliens from expropriation or confiscation. It conditions every compulsory acquisition of property on prompt payment of compensation. The Constitution expressly</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		preserves the general laws governing leases, tenancies, mortgages, charges, bills of sale or any contractual rights or obligations, while allowing for compulsory acquisition of property in a dangerous state or which is injurious to health of human beings, plants or animals. It also permits (subject to prompt payment of compensation) damage to buildings in the course of providing or maintaining the supply or distribution of energy, fuel, water, sewage, telecommunications services or other public facilities or public utilities.			

\* This list of benchmarks is not exhaustive of the States obligations vis-à-vis IDPs but are 12 suggested areas of action that reflect and are consistent with international human rights, humanitarian and refugee laws as well as the Kampala Convention on IDPs and the UN Guiding Principles on internal displacement.

<sup>199a</sup> See NEMA: An accomplished institutional disaster management strategist in 2013. Advertorial in the Daily Trust News Paper, Abuja, Wednesday December 18, 2013 at pp.30-33.

<sup>199b</sup> Ibid.



In addition to all the above-mentioned normative frameworks, Nigeria is also a signatory and State party to the following core regional legal standards on conflict prevention, management and resolution.

1. Understanding the devastating effects of poor conflict management regime in Africa on the people, economies, national and regional security as well as sustainable development in Africa, the Assembly of African Heads of State and Government adopted<sup>200</sup> a Declaration on the Establishment within the African Continent of a Mechanism for Conflict Prevention, Management and Resolution, 1993. The Assembly declared, among others, the following: -
  - a) No single internal factor has contributed more to the present socioeconomic problems in the Continent than the scourge of conflicts in and among our countries. They have brought about death and human suffering, engendered hate and divided nations and families. Conflicts have forced millions of our people into a drifting life as refugees and displaced persons, deprived of their means of livelihood, human dignity and hope. Conflicts have gobbled-up scarce resources, and undermined the ability of our countries to address the many compelling needs of our people.
  - b) We saw in the establishment of such a mechanism the opportunity to bring to the process of dealing with conflicts in our continent a new institutional dynamism, enabling speedy action to prevent or manage and ultimately resolve conflicts when and where they occur.
  - c) The Mechanism will have a primary objective, the anticipation and prevention of conflicts. In circumstances where conflicts have occurred, it will be its responsibility to undertake peace-making and peace-building functions in order to facilitate the resolution of these conflicts. In this respect, civilian and military missions of observation and monitoring of limited scope and duration may be mounted and deployed. The mechanism shall also be responsible for preventing the emergence of conflicts, and where they do inevitably occur, stop them from degenerating into intense or generalized conflicts. Emphasis on anticipatory and preventive measures and concerted action in peace making and peace building will obviate the need to resort to the complex and resource-demanding peacekeeping operations, which our countries will find difficult to finance.
  - d) Within the context of the Mechanism for Conflict Prevention, Management and Resolution, the OAU shall closely co-ordinate its activities with the African regional and sub-regional organisations and shall co-operate as appropriate with the neighbouring countries with respect to conflicts which may arise in the different sub-regions of the Continent.
2. Also, on July 9, 2002, the Heads of State and Government of the African Union Member States adopted in Durban, South Africa, the Protocol<sup>201</sup> Relating to the Establishment of the Peace and Security Council of the Union, which was launched in

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<sup>200</sup> Adopted by the 29<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government held in Cairo, Egypt from 28-30 June 1993, (AHG/Decl.3/xxix).

<sup>201</sup> Entered into force on 26 December, 2003.

May 2004. The Council was created to promote peace, security and stability in Africa, and serves as the standing decision-making organ of the Union for the prevention, management and resolution of conflicts. The organs of the council include the AU Commission, the Continental Early Warning System, and the Panel of the Wise, the Peace Fund and the African Standby Force. Article 16 of this Protocol provides for relationship with the Regional Mechanisms for Conflict Prevention, Management and Resolution, which are part of the overall security architecture of the African Union, which has the primary responsibility for promoting peace, security and stability in Africa.<sup>202</sup>

The question that remains outstanding is whether the existence of all these normative frameworks have prevented internal displacement and predictable seasonal flooding, while drought in semi-arid areas continues to force people out of their homes.

**Preventing Internal Displacement:** - Respecting the fundamental human rights of civilian populations in armed conflict and other situations of violence is the best prevention against displacement.

One fundamental step that States can take to exercise their responsibility with regard to internal displacement is to take steps to prevent it. Such measures should focus on both preventing unnecessary displacement and, when displacement is unavoidable, taking steps in advance to mitigate its harmful effects. As set out in Guiding Principle 5, the most important factor in preventing displacement is to accord full respect to international law, in particular human rights and humanitarian law – an undertaking that goes beyond the drafting of laws and policies and has implications for all branches of government.<sup>203</sup> All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, to prevent and avoid conditions that might lead to displacement of persons.

Concrete steps to prevent and mitigate displacement should include a review of relevant aspects of their national laws and policies to ensure that they incorporate basic international law protection principles as set out in the Guiding Principles.<sup>204</sup>

Internal displacement is often the consequence of violations of IHL during armed conflict or failure to comply with other norms intended to protect people in situations of violence, such as human rights law. When civilians flee a conflict zone, this is a good indication that the warring parties are indifferent to their rights under IHL or, worse, are deliberately targeting them.<sup>205</sup>

Article 12 of the Kampala Convention provides that (1) States Parties shall provide persons affected by displacement with effective remedies. (2) States Parties shall establish an effective

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<sup>202</sup> See also a related ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, PeaceKeeping and Security (1999). Adopted by the 23<sup>rd</sup> Session of the Authority of Heads of State and Government of Economic Community of West African States (ECOWAS) in Lomé, Togo on 10 December 1999.

<sup>203</sup> See Article 5 of the Guiding Principles on Internal Displacement endorsed by the UN General Assembly, as an important internal framework for the protection of IDPs. See the 2005 World Summit Outcome document (A/RES/60/1), paragraph 132, as well as, for example, A/RES/62/153(2007), paragraph 10, and A/HRC/RES/6/32 (2007), paragraph 5.

<sup>204</sup> See Principles 6-9.

<sup>205</sup> Ibid, Principle 6

legal framework to provide just and fair compensation and other forms of reparations, where appropriate, to internally displaced persons for damage incurred because of displacement, in accordance with international standards. (3) A State Party shall be liable to make reparation to internally displaced persons for damage when a State Party fails in protecting and assisting internally displaced persons in the event of natural disasters.

Hyogo declaration in 2005 (World Conference on Disaster Reduction 18-22 January 2005, Kobe, Hyogo, Japan): “States have the primary responsibility to protect the people and property on their territory from hazards and ... to give high priority to disaster risk reduction in national policy, consistent with the capacities and resources available to them”. For instance, the right to housing implies that adequate provisions are made in housing codes to ensure that residences are prepared, to the extent possible, to withstand the effects of natural disasters.

“The right to health also embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinates of health, such as... a healthy environment.” according to the Committee on Economic, Social and Cultural Rights. (CESCR General Comment No 14 (2000) on art. 12 ICESCR)

Preventing displacement is a matter of addressing the reasons for involuntary or forced migration of civilians, largely the vulnerable groups. In the case of Nigeria, that will require dealing squarely and sincerely with the common and complex causes of displacement earlier highlighted. Accordingly, respect for civilians’ rights would go far to reduce the earlier mentioned common threats to their security and welfare. This approach accords with the constitutional obligations imposed on the government (at all levels) by chapter 2 of the 1999 Nigerian Constitution, namely, **to promote the security and welfare of the people as the primary purpose of government** (section 14(2) (b); and to ensure the progressive realization of the fundamental social, economic, political, educational, foreign policy and environmental objectives for the common good of all citizens<sup>206</sup>.

The African Union (Kampala Convention)<sup>207</sup> imposes an obligation on State Parties to refrain from, prohibit and prevent arbitrary displacement of populations. Further, States are obliged to devise early warning systems, in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures and, where necessary, provide immediate protection and assistance to internally displaced persons.<sup>208</sup>

One of the aims of the Kampala Convention is to “promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement”.<sup>209</sup> To this end, it requires states to prevent displacement arising from conflict and human rights violations, by respecting their obligations under international law, including human rights and humanitarian law, in order to prevent and avoid conditions that might lead to arbitrary displacement.<sup>210</sup> In relation to displacement caused by natural disasters, the Convention requires

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<sup>206</sup> Sections 13-20 of Cap. 2 of the Constitution

<sup>207</sup> Adopted by the Special Summit of the Union held in Kampala, Uganda, 23<sup>rd</sup> October, 2009

<sup>208</sup> Kampala Convention, Articles 3(1)(a) and 4(2).

<sup>209</sup> Article 2

<sup>210</sup> Article 4(1)

states to devise, establish and implement early warning systems, and to adopt measures for disaster preparedness and disaster management.<sup>211</sup>

The Convention provides that all people have a right to protection against arbitrary displacement. Prohibited acts causing arbitrary displacement include policies of racial discrimination or other similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the population; harmful practices;<sup>212</sup> generalized violence; collective punishment; violations of human rights or international humanitarian law.

In the case of development or other projects whether carried out by public or private actors, states must ensure that feasible alternatives to displacement are explored, that the socio-economic and environmental impact of development projects are assessed prior to the undertaking of such a project, and that people likely to be displaced are informed and consulted.<sup>213</sup>

States are also required to “endeavour to protect” communities with special attachment to and dependency on land due to their particular culture and spiritual values from being displaced from such land, except where the displacement is justified by “compelling and overriding public interests”.<sup>214</sup>

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<sup>211</sup> Article 4(2)

<sup>212</sup> Article 1 defines harmful practices as “all behavior, attitudes and/or practices which negatively affect the fundamental rights of persons, such as not limited to their right to life, health, dignity, education, mental and physical integrity and education”.

<sup>213</sup> Article 10.

<sup>214</sup> Article 4(5).

#### 4.2 Raise National Awareness: - National recognition of the problem and government responsibility to address it; acknowledgement and use of the Guiding Principles; sensitization campaigns across all stakeholders

The government of Nigeria acknowledges the existence of IDPs on its territory and has taken measures to raise national awareness of the problem. Since the 1999-2006 cycle of violent clashes along indigene-settler divide, ethnic, religious and other inter-communal lines, as well as the growing competition over increasingly scarce natural resources, resulting into the displacement of an estimated three million people across the federation, (according to the National Commission for Refugees)<sup>215</sup> the plight of IDPs in Nigeria is relatively well known within government, the media cycle and among the population, unlike with earlier IDPs.<sup>216</sup> This prompted the IDP policy development process in 2006 and the Presidential Committee on the IDP policy supported by the Office of the Special Assistant to the President on Migration and Humanitarian Affairs and the National Commission for Refugees put the first draft together.

**Table 4: - Benchmark 2**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
2	Raise National Awareness: National recognition of the problem and government responsibility to address it; acknowledgement and use of the Guiding Principles; sensitization campaigns across all stakeholders.	The Government of Nigeria has over the years been involved in regional and international discourse and consultations on internal displacement and its impact on national economies and regional security. In April 2006, the first Regional Conference on internal displacement in West Africa was held in Abuja, hosted by the Federal Government of Nigeria. One of the recommendations of the conference was that countries should develop national laws and policies on internal displacement based on the UN Guiding Principles on Internal Displacement, with support from the highest level of government. Secondly, the conference resolved that States should ratify, implement and monitor international, regional and sub regional human rights and humanitarian instruments relating to internal displacement. Following this Conference, the relevant agencies and stakeholders in the sector drafted the first national policy on internally displaced persons in	Under Article 3(2)(c), States Parties shall adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels, taking into account the needs of host communities.	Under Chapter 3, strategic objective 6, the ECOWAS policy aims at maximizing the use of media and communication for highlighting humanitarian issues and as a tool for emergency management.	In terms of appropriate or priority measures to be taken to raise awareness about issues relating to internal displacement at the national and local levels, the Kampala Convention and the ECOWAS Policy are in tandem. Particularly the priority measures proposed under objective 6 requires member State to, inter alia, institute and carry out training and sensitization programmes on humanitarian issues for

<sup>215</sup> Quoted in Human Rights Watch (2006): - Nigeria: - "They do not own this place": - Government Discrimination against non-indigenes in Nigeria vol.18, No.3 (A) at p.32.

<sup>216</sup> IDPs of the 1980s and 1990s.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>Nigeria, but this was not adopted by the then administration. In July 2011, Nigeria also hosted in Abuja the 1<sup>st</sup> ECOWAS Ministerial Conference on Humanitarian Assistance and Protection of Internally Displaced Persons, with the support of the African Union Commission, ECOWAS and UNHCR and the funding of the Government of Finland.</p> <p>In 2008, directed by the Vice President, the Secretary to the Government of the Federation (SGF) established a committee to fine-tune the policy, particularly concerning an implementation framework. The Committee submitted its recommendations to the SGF in January 2009. In February 2009, the then President approved one of the recommendations affirming the expansion of the mandate and a change in the nomenclature of the National Commission for Refugees to include the resettlement and rehabilitation of IDPs. As a necessary follow-up, the National Commission for Refugees in concert with the office of the Attorney General of the Federation came up with a draft bill and submitted the original draft IDP Policy to the Federal Executive Council in October 2010.<sup>217</sup> The Council thereafter directed that a further review of the Policy with particular emphasis on section 6(i) of the Original draft be effected. This was to integrate the present realities in Nigeria, considering that the original draft was in 2004, and to emphasize the commitment of the present administration to finding durable solutions to displaced persons, as well as finding lasting peace and security in displaced communities.</p> <p>A Technical Working Group (TWG), comprising of different stakeholders, was</p>			media organisations and specialized groups etc.

<sup>217</sup> See the Foreword to the July 2012 Draft IDP Policy at p.6

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>constituted to work on the council's directive. The recommendations thereafter submitted by the TWG were geared towards saving lives, preventing wanton destruction of property, engendering national unity, promoting human and socio-economic development, as well as protecting the human rights of all persons.</p> <p>Nigeria's instrumental role, between 2009-2012, in the adoption and coming into force of the African Union Kampala Convention as the new dawn in preventing internal displacement, protecting and assisting IDPs in Africa, is evident in her being, timely, a signatory and a State Party to that Convention. It also responded faithfully to the July 2011 ECOWAS Ministerial Conference Resolution on internal displacement held in Abuja, as the first ever gathering at the highest level. It is based on these new commitments, responsibilities and obligations bestowed on Member States by the Convention that in 2012, the government found it necessary to revisit the 2008-10 draft policy on IDPs, with the purpose of reviewing and aligning it with the provisions of the Kampala Convention, and as a first step to domesticating it. This led to the formation of the multi-sectoral technical working group drawn from relevant national agencies, civil society organisations and the academia that undertook the revision of the draft IDP policy between May and July 2012. The outcome of this thorough and inclusive process with significant contributions made by multi-stakeholders is the current final draft IDP policy awaiting adoption by government.</p> <p>The reported displacement of about 65,000 IDPs due to the 2011 post-presidential election violence was highly visible because of the scope and magnitude of the crisis, its impact on</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>national security and there was a massive domestic and international response. This prompted the government to set up shortly after the crisis, a Presidential Panel of enquiry whose report contained a key recommendation to compensate the victims, largely IDPs, for their losses. The President approved the payment of a total sum of \$34.5 million dollars or N5.7 billion naira based on the assessment of damages and losses carried out by the panel.<sup>218</sup></p> <p>The more devastating effect of the deadly attacks by the Boko Haram insurgents and the counter-insurgency operations in the north-eastern states of Adamawa, Borno and Yobe carried out by the security forces against the group between 2012 and 2013, triggered significant displacement in recent years.<sup>219</sup> This informed the President of Nigeria to set up in April 2013 a Presidential Committee on Dialogue and Peaceful Resolution of security challenges in the North led by the Minister of Special Duties. The committee, whose tasks include identification and constructive engagement of key leaders of Boko Haram and development of a workable framework for amnesty and disarmament of members of the group, submitted its report in November 2013 to the President. Among its key recommendations under review is the need for compensation and rehabilitation schemes for the over 90,000 reported victims of the Boko Haram attacks and clashes with the security forces.<sup>220</sup></p> <p>The government has established institutional frameworks for addressing internal</p>			

<sup>218</sup> See OCHA (2013) supra note 176.

<sup>219</sup> See IDMC (2013) supra note 183.

<sup>220</sup> See The Punch Newspaper, Lagos, November 5, 2013: - <http://www.punchng.com/news/boko-haram>.



S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>displacement and providing protection and assistance to IDPs. The National Emergency Management Agency (NEMA), the National Commission for Refugees (NCFR), the Nigerian Red Cross Society (NRCS) and the National Human Rights Commission (NHRC) coordinate within their respective mandates and competences appropriate responses to various phases of internal displacement and the different needs of IDPs as well as compilation of information on progress and challenges to addressing the phenomenon of internal displacement and the IDP problem.<sup>221</sup></p> <p>The National Contingency Plan developed by NEMA in collaboration with Stakeholders provides for humanitarian sectors and meaningful collaboration with relevant international actors in addressing the plight of IDPs in Nigeria. NEMA facilitates the development of the NCP based on its mandate as a coordinating Agency. The protection, early recovery, water and sanitation clusters highlight the need for adequate assistance, protection and recovery needs of IDPs and advocate strongly for government swift action and sustainable support.<sup>222</sup></p>			

<sup>221</sup> See ECOWAS/UNHCR Study Report on Desk Review on National Response to Internal Displacement in Nigeria, November 2013, at pp. 9-15.

<sup>222</sup> See Sunday Newswatch Report dated 29-10-2013 online: - <http://www.mydailynewswatch.com/2013/10/29.....>

As noted earlier, the government has signed and ratified regional instruments on IDPs, conflict prevention and resolution and formulated a number of national policies, plans and guidelines to prevent internal displacement and promote effective disaster management, indicating its acknowledgement of the problem of IDPs and its willingness to address it. In addition, the government, through its national institutions earlier mentioned, raises national awareness about the phenomenon and vulnerabilities of IDPs through press briefings, training workshops of officials of relevant government agencies and youth volunteers in collaboration with relevant UN agencies, development partners and relevant Civil Society Organizations.<sup>223</sup>

Recognizing the need to enhance public enlightenment, advocacy and sensitization of communities in emergency preparedness and response at the grass root level, NEMA has signed an MOU with the National Orientation Agency (NOA) for effective information dissemination with a view to improve early warning system in order to ensure accurate and timely emergency response.<sup>224</sup> Examples of awareness raising and advocacy campaign in 2013 include the following:

- National Workshop on Dissemination of Early Warning Message: NEMA organized a National workshop on 26-27 March 2013 which focused on the lessons learnt from the 2012 flood disaster in Nigeria, disaster management implication of the 2013 NIMET Seasonal Rainfall Prediction and flood preparedness, prevention, mitigation and response. The workshop recorded a total of 604 participants from parliamentarians, Federal Ministries, departments and agencies, UN Agencies, State Emergency Management Agencies (SEMAs), Local and International NGOs, Red Cross, Academia, Community Based Organisations (CBOs), media, Armed Forces/Para-military organisations, Dam managers/River Basin Authorities, Youth/Women groups, Faith based organizations; a communiqué with far-reaching, multi-sectoral, multi-jurisdictional observations and recommendations was issued at the end of the workshop. Other awareness campaign include the DG NEMA's Advocacy visits to States likely to be affected, TV Jingles – video Flood Campaign Jingles on the following National Television Network Services NTA, AIT and Silverbird television, Radio Jingles – Audio Flood Campaign Jingles on Federal Radio Corporation of Nigeria, (FRCN) and vision FM radio station. In 2013, the Agency delivered series of lectures on Disaster Management to participants of various categories at the Armed Forces Command Staff College (AFCSC), Jaji to enhance their knowledge on the subject. Another lecture was delivered at the National Institute for Policy and Strategy Studies, Kuru, Jos in 2013 which forms part of its policy development process. Also, participants of the Institute were hosted by the Agency in May, 2013 as part of their study tour.

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<sup>223</sup> See Proceedings, supra note 161.

<sup>224</sup> See Leadership Newspaper, Abuja, May 2, 2013 online: <http://www.leadership.ng/news/020513/nationalpreparedness...>

### 4.3 Collect Data on Number and Conditions of IDPs

The government, through its earlier mentioned national agencies, has taken some measures to collect data on the number and conditions of IDPs in recent years.

**Table 5: - Benchmark 3**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
3	Data Collection: Age, gender and other key indicators; should not undermine security, protection and freedom of movement; programmatic focus.	<p>Data is only occasionally disaggregated by age, sex and location. Three main organisations collect data on IDPs, but there is currently no official mechanism to standardise their methods or harmonise their findings.<sup>225</sup></p> <ul style="list-style-type: none"> <li>NEMA collects information via State Emergency Management Agencies (SEMAS) on IDPs who seek refuge in camps or camp like settings and who receive assistance. Staffs are sent to displacement-affected areas to collect information on IDPs' age, places of origin and, in some cases, vulnerabilities. While recently NEMA has standardized form for collecting data from primary and secondary sources, comparisons and trends of such generated data are at times difficult to establish.</li> <li>NCFR uses a standardized form to collect data in camps, but it relies heavily on information provided by other organisations, as its own presence and resources are limited.</li> <li>The Nigerian Red Cross Society (NRCS) collects data through its local branches and volunteers across the country. It registers IDPs when it provides relief, but maintains no centralized database.</li> <li>This indicates that the most reliable national level data is that of NEMA. The other two</li> </ul>	<p>Under Article 5(5) States Parties are obligated to assess or facilitate the assessment of the needs and vulnerabilities of IDPs and of host communities in cooperation with international organisations and agencies.</p> <p>Under Art. 11.1 States Parties shall create and maintain an up-dated register of all internally displaced persons within their jurisdiction or effective control. In doing so, States Parties may collaborate with international organizations, humanitarian agencies, or civil society organizations.</p>	Under Strategic objective 2, the Plan of Action Activity 5 requires member states to conduct research on disaster management and integrate findings into the application of the disaster management cycle.	Consistent with Benchmark 3, both the Kampala Convention and the ECOWAS Policy / Plan of Action are significantly linked and self explanatory on the need for data through research on the subject.

<sup>225</sup> See Desk Review (2013) supra note 221 at pp. 38-39.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>sources can only be used for triangulation, which had been done during the validation process with zonal coordinators, SEMAs, Red Cross and OCHA.</p> <p>While data collection efforts focus on camps and camp-like settings, most IDPs find refuge with host families and communities. Providing shelter for people in need is part of Nigerian culture, and many people would not let their relatives stay in camps, where large households also lack space and privacy. There is almost no data or information on these IDPs or their hosts, and estimates of the number of people displaced during crises are sometimes produced by simply counting destroyed and damaged homes in the towns and villages people have fled.<sup>226</sup></p> <p>Estimates rarely capture return movements, or secondary or protracted displacement. Of the millions of people forced to flee their homes during the 2012 floods, for example, it is unknown how many had previously been displaced or were still living in displacement as a result of flooding or violence in preceding years.<sup>227</sup></p> <p>Figures that are available vary significantly and are widely considered to be underestimates, with data usually collected on an ad hoc basis when large-scale or serious crises occur. At the height of the 2012 floods, the National Emergency Management Agency (NEMA) estimated that 7.7 million people had been affected across the country, of whom 2.1 million had</p>			

<sup>226</sup> Ibid.

<sup>227</sup> Ibid.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>registered as IDPs in order to receive assistance.<sup>228</sup> At least 63,000 people were newly displaced by conflict and violence across the country in 2012, and another 55,000 are thought to have been evicted, 25,000 from Abonnema waterfront in Port Harcourt and 30,000 from the Makoko slum in Lagos. NEMA estimates put the number of people displaced by inter-communal clashes between January and April 2013 at nearly 50,000.<sup>229</sup></p> <p>There is no reliable cumulative figure and a lack of comprehensive information on the situation of those displaced. This is in part due to complex displacement patterns, but also because government agencies have limited capacity and poor methodologies when it comes to collecting and collating reliable data. These gaps result in an alarming lack of understanding of the country's displacement dynamics in Nigeria, and lead to response efforts that are fragmented and generally inadequate.<sup>230</sup></p>			

The 2012 revised draft policy (in chapter 4) acknowledges that it is necessary for government to establish a system for the collection of relevant disaggregated data on internal displacement, including the number of IDPs and their location, conditions and needs, including the special needs of the most disadvantaged among the displaced population.<sup>231</sup>

<sup>228</sup> Ibid.

<sup>229</sup> IDMC, global Overview Report, 29 April 2013; also see OCHA, 1 March-May 2013.

<sup>230</sup> Desk Review Report (2013) supra note 221.

<sup>231</sup> See Chapter 4 of the July 2012 Draft IDP Policy.

#### 4.4 Support Training on the Rights of IDPs

The government, through the National Human Rights Commission (NHRC), supports training on the rights of IDPs. Under the NHRC (Amendment) Act, 2010, the Commission is mandated to, inter alia:

Organise local and international seminars, workshops and conferences on human rights issues for public enlightenment;

Maintain a library, collect data, and disseminate information and materials on human rights generally;

Promote an understanding of public discussion of human rights issues in Nigeria;

Undertake research and education programmes and such other programmes for promoting and protecting human rights and coordinate any such programme on behalf of the Federal, State or Local Government on its own initiative or when the Federal, State or Local Government and report concerning the enactments of legislation on matters relating to human rights request it.

**Table 6: - Benchmark 4**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
4	Training on the Rights of IDPs: All responsible officials, policymakers and administrators; awareness on rights and needs; understanding of official duties of protection and assistance.	<p>In accordance with this mandate, the NHRC in collaboration with IDMC Geneva have conducted in 2012-2013 about three training workshops for CSOs and staff of NCFR and NEMA on the domestication of the Kampala Convention and the rights of IDPs as enshrined in the Nigerian Constitution and other human rights treaties to which Nigeria is a party as well as the UN Guiding Principles on Internal Displacement.<sup>232</sup></p> <p>Between November 26-29, 2013, the NHRC also conducted a public hearing on Forced Eviction that recorded a number of IDPs in Lagos.</p> <p>The National Emergency Management Agency also has reportedly conducted series of training sessions for grass root emergency volunteers, National Youth Service Corps (NYSC) disaster management vanguards, for executive</p>	States Parties general obligations under Article 3(1)(d) include, respecting and ensuring respect and protection of the human rights of IDPs, including humane treatment, non-discrimination, equality and equal protection of law.	Under strategic objective 1, Activity 4 of the Plan of Action, ECOWAS and Member States are to promote and codify core instruments and standards for the protection of civilians within the context of crisis and emergencies and ensure compliance thereto. Further, Activity 2 of strategic objective 2 under the Plan of Action requires ECOWAS and Member States to implement capacity building programmes for national platforms. Also strategic objective 3	Hence the necessary strategic linkage on the need for capacity building of those responsible for the promotion and protection, as well as providing assistance to vulnerable civilians, including IDPs in situations of displacement.

<sup>232</sup> On file with the researcher – December 2013.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>disaster/emergency management volunteers and simulation exercise with strategic stakeholders and in collaboration with the Nigerian Air Force, among others.<sup>233</sup></p> <p>The July 2012 Draft IDP Policy in Nigeria reiterates at various points the need for capacity building of various stakeholders through training workshops and other educational means on the plight, needs and rights of IDPs irrespective of the cause of displacement.<sup>234</sup></p>		provides for the responsibility of ECOWAS and Member States in enhancing the capacities of social actors in responding to humanitarian issues.	

In collaboration with IDMC Geneva, the Civil Society Legislative Advocacy Centre (CISLAC) and the ActionAid Nigeria have between 2011 and 2012 held series of multi-stakeholders fora on the plight of IDPs in Nigeria and on the effective strategies to domesticate the Kampala Convention in Nigeria. This led to the formation of the Civil Society Platform for Advocacy on Internal Displacement (CISPAID) in 2012.<sup>235</sup>

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<sup>233</sup> Ibid.

<sup>234</sup> See Chapter 1-2 Policy.

<sup>235</sup> See Proceedings of 2011 and 2012 supra note 161.

#### 4.5 Ensure a Legal Framework for Upholding IDPs' Rights

The government of Nigeria has no specific legislation on IDPs. However, the 1999 Constitution guarantees the fundamental civil and political rights of IDPs under chapter 4 and obligates the government under chapter 2 to ensure the progressive realization of the fundamental social, economic, political, educational and environmental objectives in favour of the people: - as the primary purpose of all arms of government at all levels is to promote the security and welfare of all people, including IDPs (Section 14(2)(b)).

**Table 7: - Benchmark 5**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
5	A National Legal Framework: Adopt laws on a specific phase of displacement; adopt comprehensive national laws; review existing legislation and revising legal and administrative regulations accordingly.	<p>This is supplemented by the guaranteed civil, political, social, economic, environmental and development rights of all people and individuals, including IDPs, under the African Charter on Human and peoples' Rights domesticated as Cap. A9 Laws of the Federation of Nigeria, 2004.</p> <p>Further supplemented by the provisions of the Child Rights Act, 2003 on the comprehensive/ specific guarantee, promotion and protection of children's rights in Nigeria consistent with both the UN Convention on the Rights of the Child and the AU charter on the Rights and Welfare of the Child. This includes how to treat and protect IDP children with special needs due to their added vulnerability.</p>	Article 3(2)(a) provides for States Parties' obligations to incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of, and assistance to, IDPs, in conformity with their obligations under international law.	Strategic objectives 1 and 5 seek to ensure that Member States adopt appropriate legal framework for preventing and responding to emergencies and disasters; and for protection of vulnerable persons, especially women, children and the disabled persons during emergencies.	Obvious linkage between the Kampala Convention and the ECOWAS Policy/Plan on the necessary requirement for a legal regime.

Clearly, the July 2012 draft IDP policy provides for a comprehensive catalogue of rights and duties of IDPs generally and especially of the internally displaced children, women, persons with disabilities, among others.



#### 4.6 Develop a National Policy on Internal Displacement

The UN Guiding Principles on Internal Displacement heavily influenced the initial draft National Policy on IDPs in Nigeria (2003-2009). This draft was reviewed twice between 2009 – 2011 in order to reflect the current realities in Nigeria and the new AU Convention on IDPs in Africa, adopted in 2009, at Kampala Uganda. This was further reviewed between May 30<sup>th</sup> and July 30, 2012 in order to reflect the implementation strategies for the ratified Convention by Nigeria on 17<sup>th</sup> April 2012, which finally came into force on December 6, 2012.

**Table 8: - Benchmark 6**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
6	A National Policy or Plan of Action: Establish national and local institutional responsibilities; define roles and responsibilities of different government departments; identify a mechanism for coordination.	<p>The 56 page Revised Draft National Policy on IDPs in Nigeria is yet to be adopted by the Federal Government. It however contains six broad chapters as follows: -</p> <p>Chapter one deals with the introduction by providing for the definition of key terms, contextual background and situation analysis on IDPs in Nigeria.</p> <p>Chapter two on policy thrust, covers the policy framework, scope, justification, goals, objectives, guiding principles and declaration of vision and mission statements.</p> <p>Chapter three outlines the rights and duties of IDPs consistent with Nigeria's constitutional and treaty obligations.</p> <p>Chapter four deals with the responsibilities of government at all levels to prevent internal displacement, protect and assist IDPs in Nigeria; responsibilities of host communities and armed groups.</p> <p>Chapter five covers matters relating to the broad implementation strategies, institutional mechanism</p>	Article 3(2)(c) requires States Parties to adopt appropriate policy measures and other strategies on internal displacement at national and local levels, taking into account the needs of host communities.	Strategic Objective 1 requires Member States to adopt an appropriate policy framework for preventing and responding to emergencies and disasters.	The existing significant linkage between the Kampala Convention and the ECOWAS Policy / Plan relates to the fundamental requirement of a national policy as a necessary step towards a domestic implementation of regional, continental and global obligations.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		for coordination and collaboration and necessary legal framework to back up the policy.  Finally, chapter six provides for the funding, monitoring, evaluation and policy review.			

#### 4.7 Designate an Institutional Focal Point on IDPs

There are four (4) core relevant national institutions dealing with the plight of IDPs and in providing responses to internal displacement in Nigeria, namely, National Emergency Management Agency (NEMA), National Commission for Refugees (NCFR), National Human Rights Commission (NHRC) and the Nigerian Red Cross Society (NRCS).<sup>236</sup>

**Table 9: - Benchmark 7**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
7	A National Institutional Focal Point: Assign responsibility to an existing government agency; designate a new body; establish an inter-departmental task force or committee.	<ul style="list-style-type: none"> <li><b>National Emergency Management Agency (NEMA):</b> - NEMA, having been established by Section 1 of the NEMA Act,<sup>237</sup> the Act further established a Governing Council under the Chairmanship of the Vice-President, Federal Republic of Nigeria, for the management of the Agency.</li> </ul> <p>NEMA's Governing Council consists of the following under section 2(2): -</p> <p>The Council shall consist of – a) the Vice-President, Federal Republic of Nigeria who shall be the Chairman; b) the Secretary to the Government of the Federation; c) one representative each of the following Federal Ministries who shall not be below</p>	Article 3(2)(b) places an obligation on States Parties to designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting IDPs and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international actors and Civil Society Organisations, where no such authority or body exists.	Under Activity 2 of Plan of Action and Strategic objective 1, Member States have an obligation to create a specific national agency for disaster management, preferably at the highest levels of government.	Link obvious because disaster management includes management of IDP issues.

<sup>236</sup> NRCS is recognized by law in Nigeria as a National Voluntary Aid Organisation.

<sup>237</sup> Cap. N.34, Vol.10, Laws of the Federation of Nigeria, 2004.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>the rank of a Director, that is – Aviation, Foreign Affairs, Health, Internal Affairs, Transport, Water Resources, Works and Housing;</p> <p>a) one representative each of – i) the Armed Forces, ii) the Nigeria Police force, iii) the Nigeria Red Cross Society, iv) such voluntary organisations as may be determined from time to time; and</p> <p>b) the Director-General of the Agency</p> <p>Having established NEMA under Section I, the Act under Section 6(1) listed fifteen (15) broad functions of the Agency and Section 7 empowers the Council to, among other things manage and superintend the affairs of the Agency; and do such other things which in the opinion of the Agency are necessary to ensure the efficient performance of the functions of the Agency. Under section 6(1): -</p> <p>The Agency shall –</p> <p>p) Formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level;</p> <p>q) Co-ordinate and promote research activities relating to disaster management at the national level;</p> <p>r) Monitor the state of preparedness of all organizations or agencies which may contribute to disaster management in Nigeria;</p> <p>s) Collate data from relevant agencies so as to enhance forecasting, planning and field operation of disaster management;</p> <p>t) Educate and inform the public on disaster prevention and control measures;</p> <p>u) Co-ordinate and facilitate the provision of</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call;</p> <p>v) Co-ordinate the activities of all voluntary organizations engaged in emergency relief operations in any part of the Federation;</p> <p>w) Receive financial and technical aid from international organizations and non-governmental agencies for the purpose of disaster management in Nigeria;</p> <p>x) Collect emergency relief supply from local, foreign sources and from international and non-governmental agencies;</p> <p>y) Distribute emergency relief materials to victims of natural or other disaster and assist in the rehabilitation of the victims where necessary;</p> <p>z) Liaise with State Emergency Management committees established under section 8 of this Act to assess and monitor where necessary, the distribution of relief materials to disaster victims;</p> <p>aa) Process relief assistance to such countries as may be determined from time to time;</p> <p>bb) Liaise with the United Nations Disaster reduction Organization or such other international bodies for the reduction of natural and other disaster;</p> <p>cc) Prepare the annual budget for disaster management in Nigeria; and</p> <p>dd) Perform such other functions, which in the opinion of the Agency are required for achieving its objectives under this Act.</p> <p>Section 6(2) of the Act further provides: - for the purpose of paragraphs (e), (f), (j), (k) and (m) of subsection (1) of this section – “natural or other disasters” include any disaster</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>arising from any crisis, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country.</p> <ul style="list-style-type: none"> <li> <b>National Commission for Refugees (NCFR):</b> <ul style="list-style-type: none"> <li>- The NCFR was established by Decree No. 52 of 1989 to provide 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. The Decree now an Act prohibits the expulsion or return of refugees; provides for the Office of Secretary to Federal Government with the responsibility for matters relating to refugees or refugee status; provides for the establishment and composition of the National Commission for Refugees; the appointment of the Federal Commissioner for Refugees; establishment of the eligibility committee under the supervision of the federal commissioner; establishment of Refugee Appeal Board; procedures for seeking refugee status; treatment of members of the family of a refugee; rights and duties of refugees; detention and expulsion of refugees; naturalisation and conditions for giving special assistance to refugees. The Act provides for the functions of the Commission to include the following: a) lay down general guidelines and overall policy on general issues relating to refugees and persons seeking asylum in Nigeria; b) advise the Federal Government on policy matters in relation to refugees in Nigeria; c) consider such matters as the Secretary to the Federal Government may, from time to time, refer to it and make recommendations</li> </ul> </li> </ul>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>thereon to the Secretary to the Federal Government.</p> <ul style="list-style-type: none"> <li> <b>National Human Rights Commission (NHRC) :</b> - The National Human Rights Commission was established by the National Human Rights Commission (NHRC) Act, 1995, as amended by the NHRC Act, 2010, in line with the resolution of the United Nations General Assembly which enjoins all Member States to establish national human rights institutions for the promotion and protection of human rights. The Commission serves as an extra-judicial mechanism for the enhancement of the enjoyment of human rights. Its establishment is aimed at creating an enabling environment for the promotion, protection and enforcement of human rights. It also provides avenues for public enlightenment, research and dialogue in order to raise awareness on human rights issues. </li> </ul> <p>Mandate: - The NHRC (Amendment) Act, 2010 has conferred on the Commission additional independence and strengthened the Commission's powers with respect to promotion and protection of human rights, investigation of alleged violation of human rights and enforcement of decisions. The new Act has also widened the scope of Commission's Mandate to include vetting of legislations at all levels to ensure their compliance with human rights norms.</p> <p>Specially, the NHRC is mandated to:</p> <p>a) Deal with all matters relating to the promotion and protection of human rights guaranteed by the constitution of the Federal Republic of</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the Internal Convention on Civil and Political Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the Internal Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child, the African charter on Human and Peoples' Rights and other international and regional instruments on human rights to which Nigeria is a party;</p> <p>b) Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;</p> <p>c) Assist victims of human rights violations and seek appropriate redress and remedies on their behalf;</p> <p>d) Undertake studies on all matters pertaining to human rights and assist the Federal, State and Local Governments, where it considers it appropriate to do so, in the formulation of appropriate policies on the guarantee of human rights;</p> <p>e) Publish and submit, from time to time, to the President, the National Assembly, the Judiciary, State and Local Governments, reports on the state of human rights promotion and protection in Nigeria;</p> <p>f) Organise local and international seminars, workshops and conferences on human rights issues for public enlightenment;</p> <p>g) Liaise and cooperate, in such a manner as it</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>considers appropriate, with local and international organizations on human rights for the purpose of advancing the promotion and protection of human rights;</p> <p>h) Participate, in such manner as it considers appropriate, with local and international organizations on human rights for the purpose of advancing the promotion and protection of human rights;</p> <p>i) Maintain a library, collect data and disseminate information and materials on human rights generally;</p> <p>j) Receive and investigate complaints concerning violations of human rights and make appropriate determination as may be deemed necessary in each circumstance;</p> <p>k) Examine any existing legislation, administrative provisions and proposed bills or bye-laws for the purpose of ascertaining whether such enactments or proposed bills or bye-laws are consistent with human rights norms;</p> <p>l) Prepare and publish, in such a manner as the Commission considers appropriate, guidelines for the avoidance of acts or practices with respect to the functions and powers of the Commission under this Act;</p> <p>m) Promote an understanding of public discussion of human rights issues in Nigeria;</p> <p>n) Undertake research and education programmes and such other programmes for promoting and protecting human rights and coordinate any such programme on behalf of the Federal, State or Local Government on its own initiative or when it is requested by the Federal, State or Local Government and report concerning the enactments of legislation on matters relating to human rights;</p>			



S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>o) On its own initiative or when requested by the Federal, State or Local Government, report on action that should be taken by the Federal, State or Local Government to comply with the provisions of any relevant international human rights instruments;</p> <p>p) Refer any matter on human rights violation requiring prosecution to the Attorney-General of the Federal or of a State, as the case may be;</p> <p>q) Where it considers it appropriate to do so, act as a conciliator between parties to a complaint;</p> <p>r) Carry out all such other functions as are necessary or expedient for the performance of these functions under the Act.</p> <ul style="list-style-type: none"> <li>• <b>Nigerian Red Cross Society (NRCS):</b> - The NRCS was established by the Nigerian Red Cross Act 1961 Cap. 324 of the Law of the Federation as a Voluntary Aid Organisation. The Nigerian Red Cross Society in 2007 drafted a three-year Strategic Development Plan (SDP) for the period 2008 to 2010. These efforts and the lifecycle of the documents produced made the development of this Strategic Development Plan (2011-2013) imperative. From the onset, S-2013 was designed to be fully participatory, taking into consideration inputs from 37 branches of the Nigerian Red Cross Society. By so doing, all branches were able to take ownership of this document in its entirety and ensure implementation for the period under plan. The S-2013 addresses the fundamental challenges of NRCS in responding to victims of natural and manmade disasters in the country. It also focuses on the problems</li> </ul>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>relating to volunteer management, human resource tool and management, financial and accounting system, problem of self reliance or donor dependency, strategic relief fund and warehousing, monitoring and evaluation. This document provides a strategic direction towards surmounting the aforementioned challenges and fulfilling the primary mandate of the National Society as enshrined in the Nigerian Red Cross Act 1961 CAP. 324 of the Law of the Federation. S-2013 is hinged on four pillars: Disaster Management (DM); health and care; dissemination and communication and organizational development Disaster preparedness and Restoring Family Links (RFL) activities are the bedrock of the DM plan while infectious diseases prevention and control; HIV/AIDS; water and sanitation; non-remunerated blood donor recruitment; maternal, neonatal and child health as well as in emergencies constitute the core of health and care components of this plan. On the other hand, promotion of respect for human dignity and diversity is rooted in systematic dissemination of the ICRC Principles and IHL, advocacy, partnering and networking and capacity building.</p> <ul style="list-style-type: none"> <li>The July 2012 Draft IDP Policy in its Chapter five, item 5.3 provides for a proposed institutional mechanism on IDPs in Nigeria as follows: 5.3.1 Designation of an IDP focal coordinating institution; 5.3.2 Establishment of internal displacement coordination sectors; 5.3.3 Terms of Reference for sector coordination leads. Item 5.4 provides for</li> </ul>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		broad institutional framework and implementing agencies.			

#### 4.8 Support National Human Rights Institutions (NHRIS) to Integrate Internal Displacement into their Work

The government supports the efforts of the National Human Rights Commission of Nigeria (NHRC) to integrate internal displacement into its work, by expanding the mandate and powers of the NHRC and enhancing its independence through the 2010 Amendment Act. The NHRC is currently the Protection Sector Lead on IDPs protection in Nigeria as set up by the UNHCR and by virtue of the National Contingency Plan developed by NEMA and other stakeholders. Hence, NHRC is currently developing a referral system for violations of IDPs' rights. It will receive such data from staff in the field and pass cases on to the relevant authorities. This led to the establishment of the Office of the Desk Officer in July 2012, even though the NHRC had been working on the issues of IDPs for years.

**Table 10: - Benchmark 8**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
8	A Role for National Human Rights Institutions: Monitoring; advising government; consultations with DPs on human rights violations, legal aid remedy.	<ul style="list-style-type: none"> <li>Among the activities carried out by the NHRC between 2012-13 are: In 2012, the UNHCR in collaboration with NHRC carried out an assessment of the impact of flood in some affected states; further, in collaboration with UNHCR, NEMA and IDMC, the NHRC organised series of training of trainers sessions for civil society organisations in the states of the federation on the rights of IDPs; On conflict induced IDPs, NHRC created an early warning system by bringing together community leaders, chiefs and other stakeholders and sensitized them on the need for them to take preventive measures, promote dialogue and reconciliation for peaceful co-existence and sustainable development at the community and national levels; In Jos, Plateau State, the NHRC IDPs</li> </ul>	Article 3(2)(b) places an obligation on States Parties to designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting IDPs and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international actors and Civil Society Organisations, where no such authority or body exists.	Strategic objective 5 and Activities 1 – 9 of Plan of Action require Member States to ensure domestication and implementation of relevant international human rights and humanitarian law instruments related to vulnerable groups in humanitarian and emergency situations by appropriate national institutions.	There is an indirect link between the Kampala Convention and the ECOWAS Policy / Plan on the need for appropriate national institutions on the protection of the rights of vulnerable groups to be supported in mainstreaming vulnerable groups' plight in their work.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>office coordinator carried out an enlightenment programme on the protection of the rights of IDPs.<sup>238</sup></p> <p>The National Human Rights Commission was established by the National Human Rights Commission (NHRC) Act, 1995, as amended by the NHRC Act, 2010, in line with the resolution of the United Nations General Assembly which enjoins all Member States to establish national human rights institutions for the promotion and protection of human rights. The Commission serves as an extra-judicial mechanism for the enhancement of the enjoyment of human rights. Its establishment is aimed at creating an enabling environment for the promotion, protection and enforcement of human rights. It also provides avenues for public enlightenment, research and dialogue in order to raise awareness on human rights issues.</p> <p>Mandate: - The NHRC (Amendment) Act, 2010 has conferred on the Commission additional independence and strengthened the Commission's powers with respect to promotion and protection of human rights, investigation of alleged violations of human rights and enforcement of decisions. The new Act has also widened the scope of Commission's Mandate to include vetting of legislations at all levels to ensure their compliance with human rights norms.</p> <p><b>Activities of the Commission:</b> - Since its establishment, the Commission has demonstrated</p>			

<sup>238</sup> On file with the Researcher, December 2013. NHRC Desk Officer on the rights of IDPs.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>an expansive capacity to tackle issues of human rights through various activities, ranging from public enlightenment and education, investigation of complaints, mediation and conciliation, conflict resolution, peace building, research, advocacy and training programmes on contemporary issues in the field of human rights. These were given effect through an effective complaint treatment mechanism, regular hosting of enlightenment seminars, workshops, rallies and continuous reengineering of strategies which culminate in the National Action Plan (NAP) for the promotion and protection of human rights. The NAP has been deposited with the office of the United Nations High Commissioner for Human Rights (UNHCHR) as a benchmark for assessing Nigeria's human rights records, as well as government's commitment towards the promotion and protection of human rights.</p> <p><b>Thematic Focus of the Commission's Work: -</b>  For effective performance and result oriented approach to its work, the Governing Council of the Commission identified seventeen (17) thematic areas of focus and these include: - Women and gender Matters; Children; Corruption and Good Governance; Detention Centres and Regulatory Agencies; Environment and Niger-Delta; Education; Freedom of Religion and Belief; Torture, Extra-judicial Killings and Terrorism; Law Reform and Law Review; Independence of the Judiciary and Access to Justice; Labour; Food and Shelter; Communal Conflicts and Other Related Violence; Health; Freedom of Expression and the Media; Human Rights and Business and Rights of Persons with Disability.</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p><b>Promotion:</b> - The Commission, realizing that human rights campaign cannot be achieved solely through the development of protective laws or establishment of mechanisms to implement those laws, engages in series of educational and public enlightenment programmes to raise public awareness on human rights issues. The Commission regularly holds workshops, seminars, conferences and interactive sessions within relevant stakeholders. The Commission has also engaged in continuous media advocacy and periodic publications aimed at disseminating appropriate human rights messages. Sensitization, education and enlightenment programmes have also been carried out by the Commission in collaboration with NGOs and CBOs, to raise awareness on human rights throughout the country. Village Square meetings are also held across the country to discuss the mandate of the Commission and other issues of relevance to specific local environments.</p> <p><b>Protection:</b> - A robust and effective complaint treatment mechanism has been put in place at the Headquarters and all the Six Zonal Offices to handle all complaints of human rights violations. Additional offices are now being established to increase access to the Commission's complaint-treatment mechanism. All victims of human rights violations can therefore access the services of the Commission free of charge, at any of the Commission's offices.</p> <p><b>Enforcement:</b> - There has been a high level of compliance with the decisions of the Commission by alleged violators of human rights since its establishment in 1995. The NHRC (Amendment)</p>			

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		Act, 2010 has however conferred on the Commission express powers to enforce her decisions. Under this provision, decisions of the Commission's Governing Council are registrable as decisions of the High Court.			

#### 4.9 Facilitate IDPs' Participation in Decision Making

The government, through its earlier mentioned national institutions, facilitates to some extent IDPs' participation in decision making processes affecting them especially at the point of asking and receiving humanitarian relief assistance and at the June-July 2012 Multi-stakeholders Forum on the review of the 2012 IDP draft policy.<sup>239</sup> Most IDPs in Nigeria have greater access to discuss freely their plight with Non-Governmental Organizations, Faith-based and Community-based Organizations because of their greater understanding of the local languages and socio-cultural – economic and political issues affecting IDPs in the host communities.<sup>240</sup>

**Table 11: - Benchmark 9**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
9	Participation by IDPs in decision-making: Inclusion without risk of punishment or harm; all phases of displacement including political participation in peace processes; special attention to vulnerable groups including women	While efforts are being made by national institutions to give IDPs a voice in the management of camps by including them as members of camp management committees, many IDPs across the federation had complained to IDP protection analysts and human rights activists that most often, interventions and support provided to IDPs are determined without consulting with them, nor taking into consideration their priorities or peculiar needs.	Article 9(2)k places an obligation on State Parties to <b>consult</b> IDPs and allow them to participate in decisions relating to their protection and assistance including public participation under 9(2)L in democratic governance.	Strategic objective 5 Activity 9 of the Plan of Action emphasizes the need for ECOWAS and Member States to integrate needs and vulnerability assessment in ensuring that special needs groups are	Though there is no direct linkage between the provisions/requirements of the Convention and the Policy, yet they both support the goal of this Benchmark with their different emphasis.

<sup>239</sup> Held at the Transcorp Hotel, Abuja, between 9-11 July, 2013

<sup>240</sup> Ibid.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
	and children.	<p>Where they are consulted, it is tokenistic in nature.<sup>241</sup></p> <p>The July 2012 draft IDP Policy emphasizes the need for the observance of the policy guiding principles under chapter two, item 2.5, particularly, that of participation. This is because the draft policy is predicated on core humanitarian assistance and human rights protection principles enshrined in various bodies of international humanitarian and human rights laws and codes of conduct. For purposes of specificity, the following principles are cardinal to the effective implementation of this policy: <b>Principle of Humanity and the Humanitarian Imperative; Principle of Neutrality; Principle of Impartiality and Non-discrimination; Principle of Respect for Sovereignty; Principle of Independence; Principle of Gender Equality; Principle of Empowerment; Principle of Participation; Principle of Accountability; and Principle of Protection from Harm and Abuse.</b></p> <p>The Principle of participation is to the effect that designing, planning, implementation, monitoring and evaluation of interventions targeting internally displaced persons or their host communities must actively involve them at all stages. They must be carried along in decision-making processes, and be duly consulted and informed on decisions related to their relocation, provision of relief, rehabilitation, return, resettlement or re-integration. They must also be actively involved in the management of relief, resettlement and rehabilitation camps, and conscious effort must be made to include women and children in such decision-making processes.<sup>242</sup></p>		adequately catered for during emergencies.	

<sup>241</sup> See ActionAid Nigeria Policy Brief, supra note 187.

<sup>242</sup> See July 2012 Draft IDP Policy.



Apart from having the right to ask for and receive assistance from government, there is need to create an enabling environment and clear communication channels between IDPs and government where they can feel free to make known their requests and complaints without fear of victimization.

#### 4.10 Establish the conditions and provide the means to Secure Durable Solutions

The government has made some efforts to establish the conditions and provide the means for IDPs to secure durable solutions. The Federal Government confirmed that 14 of the States affected by the 2011 post-presidential election violence will benefit from the 1<sup>st</sup> phase of the compensation. Assessment of damages and losses is yet to be carried out in the other 5 States affected (Borno, Yobe, Gombe, Kaduna and Nasarawa States). The compensation ranges from \$290,000 to \$10.5 million per State out of the 25 April approved \$34.5 million dollars or N5.7 billion naira by President Jonathan. The recommendation to compensate the victims, largely IDPs, for their losses was part of the report by the panel of enquiry formed shortly after the 2011 election violence.<sup>243</sup>

**Table 12: - Benchmark 10**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
10	Supporting Durable Solutions: Voluntary return or resettlement; sustainable reintegration; addressing 'root causes'.	<p>The Nigerian Government provides for different intervention measures that aim at supporting durable solutions to the plight of IDPs in Nigeria. For example, NEMA provides equipments; materials and working tools to many IDPs to enable them rebuild their sources of livelihood. It further provides boats, boat engine, sewing machines, nets, building materials, etc. to aid in the resettlement and rehabilitation of IDPs.</p> <p>Further, the Minister of Special Duties, Kabiru Turaki-led presidential Committee on Dialogue and Peaceful Resolution of Security Challenges in the North, in November 2013 submitted its report to President Goodluck Jonathan at the Presidential Villa, Abuja. The Committee recommended among others the setting up of an advisory committee on</p>	Under Articles 2(c), 3(2)(e) and 11, the Kampala Convention commits States to seeking lasting solutions to the problem of displacement and explicitly recognizes IDPs' right to voluntarily chose to return home, integrate locally in areas of displacement or relocate to another part of the country. States are responsible for promoting and creating satisfactory conditions for each of these options on a sustainable basis and in circumstances	Chapter 5 of the Policy provides for disaster management cycle, including rehabilitation and reconstruction, in order to return the community to normal.	The Policy and Plan of Action in this respect meet the Kampala Convention less than half way on the criteria/activities for durable solutions. (See Annex I of this study, the four core indicators for the benchmark on durable solutions).

<sup>243</sup> See Leadership, supra note 224.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>continuous dialogues that will have powers to advise the President on all matters related to dialogue and resolution of crisis. It also recommended the setting up of a Victims Support Fund for victims of insurgency to be administered by a new agency established specially to assist the victims, largely IDPs.<sup>244</sup> The Committee's mandate does not specifically deal with IDP issues.</p> <p>The July 2012 Draft IDP Policy provides under chapter five for the policy implementation framework and strategy for achieving durable solutions as follows: The overriding aspiration of this policy is to achieve durable solutions to the problem of internal displacement. According to the <i>Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons</i>, a durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement.</p> <p>A number of criteria determine to what extent a durable solution has been achieved. All government agencies with responsibility for protecting and assisting internally displaced persons and other local and international humanitarian actors will therefore put in place measures to ensure that all internally displaced persons achieve a durable solution and can enjoy without discrimination the following: a) Long-term safety, security and freedom of movement; b) An adequate standard of living, including at a minimum access to adequate food, water, housing, health</p>	<p>of safety and dignity. States must endeavour to incorporate relevant principles contained in the Kampala Convention into peace negotiations and agreements for the purpose of finding sustainable solutions to the problem of internal displacement.</p>		

<sup>244</sup> Ibid.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>care and basic education; c) Access to employment and livelihoods; d) Access to effective mechanisms that restore their housing, land and property or provide them with adequate compensation; e) Access to and replacement of personal and other documentation lost during displacement; f) Voluntary reunification with family members separated during displacement; g) Participation in public affairs at all levels on an equal basis with the resident population; h) Effective remedies for displacement-related violations, including access to justice, reparations and information about the causes of violations. The search for any of these durable solutions for internally displaced persons should be understood as a gradual, often long-term process of reducing displacement-specific needs and ensuring the enjoyment of human rights without discrimination. Achieving durable solutions is therefore a complex process that addresses human rights, humanitarian, development, reconstruction and peace-building challenges, requiring the coordinated and timely engagement of different actors.</p> <p>In seeking durable solutions, intervening agencies must avoid creating <b>dependence</b> and facilitate return as soon as conditions permit, by providing aid that is <b>adequate</b> but not creating living conditions of a higher standard than those in the IDPs' areas of origin, which could become an incentive for not seeking voluntary return or resettlement.</p>			

Obstacles to durable solutions: Internal displacement in Nigeria is generally addressed as a short-term and humanitarian issue, with minimal resources dedicated to helping people return, integrate locally or settle elsewhere in the country. This lack of focus on durable solutions and the absence of countrywide monitoring means that only limited information is available on IDPs' fate beyond the

emergency response phase. The information that does exist suggests that they still have substantial needs, particularly in terms of shelter and livelihoods.

#### 4.11 Allocate Adequate Resources to the problem

While the government annually allocates budgetary resources to finance measures to address the problem of internal displacement and disaster management to the NEMA, NCFR and NHRC, it is unclear as to the adequacy of such resources due to peculiar seasonal challenges that each of these institutions face.<sup>245</sup>

**Table 13: - Benchmark 11**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
11	Allocation of Adequate Resources: National responsibility to protect and assist designated funds in the national budget; a role for the international community.	Funding for IDP related activities, including durable solutions, have been adhoc or irregular and mostly hampered by bureaucratic delays. <sup>246</sup> To address this problem the July 2012 draft IDP Policy seeks to provide easy access to available resources and sustainable funding regime as indicated below: Funding & Resource Mobilization: Funding and resource mobilisation for humanitarian purposes including support for prevention and all phases of displacement shall include a number of mechanisms including: Joint Humanitarian Funding Mechanisms: There shall be established a joint humanitarian fund under the Designated IDP Focal Coordinating Institution. During complex emergencies, disasters and displacement, the Designated IDP Focal Coordinating Institution shall oversee an annual <b>consolidated appeals process</b> (CAP). This entails formulating a Common Humanitarian Action Plan (CHAP): a joint strategy analysing the political, social and security situation of the particular situation or crisis; projecting short-term and long-term humanitarian needs; assessing the capacities of the agencies involved in addressing	Under Articles 3(2)(d), 5(1) and (6), States Parties are obliged to: - provide, to the extent possible, the necessary funds for protection and assistance without prejudice to receiving international support; States Parties shall bear the primary duty and responsibility for providing protection of and humanitarian assistance to internally displaced persons within their territory or jurisdiction without discrimination of any kind; States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the	Strategic objective 7 and Activities 1 – 7 of the Plan of Action provide for enhancing national and regional capacities for response to humanitarian concerns, including establishment of ECOWAS Humanitarian Relief Fund and provision of other human and material resources.	Strategic linkage exists on the need for pooling resources together between the Convention and the Policy/Plan and consistent with the benchmark under consideration.

<sup>245</sup> On file with the Researcher, December 2013.

<sup>246</sup> Ibid.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>these needs; and proposing a common set of objectives, actions and indicators for success. A CAP, then, sets out the specific projects and resources required to meet these objectives. Together, these documents serve as the primary tool to mobilize resources at the field level. The joint humanitarian fund shall serve as a joint donor basket for humanitarian agencies to furnish in preparation for interventions. All intervening donor agencies shall be required to contribute a minimum of 5% of their resources for intervention into the joint humanitarian funding basket that shall be deployed on need basis by the Designated IDP Focal Coordinating Institution.</p> <p>The President shall provide seed funds into the Joint Humanitarian Funding Basket to jump-start critical operations, and fund life-saving programmes that are not yet funded.</p> <p>Flash Appeal Funding Mechanisms: A shorter Flash Appeal can also be prepared to enable more rapid resource mobilization and response, although agencies and organizations can also apply for bilateral funding.</p>	<p>assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need.</p>		

Individual Institutional and Agency Funding Mechanisms: Various government and humanitarian agencies shall use their internal funding mechanisms including budgetary allocations to ensure that there are adequate resources for responding to their various sectoral responsibilities in the respective clusters.

#### 4.12 Cooperation with International Community when National Capacity is Insufficient

All the earlier mentioned four core relevant national institutions on the protection and assistance of IDPs have largely cooperated with relevant UN Agencies such as UNHCR, UNOCHA, UNICEF, UNDP, IOM and development partners in developing response and recovery strategic frameworks and have equally received both technical and humanitarian relief assistance, as well as donations to enable them respond to different phases of displacement and needs of IDPs in Nigeria.<sup>247</sup>

**Table 14: - Benchmark 12**

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
12	Cooperation with International and Regional Organizations: Cooperation does not undermine national sovereignty; rapid and unimpeded access to international humanitarian organizations; inviting and engaging in dialogue with the Special Rapporteur of the African Human Rights Commission on the rights of IDPs etc, and the Representative of the UN Secretary General on the Human Rights of IDPs.	The July 2012 draft IDP Policy provides for a complementary system of cooperation with the international community as indicated below. Designation of an IDP Focal Coordinating Institution: In order to address the coordination gaps in responding to internal displacement, there shall be Designated an IDP Focal Coordinating Institution, with the following responsibilities: k) Advising the president, government and inter-governmental agencies and donor partners on IDP policy issues; l) Promotion of Donor commitment to humanitarian response by organizing missions, liaising on an ongoing basis on developments, achievements and funding requirements for humanitarian interventions m) Organizing and maintaining the relationship with relevant national authorities (MDAs) and if required, the provision of appropriate advice and capacity support. National authorities are the primary actors in programming for the displaced persons and must have the capacity to do so. Where they lack the capacity, they must liaise with the relevant UN agencies to provide assistance as	Under Article 5(6), States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need. Article 8(d) and (f) requires the African Union to support the efforts of the State Parties including cooperation directly with African States and international organizations / humanitarian agencies, civil society	The closest clause for this requirement in both the policy and the plan is strategic objective 7, which is not explicit on the need for cooperation as emphasized by the Convention and the benchmark.	There is no clear linkage on this benchmark between the Convention and Policy/Plan.

<sup>247</sup> On file with the Researcher, December 2013.

S/N	BENCHMARKS	NATIONAL RESPONSE FRAMEWORKS	THE AU KAMPALA CONVENTION	ECOWAS HUMANITARIAN POLICY AND PLAN OF ACTION	COMMENT
		<p>required to relevant MDAs</p> <p>n) Ensure the integration of approaches for protecting and assisting displaced persons and host communities are mainstreamed into the policies/practices of relevant agencies, line ministries and local authorities.</p> <p>o) Undertaking comprehensive multi-agency situational analyses using participatory assessment methodologies to identify threats to the rights of the displaced (and host) populations and assess protection risks, assistance gaps, resources and opportunities available within the displaced and host communities as well as those offered by the national and international players;</p> <p>p) Identifying, mobilizing and coordinating camp management agencies and other sectoral partners, ensuring that there is co-ordination among other sectoral clusters;</p> <p>q) Ensuring that assessment, protection activities, programme delivery and camp governance are all conducted through community-based approaches and with an age, gender and diversity perspective</p> <p>r) Evaluating the performance of camp managing agencies and addressing issues related to under-performing agencies, misuse of assets and strong religious agendas, in an objective and transparent manner;</p> <p>s) Monitoring and regularly reviewing on an ongoing basis the development, implementation and evaluation of protection mechanisms and assistance programmes;</p> <p>t) Identifying and promoting best practices in camp management, including harmonizing protection/assistance standards between camps, taking into consideration the host community.</p>	<p>organizations, as well as the Special Rapporteur of the African Human Rights Commission on the rights of IDPs etc.</p>		



## 5. Summary of Key Findings and Recommendations of the Study

- a) Internal displacement is often the consequence of failure to comply with the norms of human rights and humanitarian law to protect people in situations of violence, forced eviction and armed conflict, as well as preventable natural and human made disasters. Internal displacement therefore does not fall entirely within the humanitarian and protection domains. It is also linked to sustainable development and peacebuilding. Addressing the situation of IDPs is essential to making dividends in these areas.
- b) Prevention is paramount, but is probably the most difficult measure to take by governments. Yet the best prevention against displacement is ensuring the respect for the fundamental human rights of civilians (?) and populations in all situations and circumstances, consistent with government constitutional and treaty obligations.

Preventing displacement is a matter of addressing the reasons for involuntary or forced migration of civilians, and when displacement is unavoidable, to mitigate its adverse effects.

In the case of Nigeria, that will require dealing sincerely with the common and complex causes of displacement earlier highlighted in this study. Accordingly, respect for civilians' rights would go far to reduce the earlier mentioned common threats to their security and welfare. This approach accords with the constitutional obligations imposed on all arms and levels of government by Section 14(2)(b) of the 1999 Constitution, namely to promote the security and welfare of all people as the primary purpose of government, and to ensure the progressive realization of the fundamental, foreign policy and environmental objectives and directive principles of state policy for the common good of all citizens, (as articulated in chapter 2 of the same Constitution).

- c) Internal displacement due to conflict derives from political issues, and all aspects of a government's response to it therefore are affected by political considerations, including, for example, acknowledgement of displacement, registration and collection of data on IDP, ensuring the participation of IDPs in decision-making, assistance and protection offered to different (temporal) caseloads of IDPs, support for durable solutions, which durable solutions are supported, and facilitation to provide protection and assistance to IDPs.

The growing evidence on the part of the Nigerian Government to discharge its responsibility towards IDPs, first, by acknowledging the existence of the problem of internal displacement, and second, to put measures on ground to address it as a national priority, is worth noting. However, the government's efforts to raise awareness on internal displacement through public statements were not always a useful indicator of its actual commitment to addressing the plight, needs of IDPs, and prevent displacement.

- d) While there is a growing improvement in the formulation of national normative response frameworks aimed at addressing the different causes and phases of internal displacement and the different needs of IDPs in Nigeria, largely their

implementation remains a challenge. This is due to various reasons, including the non-adoption of the 2012 revised draft policy on IDPs that ought to have settled once and for all the questions of who is the lead coordinating agency on internal displacement and what the different roles and responsibilities of the core national institutions are with a view to promoting effective cooperation and collaboration in displacement management nationwide.

- e) The framework for National Responsibility identifies three durable solutions: - return to their place of origin, local integration in the places they have found refuge and settlement elsewhere in the country.

However, the case study of Nigeria reflects a global tendency to emphasize return, often excluding the other two durable solutions. Yet for solutions to be voluntary, IDPs must be able to choose among all of them, as local integration or settlement elsewhere in the country may in fact be some IDPs' preferred solution. Especially in situations of protracted displacement, those may be the only feasible solutions, at least in the near future.

Overall, this study has found that the Framework for National Responsibility is a valuable tool for analyzing government efforts to prevent displacement, to respond to IDPs' needs for protection and assistance and to support durable solutions. But this study also reveals certain limitations to using the Framework as an assessment tool, particularly in terms of accounting for the responsibility of non-state actors; accounting for national responsibility for protection, particularly during displacement; and accounting for causes of displacement other than conflict, violence and human rights violations.

The most difficult benchmarks to analyze were those whose underlying concepts are very broad and those for which data was seemingly not publicly available. Chief among these were the benchmarks on preventing internal displacement (Benchmark 1), raising national awareness (Benchmark 2), promoting the participation of IDPs in decision-making (Benchmark 9), and allocating adequate resources (Benchmark 11). Analysis of all other benchmarks also faced data constraints as in many cases the data was outdated or incomplete or simply were not available.

Nonetheless, we found that the twelve benchmarks all directed attention to important issues in governments' responses to internal displacement.

We also found that while protection is central to the Framework, the issue is of such importance that there should be a benchmark explicitly focused on it—and specifically on protection as physical security, provided to IDPs during all phases of displacement. This benchmark would also underscore the responsibility of governments to protect the security of humanitarian workers engaged with IDPs.

Beyond the more detailed findings presented in this study and the obligations of governments toward IDPs articulated in the Guiding Principles on Internal Displacement, this study offers the following six recommendations to political leaders seeking to translate their responsibility to IDPs into effective response:

- Make responding to internal displacement a political priority.
- Designate an institutional focal point with sufficient political clout to provide meaningful protection and assistance to IDPs.
- Develop and adopt laws and policies, or amend existing ones, in line with the Kampala Convention and the Guiding Principles on Internal Displacement.
- Devote adequate financial and human resources to address internal displacement.
- Support the work of all national institutions engaging in IDP issues.
- Ask for international assistance when it is necessary.
- Do not put off the search for durable solutions for IDPs—and involve IDPs in the process.

It is hoped that this study on the ways in which governments have exercised their national responsibility toward IDPs will inspire further research, provide some concrete examples of responsible action of governments seeking to protect and assist IDPs, and lead governments to more effectively exercise their responsibility toward IDPs.

## 4.2 CASE STUDY 2: THE COTE D'IVOIRE RESPONSE TO THE PROBLEM OF INTERNAL DISPLACEMENT

By Lassana Kone

### CHAPTER 1: INTRODUCTION

#### 1.1 Côte d'Ivoire: A Brief Overview

Map of Côte d'Ivoire



Côte d'Ivoire. © 2013 John Emerson / Human Rights Watch

##### 1.1.1 Geography, Climate and Population

Côte d'Ivoire, situated in West Africa, and covering a land area of 22,462 km<sup>2</sup>, shares borders to the East with Ghana, to the North with Burkina Faso and Mali, and to the West with Guinea and Liberia. The Gulf of Guinea forms its Southern border. The forested and mountainous Western region of the country has an equatorial climate, while climate in the Central, Eastern and Northern regions is tropical. The political and administrative capital of Côte d'Ivoire is Yamoussoukro, and its economic capital is Abidjan.

Côte d'Ivoire is home to some sixty ethnic groups, which can be divided into four major groups, namely: the Gur, Mande, Kwa and Krou. Estimated population in 2011 was 21,504,000 inhabitants, of which 26% were non-nationals. The population is predominantly young (40%), with a recorded birth rate of 2.03% for the decade from 2000 to 2010.

The country is secular, with a number of different religions in coexistence, the principal ones being Islam, Christianity and Animism.

### **1.1.2 The Political Situation**

From a political standpoint, noteworthy progress has recently been made with respect to national reconciliation, particularly with the provisional release in August 2013 of 14 former pro-Gbagbo detainees, including the Secretary-General of his party, le Front Populaire Ivoirien - FPI (Ivorian Popular Front). The resumption of political dialogue between the Opposition and Government also helped ease tensions triggered by the post-electoral crisis. The mandate of the Commission Dialogue, Vérité et Réconciliation - CDVR (Dialogue, Truth and Reconciliation Committee), established in the aftermath of the post-electoral crisis, has just expired, but is certain to be renewed after consideration of its report by Government.<sup>248</sup>

### **1.1.3 The Economic Situation**

The economy of Côte d'Ivoire is on a path of slow recovery. In 2012, GDP growth had reached 9.8%, compared with a negative growth rate of -4.7% in 2011. Inflation, which stood at 9% in 2011, fell to 3.6% in February 2013. These outcomes are explained in part by the restoration of a certain degree of political stability as well as the financial support received from international partners. Achievement of its HIPC Completion Point, which reduced external debt by 24%, helped the country normalise relations with donors and gradually regain the confidence of both public and private domestic and international investors. In 2012, Government invested heavily in public services such as education, the Justice system, and the police service, while national revenues are on the rise owing to an increase in exports of manufactured goods as well as a number of agricultural products such as rubber, palm oil, and bananas. Cocoa exports are expected to increase by 2.8% in 2013. Lastly, on-going reforms in the coffee/cocoa, and electricity sectors, the Judicial system, the business climate, in public sector governance, and provision of basic social services should consolidate the country's growth potential as well as its social cohesion.<sup>249</sup>

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<sup>248</sup> The Activity Report of the CDVR, covering a two-year period, was submitted in person to the Head of State, Alassane Ouattara, on Thursday 21 November 2013, by the Chairperson of the Institution, Mr Charles Konan Banny.

<sup>249</sup> World Bank, "Côte d'Ivoire: Overview" - available at : <http://www.banquemondiale.org/fr/country/cotedivoire/overview> [last updated, 14 December 2013].

### 1.1.4 The Humanitarian Situation

In 2011, Côte d'Ivoire was the theatre of the world's largest internal displacement event, following the outbreak of violent conflict in the bid for power, after the disputed results of presidential elections. The grave violations of fundamental human rights committed by partisans of both camps during these clashes caused the internal displacement of one million persons. Two years later, most of these internally displaced persons (IDPs) had returned to their homes to try and rebuild their lives. However, tens of thousands of them are yet to find durable solutions to the problems of their displacement.<sup>250</sup>

At the end of 2012, the number of persons still living in displacement was estimated at between 40,000 and 80,000, living mainly in Abidjan or its suburbs, with relations, in host families or in rented accommodation.

In view of the improved security conditions achieved by mid-2011, internally displaced persons were informed by Government that they could begin to return to their homes, some, in fact, being strongly urged to do so, as in the case of those living near Abidjan, who were given money to rent accommodation if they returned to the city.<sup>251</sup> Those IDPs wishing to return to their homes, received a basic aid package of 100.000 FCFA. In fact, the bulk of Government assistance centred on the return of IDPs to their original homes, despite the express desire of some of them to be locally integrated.

In October 2011, humanitarian agencies, responding to the declared intention of the Ivorian Government to close down all IDP camps, expressed concern over threatened expulsions and forced returns.<sup>252</sup>

Meanwhile, according to the humanitarian actors on the ground in Côte d'Ivoire, the nature of the response to "residual" humanitarian needs remains a key factor for a successful crisis recovery process. More than two years after the end (outbreak) of the post-electoral crisis, the problem of meeting humanitarian needs remains a cause for concern.<sup>253</sup>

Humanitarian actors have observed that, while the situation in Côte d'Ivoire has clearly improved since the end of the post-electoral crisis, significant pockets of vulnerability persist all over the

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<sup>250</sup> Internal Displacement Monitoring Centre (IDMC) and the Norwegian Refugee Council, *Côte d'Ivoire : Internally Displaced Persons Rebuilding Lives Amid a Delicate Peace*, 28 November 2012.

<sup>251</sup> Ibid.

<sup>252</sup> On 26 October, civil society organisations and United Nations agencies participating in a new work group on the issue of the return of displaced persons met with the Comité national de coordination de l'action humanitaire - CNCAH (National Humanitarian Aid Coordination Committee), with a view to reaching agreement on a more realistic return strategy and timetable. The work group underscored the need to keep certain IDP camps open, clarify the reasons why some of the displaced persons are so reluctant to return home, and work out more viable reinstallation solutions for some of them.

<sup>253</sup> *Côte d'Ivoire 2013 : Humanitarian Needs in Transition, A Comprehensive Analysis of Humanitarian Actors in Côte d'Ivoire*.

country. Displaced persons in urban centres tend to live in the most deprived areas such as slums and dangerous neighbourhoods, thereby increasing their vulnerability. Malnutrition, food insecurity, lack of access to basic social services and protection continue to raise anxieties in certain areas, particularly in West, South-west and North Abidjan.

With the gradual stabilisation of the humanitarian, security and political situations in Côte d'Ivoire, the transition from emergency to development-oriented humanitarian interventions has begun. Within this transition framework, coordination of the different aid sectors is progressively being transferred to the appropriate national authorities in anticipation of the withdrawal of foreign humanitarian actors. If the progress achieved to date is to be consolidated, an adequate response must be found to the problem of identified residual needs, failing which the most vulnerable population groups, and particularly displaced persons and returnees, run the risk of reverting to a situation of humanitarian crisis. Continuous support will be needed to ensure the durable integration of hundreds of thousands of displaced persons and of refugees who have returned to their homes. Those who have opted for the reintegration solution, which entails their resettlement in the location where they have found refuge, must also be supported in their efforts to start a new life.

It is important to note that whereas the Ivorian Government has embarked on the closure of all IDP sites/camps across the country, there are still displaced Ivorians living in host families or in camps.

In Tabou, for example, although it is difficult to establish exactly how many internally displaced persons are living in the area, two categories of internally displaced persons may be readily identified. These are the IDPs from the crises of 2002 and 2005 on the one hand, and those from 2010 on the other. It must be said that the IDPs in the first category are perfectly integrated and do not intend to return to their areas of origin. The IDPs in the second category, though having found shelter in host families in camps, are searching for farmland in order to be able to make a living for themselves. They would like to return to their habitual places of residence if they could be guaranteed security, access to shelter and plantations.<sup>254</sup>

As of now, the number of IDPs living in the Grabo area is estimated at 150. IDPs are also to be found in NEKA (V1, V2 and V0) in the Sub-prefecture of Djouroutou at Yaokro, Gbapet PALMCI and Grabo Municipality in the Sub-prefecture of Grabo. The IDPs, who fled the State-protected forest of Niégré and found refuge in Djouroutou and Poutou, have all returned to their different places of origin.<sup>255</sup> The 1,000 or so persons who fled the protected Niégré forest are now to be found in the area of Pégnéko commonly referred to as Keïtadougou. About 700 more are in Djoroplo where they occupy an entire neighbourhood.<sup>256</sup>

The situation of the IDPs who fled the protected forests in the West (Mounts Péko and Niégré) has attracted particular attention in that it highlights the risk of tensions arising from the pressure to

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<sup>254</sup> UNHCR, *Profile of Tabou and Olodio*, October-November 2013.

<sup>255</sup> UNHCR, *Profile of Grabo and Djouroutou*, October-November 2013.

<sup>256</sup> UNHCR, *Profile of Sassandra*, October-November 2013.

preserve biological diversity through the restoration of forest cover and protected areas, as against the pressure on Government to take measures to prevent all forms of arbitrary or forced movements of persons.

The relocation of persons living in protected areas had already been envisaged in the 1980s, and again in 2012. The determining factor in the decision by the Ivorian Government to proceed with this measure was the alleged presence of armed men in the protected forests, following the post-electoral crisis.<sup>257</sup>

An Executive Order of Government published on 24 May 2012 directed all persons inhabiting protected forests to leave the areas before 30 June 2012.<sup>258</sup> It is difficult to confirm how many of the between 25,000 and 40,000 persons living in the protected forests of Niégré were evicted in the past few weeks.<sup>259</sup> Some 9,000 persons are thought to have left Mount Péko.

In 2012 and 2013 the appropriate authorities, specifically the Société de Développement des Forêts de Côte d'Ivoire - SODEFOR (Côte d'Ivoire Forestry Development Company), and the Ministry of Water Resources and Forestry, served eviction notices and organised a series of public enlightenment sessions directed at the inhabitants of protected forests. However, the various enlightenment sessions and campaigns do not, in and of themselves, qualify as an attempt to consult with the public with a view to searching for alternative or durable solutions to the problem, as, for example, in terms of providing assistance for relocation to alternative sites.

The people evicted from Mounts Péko and Niégré should have been given proper assistance.<sup>260</sup>

Several hundred of those who fled the violence in Western Côte d'Ivoire during the 2010-2011 post-electoral crisis returned home to find that their lands had been illegally seized and occupied. Many of them were unable to gain access to the land on which they used to grow subsistence and cash crops such as cocoa and coffee.<sup>261</sup>

Situations of this nature are likely to further inflame inter-community tensions and increase the risk of conflict and displacement.

## 1.2 Methodology

The methodology adopted by the Consultant in the preparation of this study is based on a combination of research findings and interviews conducted with the principal actors involved in the

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<sup>257</sup> 'Soir Info', 10 June 2012.

<sup>258</sup> 'Agence Ivoirienne de Presse', 8 March 2013.

<sup>259</sup> OCHA, 6 June 2013.

<sup>260</sup> Under the provisions of Article 12 of the Kampala Convention, States Parties must provide persons affected by internal displacement with effective remedies which are in compliance with international standards.

<sup>261</sup> Human Rights Watch, *"That Land is my Family's Wealth": Addressing Land Dispossession after Côte d'Ivoire's Post-election Conflict"*



prevention of internal displacement and the provision of protection and assistance to IDPs in Côte d'Ivoire. The interviews consisted of a series of questions and indicators derived from a synthesis of the relevant provisions of the Kampala Convention. The objective of the interviews was to assess the level of responsibility borne by the national authorities in addressing the problem of internal displacement, based on twelve (12) indicators.

### **1.3 Limits and Difficulties Encountered**

The study is not designed to establish a comprehensive basis for analysis, but rather, seeks to give an overview of the effectiveness of the national response to the challenges of internal displacement in Côte d'Ivoire, as well as some of the difficulties encountered in the process of its realisation:

- The annual activity reports of the humanitarian actors do not always provide the harmonised statistical data needed for analytical purposes;
- The inaccessibility of the Internet site of the CCCM sectoral protection group. This prevents access to the most recent activity reports of this group which has been a decisive actor in the management of IDP assistance;
- The very poor response to the questionnaires distributed to officials and humanitarian actors, including local NGOs;
- The unavailability of the different actors for interviews, which reduces the level of accuracy of achieved in the global analysis of the different indicators.

## **CHAPTER 2: THE REGULATORY, INSTITUTIONAL AND OPERATIONAL FRAMEWORK FOR THE PROTECTION OF INTERNALLY DISPLACED PERSONS IN CÔTE D'IVOIRE**

### **2.1 The Constitutional and Legal Framework**

While there is no specific legislation or policy governing the rights of internally displaced persons in Côte d'Ivoire, the regulatory framework for their protection is enshrined in the Ivorian Constitution of 1<sup>st</sup> August 2000, within which the first 22 provisions, as well as paragraphs 6 and 7 of the Preamble, address the issues of rights and freedoms. The Constitution lays down all the rights and freedoms, which are thereby established as Constitutional Principles. These rights and freedoms are, for the most part, those also contained in the international Treaties on Human Rights to which Côte d'Ivoire is a signatory.

The protection of human rights and the fundamental freedoms occupies a significant place under the Constitution. The Preamble recognises the ethnic, cultural and religious diversity of Côte d'Ivoire and declares that the Ivorian people are “convinced that union in the respect of this diversity will ensure economic progress and social well-being”.

The principle of equality for all is enshrined in Article 2 of the Constitution, which further stipulates that the rights of the human person are inviolable, and that Government authorities have an obligation to ensure the respect, protection and promotion of these rights. This Article echoes

Principle N° 5 which stipulates: “All Authorities and concerned members of the international community shall discharge the obligations incumbent upon them by virtue of international law, particularly with regard to human and humanitarian rights, and ensure the respect of said rights in all circumstances, in such manner as to forestall and avoid all situations of such nature as to cause the displacement of persons”.<sup>262</sup>

The constitutional framework for the protection of human rights is couched in excessively broad and unspecific terms. This includes the Declarations on Rights, which buttress international obligations with regard to human rights at the national level, and the protection of the population in its entirety, including displaced persons. However, there is no specific provision relating to the protection of displaced persons. This is evidence of the existence of a lacuna within 'the national framework for the protection and assistance of displaced persons in Côte d'Ivoire.

Under the Constitution all the rights and freedoms enshrined therein are established as Constitutional Principles. These are, for the most part, also contained in the international Treaties on Human Rights to which Côte d'Ivoire is a signatory.

Côte d'Ivoire is party to 56 international legal instruments relating to human rights. These instruments, together with the Constitution and the Laws, constitute the essential part of the body of the law on Human rights in Côte d'Ivoire.<sup>263</sup>

**Table of International Instruments Ratified by Côte d'Ivoire**

<b>INSTRUMENT</b>	<b>DATE OF RATIFICATION</b>
The Universal Declaration of Human Rights, 1948	
The African Charter of Human and Peoples' Rights, 1981	6 January 1992
International Covenant on Civil and Political Rights	26 March 1992
International Covenant on Economic, Social and Cultural Rights	26 March 1992
Optional Protocol to the International Convention on Civil and Political Rights	5 March 1997
ILO Convention (N° 100) on Equal Remuneration for Men and Women Workers for Work of Equal Value	5 May 1961
ILO Convention (N° 111) on Discrimination in Respect of Employment and Occupation, 1958	5 May 1961

<sup>262</sup> Guiding Principles on Internal Displacement.

<sup>263</sup> Initial and Cumulative Report of the Republic of Côte d'Ivoire presented by the Ministry of Human Rights and Public Freedoms, at the 52<sup>nd</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, at Yamoussoukro, in October 2012.

International Convention on the Elimination of all Forms of Racial Discrimination,	4 January 1973
Convention on the Elimination of all Forms of Discrimination against Women	18 December 1995
UNESCO Convention on the Fight against Discrimination in Education, Paris, 14 December 1960	7 October 1998
ILO Convention (N°105) on the Abolition of Forced Labour, 25 June 1957	21 November 1960
ILO Convention (N° 29) on Forced Labour, 28 June 1930	21 November 1960
Convention on Slavery	8 December 1961
Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery, 7 September 1956	10 December 1970
Protocol establishing a Code of Citizenship in the ECOWAS Community	24 July 1987
Convention against Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment	18 December 1995
Convention on the Prevention and Punishment of the Crime of Genocide	20 December 1995
Convention for the Suppression of the Traffic of Persons and Exploitation of the Prostitution of Others	2 November 1999
Convention relating to the Status of Refugees, 28 July 1951	8 December 1961
Protocol relating to the Status of Refugees	16 February 1970
Convention on the Rights of the Child	4 February 1991
ILO Convention (N°182) on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	7 February 2003
African Charter on the Rights and Welfare of the Child	27 February 2004
Convention on the Political Rights of Women, 20 December 1952	18 December 1995
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages	18 December 1995
Convention on the Nationality of Married Women, New York, 29 January 1957	2 November 1999
Optional Protocol to the Convention on the Rights of the Child, the Sale of Children, Child Prostitution and Pornography	19 September 2011
ILO Convention (N° 11) on the Right of Association and Combination of Agricultural Workers, 1921	21 November 1960
ILO Convention (N°19) on Equality of Treatment for National and Foreign Workers as Regards	5 May 1961

Workmen's Compensation for Accidents, 1925	
ILO Convention (N°98) on the Application of the Principles of the Right to Organise and to Bargain Collectively, 1 July 1949	5 May 1961
ILO Convention (N° 87) on Freedom of Association and Protection of the Right to Organise, 9 July 1948	21 November 1961
ILO Convention (N° 95) on Protection of Wages, 1949	21 November 1961
ILO Convention (N° 135) on the Protection and Facilities to be Afforded to Representatives of Workers in the Company, 1971	21 February 1973
ILO Convention (N°81) on Labour Inspection	5 June 1987
ILO Convention (N°159) on Vocational Rehabilitation and Employment (Disabled Persons), 20 juin 1983	8 May 1999
ILO Convention (N°138) on the Minimum Age for Admission to Employment, 26 June 1973	7 February 2003
Geneva Convention on the Protection of Civilian Persons in Time of War	28 December 1961
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea	28 December 1961
Geneva Convention on the Treatment of Prisoners of War	28 December 1961
Geneva Convention for the Amelioration of the Condition of Wounded and Sick Members of the Armed Forces in the Field, 27 July 1929	28 December 1961
Protocol Additional to the Geneva Conventions on the Protection of Victims of International Armed Conflict (Protocol I), 12 August 1949	20 September 1989
Protocol Additional to the Geneva Conventions on the Protection of Victims of International Armed Conflict (Protocol II), 12 August 1949	20 September 1989
African Intellectual Property Organisation	24 May 1960
Convention on the Protection of the World Cultural and Natural Heritage	25 November 1980
Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the 1984 Convention	24 January 1980
UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 1970	26 December 1989
Protocol on the ACHPR, establishing the African Court of Human and Peoples' Rights	6 January 1992
Protocol on the Court of Justice of the Economic Community of West African States	25 July 1996

ECOWAS Revised Treaty	25 July 1996
UNESCO Protocol Instituting a Conciliation and Good Offices Commission Responsible for Seeking the Settlement of any Disputes between States Parties to the Convention against Discrimination in Education, 10 December 1962	8 May 1999
Basel Convention	9 June 1994
International Convention against the Taking of Hostages	22 August 1989
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines	30 June 2000
Convention on the Prevention and Punishment of Crimes against Persons Enjoying International Protection, Including Diplomatic Agents	13 March 2002
Protocol on the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 1925	27 July 1970
OAU Convention on the Specific Aspects of Refugee Problems <u>in Africa</u> , 1969	26 February 1998

Many laws have been promulgated with a view to reinforcing and clarifying the legal provisions relating to human rights. These mainly concern the Family, Women, Children, the Disabled and other protected categories of persons. A draft legal framework enforcing compliance with national legislation protecting the rights of internally displaced persons, and including a Bill defining mechanisms for the compensation of war victims (including IDPs), was prepared some years ago but was neither signed into law nor implemented.<sup>264</sup>

Côte d'Ivoire signed the Kampala Convention on 12 November 2009, and the National Assembly recently adopted a law empowering the President of the Republic to ratify the Convention.<sup>265</sup> The Ivorian Government has since adopted a Decree to that effect.<sup>266</sup> It finally ratified on 20 December, 2013.

Since Côte d'Ivoire is a monistic State, the provisions of the Kampala Convention will automatically be incorporated into the country's body of law.

Under the terms of Article 87 of the Constitution, the ***“Duly ratified Treaties and Agreements have, upon publication, a degree of authority superior to that of a Law, subject, for each Treaty or Agreement, to its application by the other Party”***.

<sup>264</sup> Internal Displacement Monitoring Centre (IDMC) and the Norwegian Refugee Council, *Côte d'Ivoire : Internally Displaced Persons Rebuilding Lives amid a Delicate Peace*, 28 November 2012.

<sup>265</sup> Law No. 2013-540 dated 30 July 2013 authorising the President of the Republic to ratify the Kampala Convention.

<sup>266</sup> Decree No. 2013-541 dated 30 July 2013 ratifying the Kampala Convention.

Consequently, the adoption of the Bill on the Protection of War Victims and Displaced Persons, as originally envisaged by the former Ministry of Solidarity and War Victims, taken in conjunction with recent developments in the ratification process for the Kampala Convention, clearly attest to the will of the Ivorian Government to make the latter the regulatory reference framework for the protection of IDPs in Côte d'Ivoire.

## **2.2 Institutional Mechanisms and Appropriate National Authorities Responsible for the Protection and Assistance of IDPs**

The Ministry of Solidarity and War Victims, which was the former coordinating body for displaced persons, was dissolved within the framework of the Cabinet reshuffle of February 2010.<sup>267</sup>

The Ministry had, however, taken the initiative of drafting a law on compensation and restitution matters, and had furthermore set up an inter-Ministerial Committee on Displaced Persons. Its portfolio was taken over by a National Secretariat for Solidarity and War Victims.

The Ministry of Reconstruction and Reinsertion, which supported the return movements of displaced persons in 2009 was also abolished at the time of the Cabinet reshuffle.<sup>268</sup>

In October 2011, the Ministry of Labour, Social Affairs and Solidarity, which is responsible for coordination with humanitarian organisations, set up the CNCAH - National Humanitarian Aid Coordination Committee - comprised of several Ministries, NGOs and United Nations Agencies.<sup>269</sup>

Humanitarian actors, working within this cooperation framework, formulated a strategy for durable solutions to the voluntary and durable return of internally displaced persons, which was validated by Government in November 2011. A situation evaluation meeting on IDPs was convened in January 2012, during which the Minister of Labour, Social Affairs and Solidarity conveyed the Government's decision to close down the camps for internally displaced persons as soon as possible, without causing inconvenience to the families living in them.<sup>270</sup>

At present, it is the Ministry of Solidarity, Family, Women and Children Affairs, which is responsible for the coordination of humanitarian aid and IDP issues.

### **a. The Ministry of Solidarity, Family, Women and Children Affairs (MSFE)**

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<sup>267</sup> Internal Displacement Monitoring Centre (IDMC), *Côte d'Ivoire : Quest for Durable Solutions Continues as the Electoral Process Moves Forward*, 28 November 2012.

<sup>268</sup> "Fraternité Matin", 20 April 2009, and "Xinhua", 26 August 2009.

<sup>269</sup> Internal Displacement Monitoring Centre (IDMC) and the Norwegian Refugee Council, *Côte d'Ivoire : Internally Displaced Persons Rebuilding Lives amid a Delicate Peace*, 28 November 2012.

<sup>270</sup> "AIP", *Humanitarian Affairs: 17 Ministries analyse the situation of persons displaced by war*, 20 January 2012, <http://news.abidjan.net/h/423626.html>

The Ministry of Solidarity, Family, Women and Children Affairs (MSFE) is responsible for the implementation and monitoring of Government policy on solidarity, and the protection of women, the family and the child.<sup>271</sup>

The MSFE is the parent institution and the official representative of Government in relation to humanitarian partners.

In this regard, and in collaboration with the various Ministerial departments concerned, the MSFE leads the initiative and bears responsibility for the following solidarity-related actions:

- Preservation and reinforcement of social solidarity and cohesion between all components of the Ivorian nation;
- Implementation of actions in favour of communities in distress;
- Implementation, monitoring and coordination of the activities of national and international humanitarian associations and organisations;
- Evaluation of implementation strategies in matters of solidarity;
- Development and intensification of public advocacy and enlightenment in favour of war victims;
- Identification of war victims, and damage assessment;
- Sourcing of funds for the care of and reparation for damage suffered by war victims;
- Proposal and implementation of rehabilitation and social reinsertion measures for war victims.

#### **b. The Solidarity and Social Cohesion Observatory**

Decree No. 2008-62, dated 8 February 2008, created the Solidarity and Social Cohesion Observatory. Its mission is to contribute substantially to the strengthening of links between the components of the Ivorian nation. The Observatory is a surveillance mechanism responsible for the collection, processing and dissemination of information on solidarity and social cohesion indicators.

#### **c. Office for Assistance to Refugees and Stateless Persons (SAARA )**

SAARA is responsible for the implementation of the policy on asylum as defined by the Ivorian Government. Within this framework and under the terms of Article 14, Decree 2006-110, dated 7 June 2006, the responsibilities of the Office are defined as follows:

- **Coordination of the administration of refugees and stateless persons;**
- **Determination of the status of refugee;**
- **Determination of the legal protection and assistance to be granted to the refugees;**
- **Collaboration with the United Nations institutions and other national and international agencies in this domain.**

For the purposes of its mission to provide protection and assistance to refugees, SAARA works in close collaboration with the UNHCR on different operations such as the reception and protection of

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<sup>271</sup> Decree N°. 2013-506 dated 25 July 2013, assigning Portfolios to Members of the Cabinet, Article 22.

refugees and the search for and implementation of durable solutions to their situation. The Office also coordinates the assistance in favour of refugees provided by all partners of Government.

**a. The National Human Rights Commission, Côte d'Ivoire (CNDHCI)**

The attack on the Nahibly IDP camp<sup>272</sup> is a reminder of the need for all agencies such as the CNDHCI to conduct surveys, monitor and carry out urgent advocacy and enlightenment actions in support of the respect of the rights of vulnerable groups such as IDPs. However, the CNDHCI<sup>273</sup> which does not always have all the means necessary for the accomplishment of its missions, is yet to conduct an enquiry into the human rights violations to which the IDPs are subjected.

The CNDHCI is an advisory body, which discharges its functions in the areas of cooperation, consultation, evaluation and proposals for the promotion, protection and defence of human rights. In this capacity, the Commission receives complaints and denunciations in cases involving human rights violations. It then proceeds to conduct non-judicial enquiries into the complaints and denunciations brought before it, and submits a report of its findings and recommended measures thereon to Government for consideration. The Commission is empowered to summon any authority or holder of any power of coercion, over human rights violations falling within its purview, and to propose such measures as are likely to put an end to such violations. It may also inspect prisons and all places of detention, with the authorisation of the Attorney General, who may be present. It is empowered to investigate all matters pertaining to the protection of human rights.<sup>274</sup> The Commission reports regularly to the President of the Republic, the Speaker of the National Assembly, the President of the Constitutional Council, the Ombudsman of the Republic, the Chairperson of the Economic and Social Council, the Prime Minister, the National Assembly, the Minister in Charge of Human Rights, and the entire Cabinet, on its activities, and submits proposals aimed at ensuring implementation by Government, of the Resolutions of the United Nations Agencies and Institutions, the African Union, and such other international organisations as intervene in matters pertaining to human rights. The Commission submits to the authorities enumerated above, an annual report on the status of human rights in Côte d'Ivoire, which it publishes.<sup>275</sup> The Commission, in an advisory capacity, gives opinions to Government, the Parliament and any other State institution, either at their request, or of its own volition, on any issues relating to the protection of human rights. It participates in the drafting of such reports as are prescribed by the international legal instruments to which Côte d'Ivoire is party, and, within the

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<sup>272</sup> On 20 July 2012, elements of the Republican Forces of Côte d'Ivoire (FRCI) with the support of allied forces, particularly the Dozo traditional hunters, attacked and burnt down the Nahibly IDP camp which at the end of the post-electoral crisis, sheltered some 4,500 displaced persons.

<sup>273</sup> The National Human Rights Commission, Côte d'Ivoire (CNDHCI), established by Law N° 2012-1132, dated 13 December 2012, which defines its powers, organisation and functions, and abrogates Decision N° 2005-08/PR dated 15 July 2005, and having force of law, which itself amended Law N° 2004-302 dated 3 May 2004, establishing the CNDHCI. The CNDHCI is, in legal terms, an independent body endowed with a legal personality and financial autonomy. The Commission exercises functions in matters of cooperation, consultation, evaluation and proposal for the promotion, protection and defence of Human Rights.

<sup>274</sup> Initial and Cumulative Report of the Republic of Côte d'Ivoire presented by the Ministry of Human Rights and Public Freedoms, at the 52<sup>nd</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, at Yamoussoukro, in October 2012.

<sup>275</sup> Ibid



framework of its mission, maintain relations with national and international institutions and organisations, which carry out interventions pertaining to human rights, in accordance with policy as defined by Government.<sup>276</sup> The National Human Rights Commission, Côte d'Ivoire, may be seized by any legal entity or person resident in Côte d'Ivoire and having an interest to act in a case of human rights violation. It may also, on its own initiative, take up any case of human rights violation committed in Côte d'Ivoire.<sup>277</sup>

#### **b. Dialogue, Truth and Reconciliation Commission (CDVR)**

The CDVR was established by Order N° 2011-167, dated 13 July 2011. Its role is to draw Ivorians together for purposes of reconciliation in the sole interest of creating a single unified nation, and to propose surveillance and prevention tools, which will establish the enabling conditions for a permanent peace, and keep Côte d'Ivoire safe from any further upheavals.

The CDVR response to this challenge will involve four major courses of action as follows:

- Conduct of an accurate assessment of the factors which have undermined Ivorian society over the years (questionable conduct on the part of Government, political parties, ethnic associations or groups etc.);
- Uncovering of truths which will help improve practices with regard to the respect of human rights;
- Striving to promote genuine national understanding and reconciliation;
- Birthing, by the example of its own actions, of a democratic society, free of violence and impunity.

However, the CDVR makes no secret of the fact that it has always lacked the funds, which would enable it to fulfil its mandate. In the mind of the public, there are serious concerns about the impartiality and effectiveness of the Commission. In October 2011, many displaced persons complained that they had either never heard of the Commission or had no idea how to gain access to it.<sup>278</sup>

The Activity Report of the CDVR, covering a period of two years, was submitted in person to the Head of State, Alassane Ouattara, on Thursday 21 November 2013, by its Chairperson, Charles Konan Banny. The recommendations contained in the report included effective enforcement of rural land law, gender mainstreaming across the political landscape of the country, reduction of imbalances in regional development, creation of a well-equipped modern Republican army, good governance, zero tolerance for impunity, strengthening of democratic practices and impartiality in the application of the Law.

#### **c. National Social Cohesion Programme (PNCS)**

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<sup>276</sup> Ibid

<sup>277</sup> Ibid

<sup>278</sup> CARE, DRC, OXFAM, *Towards Durable Solutions for Displaced Ivorians*, Joint Briefing Paper, 11 October 2011. [http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report\\_273.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_273.pdf)

The PNCS was established on 15 February 2012 with the principal objectives of capacity building of actors and institutions involved in the social cohesion and national reconciliation processes, contribution to the conflict reduction effort and support for the execution of activities of common interest, designed to create an enabling environment for social peace and reconciliation. The PNCS is designed to back the mandate of the CDVR, by ensuring the restoration of a durable peace to the country.

In its day-to-day activities the PNCS helps persons who have lost their all, to regain their self-esteem by providing them with income-generating occupations, further training opportunities or first employment in the case of the youths. In matters concerning the internally displaced, the PNCS adopts a hands-on approach, and is involved in the execution of humanitarian assistance projects. It carries out visitations to disaster-stricken families, providing them with cash assistance and gifts of food and non-food items. There is also an on-going plan to set up a family matching committee for children abandoned as a result of the crisis.<sup>279</sup> The Ministries of National Planning, Development, Solidarity, Family, Women and Children Affairs recently set up an 18-member PNCS Steering Committee drawn from a number of Ministerial departments, and charged with responsibility for the planning, programming and monitoring/evaluation of development and poverty alleviation actions. In realising its vision of ensuring a coherent implementation of the economic, social and cultural policies of Government, the Committee will build in Government the full capacity for effective planning with a view to creating enabling conditions for sustainable development.<sup>280</sup>

#### **d. The National Civil Protection Office (ONPC)**

During the 2012 humanitarian transition phase, and within the framework of sectoral transfer and coordination, the responsibilities of the Office for the Coordination of Humanitarian Affairs (OCHA) were transferred to the ONPC.

#### **e. The Authority for Disarmament, Demobilisation and Reintegration**

The Authority for the disarmament, demobilisation, reinsertion and socio-economic reintegration of ex-combatants (ADDR), is placed under the supervision of the National Security Council (CNS), which is presided over by the President of the Republic.<sup>281</sup>

The mission of the ADDR is to contribute to the restoration of security, peace consolidation, reconciliation and development in Côte d'Ivoire.

The ADDR is the sole national body charged with the overall orientation, coordination, supervision and execution of actions in support of the disarmament, demobilisation, reinsertion, and socio-

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<sup>279</sup>Mariatou Koné in 'Jeune Afrique': "L'Ivoirien doit penser Côte d'Ivoire avant tout " (The Ivorian Must Think Côte d'Ivoire Above All Else), available on <http://www.jeuneafrique.com/Article/ARTJAWEB20130614140747/>

<sup>280</sup> For more information on this subject, see <http://news.abidjan.net/h/473074.html>

<sup>281</sup> The ADDR was established by Decree N° 2012-786, dated 8 August 2012.

economic reintegration of ex-combatants, and of community rehabilitation within the reception areas set aside for ex-combatants.

The specific objectives of the ADDR are :

- To reduce the risk of armed violence and ensure security through the disarmament, demobilisation and reintegration of ex-combatants;
- To promote social cohesion and peace through the integrated and global sensitisation of ex-combatants and of the host communities in favour of a peaceful social existence;
- To strengthen poverty reduction efforts by the development of viable economic integration schemes and induced community reintegration;
- To consolidate the stability of the State and the sub-region through the creation of synergetic interaction in the control of transborder movements of armed persons.

## **2.3 National Strategic Frameworks and Government Response Mechanisms**

### **a. The Expanded Coordination Committee (CCE)**

The Expanded Coordination Committee (CCE) was created against the backdrop of transition in the humanitarian coordination mechanisms. As humanitarian actors began to gradually withdraw, it became necessary for Government to play an increasingly prominent and decisive coordinating role in humanitarian affairs. It is against this background that the CCE came into existence.

The CCE is the inter-sectoral coordinating group for the establishment of strategic guidelines for humanitarian interventions in Côte d'Ivoire. Its aim is to reflect the will of the humanitarian actors and render strategic consultations feasible between Government and the other key partners. The Committee is an expanded and standing coordination mechanism which is designed to transform the existing institutional framework, without undermining its decision-making capabilities. The CCE functions under the supervision of the Ministry of Solidarity, Women, Family and Children Affairs, which is responsible for its administration. The Resident Coordinator of the United Nations System is Co-chairperson of the Committee.

The CCE approach to its functions is participatory and inclusive, calling, to varying degrees, on the services of the Ministries concerned, on Government programmes, and on national and international NGOs involved in humanitarian affairs.

The objectives of the CCE are the following:

1. To reach consensus on common strategic issues relating to humanitarian action in support of the Government of Côte d'Ivoire, including action in the following areas:
  - Advocacy and resource mobilisation in favour of humanitarian action in Côte d'Ivoire ;
  - Continued coordination of humanitarian activities targeting residual needs;
  - Support for preparatory/preventive measures against natural disasters, conflicts and/or other risks.
2. To guarantee/ensure complementarity between humanitarian actions and Government strategic plans and response mechanisms (PPU – *Presidential Emergency Programme*; PCAP - *Post-conflict Assistance Project*; PND – *National Social Cohesion Programme*).

3. To ensure consensus on common policies relating to humanitarian action, with a particular emphasis on the need for compliance by the humanitarian organisations with international principles (principles of partnership, IASC guidelines ...) and with CCE policies and strategies.
4. To facilitate the publication and dissemination of a quarterly humanitarian newsletter "Humanitarian Guidelines".

Membership of the CCE comprises representatives of the United Nations humanitarian Offices or Agencies (OCHA, WFP, FAO, UNICEF, UNFPA, WHO ; UNHCR); UNOCI; IOM; the Coordinators of the PCAP/PPU Government programmes; Directors from the Ministries concerned (Education, Health, Agriculture, Solidarity, National Nutrition Programme, Construction-Sanitation, Economic Infrastructures, the Interior, Justice and Human Rights); three representatives of international NGOs; one representative of national NGOs; representatives of the Red Cross and Red Crescent (ICRC/IFRC/RC-CI) as observers, and representatives of donor organisations (ECHO, USAID).

The CCE meets once every eight weeks. However, emergency meetings may be convened as necessary. The CCE replaces the National Committee for the Coordination of Humanitarian Action (CNCAH) as well as the different clusters which were deactivated in 2012.

#### **b. The National Development Programme (PND)**

The 2012 – 2015 National Development Programme provides a reference framework for all major citizen-centred Government interventions. It is headed by the Ministry of Planning and Development, and must reflect the will of Government to revive strategic planning in development, taking into account the entire body of reference documents on economic, social and financial development currently in existence.

The PND is built along the five strategic guidelines, which lay the foundation for the development of emerging economies. These are to ensure: 1) That the citizens live together in harmony within a safe society in which good governance is assured; 2) That the country's wealth creation capacity is increased, sustained, and the proceeds from this growth equitably distributed; 3) That the citizens, particularly the women, youth and children, as well as other vulnerable groups, enjoy fair access to quality social services; 4) That the citizens live in a healthy environment, and enjoy adequate living conditions; 5) That the repositioning of Côte d'Ivoire on the regional and international scenes is rendered effective. The implementation budget for the entire duration of the programme is in the amount of 11,076 billion FCFA (22.1 billion USD). Average annual programme implementation cost is estimated at 2,769 billion FCFA (5.5 billion USD). Funding for the PND is expected to derive from both the public and private sectors.<sup>282</sup>

#### **c. The Presidential Emergency Programme (PPU)**

The Government of Côte d'Ivoire has adopted a Presidential Emergency Programme (PPU) in response to the immediate needs of the population following the post-electoral crisis, which is also designed to pursue the effort to achieve sustainable development.

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<sup>282</sup> Côte d'Ivoire 2013 : *Humanitarian Needs in Transition, A Comprehensive Analysis of Humanitarian Actors in Côte d'Ivoire*.

The PPU is supervised by the Office of the President, and is aimed at ensuring timely restoration of certain target public services, and providing an immediate response to the basic needs of the vulnerable sections of the population country-wide, in order to fast-track the return to normalcy. The PPU budget for 2012 was 60 billion FCFA (118 million USD). Priority intervention sectors are: 1) water supply and sanitation; 2) health, 3) education, 4) electricity and 5) regional administration, through the rehabilitation and capacity building of the prefectoral system of local government (particularly in the West).<sup>283</sup>

#### **d. The Post-Conflict Assistance Project (PCAP)**

The Post-Conflict Assistance Project, which is supervised by the Cabinet of the Prime Minister, is a component of a comprehensive national economic reintegration and community rehabilitation programme.

Although its base is in Abidjan, the PCAP maintains regional field offices to monitor the conduct of its activities. The objective of the project is to improve economic reinsertion opportunities and access to social services by conflict affected communities and individuals, as a means of contributing to a rapid recovery from the crisis situation and improving prospects for a durable peace. The focus of the project is on economic reintegration and community rehabilitation in the interests of those persons affected by the post-electoral conflict situation.<sup>284</sup> It comprises four components, namely: 1) economic reinsertion, primarily targeting ex-combatants and individuals associated with armed groups; 2) support for the registration exercise, which includes modernisation of the national documentation system; 3) community rehabilitation; and 4) strengthening and upgrade of institutions and the Civil Service. In 2012, the PCAP underwent a strategic reorientation in response to the new demands imposed by the post-electoral crisis, particularly in the West. A pilot phase was launched in September 2012, covering the 5 villages of Diahouin, Niambly, Toa-Zeo, Carrefour and Delobly. This pilot phase, dubbed “*Emergency IDP Reintegration Project*” (PUR-PDI) provides assistance in many forms, including social cohesion and income-generating activities (IGAs), management of land disputes and rehabilitation of infrastructures. These activities are carried out in collaboration with partner humanitarian NGOs.<sup>285</sup>

## **2.4. Coordination and/or Collaboration or Cooperation with International Actors**

### **2.4.1 Humanitarian Coordination from 2010 to 2012**

After years of according priority attention to development activities, the sectoral responsibility approach was finally reactivated in January 2011, with the launching of an emergency humanitarian action plan (EHAP) for Côte d’Ivoire. Towards the end of 2010, sectoral humanitarian coordination structures were gradually reactivated with the adoption, by the Humanitarian Coordinator, of the cluster approach and the facilitation of inter-cluster coordination by OCHA (ICC and HRT). Having introduced the approach, the humanitarian partners assigned a Cluster Lead to each sector from among their number, brought together the partners involved (including

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<sup>283</sup> Ibid.

<sup>284</sup> Ibid

<sup>285</sup> Ibid

Government), and carried out the coordinated planning of each sectoral response within the framework of a wider programme such as the 2011 Emergency Action Plan or the 2012 CAP.<sup>286</sup>

**Table 1 : Clusters and Cluster Leads in Côte d'Ivoire (2010-2012)**

Shelter/ NFI	WASH	Nutrition	Health	Food Security	Protection	CCCM	Education	Logistics	Early Recovery
UNHCR	UNICEF	UNICEF	WHO	WFP/FAO	UNHCR	UNHCR	UNICEF	WFP	UNDP

The Protection Cluster contains the Gender-based Violence sub-Cluster (GBV) and Child Protection sub Cluster.

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<sup>286</sup> Ibid

Figure 1: Sectoral Coordination in 2012 (At National Level)

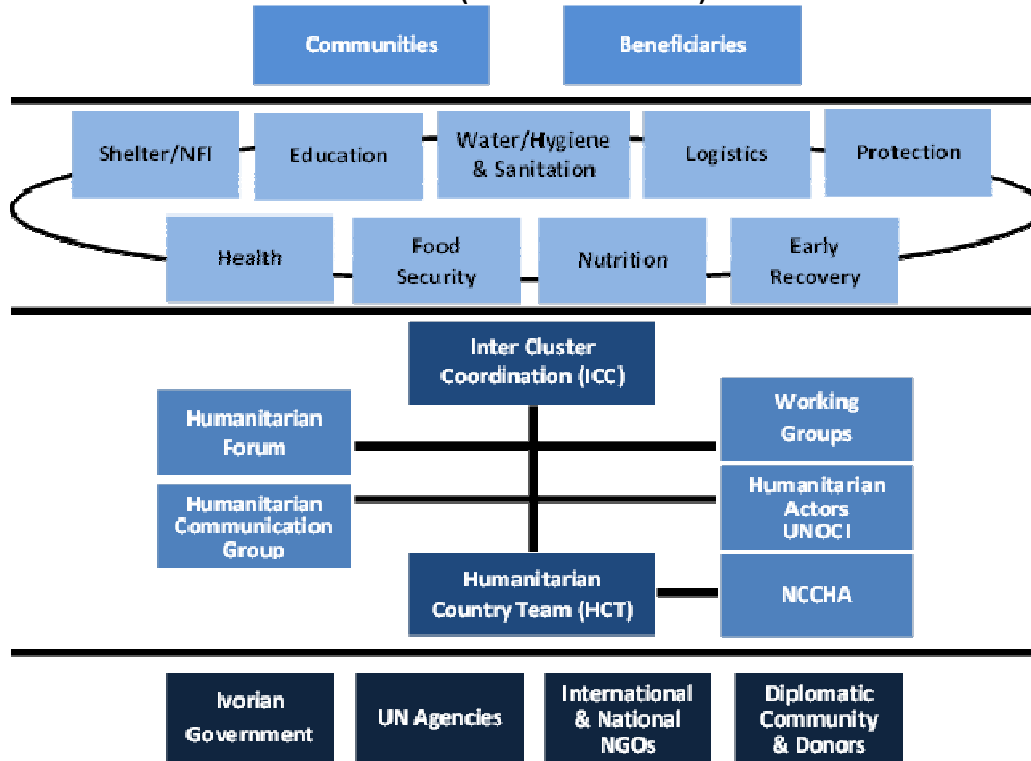
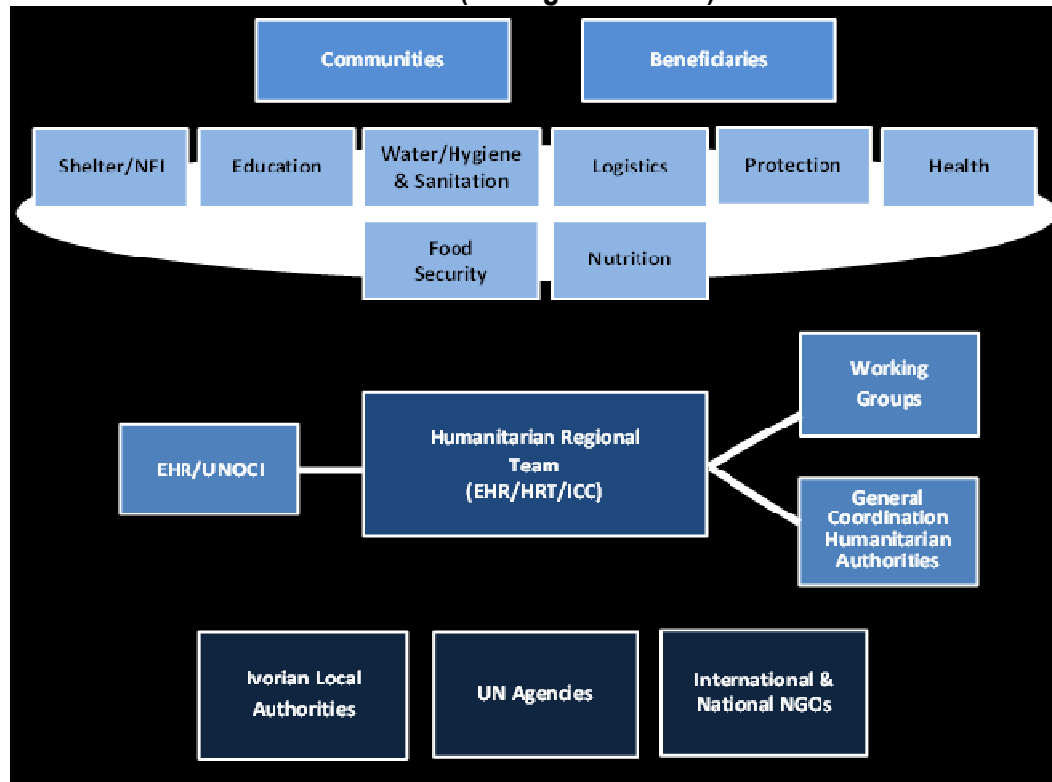


Figure 2: Sectoral Coordination in 2012 (At Regional Level)



Within the transition framework, and against the backdrop of the gradual withdrawal of humanitarian partners, some of the cluster leaders began transferring the function of sectoral coordination to the appropriate government agencies, in anticipation of the deactivation of the clusters. This transfer of functions also involved the skills transfer needed to ensure the continued functioning of the system of sectoral coordinating meetings or working groups.

Five clusters (CCCM, ETC, Shelter/NFI, Protection and Nutrition) were deactivated on 31 December 2012, and responsibility for their coordination transferred to the appropriate Ministries or national programmes. The Food Security, WASH, Education and Health clusters remained under the coordination of their respective leaders until the first few months of 2013. Transfer of responsibilities in these sectors took place mainly at the centre, Abidjan, where Government had the capacity to carry out the monitoring of responsibilities.<sup>287</sup> At the regional level, the capacity of partner Ministries were still too limited or even non-existent, and the local government authorities and technical services had to be called upon to stand in during the transition in order to ensure the continuity of existing coordinating procedures. Préfets and Sous-préfets (local government Heads and Deputies) began to play an increasingly important mobilising role, in addition to acting as co-Chairpersons of humanitarian coordination meetings (in Guiglo, Toulepleu, Duekoué and Taï). Cluster leads will continue to play an important role in sectoral coordination when the cluster approach is deactivated.<sup>288</sup>

## 2.4.2 The Transition Phase

With the end of the post-electoral crisis Côte d'Ivoire gradually entered into a period of socio-political stability. Positive developments on the political scene during the period from 2011 to 2012, the redeployment of local government authorities in the West and the drop in the number of violent incidents encouraged hundreds of thousands of refugees and IDPs who had fled their homes as a result of the violence, to return. Furthermore, economic growth figures rose from -2% in 2011 to 8% in 2012, marking significant progress, albeit with little impact on employment levels.<sup>289</sup>

In November 2011, the humanitarian actors developed a “voluntary and durable return strategy” which was validated by the Ivorian Government. The strategy generated a momentum which resulted in a flow of returnees from 35 displacement sites, and lasted until March 2012. Working in close collaboration with the different Ministries, the humanitarian community was able to facilitate the return of displaced persons from 19 sites in the Abidjan region. In the West, only one site, accommodating more than 4,500 remains open. During the first half of the year, the different humanitarian actors welcomed this willingness on the part of the displaced persons to return to their homes as a major success.<sup>290</sup>

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<sup>287</sup> Ibid

<sup>288</sup> Ibid

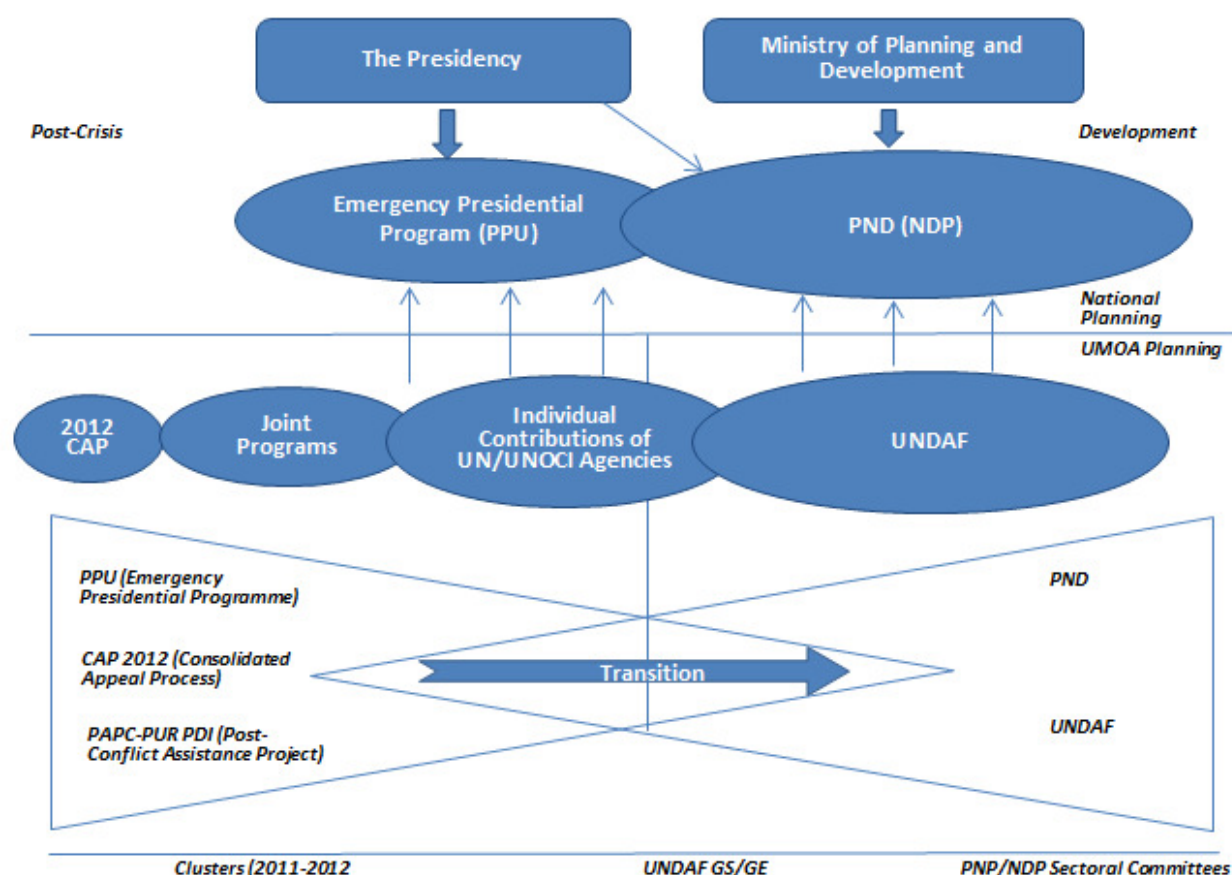
<sup>289</sup> Ibid

<sup>290</sup> Côte d'Ivoire, 2012 Consolidated Appeal, Mid-Year Review, available at [http://reliefweb.int/sites/reliefweb.int/files/resources/MYR\\_2012\\_CdI\\_FR%20%281%29.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/MYR_2012_CdI_FR%20%281%29.pdf) [Last updated 18 December 2013 ]



Humanitarian actors are presently endeavouring, through concerted action, to have humanitarian priorities integrated/inserted into the PND implementation process. In order to ensure that it is in step with these humanitarian priorities, the UNS has updated the United Nations Development Assistance Framework (UNDAF) for the period from 2012 to 2015, in alignment with the PND. The process, which was launched in 2012 was concretised in 2013 by the transition from humanitarian support (CAP 2012) and peace-keeping, to consolidation and development interventions. This transition also involves skills transfer for coordination of the different humanitarian clusters created in the aftermath of the crisis to the appropriate national authorities, and transfer of the responsibilities of the Office for the Coordination of Humanitarian Affairs (OCHA) to the National Office for Civil Protection (ONPC).

**Figure 2: Illustration of the Humanitarian Transition in Côte d'Ivoire**



Source: Côte d'Ivoire 2013, Humanitarian Needs in Transition

One of the key decisions of this transition phase was taken by the humanitarian country team (HCT) in August 2012, under the chairmanship of the Humanitarian Coordinator, to the effect that no Consolidated Appeal Process (CAP) and no Common Humanitarian Action Plan (CHAP) should be engaged for Côte d'Ivoire in 2013. This decision was the outcome of in-depth discussions between the different partner Cluster Leads following the mid-year CAP 2012 review. Due account having been taken of (i) the relative improvement in the humanitarian situation triggered by the

post-electoral crisis, as a result of the number of returnees and the level of assistance delivered by the humanitarian partners, (ii) the transitional nature of the humanitarian activities scheduled for 2013, and (iii) the absence of a needs analysis according to intervention sector, the humanitarian community in Côte d'Ivoire decided not to resort to an appeal for emergency funds.

However, the strategic frameworks already in existence or in the pipeline were analysed from a humanitarian standpoint, and the findings used to support and guide the different interveners in their response to needs for early post-crisis or structural recovery.<sup>291</sup>

#### **a. The United Nations Development Assistance Framework (UNDAF)**

The United Nations Development Assistance Framework (2009-2013) was originally designed as a support to the process for the preparation of a poverty reduction strategy paper covering the period from 2009 to 2013. This period was a turning point for Côte d'Ivoire, poised between recovery and resumption of sustainable development, and the UNDAF is in the process of being updated for the period from 2012 to 2015 in order to bring it into line with the priorities identified in the PND, which has been approved as the sole reference document for use at national level. The Action Plan which involves the major development partners in the UN System, identifies six strategic intervention priorities with a view to providing a collective and measurable response to the situation:

- Consolidation of peace, the security of lives and property, and good governance;
- Reorganisation of the macroeconomic framework;
- Job and wealth creation by providing support to the rural sector and promoting the private sector as the engine for growth;
- Improved access to quality basic social services, environmental conservation, mainstreaming of gender equality, and social security;
- Decentralisation as the means for securing participation of the people in the development process, reducing regional disparity and achieving successful urban and rural planning;
- The international context and sub-regional integration.

#### **b. Coordinated United Nations System Programme (UNS) : Support for Community Reintegration in the West**

The coordinated programme was launched during the period from 2012 to 2015 in the Western region of Côte d'Ivoire, which is the area, which has been most seriously affected by the electoral crisis. Despite the best efforts of the international community, the situation in this area has still not returned to normal. The programme was set up with a view to contributing to the mitigation of the difficulties encountered by the vulnerable IDPS returnees and the host communities by supporting Government efforts in this region (PPU/PCAP).

The United Nations response is articulated around the following three components: 1) Restoration of security and the rule of law; 2) Strengthening social cohesion and national reconciliation; and 3) Socio-economic recovery. The coordinated programme is the joint initiative of UNDP, UNICEF,

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<sup>291</sup> Ibid

WFP, UNIDO, UNAIDS, FAO, WHO, UNHCR, OHCHR, UN WOMEN, UNOCI and their different implementation partners.<sup>292</sup>

## **CHAPTER 3: INDICATOR ANALYSIS**

### **3.1 Table of Indicators**

#### **Indicator 1: Prevention of Displacement and Minimisation of its Effects**

Article 3 of the Kampala Convention provides: “State Parties undertake **(a) to** refrain from, prohibit and prevent arbitrary displacement of populations; (b) Prevent political, social, cultural exclusion and marginalisation that are likely to cause displacement of populations or persons by virtue of their social identity, religion or political opinion”. Article 4 (2) further provides, “State Parties shall devise early warning systems in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies emergency and disaster preparedness and management measures, and where necessary, provide immediate protection and assistance to displaced persons”.

One of the principal ways by which States can discharge their responsibility in situations of internal displacement is by putting in place the measures that will prevent it. It is best to focus on measures will prevent unnecessary displacement, and, when the displacement becomes inevitable, on measures which will limit its harmful effects. As described in Guiding Principle 5<sup>293</sup>, the most important factor to be taken into account when seeking to avoid displacement is a total respect of international laws, particularly human rights and humanitarian laws which transcend national laws and policies and have implications for all the arms of Government.<sup>294</sup>

It is essential for the Ivorian Government that it should ensure protection against forced displacement by addressing the systemic problems and fundamental causes of previous crises. Improvement of security conditions and deployment of efforts in favour of national reconciliation in the country remain essential conditions for future prevention of forced displacements.

However, during the ten years of conflict and political upheaval, Government made little attempt to ensure the protection of the population against forced displacement triggered by political violence, ethnic tensions or other causes. On the contrary, the concept of national identity was turned into an instrument, thereby creating exclusion and deepening political divisions, as well as fuelling inter-

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<sup>292</sup> Ibid.

<sup>293</sup> All concerned authorities and members of the international community must respect the obligations incumbent upon them in accordance with international law, particularly human rights and humanitarian law, and ensure their respect in all circumstances in such a manner as to prevent and avoid situations which are likely to engender the displacement of persons.

<sup>294</sup> Protection of Internally Displaced Persons : Manual for Law and Policy Makers, p.23

community confrontations. Other related or root causes of violence and displacement, particularly the issue of land disputes, have not been effectively addressed.<sup>295</sup>

A positive development has, however emerged, with the creation of an Authority for Disarmament, Demobilisation and Reintegration which indirectly addresses the IDP problem. The ADDR could therefore be perceived, with some justification, as a conflict prevention mechanism, and indirectly, the prevention of mass displacement.

The Minister of the Environment, Urban Sanitation and Sustainable Development, in partnership with the UNDP and UEMOA, officially launched the national Disaster Risk Reduction and Management Platform (National DRR Platform) on Wednesday 24 April 2013.<sup>296</sup> Presidential Decree established the platform in October 2012.<sup>297</sup>

The platform identifies five priority areas of action, including the classification of disaster risk reduction as a priority area; risk identification and acting on this identification; creation of an understanding and awareness of risk; risk reduction; preparation and preparedness.

The national DRR platform is comprised of an Inter-Ministerial Committee, an Inter-sectoral Technical Committee and an Executive Secretariat. It is regrettable that the Ministry of Solidarity, Women, Family and Children Affairs is not included on this Committee.

The Ivorian Government also needs to pursue efforts at the national level, aimed at addressing the root and systemic causes of the major problems, such as security, land disputes, national identity papers and mass expulsions that will continue to fuel the threat of future forced displacements.<sup>298</sup>

ACTORS	RESPONSES
Government	<p>A Dialogue, Truth and Reconciliation Commission (DTRC) was created by Government on 29 September 2011, with a view to bringing about reconciliation between communities. The Commission was composed of religious and community leaders as well as influential members of the civil society. Its objective is to bring people together through dialogue and the truth.</p> <p>Government also created the PNCS in February 2012, to back the mandate of the DTRC. The role of the PNCE is to ensure restoration of a durable peace. The commitment and determination of the new Government to the achievement of national reconciliation and social cohesion is a positive factor in favour of the restoration of a durable</p>

<sup>295</sup> CHR/23/44/Add.1, Report of the Special Rapporteur on Human Rights of Internally Displaced Persons, Chaloka Beyani : Mission in Côte d'Ivoire (22-31 July 2012), P. 10.

<sup>296</sup> Article from "L'Intelligent d'Abidjan", published on 25 April 2013 on <http://news.abidjan.net/h/457903.html>

<sup>297</sup> Decree N° 2012-988 dated 10 October 2012, Establishing, and Defining the Attributes, Organisation and Functions of the National Disaster Risk Reduction and Management Platform.

<sup>298</sup> Ibid.

	peace.
International Humanitarian Actors	
The Civil Society	Peace committees set up by national and international NGOs were already in existence prior to the post-electoral crisis. The NGOs organised community reconciliation initiatives, through the watchdog, enlightenment and reconciliation committees which were set up on the return of the administrative authorities. The committees were organised by the administrative authorities, national and international NGOs, and community and religious leaders. Dialogue, enlightenment and intra and inter community encounters are used as a method of approach during the reconciliation initiatives. These conflict prevention and management structures were the mediums through which dialogue was engaged between the different communities.

## Indicator 2 : Public Enlightenment on the Problem at the National Level

Article 3(2) (c) of the Kampala Convention provides that State Parties “shall adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels, taking into account the needs of host communities”

Creating awareness in the minds of all stakeholders with regard to the existence and nature of the internal displacement problem and the measures needed in order to provide an adequate response, is a precondition for the implementation of laws and policies on internal displacement. Enlightenment or awareness campaigns can help to promote national solidarity toward displaced persons and neutralise prejudices against displacement. National awareness is all the more important within the context of national laws and policies which more often than not need to address the vulnerabilities peculiar to displaced persons through the bias of special measures which are not always available for other citizens. These include targeted humanitarian assistance or even simplification of the requirements for filling out forms for identity papers. It is therefore crucial for the public, and particularly communities hosting large numbers of displaced persons, to understand that these measures are neither politically motivated nor arbitrary, but a matter of necessity, in order to place these disadvantaged fellow citizens in a position of legal and material equality.<sup>299</sup>

<sup>299</sup> Protection of Internally Displaced Persons : *Manual for Law and Policy Makers*, p.24.

The Ivorian Government recognises the existence of internal displacement, and acknowledges its responsibility in facing up to the challenges confronting the IDPs. This is no doubt the reason why the CNCAH has been replaced by the CCE.

Nonetheless, international NGOs and humanitarian actors generally initiate the enlightenment actions/campaigns on this issue. For example, it was the International Rescue Committee (IRC), which enlightened IDPs as to the possibility of a voluntary return to their places of origin, within the framework of the cohesion and social component of its “Governance and Rights” programme. In this regard, the IRC and OCHA organised enlightenment sessions on voluntary return for the IDPs on April 11 and 13, 2012.<sup>300</sup>

In general political terms, it should be noted that neither the Linas Marcoussis Agreements nor those of Accra or Lomé, much less the Ouagadougou Political Agreement, make specific reference to the problems of IDPs. The various peace agreements drawn up over the years in order to put an end to the conflict, and the attempts to transition speedily from humanitarian to development actions, (for example, at the beginning of 2010), without paying sufficient attention to reconciliation and durable solutions, have all been unsuccessful.<sup>301</sup>

It should also be noted at this point, that the Ministry of Internal Affairs, working in collaboration with agencies such as SAARA, took measures to facilitate access to official documents. Thus, national identity and birth certificates were sometimes issued at fairgrounds, while the decision of the authorities to extend the deadline for registration of births from one to three months is very opportune. Similarly, the validity of identification papers was extended from 3 months to one year.

### **Indicator 3 : Collection of Statistics on the Number and Status of IDPs**

Under the provisions of Article 5 (5) of the Kampala Convention, “State Parties shall assess or facilitate the assessment of the needs and vulnerabilities of displaced persons and host communities, in cooperation with international organisations and agencies”.

It is essential to dispose of accurate information on the number of the displaced persons, the form of their displacement and the conditions under which they are living, in order to ensure that the laws and policies being implemented in their regard are properly adapted to their needs. Implementation of laws and policies, which are not based on accurate information, incurs the risk that the already stretched resources allocated to the protection and assistance of displaced persons will not fit their needs, or that the risks to which this specific sub-group of persons is exposed will be discountenanced.<sup>302</sup> The collection of relevant data, which includes information on the composition of the displaced communities, their place of settlement and their specific needs and vulnerabilities must begin as soon as their displacement begins, and continue (as

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<sup>300</sup> OCHA, *Humanitarian Bulletin, Côte d'Ivoire*, Edition N° 13, dated 16 April 2012.

<sup>301</sup> HRC/23/44/Add.1, Report of the Special Rapporteur on Human Rights of Displaced Persons, Chaloka Beyani : Mission in Côte d'Ivoire (22-31 July 2012), P. 10.

<sup>302</sup> Protection of Internally Displaced Persons : *Manuall for Lawlakers and Political Leaders*, p.25.

systematically as possible) until genuinely durable solutions are found.<sup>303</sup> Regular updates on the information gathered will not only make provision for the correction of any flaws, but also take into account any changes within the IDP population (such as new or on-going flows in their movements, and figures on births and deaths etc.).<sup>304</sup>

In the absence of monitoring mechanisms covering the entire country it is difficult to reach any useful estimate of the numbers of persons still living in displacement. There is also no information as to the extent to which displaced persons have been able to integrate locally within their displacement zones, or to which they have been able to resettle elsewhere in the country.

In 2003, the Ministry in charge of war victims at the time undertook a massive census of war victims, including displaced persons, across the entire country. However, this exercise got no further than the pilot phase.

To date there are no accurate statistics on the number of IDPs in Côte d'Ivoire, or on the number still living in host families; nor are there any detailed figures on the flow of returnees. However, humanitarian agencies keep some figures for their own operational requirements.

It is difficult to obtain accurate statistics on the real number of displaced persons in the country, because of the displacement habits they display (virtually all internally displaced persons are sheltered by friends or family), hence the extreme difficulty in obtaining information in certain areas and the absence of comprehensive monitoring mechanisms for durable solutions.

In the absence of a global monitoring procedure, it is impossible to assess the number of IDPs who have found a durable solution to their situation, whether they are persons displaced during the post-electoral crisis or during the previous conflict.

Most of the data collected by the humanitarian agencies classify IDPs according to whether they are currently living in host families or in sites/camps. The update of data on IDPs is contingent on the publication dates of situation reports compiled by the international humanitarian actors.

At the height of the crisis, close to one million persons were internally displaced in Côte d'Ivoire as a result of violence and insecurity, and more than 700,000 of that number were displaced to Abidjan, while 150,000 were displaced to the West of the country.<sup>305</sup>

The 35 camps located across the country sheltered up to 70,000 IDPs. In September 2011, five months after the end of the conflict, there were still an estimated 247,000 IDPs in Côte d'Ivoire, while in March 2011, the estimate rose to between 700,000 and one million.

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<sup>303</sup> For more details, see IDMC/OCHA, "Guide on Profiling Displaced Persons" (April 2008) (<http://www.unhcr.org/refworld/docid/49882f982.html>).

<sup>304</sup> Protection of Internally Displaced Persons : *Manual for Law and Policy Makers*, p.25.

<sup>305</sup> Internal Displacement Monitoring Centre (IDMC) and the Norwegian Refugee Council, *Côte d'Ivoire : Internally Displaced Persons Rebuilding Lives amid a Delicate Peace*, 28 November 2012.

Profiling of by the Ivorian Government of persons who fled the protected forests of Niégré and Mount Péko reveals that, of the 27,045 subjects, 11,454 wished to return to Burkina Faso, 8,054 others had somewhere to go if they needed to flee, while the remaining 7,546 had nowhere to go. About 90% of the persons living in the forests had no identification papers.

Since the expulsions from the protected forests in June 2013, many of the displaced persons are believed to have left their host communities and headed for new spaces/areas where they are not known, as a result of the inability to monitor relocation flows. Some of these persons are believed to have relocated to other protected forests such as Goin Dédé, and will probably be expelled in the same way within the next few months.<sup>306</sup>

The authorities in charge (SODEFOR; the Ministry of Water Resources and Forestry) have put no mechanism in place for the surveillance or monitoring of the movements of these displaced persons.

#### **Indicator 4 : Support for Education on the Rights of IDPs**

Under the provisions of Article 3(1) (d) of the Kampala Convention, “States Parties undertake to respect and ensure the respect and protection of the human rights of displaced persons, including humane treatment, non-discrimination, equality and equal protection by the law”.

Training programmes should be developed and proposed for the participation of officials at all levels of Government, to educate them on the problem of internal displacement, as a key element of the Government response, in which all its officials should be involved..<sup>307</sup> The State Parties to the Kampala Convention undertook, as a means of ensuring effective implementation of the above provision, to initiate training programmes on the rights of internally displaced persons.

**Educators** : Education on the rights of IDPs is usually dispensed by local NGOs and international organisations.

**The Content** of the training programme generally focuses on the theme of protection, instruments of protection such as guiding principles or conflict prevention mechanisms, and causes of displacements.

**Target Audience**: The training programmes are usually targeted at Government officials, Members of Parliament, Judges and civil administrators – Heads and Deputy Heads of Local Government (Préfets and Sous-Préfets). They are also targeted at law enforcement agents such as the police, gendarmes or the military.

#### **Indicator 5 : Providing a Legal Framework for the Defence of the Rights of IDPs**

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<sup>306</sup> IPS, 9 July 2013.

<sup>307</sup> Protection of Internally Displaced Persons : Manual for Law and Policy Makers, p.26.



Article 3 (2) (a) of the Kampala Convention provides that State Parties shall : **“Incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of or assistance to displaced persons, in conformity with their obligations under international law”**.

A useful starting point when addressing the problem of internal displacement within the framework of the law or of policy is to establish whether the latter really need to be amended. Experience shows that an effective response to a displacement situation usually calls for legislative action. The reasons for this are that, in general, (1) existing laws create involuntary obstacles to the capacity of IDPs to claim their rights, or (2) they do not, of themselves constitute a sufficient basis for a response to the needs of the IDPs.<sup>308</sup>

National legislation does not, in general, correspond to the specific needs created by internal displacement situations, and provides only ill-defined support to the displaced persons seeking to establish their rights. Indeed the Constitution of 1<sup>st</sup> August 2000 contains a vague list of the provisions and fundamental principles applicable to all citizens without distinction.

However, the recent ratification of the Kampala Convention by the Ivorian Government is significant. It is to be hoped that the instruments of ratification will be deposited with the supervisory authority for the Treaty, the African Union (AU), in a timely manner. The Kampala Convention will then be the reference regulatory framework for the protection of the rights of IDPs in Côte d'Ivoire. This is, without a doubt, a positive development in terms of providing a legal framework for the promotion and protection of IDP rights.

There is no recourse mechanism in existence to address violations of the rights of IDPs. There is virtually no legal assistance available for IDPs. The sequel to the Nahibly camp attack clearly illustrates the ineffectiveness of the government response to violations of the human rights of IDPs.

#### **Indicator 6 : Developing a National Policy on Internal Displacements**

Article 3 (2) (c) of the Kampala Convention provides : “The State Parties shall adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels, taking into account the needs of host communities”

Policies, strategies or action plans at the national level are subject to fewer official approval procedures and can therefore be adopted more rapidly than laws. They are thus more suitable than official legislation in this instance, and may be used as the basis for the formulation or application of newly promulgated legislation. National policies, strategies and action plans should be used to provide clear guidelines for the preparation of an appropriate response to the internal displacement problem.<sup>309</sup>

There is no coherent national policy in existence for the promotion and respect of IDP rights. Policy on this issue appears to be split between several Ministries, namely, the Ministries of Solidarity,

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<sup>308</sup> Ibid., p.27.

<sup>309</sup> Ibid., p.29.

Women, Family and Children Affairs, Planning, Water Resources and Forestry, the Environment and Sustainable Development etc.

Duplication of procedures and programmes, as well as the splitting of responsibilities between multiple national actors are an obstacle to the formulation of a coherent national policy on internal displacement in Côte d'Ivoire.

### **Indicator 7 : Designating an Institutional Focal Point for IDPs**

Article 3.2(b) urges all State Parties to designate “...an Authority or Body, where needed, responsible for coordinating activities aimed at protecting and assisting internally displaced persons and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international organisations and agencies and civil society organisations, where no such authority or body exists”.

The creation of a national focal point is an essential factor for the discharge of State responsibility toward displaced persons. It permits the authorities to maintain sustained surveillance on the problems of internal displacement and facilitates coordination between the different arms of Government, as well as with other relevant actors, particularly members of the civil society, national human rights institutions and international humanitarian agencies.<sup>310</sup>

Under the provisions of Decree N° 2013-506, dated 25 July 2013, assigning portfolios to members of the Cabinet, the Ministry of Solidarity, Family, Women and Children Affairs is charged with responsibility for the monitoring of Government policy on solidarity, and protection of women, the family and the child.

The MSFE is the parent Ministry and Government go-between with humanitarian partners on issues relating to internal displacement. In this capacity, it has the initiative and bears responsibility for maintaining and strengthening solidarity and cohesion between all the components of the Ivorian nation, as well as for the implementation of all actions in favour of communities in distress.

An Expanded Coordinating Committee (CCE) was set up to coordinate humanitarian actions between the MSFE, international humanitarian partners and national NGOs. The MSFE and the United Nations System Resident Coordinator jointly head the CCE.

### **Indicator 8: Supporting National Human Rights Institutions with a View to Integrating Internal Displacement in their Work Programme**

Article 3.2(b) of the Kampala Convention can logically be interpreted to mean that all national institutions with a human rights mandate are equally empowered to handle the specific issue of internal displacement, for preventive reasons, for the one part, and for the other, to protect the IDPs and find durable solutions to their problems.

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<sup>310</sup> Ibid., p.30.

Surveillance is a necessary measure to ensure that the essential provisions of existing laws and policies relating to IDPs are properly applied. It is also necessary as an instrument for the identification of possible oversights in the law, and in all other domains in which national protection measures are organised and applied. The laws and policies relating to internal displacement should provide for internal recourse mechanisms (such as appeal procedures or complaint mechanisms for persons who have been denied services to which they are entitled) and designate external groups to carry out certain aspects of the surveillance procedure, where appropriate. These procedures must be subject to criteria and indicators identified during the process of collecting data for assessment of IDP needs in terms of protection, and its guiding principles must reflect the standards of international human rights laws. In most cases, the ideal surveillance mechanism for the monitoring of proper application of laws and policies relating to internal displacement is the national human rights institution duly established in accordance with the Paris Principles.<sup>311</sup>

The CNDHCI (Côte d'Ivoire National Human Rights Commission) must therefore include the IDP issue in its mandate, and take all necessary action aimed at realising the objectives outlined above.<sup>312</sup>

However, if the CNDHCI is to realise these objectives, it must, first of all, cultivate the internationally recognised characteristics of independence and autonomy<sup>313</sup> which will enable it to fulfil its mandate successfully.

The pre-2012 CNDHCI lacked the requisite characteristics and was not organised in accordance with the Paris Principles, with the result that its overall human rights performance left much to be desired.<sup>314</sup> In fact, it failed to meet any of the Paris Principles-based levels<sup>315</sup> required by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

The Commission was reorganised in 2012<sup>316</sup> and is now actively engaged in the operationalisation phase of its reform which took off on 21 June 2013. At this stage in the life of the "new" Commission, it would be hazardous to try and assess its aptitudes and operational capacity for the

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<sup>311</sup> Ibid., p.31.

<sup>312</sup> For more information on the specific measures which can be taken by the INDH in terms of effective monitoring of actions taken in response to the problem of displacement, see The Brookings Institution –University of Bern : Project on Internal Displacement, "Addressing Internal Displacement : a Framework for National Responsibility" (April 2005), pp.19-21; 'Protecting Persons Affected by Natural Disasters : IASC Operational Guidelines on Human Rights and Natural Disasters" Section 1.4 (2007).

<sup>313</sup> See the Paris Principles. National Human Rights Institutions are generally defined as being independent structures, established officially either by national legislation or by the Constitution, with a specific mandate for the protection and promotion of human rights.

<sup>314</sup> See Bruno Menzan 'A Scrutiny of the Ivorian National Human Rights Commission: Beyond the Paris Principles'; LAP Lambert Academic Publishing AG & Co. KG; January 23, 2012.

<sup>315</sup> Level A (compliant in all aspects with the Paris Principles); B (partially compliant with the Paris Principles); C (not compliant with the Paris Principles).

<sup>316</sup> Law N°2012-1132 dated 13 December 2012 establishing the CNDHCI and defining its powers, organisation and functions.

conduct of its mission in general, and particularly with regard to internal displacement. The Commission faces many challenges in the conduct of its mission, but it must be said that the authorities show great enthusiasm and commitment to the transformation of this institution into a veritable champion, promoter and protector of all human rights. The structure which has emerged after the judicial review of its founding texts, taken in conjunction with the capacity building efforts of stakeholders in the Commission send out a strong signal which augurs well for the future of the institution.<sup>317</sup>

#### **Indicator 9:**

##### **a) Ensuring the Participation of IDPs in the Decision-making Process**

Article 9.2(k) of the Kampala Convention stipulates: “States Parties shall consult internally displaced persons and allow them to participate in decisions relating to their protection and assistance”.

A provision of this kind presupposes the existence of channels of communication, permanent platforms for discussion and that all other structures are put in place in order to enable the aspirations, needs and solutions coming from the IDPs themselves to be integrated into the durable resolution of all internal displacement problems.

The fact of consulting the IDPs on all decisions concerning them and facilitating their enjoyment of a higher level of participation in the affairs of the community is not a matter of simple courtesy – it is a matter of necessity based on three key considerations:<sup>318</sup>

- IDPs have a right of participation which is guaranteed by the principal international instruments such as the right of political participation and the right to participate in the conduct of public affairs;<sup>319</sup>
- IDP participation contributes to a higher degree of effectiveness in the actions taken;
- IDP participation reduces their dependency and facilitates their reintegration.

With regard to the case of those IDPs who fled the protected forests of Niégré and Mount Péko, the people living in those forests participated in enlightenment and information sessions on the modalities for their expulsion. However, these meetings were not preparatory meetings in that they were not convened with a view to finding durable solutions for a vulnerable group.

The absence of proper communication mechanisms or channels between the IDPs and other actors must be condemned. The absence of institutional platforms for exchange and interaction constitutes an obstacle to the inclusion of the concerns of IDPs and their day-to-day problems in the decision-making process.

##### **a) The Right of Displaced Persons to Political Participation, and Particularly to the Right to Vote**

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<sup>317</sup> See the CNDHCI website for the capacity building activities in question <http://www.cndhci.net>

<sup>318</sup> Protection of Internally Displaced Persons : *Manual for Law and Policy Makers*, p.32.

<sup>319</sup> See, for example, The International Covenant on Civil and Political Rights (ICCPR), Articles 19 and 25.

Article 9.2(l) of the Kampala Convention calls on States Parties to “Take necessary measures to ensure that internally displaced persons who are citizens in their country of nationality can enjoy their civic and political rights, particularly public participation, the right to vote and to be elected to public office”.

The haste, which characterises all internal displacements resulting from war or natural disaster, is a constant in the Ivorian situation: most IDPs and babies born shortly before, during or even long after the displacement have no official identity papers.

It seems, therefore, that IDP participation in the electoral process was obstructed because up to 80% of them had lost their official documents. Furthermore, 90% of the people living in the protected forests of the Western region had no identity papers.

Without identity papers, these people will be denied the right to vote in the next elections. Many adult IDPs will therefore be unable to exercise their right to political and public participation, in so far as they have no papers attesting to their citizenship and to other requirements granting them the right to vote or be voted for.<sup>320</sup>

In addition, the fact of their displacement takes them away from their constituency of origin, whereas, according to the Electoral Code, the right to vote may only be exercised at the constituency indicated in the Voters' Register.

#### **Indicator 10: Search/Support for Durable Solutions**

Under the provisions of Article 11(1) of the Kampala Convention : “States Parties shall seek lasting solutions to the problem of displacement by promoting and creating satisfactory conditions for voluntary return, local integration or relocation on a sustainable basis and in circumstance of safety and dignity”.

The States bear responsibility for ensuring that the IDPs are positioned to find a solution to their displacement problem once the causative factors have disappeared. This means that they must make available to the IDPs a process by which they are able to make a free and informed choice as to the end of their displacement and create the enabling conditions which will render their choice durable.<sup>321</sup>

Indeed, according to Principle 28,<sup>322</sup> “Competent authorities have the primary duty and responsibility to establish conditions as well as provide the means *which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons*”.

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<sup>320</sup> See Country Visit (Côte d'Ivoire) of the Special Rapporteur on IDPs

<sup>321</sup> Protection of Internally Displaced Persons : Manual for Law and Policy Makers, p.36.

<sup>322</sup> Guiding Principles on Internal Displacement.

A solution is defined as durable if it is capable of putting an end to the situation of vulnerability engendered by displacement and if the IDPs have no further need of special assistance.

In Côte d'Ivoire, Government, in the interests of normalisation and for strategic reasons, has placed much more emphasis on the return solution than on that of local integration or resettlement. IDPs do not, in general, want to return home, for security or economic reasons (expropriation from their farms and other properties).

They are in fact forced to return to their homes where security conditions are usually not yet right for a return, or to hang on to their host families, which are themselves too fragile to be resilient under the weight of the burdens of all kinds which the IDPs bring upon them.

Nonetheless, some measures have been taken in the field to try and reduce the weight of the IDP burden. These include a constant review of security plans in order to guarantee peace in return or settlement areas, particularly through control of the proliferation of small arms, elimination of check points (dozo) along the roads, and introduction of measures aimed at resolving land disputes, as well as giving the IDPs adequate means with which to make a fresh start, including rehabilitation of their homes in some cases, and creation of income-generating activities. The most important reason given by the IDPs for the decision to return is the improvement in the security situation, as evidenced by the dismantlement of illegal checkpoints at the end of June. 77% of returnees questioned feel safe in their return zones.<sup>323</sup>

The creation of the ADDR was a guarantee of improvement in the prevailing security situation and evidence of the search for durable solutions to the internal displacement crisis, following on the heels of the post-electoral crisis in Côte d'Ivoire.

Mention must also be made of recent Government initiatives aimed at calming the political atmosphere, which was concretised by the conditional release, in August 2013, of a number of prominent members of the Ivorian Popular Front, the party of the former Ivorian President, Laurent Gbagbo. As a further gesture of reconciliation and appeasement, more conditional releases were announced by the Ivorian President, Alassane Ouattara, in his Address to the Nation on 31 December 2013.

It should be recalled that Government had initiated a number of support measures with regard to the voluntary return of IDPs towards the end of 2011, so that the operation was able to produce globally tangible results. Out of an estimated IDP population of 80,000 in 118 sites in May 2011, there remained only 6,118 persons in 12 sites by April 2012.<sup>324</sup>

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<sup>323</sup> Joint CARE, DRC, OXFAM Report : Towards Durable Solutions for Displaced Ivorians, P.7.

<sup>324</sup> Ministry of State, Ministry of Labour, Social Affairs, and Solidarity – *Note of Information on the Voluntary Return of Internally Displaced Persons to Sites.*

These returns were facilitated by the redeployment of civil service workers back to their duty stations, and the restoration of State control nation-wide, as well as the implementation of certain government programmes such as the PPU and PCAP.

In order to create enabling conditions for the return of IDPs in the Lagoon Region, for example, each family planning to return received a package containing the following items:

4. A grant jointly donated by the Ministry of State, Ministry of Labour, Social Affairs and Solidarity and UNHCR, and allocated as follows:
  - 100 000 FCFA for a family of 1 to 6 persons;
  - 150 000 FCFA for a family of 7 to 10 persons;
  - 200 000 FCFA for a family of more than 10 persons
5. A pack of foodstuff (50 kg of rice, 5 litres of oil, salt) donated by WFP;
6. A pack of non-food items (1 basin, 1 bucket and 2 cakes of soap) donated by the Ministry of ex-Combatants and War Victims and the African Foundation for Peace through Development (AFPD).

Support measures for volunteers returning to the West of the country consisted for the most part, of standard packs of foodstuff (one full food ration per month for a family of 5 persons) and non-food items as follows<sup>325</sup> :

a) Foodstuff

<b>Rice</b> (63 Kcal)	<b>Oil</b> (1 jerrican) 4,5 L	<b>Beans/Lentils</b> 7,5 Kg	<b>CSB</b> 7,5 Kg	<b>Salt</b> 1 bag
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b) Non-food Items

<b>Description</b>	<b>Quantity</b>
Tarpaulin sheet 4x5m	1
Ropes and pegs	1
Blanket	1
Loincloth	1
Bedsheet	1
Mosquito net	2
Soap	5
Mat	2
Bucket	20 L
Jerrican	20 L
Basin	1
Batteries	2
Torchlights	1
Kitchen utensils	1

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<sup>325</sup> Ibid.

It is important at this stage, to conduct a targeted profiling exercise among the returnees as a means of assessing whether the resources (packs) allocated contain the right quantities of items for the purpose of facilitating their complete resettlement and ensure durable return.

#### **Indicator 11: Allocating Sufficient Resources to the Resolution of the Problem**

Article 3(2) (d) of the Kampala Convention stipulates: The State Parties shall “Provide, to the extent possible, necessary funds for protection and assistance without prejudice to receiving international support”.

Every Government response to internal displacement must, if its implementation is to attain the expected level of success, be clearly underpinned by adequate funding. This has a number of implications in terms of the laws and policies relating to displacement.<sup>326</sup>

As of present, there is no budget head specifically or specially dedicated to the resolution of the IDP problem.

Nonetheless, some Government measures, which could help in resolving the IDP issue, have been included in the national budget. These cover the security sector, national reconciliation and even land dispute issues.

It is relevant to note that the Ivorian Government is actively engaged in mobilising funds within the PND/NDP framework in order to respond to social needs and to the humanitarian situation in general. The fund-raising mission led from 16 to 20 October 2011 by the Humanitarian Coordinator and the Minister of State, Minister of Labour, Solidarity and Social Affairs, to European donors, is an illustration of the fact, as is the meeting of the Consultative Group held in Paris from 4 to 5 December 2012, to address the issue of financing for the PND.

There is a need to persevere in the drive to mobilise funds, based on a detailed assessment of the needs to be included as special items under the national budget. In addition, the funds thus obtained must actually be used to address the needs and problems of internal displaced persons, under conditions of good governance, transparency and equity.

#### **Indicator 12: Cooperation with the International Community when National Capacity is Insufficient**

Article 5(6) of the Kampala Convention provides: “States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so; they shall cooperate in seeking the assistance of international organisations and humanitarian agencies, civil society organisations and other relevant actors. Such organisations may offer their services to all those in need”.

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<sup>326</sup> Protection of internally displaced persons : *Manual for Law and Policy Makers*, p.37.



The closure of the IDP camps and the deactivation of the different clusters bear indisputable testimony to the will of Government to engage resolutely in the normalisation process and focus more on development projects than humanitarian assistance programmes. This is the strategic choice before a country, which has set itself the target of classifying as an emerging nation by 2020.

The Ivorian Government must be commended for acknowledging the existence of residual humanitarian needs, and setting up the CCE, which is a strategic consultative forum and think tank on humanitarian issues in Côte d'Ivoire. It is worth recalling that the United Nations System Resident Coordinator and the Minister of Solidarity, Women, Family and Children Affairs jointly chair the CCE.

The publication titled "Côte d'Ivoire 2013: Humanitarian Need in Transition" draws attention to the advisability of taking Government and United Nations plans/programmes into consideration in addressing the problem of residual humanitarian needs.

In addition, United Nations special mechanisms pay regular, unhindered visits to Côte d'Ivoire. The country visit by the Special Rapporteur in charge of IDPs, Chaloka Beyani, from 22 to 31 July 2012 should be noted in this regard<sup>327</sup>.

### **3.2 Findings of the Study**

An indicator analysis reveals that the Ivorian Government, though aware of the challenges posed by the IDP problem, has been unable to provide adequate and suitably adapted responses to the problem. In other words, national response is not always in compliance with the relevant provisions of the Kampala Convention. There are claims that this situation can be justified by strategic economic choices, and the political will to turn the page on the humanitarian transition period and resolutely commit to development project/programmes.

It should be pointed out, however, that Côte d'Ivoire recently ratified the Kampala Convention, although it is yet to deposit the instruments of ratification with the supervisory body for the Treaty, which is the AU. From a strictly technical point of view, therefore, pending deposit of the instruments of ratification, the provisions of the Kampala Convention are not binding on Côte d'Ivoire.

### **3.3 Challenges, Constraints and Perspectives**

#### **3.3.1 Structural Constraints**

Despite the commendable existence of national strategic programmes and frameworks, the lack of funding and of coordination at the national level, and duplication of procedures/programmes render ineffective the Government response to the problems affecting IDPs in Côte d'Ivoire. The appropriate authorities and the new structures put in place following the deactivation of the clusters

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<sup>327</sup> Report of the Special Rapporteur on Human Rights of Displaced Persons, Chaloka Beyani : Mission in Côte d'Ivoire (22-31 July 2012).

have not always provided appropriate/adequate responses to the problem of residual humanitarian needs. A notable example is the lack of coordination between the Ministry of the Environment, Urban Sanitation and Sustainable Development and the Ministry of Solidarity, Women, Family and Children Affairs during the relocation of the peoples living in the protected forests of Mount Péko and Niégré. There are plans to set up a Select Committee to address this issue.

### **3.3.2 Political Constraints**

The Government still faces a great many challenges. Strengthening of social cohesion, restoration of State authority in areas affected by a decade of conflict, and restoration of the rule of law and Justice are all major factors for the effective and equitable protection of the civilian population, and the guarantee of respect of the human dignity of all citizens.

### **3.3.3 Economic Constraints**

Economic recovery and poverty reduction are the major preconditions for the restoration of security and the finding of durable solutions to the concerns of IDPs in Côte d'Ivoire. It is difficult to maintain the same level of response to emergencies from donors when new emergencies are breaking out elsewhere. Returnees face numerous challenges in resuming their economic activities, and displaced communities need support in gaining access to means of subsistence, which will enable them to win back their financial independence.

### **3.3.4 Perspectives**

An analysis of the humanitarian situation and internal displacement in Côte d'Ivoire reveals local integration as a solution to protracted internal displacement. Guiding Principle 6<sup>328</sup> posits that displacement shall last no longer than required by the circumstances. However, in most cases, the internal displacement situation has become a protracted displacement situation.<sup>329</sup> There is therefore a need to envisage local integration as a durable solution to protracted displacement, while taking care to ensure respect of the wishes of the IDPs in specific instances.

## **CHAPTER 4: CONCLUSION AND RECOMMENDATIONS**

### **4.1 Conclusion**

Côte d'Ivoire is presently enjoying a certain degree of socio-political and economic stability, following the post-electoral crisis of 2010 - 2011. Although it is still fragile, this gradual stabilisation has encouraged the return of the majority of Ivorian displaced persons who had fled their usual places of residence in order to seek refuge either in neighbouring countries, or internally, in their

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<sup>328</sup> Guiding Principles on Internal Displacement.

<sup>329</sup> Protracted Internal Displacement : Is Local Integration a Solution? Report of the 2<sup>nd</sup> Experts' Seminar on Protracted Internal Displacement, 19-20 janvier 2011, Geneva, p. 10.

own country.<sup>330</sup> Inter-community tensions persist despite the cessation of conflict, hence the urgent need to speed up and concretise efforts/actions in favour of national reconciliation.

The transition period, which is that crucial phase between humanitarian assistance and development, operated a gradual take-off in Côte d'Ivoire in 2012, which continued into 2013. However, despite the efforts of the different humanitarian actors since the crisis, residual needs and pockets of vulnerability remain, particularly in the West, North and South-Eastern parts of the country. The principal causes are inter-community tensions, such as those triggered by land disputes, which are yet to be adequately addressed, and which further weaken social cohesion. Government continues to face a great number of challenges. In addition to the strengthening of social cohesion, restoration of State authority in areas affected by a decade of conflict, and restoration of the rule of law and Justice, economic recovery and poverty reduction are major preconditions for the restoration of security, effective and equitable protection of the civilian population and guarantee of the respect of human dignity for all citizens.<sup>331</sup>

Access to land presents a major obstacle to the return of internally displaced persons and recurrent land disputes prolong situations of displacement.

No durable solutions have yet been found to the situation of internally displaced persons in Côte d'Ivoire, as a result of poor funding and the absence of structures for the monitoring and coordination of humanitarian action. As a result, displaced persons are denied full enjoyment of the human rights guaranteed them under the Constitution of 1<sup>st</sup> August 2000.

The conceptual framework for durable solutions to the problems of internally displaced persons defines a solution as being durable when the internally displaced persons have no further need of aid, or any special form of protection in relation to their displacement, and when they are able to enjoy their human rights without discrimination, arising from their displacement.<sup>332</sup>

It is regrettable that there are no monitoring mechanisms in existence on the realisation of durable solutions for displaced persons in Côte d'Ivoire.

By virtue of Article 5(1) of the Kampala Convention signed by Côte d'Ivoire on 12 November 2009, the State Parties bear the primary duty and responsibility for providing protection of and humanitarian assistance to internally displaced persons within their territory or jurisdiction without discrimination of any kind. Consequently, the Ivorian Government bears the responsibility for ensuring that displaced persons receive the appropriate aid and that their rights are protected.

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<sup>330</sup> Côte d'Ivoire 2013 : *Humanitarian Needs in Transition, A Comprehensive Analysis of Humanitarian Actors in Côte d'Ivoire*.

<sup>331</sup> Ibid

<sup>332</sup> Protracted Internal Displacement : Is Local Integration a Solution ? Report of the 2<sup>nd</sup> Experts' Seminar on Protracted Internal Displacement, 19-20 January 2011, Geneva, p. 10.

Unlike refugees, internally displaced persons remain citizens or habitual residents of their country and have a right to protection and aid on this sole premise.<sup>333</sup>

This speaks to the obligation to exercise national responsibility on issues relating to IDPs.

## 4.2 Recommendations

The Government of Côte d'Ivoire, the United Nations agencies, donor agencies, the humanitarian community as a whole, as well as the civil society must lend their support to all projects aimed at promoting durable solutions to the problem of displacement by addressing the root causes of conflict and restoring the rule of law, public services and facilities, improving humanitarian aid and support for the provision of means of subsistence to displaced persons, and ensuring a durable, dignified and voluntary return to their habitual places of residence.

### - Government

- The instruments of ratification for the Kampala Convention must be deposited with the AU without further delay;
- Government should, with the support of all actors, adopt a legal framework and a national policy on the promotion of respect for the rights of displaced persons and ensure that all returns are voluntary, safe, dignified and durable;
- Government should introduce structural and institutional reform measures with a view to achieving a higher level of coordination between actors on humanitarian matters;
- Government should promote restoration of the rule of law, support reconciliation measures and forestall any new outbreaks of violence and further displacements;
- Government should create a monitoring mechanism on durable solutions in favour of IDPs;
- Government should avoid forced displacements and be guided by international standards in the matter of the expulsion of the persons living in the protected forests of Western Côte d'Ivoire;
- Government should comply with the procedures and other safeguard measures which apply with regard to the persons sheltering in the protected forests, including adequate compensation and provision of alternative housing;
- Government should ensure that persons expelled from the protected forest, and particularly those who are not capable of providing for their own needs, have unimpeded access to: a) basic foodstuff, potable water and sanitation; b) shelter or housing; c) suitable clothing; d) essential medical care; e) means of subsistence; f) fodder for their livestock and collective land resources on which they depended in the past; g) education and reception facilities for the children;<sup>334</sup>

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<sup>333</sup> The rights of displaced persons who are citizens of another country must be respected, although their scope could be more limited than those of naturalised citizens by virtue of international law. For example, non-citizens are not generally granted the right to vote in national elections;

<sup>334</sup> Fundamental Principles and Directives with regard to Expulsions and Development-related Displacements.

- Ensure implementation of a responsible and durable return policy for IDPs;
- Mobilise more resources and funds for the resolution of residual humanitarian problems;
- Designate an Authority or Body if necessary, which will be responsible for the coordination of assistance to displaced persons, and assign responsibilities to the appropriate organisations in terms of protection, assistance and cooperation with the relevant international organisations or agencies, and with civil society organisations, where this type of organisation or authority does not exist;
- Government must seek durable solutions to the problem of displacement by promoting and creating the enabling conditions for voluntary return, local integration or durable resettlement, in conditions of safety and dignity;
- Government must facilitate local integration of persons in situations of protracted displacement, while respecting their right to return or resettle (elsewhere in the country);
- Government must consult with and ensure the participation of IDPs on all activities relating to them, at all stages of their displacement, and provide them with sufficient information on these activities to enable them to take free and informed decisions on their future;<sup>335</sup>
- Government must take adequate measures to guarantee IDPs the right to vote in future elections, and to allow them to be counted in national censuses or re-register in the Voters' Register;
- Government must ensure that land disputes and other conflict-generating dynamics are taken into account in all strategies designed to find durable solutions to the problem of internally displaced persons or returnees;
- Government must recognise the rights of IDPs to their abandoned homes, land and properties, including the right to protection and restitution of said properties;
- Government must take basic steps to ensure the protection of abandoned lands and properties belonging to IDPs, from destruction, illegal exploitation, occupation and appropriation;
- Government must take prompt and effective measures to settle all complaints of dispossession of land lodged by IDPs, with justice, and help them to register their land in the land register;
- Government must make provision for the human and financial resources needed to resolve the problems affecting the IDPs.

#### - **The Civil Society**

- The civil society should include the internal displacement problem in their agenda;
- The civil society should organise enlightenment campaigns and training sessions on the rights of IDPs.

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<sup>335</sup> Basic essentials of national legislation (Item 8).

- **Humanitarian Actors and Donors**
  - They should pursue efforts aimed at resolving residual humanitarian needs within the CCE framework;
  - They should pursue financial mobilisation efforts aimed at satisfying residual humanitarian needs ;
- **The CNDHCI**
  - The CNDHCI should conduct surveys and make appropriate recommendations with regard to the legal sequels to the Nahibly incident;
  - The CNDHCI should initiate enlightenment and training programmes on IDP rights;
  - The CNDHCI should designate an IDP focal point within the Commission.
- **The IEC**
  - The IEC should create an IDP focal point with a view to guaranteeing their participation in the electoral process in Côte d'Ivoire;
  - The IEC should formulate operational programmes to cover the registration of IDPs in the Voters' Register;
  - The IEC should provide IDPs with the mechanism, which will enable them to register as voters even in displacement, including, for example, simplified procedures which will enable them to maintain their existing registration, transfer the registration, or abandon the requirements preventing IDPs from registering in their place of displacement.
- **The PNCS**
  - The PNCS should facilitate the integration of IDPs and help host communities to absorb them;
  - The PNCS should make it possible for IDPs to resume working the land in their region of origin by restoring their properties;
  - The PNCS should prioritise restitution of goods and properties as a practical and effective means of finding durable solutions to the problems of the IDPs.

## 4.3 Case Study 3: Liberia's National Response to Internal Displacement

By G. Jasper Cumme, III

### Chapter One: - Introduction

#### 1.1 Country Profile

Fourteen years of civil war in Liberia ended in 2003, remarkably punctuated by the departure of Charles Taylor from power, and the eventual swearing in of Gyude Bryant in 2003, for a two year transitional term which ended with the staging of free, fair, and transparent elections in 2005. In 2006, Liberia officially closed all Internally Displaced Persons Camp, following the repatriation and reintegration of all officially registered displaced persons.



Figure 1: A Map of Liberia showing its International Political Boundaries

Liberia was founded in the 1800's as a result of freed black slaves seeking a place of refuge from white suppression and human rights abuses in North America. Since the 1800s, until the 1980, Liberia was ruled and controlled by the Americo Liberian settlers who marginalized their indigenous host. In 2008, according to official statistics, Liberia's population stood at 3.4 Million, with an agrarian, and mostly rentier economy which relies on rent payments as a means of generating income because it does not have manufacturing industries or a highly sophisticated service sector that generates high end services.

There is a high rate of illiteracy amongst the population, thus crowding out the opportunity for skilled jobs created largely in the area of natural resource extraction, the mainstay of the Liberian economy.

#### 1.2 Background of the Study

The First ECOWAS Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa was organized on 7 July, 2011 in Abuja Nigeria by the ECOWAS Commission in collaboration with the United Nations High Commissioner for Refugees (UNHCR) and the African Union (AU). The overarching objective of the conference was to advocate for the rapid ratification and prompt implementation of the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) by the ECOWAS Member States.

In order to successfully provide support to the Member States, UNHCR hereby wishes to contract the services of a qualified consultant to provide support to the implementation of the follow-up activities to the First ECOWAS Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa.

Liberia adopted the Guiding Principles on Internal Displacement in 2004. Despite being among the first countries to sign the Kampala Convention in 2009, Liberia is yet to ratify the instrument. As the return process of IDPs ended in 2007, by the end of 2011, the Liberian government considered that the internal displacement situation had ended. It remains unclear nevertheless, how many IDPs have found durable solutions. In urban areas, they have remained at risk of eviction because the tenure of slum dwellings is not protected. In rural areas, continuing disputes over the use and ownership of land in return areas have affected the sustainability of return. Failure to resolve these issues has impeded the long-term security.

Liberia is rich with deposit of minerals and other natural resources, but a majority of people has lived in destitution and want of better social services, because the Americo Liberian hegemony had concentrated largely to providing services only to those parts of the country where they lived and worked, and economically they controlled everything.

In 1980, following the Coup, the Government of indigenous Samuel Doe pursued a policy of recrimination and violence against the Americo Liberians and persecution, division amongst the indigenous. This lasted for slightly over nine year time when conflict broke out of the fertile discontent the government had nourished for itself.

The ensuing war was extremely catastrophic, and it displaced thousands of people, in addition to other human suffering. To respond to this humanitarian crisis, the government was overwhelmed, and it placed more premiums on its own survival than to the humanitarian situation that developed as a result of that war.

Following demise of the elected government, successive interim Governments battled internally displacement, by then an agency, not dealing primarily with displacement but with refugees had been formed, and subsequently, as a matter of second thought it had to cater to its own citizens as well.

To date Liberia has repatriated all internally displaced persons officially registered on international agencies logs, yet there are still some who were not repatriated for a variety of reasons, but who are not considered displaced, although they are away from their areas of origins, and now live in previously closed displaced camps.

To date too, are people squatting on lands, not owned by them, but who may be evicted at any time, due to the country's shift from emergency to peace consolidation, and now development, for an example encroachment on the Peace Island, behind New Defense Ministry, encroachment on the Electricity Dam, large scale encroachment on industrial lands in the Gardnersville area.



Largely, today, there are people who today lost everything to fire or sea erosion. They fizzled out in the population, with no means of resettlement for they and their families, but left to go into destitution because of the lack of social safety protection nets that restores hope. It is within this context that Liberia signed the Kampala convention<sup>336</sup>.

### **1.3 Purpose of the Study**

The purpose of this study is to support ECOWAS Commission to assist Member States to build capacity in resolving internal displacement in a manner consistent with international obligations and interests/needs of the displaced with baseline information that identifies challenges, gaps and way forward; and additionally provide country-specific information to support the building of a national legal framework for the protection and assistance to IDPs.

- i. Conduct a baseline study to assess the extent, nature and policy environment of internal displacement in the country and produce a report with recommendations, which depicts the following:

### **1.4 Methodology**

In conducting the baseline study, the following methodology was employed:

- A desk study was conducted to examine
  1. the national legal, policy and operational framework;
  2. Identify national actors involved in IDP issues and their mandate;
  3. Identify the causes, nature and extent of displacement in the country;
- Field research tapping on the experience, expertise and knowledge of key actors was conducted to
  1. Define factors that possibly hinder advancement of effective implementation of the Kampala Convention highlighting the value added of
  2. Determine hindrance to domestication and implementation of the Kampala Convention;
- Thorough analysis using predesigned benchmarks was carried out, and on the basis of the findings, the researcher provides:
  1. specialist advice based on international norms and practices on the required legal procedures and legislative provisions called for in the domestication of the Kampala Convention on the Protection and Assistance of IDPs in Africa;
  2. Provide recommendations on the way forward for the domestication/ implementation of the Kampala Convention in the country;
- Finally, the Researcher then held a one day validation exercise with key stakeholders to validate the findings and consolidate the report.

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<sup>336</sup> Liberia is yet to ratify the Kampala convention on Assistance to IDPs

## **Chapter Two: - Overview of the National Response Frameworks on Preventing internal Displacement, Protecting and assistance to IDPs.**

### **2.1 Legal framework (including Constitutional, legislative and regulatory or adopted UN Guiding Principles or Kampala Convention if any)**

Liberia's legal framework is first built on its ratification of two key international second generation human rights conventions:

#### **International Covenant on Civil and Political Rights:**

Liberia signed this instrument in 1966, and ratified 2004. The Right to Freedom of Movement and Choice of Residence, i.e. the right to freely move within one's own country and to choose one's place of residence is set out in Article 12 of the ICCPR as well as Article 12 of the ACHPR. This right has been interpreted by the UN Human Rights Committee to include "**protection against all forms of forced internal displacement.**" In other words, even where individuals are illegally occupying their current "residence", they still have a right not to be arbitrarily moved somewhere else against their will. The Right to Privacy: Article 17 of the ICCPR protects all persons from unlawful or arbitrary interference with their personal and family life, including their home. The UN Human Rights Committee has defined the concept of "home" broadly to mean "the place where a person resides or carries out his usual occupation." In other words, even where individuals do not have legal rights to their homes and workplaces, their possession and use of such property may not be curtailed in an unlawful or arbitrary manner.

#### **International Covenant on Social Cultural and Economic Rights:**

Liberia signed this convention in 1966, and ratified in 2004, one year after the war. The Right to Adequate Housing: The right to an adequate standard of living in Article 11 of the ICESCR includes a right to housing.<sup>41</sup> In 1991, the UN CESCR identified seven criteria for evaluating the "adequacy" of housing available to ordinary people, one of the most important being security of tenure, or legal protection against forced evictions. Six years later, the Committee defined forced evictions as: ...the permanent and temporary removal against their wills of individuals, families, and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal and other protection. As a component of the right to adequate housing, the right to be free from forced evictions applies even to residents of informal settlements. The focus of this right on protecting individuals' domestic lives and livelihoods (as opposed to formal property interests) links it so closely with the right to privacy in the home under the ICCPR that the UNCESCR has declared that the same set of principles should be used to guide the application of both rights<sup>337</sup>.

The following constitutional provisions of the Liberian constitution are applicable to situation of displacement of citizens, beginning with Article 11(c), in view of the principle that Internally Displacement is a condition and not a status:

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<sup>337</sup> Culled from NRC's "Beyond Squatter's Rights" p.14

‘All persons are equal before the law and are therefore entitled to the equal protection of the law’.

Under the Guiding principle, and also the Kampala Convention Article 9(f) , the convention states that States Parties shall:

‘Guarantee the freedom of movement and choice of residence of internally displaced persons, except where restrictions on such movement and residence are necessary, justified and proportionate to the requirements of ensuring security for internally displaced persons or maintaining public security, public order and public health’.

Similarly, the Liberian constitution in Article 13(a):

‘Every person lawfully within the Republic shall have the right to move freely throughout Liberia, to reside in any part thereof and to leave therefrom subject however to the safeguarding of public security, public order, public health or morals or the rights and freedoms of others’.

On the issue of participation in decision-making and civic affairs, the Convention provides in Article 9 Section 2 Count K and L as follows:

- (k). States Parties shall consult internally displaced persons and allow them to participate in decisions relating to their protection and assistance;
- (l). Take necessary measures to ensure that internally displaced persons who are citizens in their country of nationality can enjoy their civic and Political rights, particularly public participation, the right to vote and to be Elected to public office; and

Additionally, in the Liberia constitution, provision is made for citizens to exercise their rights to participate in elections. Article 77(b) of the Liberian constitution states:

- b) All elections shall be by secret ballot as may be determined by the Elections Commission, and every Liberian citizen not less than 18 years of age, shall have the right to be registered as a voter and to vote in public elections and referenda under this Constitution. The Legislature shall enact laws indicating the category of Liberians who shall not form or become members of political parties.

**Guiding Principles<sup>338</sup> (2004):** Following the drafting of the principles in 1998 (See notes) and issuance of the Guiding Principles, Liberia adopted them in 2004<sup>339</sup>. Liberia affirmed<sup>340</sup>

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<sup>338</sup> 1993, at the request of the then Commission on Human Rights, prior Representative of the Secretary-General on internally displaced persons, Francis M. Deng, prepared his first study of international standards relevant to internally displaced persons ([E/CN.4/1993/35 Annex](#)). In a more comprehensive two-volume study presented in 1996 ([E/CN.4/1996/52/Add.2](#)) and 1998 ([E/CN.4/1998/53/Add.1](#)), Representative Deng concluded that existing law provided broad protection for the rights of internally displaced persons, but that there were also certain gray areas and gaps in coverage.

With the encouragement of the Commission on Human Rights ([E/CN.4/RES/1996/52](#), para. 9) and the General Assembly ([A/RES/52/130](#)), Representative Deng led a group of independent experts in the development of a document setting out the law relevant to the internally displaced and addressing the gray areas and gaps identified in the earlier studies.

that it was determined to see a legal and institutional framework that supports curbing the problem of Internally Displaced Persons in Liberia. See Liberia's instrument of adoption in Appendix 1. There has been no other legislative action on the issue of displaced persons since the passage of the agency Act settling up the Refugee agency LRRRC which by de facto recognition handles displaced persons issues as well.

## **2.2 Policy (adopting or incorporating UN Guiding Principles on Internal Displacement or the Kampala Convention or on Disaster Risk Management and or Climate Change adaptation etc, if any).**

Liberia has adopted the Guiding Principles, but has not ratified or domesticated the Kampala Convention. The country has also developed a Disaster Risk Management Policy, which was promulgated in 2012. The Policy was developed around five key priorities areas, including:

- **Key Policy Priority Area 1:** to establish effective and functional legal and institutional system for disaster risk management
- **Key Policy Priority Area 2:** to strengthen risk identification mechanisms in the country
- **Key Policy Priority Area 3:** to enhance information and knowledge management for disaster risk management
- **Key Policy Priority Area 4:** to reduce the underlying risk and vulnerability factors by improving risk management applications at all levels
- **Key Policy Priority Area 5:** to strengthen disaster preparedness, emergency response and recovery practices

The objectives and final end result this policy seeks to achieve are:

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A series of meetings was organized to consider the form and content of the document. These meetings brought together a wide range of experts from regional and international organizations, humanitarian and human rights NGOs, women's and children's advocacy groups, legal associations, and research institutions. It was at a conference of fifty international experts in Vienna in 1998, hosted by the government of Austria, that the Guiding Principles were finalized.

The Guiding Principles were presented by the Representative of the Secretary-General on internally displaced persons to the UN Commission on Human Rights at its fifty-fourth session in 1998 ([E/CN.4/1998/53/Add.2](#)) as an addendum to his annual report ([E/CN.4/1998/53](#)). (Culled from [http://www.law.georgetown.edu/idp/english/gp\\_history.html](http://www.law.georgetown.edu/idp/english/gp_history.html))

<sup>338</sup> [http://www.internal-displacement.org/8025708F004CE90B/\(httpCountries\)/78D50A458CC54720802570A7004B5690?OpenDocument](http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/78D50A458CC54720802570A7004B5690?OpenDocument)

<sup>338</sup> Chairman Gyude Bryant, head of the Interim Government, signed for Liberia in 2004, at the Perry Town Displaced Center.

<sup>339</sup> [http://www.internal-displacement.org/8025708F004CE90B/\(httpCountries\)/78D50A458CC54720802570A7004B5690?OpenDocument](http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/78D50A458CC54720802570A7004B5690?OpenDocument)

<sup>340</sup> Chairman Gyude Bryant, head of the Interim Government, signed for Liberia in 2004, at the Perry Town Displaced Center.

- To create a foundation for the development of an effective and functional legal, institutional framework and good governance for disaster risk management (DRM)
- To provide the basis for sound DRM national and local organization, capacity enhancement and clear allocation of roles and responsibilities;
- To provide overall direction for integrating disaster risk reduction into development, recovery and humanitarian response policy and plans;
- To contribute to national risk management applications for sustainable national development; and
- To strengthen disaster preparedness for effective emergency and recovery response.

This policy contributes towards preventive mechanism that mitigates the causes of displacement, in this case disaster-related.

### 2.3 Other Plans or administrative instruments on the subject, if any

During the course of this study, the other policy instrument encountered was the policy document Declaration on the Rights of Internally Displaced Persons.

**Declaration of the Rights and Protection of Liberia Internally Displaced Persons (2002)**<sup>341</sup> : Prior to adopting the Guiding Principles, in January 2002, the Liberian Government made a declaration<sup>342</sup> of its own, and the purpose of this declaration was to give displaced persons the assurance that their origins were safe. It also sought to provide assurance that the Government of Liberia, through the Ministry of Justice, working in partnership and collaboration with relevant UN agencies was prepared and committed to fulfilling its constitutional duty of providing protection to its citizens, in the context of their basic human rights and dignity. Commenting on the Government's responsibility, the declaration said:

**'The government of Liberia has general responsibility for implementation of the Declaration and respect for the rights of the internally displaced (section 1). In addition, the United Nations and all relevant international humanitarian agencies, in close collaboration with the Ministry of Justice, are responsible for monitoring, protecting and managing the treatment of the internally displaced' (section 1).**

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<sup>341</sup> This policy provided for encouragement of all internally displaced persons to reside in camps (section 1); Access and restoration of land (section 3); Recovery of property (section 4);

<sup>342</sup> Excerpts of **Declaration of the Rights and Protection of Liberian Internally Displaced Persons (2002)**:

*Purpose:* As a confidence building measure to promote the expeditious return and reintegration of the internally displaced (Preamble).

*Content:* The Declaration states the government's commitment to respect and protect human rights, including the human rights of internally displaced persons and points to an anti-government rebel group as the cause of the humanitarian crisis, and specifically the plight of Liberia's internally displaced persons (Preamble).

Provisions of note include: voluntary return and reintegration

This policy was enunciated by the Taylor administration, and was unique to the circumstances of the time<sup>343</sup>; nevertheless, the principles enunciated therein could be reinforced and popularized today as a measure for addressing need for protection post event and pre- event in order to help mitigate the adverse effects of displacement of whatever kind.

## **2.4 Institutional Mechanisms (relevant national authorities responsible for all or some phases of internal displacement and protection and assistance of IDPs (e.g. National human rights body; national emergency or humanitarian agency or disaster body etc.)**

### **Liberia Refugee Repatriation and Resettlement Commission**

In 1993, the Interim Government established an agency responsible for refugee and displaced persons with a mandate<sup>344</sup> to:

- a) To formulate policies on matters relating to refugees in the country
- (b) to exercise any other powers and to perform any other duties that may be assigned to the Commission by or in terms of this Act or by the Executive Director.
- (c) to assist the Secretariat<sup>345</sup> in soliciting local and international assistance for refugee related activities in the country.

can be seen from the functions of the agency as contained in the act creating it, this agency is purely set up to cater to the issues and needs of refugees<sup>346</sup>. However, it is the agency of government dealing with the issue of internal displacement. As at 2008, 'The LRRRC [had] a total staff of more than 200 employees, with the majority of those acting as field workers spread across seven regional "reintegration" offices and fifteen field offices within the fifteen counties of Liberia. The Government of Liberia supports the LRRRC with an annual budget of U.S. \$569,000, nearly all of which is used to pay for salary, rent, equipment, and the purchase and maintenance of

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<sup>343</sup>The country was due to go to Elections in 2003, having had Elections in 1997, and it was necessary to assure people who fled the country side to return home. The war in the northern part of the country had begun in 1999, and there were always skirmishes around the border with Guinea.

<sup>344</sup> See <http://www.liberlii.org/cgi-bin/disp.pl/lr/legis/codes/elt12lcolr429/elt12lcolr429.html?stem=0&synonyms= 0&query=Liberia%20Refugee%20Repatriation%20and%20Resettlement%20Commission>

<sup>345</sup> The Refugee Act provides that the Commission will include the Minister for Internal Affairs of State (chairperson), the Minister for Planning and Economic Affairs (vice chairperson), the Executive Director, and representatives of the Ministry of Foreign Affairs, the Ministry for Police and Immigration, and the UNHCR. *Id.* §§ 4(1), 4(3). The Act also establishes a Secretariat, run by the Executive Director, to carry out the Commission's implementation functions. *Id.* § 6(1). Commission meetings must occur "not less than one time every 30 days." *Id.* § 4(4)(a).

<sup>346</sup> Nevertheless the intent of catering to refugee, the Preamble of the Act does make reference and recognizes displacement: "Whereas the foregoing circumstances motivated the sympathy of the international community, in particular the Economic Community of West African States (ECOWAS) that led to their intervention and that of the Organization of African Unity (OAU) and the United Nations Organization, to create conditions for the establishment of a democratically elected government through free and fair elections under international supervision with a view also to enabling the return of those who left the country in search of safety and **also enabling those who became displaced throughout the country to return to their places of origin** and choice in the country without let or hindrance; thereby reuniting families, relatives and friends once more; and ..."

vehicles<sup>347</sup>. In the budget year 201/14, the agency proposed a budget of 25,165,486USD (Twenty Five Million, One Hundred and Sixty Five Thousand, Four Hundred and Eighty Six Dollars), with 24,838, 472USD (Twenty Four Million Eight Hundred and Thirty Eight Four Hundred Seventy Two United States Dollars) proposed to donors<sup>348</sup> as projects that have been proposed essentially to the Federal Republic of Germany. The donor projects are basically directed at catering to Ivorian Refugees<sup>349</sup> who crossed the border and are largely concentrated in the South Eastern part of Liberia. A portion of the money, roughly a third would come from the UN agency the World Food Programme. Unfortunately as the record shows there is no emergency support or contingency funding for disaster management and relief, either in the form of donor projects or Government resources.

### **Independent National Human Rights Commission**

In addition to the creation of the Liberia Refugee Repatriation Commission, the Government of Liberia also took legal steps through an act<sup>350</sup> that created a Liberia Human Rights Commission<sup>351</sup> with the official legislative mandate to:

- (1) To investigate complaints by Liberian citizens and foreign residents that allege violations of their fundamental rights and liberties as enshrined in Constitution and statutory laws of the Republic of Liberia and of international human rights treaties and conventions to which the Republic of Liberia is a signatory.
- (2) To engage in research and to establish an effective human rights education program at both the formal and informal levels throughout the country, with the view of educating Liberians on issues of human and fundamental liberties so that they can individually be empowered to identify, assert the protection of those rights.
- (3) To be authorized to conduct hearings and make findings of facts which will be cognizable before courts of competent jurisdiction for review in keeping with the relevant constitutional provisions and statutory laws.
- (4) To be authorized to take all such corrective measures as are appropriate to remedy situations of human rights obligations brought to the attention of the Commission to be fair, proper and effective, including limited to counseling,

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<sup>347</sup> See [http://www.theniapeleproject.org/files/Yale\\_Lowenstein\\_memo\\_public\\_june09.pdf](http://www.theniapeleproject.org/files/Yale_Lowenstein_memo_public_june09.pdf). See refugee repatriation in Liberia: legal rights, best practices, and Lessons from other countries. P.7

<sup>348</sup> The Liberian Government receives most of its funding for projects and development initiative from donors. Liberia's overall budget is more than 1 billion dollars but donors contribute more than half of the money

<sup>349</sup> Ivorian Refugees are basically as a result of the Electoral Crisis in 2010-2011

<sup>350</sup> This Act has since been amended twice to change the name of the agency's name to Independent National Human Rights Commission, and the other was to give the Commission more independence and flexibility in the performance of its duty

<sup>351</sup> The Preamble of the Act spoke of the recognition of Liberia's international obligations under various human rights instrument, and sought to take steps to meet those obligations and guarantees of citizens rights

mediation, negotiation and/or legal action as private attorney generals.

- (5) To liaise with the UN Human Rights Center in Geneva, the African Commission on Human and People's Rights in Banjul, Amnesty International and other intergovernmental and non-governmental organizations and bodies with the view of promoting and enhancing the work of the Commission.
- (6) To liaise with the relevant Government officials charged with the enforcement of human rights to further promote and enhance the protection of those rights.
- (7) To seek and obtain financial and other assistance from national and international institutions to enable the Commission to carry out its work.
- (8) To prepare annual reports for dissemination locally and internationally as to the general status of human rights in the country.
- (9) To do any and all things legally necessary and appropriate in carrying out these declared objects and purposes.

### **The Ministry of Internal Affairs**

In the scheme of the framework for responding to the crisis, disasters leading to displacement, the Government are the Ministry of Internal affairs<sup>352</sup> whose mandate is largely the Terms of Reference of its Minister<sup>353</sup>. The Ministry is responsible for coordinating the activities of chiefs, commissioners, and County Superintendents. Every service of Government to which internally displaced persons ascribed and which is to be provided by Government through local Government is overseen by this Ministry. Issues such as temporary public land for camp construction, disputes arising from and with traditional practices, housing facilities in resettlement outside of the capital Monrovia, etc needs to have the input and approval from officers of this Ministry through its local.

The Ministry of Internal Affairs, through the various Superintendants and county officials; is going to be the one implementing the County Disaster Management Plan, which is currently under development by the National Disaster Relief Commission.

### **The Ministry of Justice<sup>354</sup>**

The Ministry of Justice has the mandate and authority to provide public safety measures aimed at protecting the public from hazards such as fire, and to prosecute crimes against the society. There

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<sup>352</sup> This Ministry was previously called Department of Local Government

<sup>353</sup> The relevant portion is presented here culled from the New Executive Law of 1972: (c) Coordinating and implementing Government services rendered through the units of **Local Government**;

<sup>354</sup> See Executive Law Chapter 22



it is responsible to ensure that vulnerable people are not preyed upon by the strong and powerful in society. Under its supervision to date, the Liberia National Police has created a Women and Children Section which is trained to deal with domestic violence issues such as sexual violence which occurrences grew over the years since the inception of the war, and is more prevalent amongst vulnerable people.

**National Disaster Relief Management Commission:**

This Agency was created in a Government Policy Paper, the National Disaster Risk Management Policy. It is expected to be codified in law next year, 2014, as part of the President's Legislative agenda. Currently it sits in the Ministry of Internal Affairs, and has completed its agency Act draft, and is now working on the Disaster Relief Plan. It has received technical support from ECOWAS in the form of training.

**Ministry of Gender and Development:**

This Ministry was established in 2001 by an Act of the National Legislature, the Ministry of Gender and Development amongst other things serves as a pivot that facilitate the realization of the Universal Declaration of Human Rights and its related instruments including UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW); the Convention on the Rights of Children (CRC); the AU Protocols on Women and Children, UNSCR 1325 on Women Peace and Security; and the Beijing Platform for Action.

The Ministry is mandated to advice Government on all matters affecting the development and welfare of women and children as well as any other matters referred to it by Government, including issues relating to vulnerable persons. The Ministry is current working on a cash transfer program, Adolescent girls program, Gender based violence program. The Ministry has a policy, and a human rights division that deals with gender and children policy formulation and evaluation and a human rights division that deals with international human rights instruments.

**Ministry of Foreign Affairs:**

The input of this agency at this stage is to ensure that Liberia fulfills all the legal steps associated with ratification of a convention. An AU study conducted in 2008, on Treaty/Convention Ratification Process in Member States, found that Under the Constitution of Liberia 1986, treaty-making power lies with the Executive. Article 57 provides that the President shall have the power to conduct the foreign affairs of the Republic, and in that connection, he is empowered to conclude treaties, conventions and similar international agreements with the concurrence of a majority of each House of the Legislature. However, Article 34(f) provides that Legislature shall have the power to approve treaties, conventions and such other international agreements negotiated and signed on behalf of the Republic.

**Law Reform Commission:**

The mandate of this commission, amongst others is to:

- Supervise the law reform process of the country and serve as the coordinating arm of the Government for various law reforms desired or being undertaken by various ministries, agencies, political sub-divisions, authorities, public corporations and other institutions of the Government;
- Provide advice, information and opinion on any legislation proposed by any branch of the Government or any groups, persons, organizations, institutions or the like, with regard to reform or amendment of any branch of the law;
- Receive, consider, review, and advance on its own initiative, proposals for the reform and modernization of the laws of Liberia relating to all of the branches of the Government and all branches of the law---civil, criminal, business

In the foregoing regard, and reference the Kampala Convention, the Law Reform Commission would have reviewed the ratification instrument from the Executive before it reaches the legislature from the President's office.

## The Liberia National Red Cross

The Liberia National Red Cross was founded in 1919, and it has humanitarian missions in all parts of the country, i.e. in every one of Liberia's 15 counties<sup>355</sup>. It is one of the first humanitarian organizations of its kind established in the country with strong local, memory database. Apart from contributing to disaster management, the Society does other activities as can be seen below on page the next page:

- Health and Care
- Disaster management

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<sup>355</sup> **Rev. Dr. J. Edwin Lloyd, Sr.** the Director-General of the Bureau of Veterans Affairs, Republic of [Liberia](#). The first official to head this newly created department of the Liberian government, Dr. Lloyd was a renowned veteran of the [Armed Forces of Liberia](#) with international acclaim as one of Liberia's foremost [humanitarian](#) leaders and clergymen.

Dr. Lloyd was a 20 year veteran of the Armed Forces of Liberia (AFL) with advanced training in the [United States](#) and [North Africa](#). As a top brass of the AFL, he served as [Quarter Master General](#) of the AFL (1975–1979), and [Chaplain General](#) of the AFL (1979–1980).

Subsequent to his military career, Dr. Lloyd gained much prominence amongst religious and humanitarian leaders of Liberia. He served as Special Representative of the [International Red Cross](#) to the [famine](#) stricken regions of [Ethiopia](#) and [Sudan](#) (1985–1986) after which he was elected as President of the Liberian National Red Cross Society (LNRCS) (1986–1990). Dr. Lloyd's tenure as President of the Liberian National Red Cross was marked by many notable achievements including the expansion of chapters throughout Liberia, the recruitment of youth into the [Red Cross](#), establishment of [Monrovia's](#) only [Blood Bank](#), and the acquisition of [ambulances](#).

As the leading figure of the [Red Cross Societies in Africa](#), he received several international awards including the Society's highest – the Henry Dunnant's Award for distinguished services to humanity. Dr. Lloyd is noted for his leadership and pioneering roles in several other humanitarian organizations. He is also a former executive of the Family Planning Association of Liberia (FPAL), as well as a founder and former Treasurer of the "Group of 77" which caters to the handicapped. (culled from WIKIPEDIA)

- Humanitarian values
- Organizational development
- Resource development and communications.

The contribution of the Red Cross has been on the operational side, they operate clinics, carry out counseling, and running a family tracing program in partnership with the International Committee of the Red Cross.

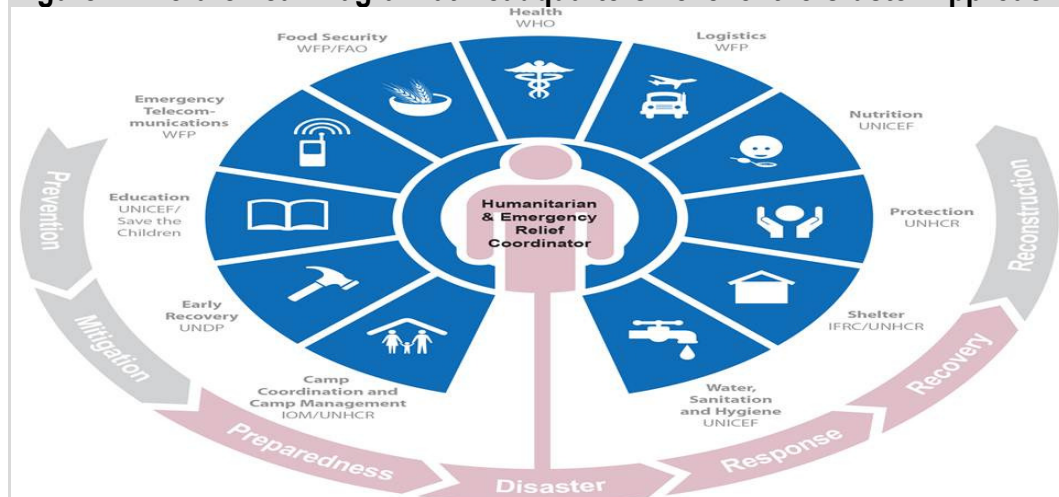
## 2.5 Coordination and or collaboration or cooperation with international actors (such as UNHCR, UNICEF, etc).

By the mandate of the UN Secretary General, the cluster approach was used for all field operations regarding humanitarian assistance. In Liberia, this approach was used since 2006, and it brought together mostly UN Agencies, under the coordination of the Humanitarian Coordinator, and also brought together agencies of government and international organizations. In the clusters were sectoral grouping on several humanitarian thematic issues such as water, food, shelter, etc. As Liberia moved away from conflict, the first policy road map was the Results Focused Transitional Framework (RFTF), under which internally displaced camps were closed, and displaced persons repatriated. Subsequently, a development road called Poverty Reduction Strategy 1, and, thereafter, the Poverty Reduction Strategy 2 was promulgated. With this transition from war to peace, crisis to development, displacement to development, these transitional coordination structures moved along, and metamorphose with different names, same theme, different dimensions, and most time with traditional players joined by new ones. Therefore, the Coordination mechanism in place for handling the issue of internally displaced persons phased out to something else on the ground.

Please see a schematic diagram of the entire cluster approach presented on the next page:

The cluster approach has two basic tier levels, as illustrated below in Figure 2 :

**Figure 2: Hierarchical Diagram at Headquarters Level of the Cluster Approach**



The roles and responsibilities of the elements of this Hierarchical chart are:

### **Emergency Relief Coordinator (ERC)**

- The ERC ensures the inter-agency coordination of protection and assistance to IDPs among UN agencies.
- The ERC is responsible for global advocacy on protection and assistance, resource mobilization, global information on IDPs, and for ensuring that field arrangements are adequately supported.
- When necessary and appropriate, the ERC brings issues concerning IDPs to the attention of the UN Secretary-General and the UN Security Council.

### **The Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council**

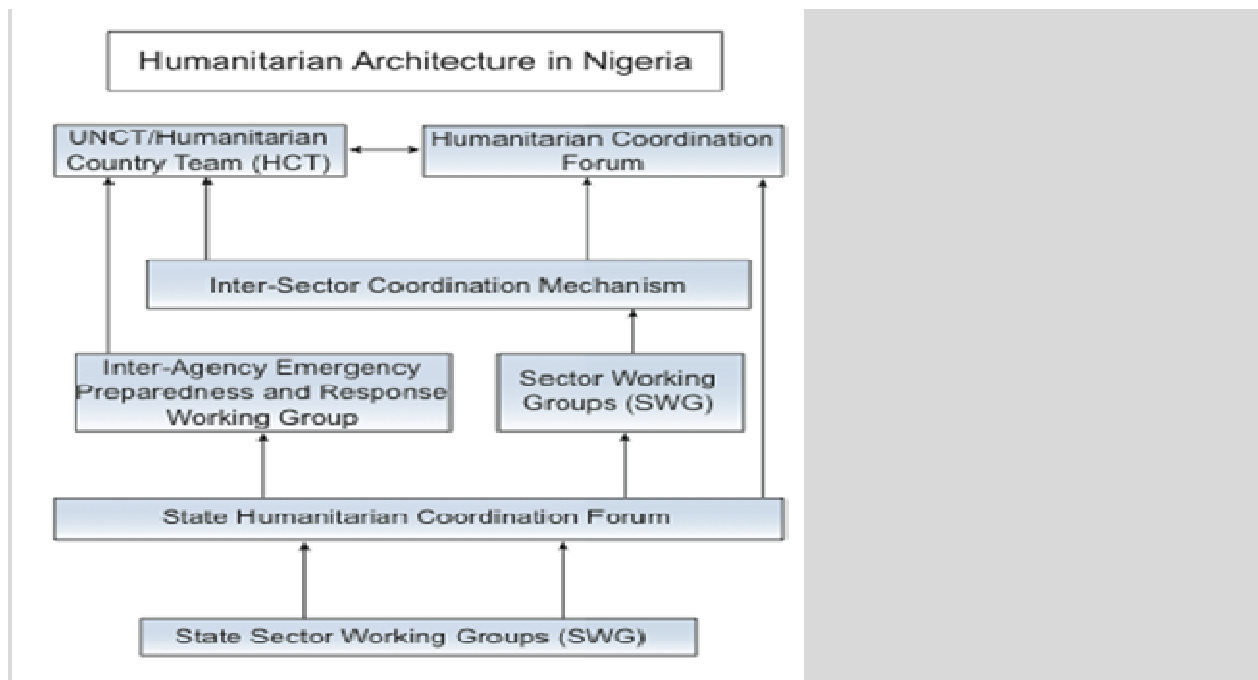
The Global IDP Project of the Norwegian Refugee Council supports the work of the Representative on the Human Rights of IDPs and the Inter-agency Internal Displacement Division by collecting information on all IDP situations worldwide and conducting training workshops to strengthen the capacity of UN actors in the field, based on a tripartite memorandum of understanding signed with these two institutions. The Global IDP Database and information on the training activities of the IDMC can be found at <http://www.internal-displacement.org>.

The second tier of the Collaborative Approach is found on the field level in Figure 3:

**Figure 3: Diagram depicting the communication channels and organogram of the Cluster Approach at Field Level<sup>356</sup>**

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<sup>356</sup> **OCHA July 2014**



An explanation of the roles and functions of the elements in Figure 3, relative to the problem of IDPs is presented below:

### **Humanitarian and/or Resident Coordinator (HC and/or RC)**

The HC and/or RC (one or two persons, depending on the country) are responsible for the strategic coordination of protection and assistance to IDPs and for negotiating unimpeded humanitarian access. This includes ensuring that humanitarian requirements are adequately addressed before, during and after an emergency, and advocating for assistance to and protection of IDPs.

### **Office for the Coordination of Humanitarian Affairs (OCHA)**

To support the HC and/or RC and the country team, an OCHA field presence is usually deployed. OCHA's support functions with regard to IDPs include:

- providing support for humanitarian diplomacy or other negotiations, such as on gaining access to IDPs and other vulnerable groups;
- the collection, analysis and dissemination of IDP-relevant information;
- supporting the development of coordination tools, such as the Common Humanitarian Action Plan (CHAP) and the Consolidated Appeal (CA), and ensuring the inclusion of IDP concerns;
- organizing and participating in inter-agency needs assessments, and convening

coordination forums.

### **Country Team<sup>357</sup>**

Brings together a broad range of UN and non-UN humanitarian partners including UN humanitarian agencies, the International Organization for Migration (IOM), relevant international NGOs, etc. The Country Team should also consult with the Red Cross movement represented by ICRC and IFRC.

### **International Red Cross (ICRC) and Red Crescent Movement**

The ICRC is a neutral, impartial and independent organization, which has a specific mandate to provide protection and assistance to persons affected by armed conflicts, internal disturbances and tensions, including IDPs. In general, ICRC's mandate is discharged in close cooperation with National Societies of the Red Cross/Red Crescent supported by their International Federation.

The National Societies are mandated to assist the most vulnerable within their own countries, including IDPs, and are often the first and only organization present at the inception of a disaster.

### **Non-governmental organizations (NGOs)**

NGOs respond to the protection and assistance needs of IDPs and other vulnerable people, based on their mandate and expertise. They can also play a valuable role in supporting the implementation of the collaborative response. They can for example, amongst others:

- collect and provide information on protection and assistance needs of IDPs in areas where NGOs operate, as well as NGOs' response capacity to the UN Resident Coordinator/Humanitarian Coordinator, other relevant agencies in the Country Team, and donors;
- participate in consultations on IDP issues under the leadership of the UN HC/RC and contribute to the development of a national IDP strategic plan, if possible through an inclusive coordination forum for national and/or international NGOs;
- support the implementation of a national IDP strategic plan when in line with humanitarian principles and codes of conduct, as well as the Guiding Principles on Internal Displacement;
- monitor the implementation of the collaborative response by the UN HC/RC and the Country Team, including the commitment of country team agencies and the effectiveness of planned activities;

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<sup>357</sup> Liberia's Country team brought together UNHCR and other UN Partners

**The IDP Consultative Forum:** The IDP Consultative Forum (ICF) is the policy-making body on IDP repatriation and reintegration activities. The ICF is composed of the heads of key UN agencies involved in the IDP return and reintegration process, as well as major donors, a representative of the Management Steering Group of NGOs, and two representatives of IDP leadership. It is co-chaired by the Executive Director of the Liberian Refugee Repatriation and Resettlement Commission (LRRRC) and the Humanitarian Coordinator.<sup>358</sup>

(Text and diagrams on pages 23-26 culled from Training on protection of IDP's, the Collaborative Response)

### **Kampala Task Force:**

This task force is an informal network of organizations, including government, international organizations, local organizations working together to ensure the ratification and domestication of the Kampala Convention. This Task force is a recent body, and did not exist when Liberia experience large-scale displacement during the war year. According to its members, the force has carried out some minimal level of awareness on the convention, as well as on the need to ratify it to bring the country in comity of nations of practice. Currently, on the task force is the Liberia Refugee Repatriation Commission as chair, followed by the Foundation for International Dignity (FIND)<sup>359</sup> as Secretary. The United Nations High Commissioner for Refugee (UNHCR) is also part of the force, and provides both technical and logistical support. Another key Government Ministry is the Ministry of Foreign Affairs, Office of the Deputy for Legal Affairs, where Conventions and agreements are reviewed<sup>360</sup> before being submitted to the office of the President for onwards submission for ratification.

As part of the President's Legislative Agenda<sup>361</sup>, the Kampala convention issue is expected to be tabled before the National Legislature on 27 January 2014 when the President makes the State of the Nation's address to the National Legislature. The Kampala Taskforce has taken some steps to ensure that the issue is considered in the President's address.

Too, the Taskforce has also taken some preliminary Legislative Advocacy steps<sup>362</sup> to enlist the support of the Legislative Committee focused on Refugees and IDPs, and principal in this endeavor is Grand Gedeh County Representative who coincidentally previously worked on IDP issue<sup>363</sup> in his private life.

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<sup>358</sup> UNHCR Camp Assessment Report, 15 June 2006

<sup>359</sup> A local Civil Society Organization

<sup>360</sup> Telephone Interview with the Deputy Minister of Foreign Affairs for Legal Affairs, Cllr. Boakai Kanneh, 16 December 2013.

<sup>361</sup> The President presents legislative agenda in the 'State of the Nation' address every January, 3<sup>rd</sup> Monday in the year

<sup>362</sup> Representative Grant and members of the taskforce attended a training, recently in Dakar, Senegal; focused on the rights of internally displaced persons under the Kampala Convention; paving the way for full scale advocacy when the Legislature resumes business January 2014.

<sup>363</sup> Representative Chersia Grant worked with the United Nations High Commissioner on Refugees, and has worked on the issue before. He has pledged, during the occasion of the Liberian validation workshop, to lend his full support to the advocacy to get





## CHAPTER THREE: -

### 3.1 Analysis of indicators (from the field)

Benchmarks	Indicators	Responses	Comments
Prevent Displacement/Minimize its Adverse Effects	<ul style="list-style-type: none"> <li>• Early Warning System/Mechanisms</li> <li>• Disaster risk reduction and preparedness mechanisms/procedures</li> <li>• Respect for International Human Rights Law/ International Humanitarian Law/Kampala Convention/UN Guiding Principles</li> </ul>	Guiding Principles was adopted by the Liberia Government in 2004, and was used as a basis for repatriation and management of IDP camps. There is however no Disaster Management plans yet, though one is being created by the National Disaster Relief Commission. The Commission itself does not have an agency law yet, but a draft bill has been sent to the President for review. The Kampala Convention is not yet ratified; but the Ministry of Foreign Affairs has reviewed the convention for consistency analysis and has submitted draft report to the President. An IHL working group to advocate the ratification of all Liberia's International Human Rights obligations. Liberia has so far ratified ICCPR and ICESCR.	Liberia's constitution does not respond more to the concepts of rights in the International Covenant on Economic Cultural and Social Rights; one of the strong bulwarks upon with rights of IDP's can be traced to. Protection in the Constitution therefore focuses more on physical protection from violation of the human person, and less on social rights. The National Disaster Relief Commission plans seem to be crouched within the scope of protection from environmental harm, not otherwise.
Raise National Awareness/Conditions of IDPs	<ul style="list-style-type: none"> <li>• Policy Statements or Declarations</li> <li>• Sensitization Campaigns through Mass Media</li> </ul>	There are no campaigns. The LRRRC runs a need basis radio program. It is not regular, and now focuses on Refugees.	Some minimal awareness is said to have been carried out by the Kampala Taskforce but it has certainly not made any significant penetration in the media on the issue
Collect Data on number and/Conditions of IDPs	<ul style="list-style-type: none"> <li>• Magnitude, characteristics and needs of IDPs</li> </ul>	None available	No data available. LRRRC thought the NDRC had some

Benchmarks	Indicators	Responses	Comments
	<ul style="list-style-type: none"> <li>Mix of qualitative and quantitative techniques</li> </ul>		but they did not
Support Training on Rights on IDPs	<ul style="list-style-type: none"> <li>Efficient Management of all IDP affairs</li> <li>Consistent Application of IDP law/policy or related laws/policies</li> </ul>	Training support is limited	There is no financial support for training in the budgets of LRRRC or NDRC.
Ensure that there is a legal frame work for upholding IDP rights	<ul style="list-style-type: none"> <li>Compatibility of existing law(s) with IDPs rights internationally guaranteed</li> <li>Comprehensive coverage of all phases of displacement</li> </ul>	There is no comprehensive domestic framework yet	Efforts to get a domestic framework seemed to be scattered, because of lack of communication between the LRRRC and the NDRC. A more collaborative and coordinated approach that brings both agencies together could prove worthwhile because disaster is also a cause of internal displacement
Develop National Policy on Internal Displacement	<ul style="list-style-type: none"> <li>Inclusivity and transparency in the process of drafting an IDP policy</li> <li>Comprehensiveness of content coverage of all causes, aspects, measures, rights and responsibilities</li> </ul>	This has not been done due to the absence of framework legislation. LRRRC and the Taskforce plan to commence this immediately following ratification	A policy must seek to have some retroactive measures in them. For an example, as of 2002, only those in official displaced camps were considered displaced. Several displaced and undocumented people reside in different parts of the country without livelihoods rights. These could be secured in some ways, especially in urban areas, even on a temporal basis.
Designate an Institution focal	<ul style="list-style-type: none"> <li>Sustained attention to internal</li> </ul>	The institutional focal point is LRRRC	The Government should

Benchmarks	Indicators	Responses	Comments
Point	displacement issues <ul style="list-style-type: none"> <li>• Development and regular dissemination of updated reliable data on the volume, trend, location, general characteristics and needs of IDPs</li> <li>• Coordination of National Response to all aspects/phases of internal displacement</li> </ul>	but it is more focused on refugee issues, and its agency legislation inadequate to cover IDPs. NDRC does not cover IDP,s and has no record of them, it only provides emergency assistance, no more	make the policy decision as to which agency should be the prime focus. It is not within the domain of the researcher domain to say
Support National Human Rights to integrate IDP's in their work	<ul style="list-style-type: none"> <li>• Independence and capacity to promote and protect the rights of IDP's</li> <li>• Periodic Reporting, investigation, and monitoring of IDPs' rights abuses, legal remedies</li> </ul>	The commission is now concentrating on more peace and reconciliation as a preventive mechanism to conflict and displacement, although public opinion prefers transitional justice, reparations, and memorialization.	The INHRC could be a forum for addressing and monitoring IDP rights, as well taking action to mitigate violation of such rights. IHRC could be an arbitrator, administrative forum for handling claims from forceful evictions, demolitions and disputes arising from inter-tribal disputes
Ensure the participation of IDPs in decision making	<ul style="list-style-type: none"> <li>• Existence of processes, mechanisms or channels through which IDP's participate in decision making affecting their lives</li> </ul>	No policy framework that ensures such mandatory participation. Elections Commission still holds on to its policy of 'vote where you registered'.	Article 7 of the Liberian constitution calls for 'maximum feasible participation'. Any future policy could use this basis
Support Durable solutions	<ul style="list-style-type: none"> <li>• Sustainable Reintegration at the place of origin</li> <li>• Sustainable local integration in IDPs host communities</li> <li>• Sustainable integration in another part of the country</li> <li>• Remedies for displacement related violations, including access to justice,</li> </ul>	Liberia current unspoken, de facto policy approach that places emphasis only on addressing and maintaining data only for displacement of persons formally encamped, from conflict, and human rights abuses while ignoring the other causes is not sustainable	Future policy framework should be aimed at providing durable outcomes as a final policy outcome, measurable through evaluation only political pronouncements

Benchmarks	Indicators	Responses	Comments
	reparations and information about the causes of violations		
Allocate adequate Resources to the problem	<ul style="list-style-type: none"> <li>• Specific National Budget line/allocation for IDPs</li> <li>• Quantum and regularity of released to the relevant national authorities</li> </ul>	There is no specific budget line for IDPs, the emergency is over, and so the issue has not been a priority; Agency funding mostly covers overheads and administrative cost ; no adequate research, advocacy, training or program costs for NDRC or LRRRC	This is one of the key issues of challenge that could hinder any eventual policy implementation. The Liberian Government is cash strapped on a cash based budget, with increasing demand from all sectors
Cooperate with International Community when National Capacity is insufficient	<ul style="list-style-type: none"> <li>• Facilitation by National authorities of humanitarian assistance from international actors</li> <li>• Nature and technical, material, human, and Financial assistance from the International Community</li> <li>• Monitor spending of funds utilization</li> </ul>	The only meaningful cooperative framework is the Kampala Taskforce, which was not formed until recently. Irrespective of its recent formation, presents the best opportunity for bringing all actors together.	Funding has even declined for UNHCR on Displaced Persons issue since 2009, and there is no record of renewed Liberian Government renewed Government of Liberia appeal for international assistance through trust funds arrangement for this purpose. The Government has however received international assistance for support to service delivery areas like water, education, sanitation, health

## 3.2 Analyzed Findings from the study

### Benchmark 1: Prevent Displacement and minimize its adverse effects

- No early warning system in place; no up-to-date policy on internal displacement since 2004 when the guiding principles were adopted;
- Irrespective of the absence of a comprehensive policy along lines anticipated in the Kampala Convention, second generation human Rights conventions, i.e. the IECSR and ICCPR have been signed and ratified;
- Guiding Principles on internal displacement were adopted in by the Liberian Government 2004;

### Benchmark 2: Raise National Awareness of the Problem

- No large scale awareness programs are in place, but a Kampala Convention Task Force has been established, and it has carried out some '*minimal level awareness programs*'<sup>364</sup>;
- No public policy statements on the current administration intent towards the convention from the higher policy level has been made<sup>365</sup>;

### Benchmark 3: Collect data<sup>366</sup> on number/conditions of IDP's

- No agency, international or government, has any data<sup>367</sup> on the number, location, condition of any internally displaced persons or previously displaced persons, since the closure of camps in 2006, even though besides displacement caused by conflict, other causes of displacement such as disaster related, development induced has taken place as a result of

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<sup>364</sup> Comments made by the head of the Liberia Refugee Repatriation Commission at the Liberia Validation workshop

<sup>365</sup> However, according to the Deputy of Foreign Affairs for Legal Affairs, review has been conducted on the convention and recommendation made to the office of the Presidency for action

<sup>366</sup> While the IDP situation is considered finished, it is unknown how many have truly found durable solutions while those in the Monrovia slums, squats and host families remain unassisted as support was focused on IDPs in camps. These IDPs have actually become increasingly vulnerable to forced eviction under what the Ministry of Public Works claim is part of a wider infrastructure development and crime reduction strategy. Thousands of homes have been destroyed in Monrovia's slums over the past years, with at least 10, 000 made homeless in 2013, many of which were believed to be IDPs who had not yet found a durable solution to their displacement.

<sup>367</sup> This situation is accentuated by the fact that Liberia faces challenges in data collection. Liberia Ranked Second Lowest in Birth Registry: only 4% of under-five children are registered in Liberia, the second lowest in the world after Somalia at 3%.

The revitalization of the birth registration is a call to action to establish and support a functioning, decentralized community - based universal birth registration system as part of vital registration in Liberia". By the 2018, the MOHSW coverage will cover the entire country.

fire, caterpillar invasion, and sea erosion has taken place. These people were expected to, and may just have 'melted away' into the society<sup>368</sup>.

#### **Benchmark 4: Support Training on Rights on IDP**

- Training support has been given to the LRRRC through international collaboration<sup>369</sup>, but it appears only a limited number of staff, has acquired the understanding or received this capacity;
- National Disaster Relief Commission staff has not received any training touching the issue of displacement and how to ensure that their rights are protected;

#### **Benchmark 5: Ensure legal framework for upholding IDPs' Rights<sup>370</sup>**

- Liberia has not ratified the Kampala Convention<sup>371</sup> dealing with the issue of internally displaced persons; but the constructive plans are in place to put it on the President's Legislative agenda for 2014, according to the Ministry of Foreign Affairs legal section. The only specific instrument in relations to IDP is the Guiding Principles adopted in 2004 under the transitional government;

#### **Benchmark 6: Develop a National Policy on Displacement**

- Liberia does adopt the World Bank policy on the issue of Resettlement in order to address the issue of Displacement that is cause by Development Induced activities, as it does not have a policy of its own;
- There is no known National Policy on displacement, although there is a policy on National Disaster Management Policy under the theme 'Prevention before Cure', but it makes no

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<sup>368</sup> Recently on the heels of the High Level Forum, Presided over by President Ellen Johnson Sirleaf in Monrovia, attended by World Dignitaries such as David Cameron and others, there were massive demolition of illegal structures occupy lands without ownership rights, sparking off a wave of demonstrations, protests, and condemnation from local Civil Society

<sup>369</sup> The NDRC spoke of receiving training support from ECOWAS Commission on Emergency Disaster response, but were unclear as to whether it covered IDP's issue as well

<sup>370</sup> In May, the Land Commission presented its new Land Law Reform Policy, which seeks to clarify and secure land tenure rights, whether statutory or customary. While seen as a step toward the development of appropriate legal mechanisms for the resolution of the numerous contentious land disputes in rural areas, returning IDPs continue to face challenges only made worse by ethnic tensions. The new Policy also does not address the situation of IDPs living on public land in and around Monrovia, as they do not have ownership rights.

<sup>371</sup> The Liberia Refugee Repatriation and Resettlement Commission (LRRRC), has submitted the Kampala Convention to the National legislature for rectification, authorities at the commission confirmed in Monrovia Monday.

A task force is to be set up to ensure the speedy rectification of the convention, with members including the UNHRC, FIND, LINSU, and the LRRRC itself.

mention on post disaster displacement management, instead it covers 5 key priorities areas that contribute to preventive mechanisms<sup>372</sup>:

- **Key Policy Priority Area 1:** to establish effective and functional legal and institutional system for disaster risk management
- **Key Policy Priority Area 2:** to strengthen risk identification mechanisms in the country
- **Key Policy Priority Area 3:** to enhance information and knowledge management for disaster risk management
- **Key Policy Priority Area 4:** to reduce the underlying risk and vulnerability factors by improving risk management applications at all levels
- **Key Policy Priority Area 5:** to strengthen disaster preparedness, emergency response and recovery practices

#### **Benchmark 7: Designate an Institutional Focal Point**

- The LRRRC is the de facto, not de jure, agency of Government responsible to address the issue of Displacement of people, as it is specifically targeted at addressing the issue of people seeking asylum or who have crossed Liberia's international borders seeking protection. The LRRRC has limited its role to addressing displacement caused by conflict, and believes that the National Disaster Relief Commission (NDRC) should handle issue of displacement because of disaster, while the latter believes vice versa<sup>373</sup>.

#### **Benchmark 8: Support National Human Rights Institutions to integrate internal displacement in their work**

- The INHRC does not conduct awareness on this issue, and neither has it carried out limited activities aimed at aiding in the process of providing durable solutions<sup>374</sup>, except for the fact that it is also represented by a focal person of the Kampala Convention Task force.

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<sup>372</sup> While reaffirming their commitment to the Strategic Roadmap on National Peace building, Healing and Reconciliation and the Vision 2030 for Liberia, the Government has omitted the mention displacement and therefore the specific needs of IDPs and prospects for durable solutions in both papers. Reconciliation however remains a very slow process, with only the weariness of violence and UNMILs presence keeping many conflicts at bay. Past impunities go largely unaddressed due to a fear of reigniting violence and many culprits still in power.

<sup>373</sup> Nevertheless, the anticipated draft policy framework, according to statements made at the validation meeting, would likely give one agency wholistic powers within the scope of the provisions of the Kampala Convention

<sup>374</sup> The National Palava Hut Reconciliation Exercise launched in Grand Gedeh by Ivorian President Wattara late last year. The program seeks to mitigate and minimize conflicts and reconcile people.

- The IHRC has the potential capacity in law to carry out activities relative to the rights of vulnerable people, however, in practice, this is not one of the foci of the Commission, it is now mainly focused on reconciliation;
- De jure, the Commission is said to be independent, in the views of critical elements of the society, but de facto, it is not, because the issues that people believe should form its priorities are the ones it is implementing. People consider Reparations, Prosecutions, Memorialization, and protection of the rights of vulnerable people to be the issues the commission addresses currently, however, it seems to be primarily focused on pushing for reconciliation and building a legal framework by supporting ratification of International Human Rights Instrument.

### **Benchmark 9: Ensure the participation of IDPs in Decision Making**

- There is no such mechanism in place, even the Elections Commission since 2005 still sticks to its policy of voting where you register, and has made no allowance for persons who may be displaced at one point in the future, and would need assistance to participate in the electoral process;
- There is no policy that verbatim provides to supports the inclusion of internally displaced person or other vulnerable people in the making of public policy decisions<sup>375</sup>;

### **Benchmark 10: Support Durable Solutions**

- Durable solutions do not exist now, but the Government is working towards achieving this by virtue of the actions it has taken so far. The administration of Gyude Bryant adopted the Guiding Principles in 2004, the establishment of the Kampala Taskforce, involving key actors, and in which the Government participates, the preparation for a National and County Level Disaster plan, the commitment to conducting risk assessments, the setting up of the IHRC, etc. These are pointers towards working toward durable solutions, as the Government has not indicated or promulgated any other policies to the contrary. In practice, the Government did used the principles in the Guiding Principles to repatriate and have IDPs resettled in the period 2005-2006.
- The INHCR Palava Hut Program is a unique contribution to trying to finding durable solution through conflict resolution, since majority of Liberia's displacement crisis originated from human rights violations in the conflict.

### **Benchmark 11: Allocate Adequate Resources to the Problem**

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<sup>375</sup> Liberia's constitution Article 7however provides that the management of resources should be done with '...maximum feasible participation'



- Resources for Internally displaced persons in Liberia, channeled through the UNHCR started declining in 2005 to present, and between 2009 and 2013, the agency received funding for capacity building once in 2011. The Government of Liberia has not made available sufficient funding in the budget for the LRRRC and the NRDC funds has been inconsistently allocated either as part of the Ministry of Internal Affairs or as part of the overall Government contingency funding which most usually is considerate;
- The National Disaster Fund is yet to be set up in practice, although the Government since 2012 has identified it as a policy measure.

## **Benchmark 12: Cooperate with International Community when National Capacity is Insufficient**

- The Liberian Government does cooperate with the International Community where local capacity is limited or non-existent. There has been no reported targeted act of violence against aid workers, rather indiscriminate petty crimes that affects anyone. The Government's response to the Caterpillar invasion for an example was augmented by international assistance from FAO,

### **3.3 Challenges, constraints and prospects**

#### **Challenges**

- A key challenge to Liberia setting in place a framework is the fact that the issue might not be regarded as a priority, and this presents a constraint as well, since the country is moving away from conflict to development;

#### **Constraints**

- With the advent of good governance and the introduction of several governance related institution, heretofore, non-existent in pre-war days, the Liberian Government budget is constrained by administrative costs, which limits the ability of the government to respond to very important human development issues;
- As the Government concentrate large on infrastructure development for which it receives both grants and loans, it is difficult for both UN agencies, NGO's and the Government to make the case for international support relative to IDP's related issues;

#### **Prospects**

- Currently, there are no known, readied, in place, and fully validated plan; however, the National Disaster Relief Commission is constructing a Plan aimed at creating one even at the county one even at the county level. International Organizations need to engage to ensure that rights based issues are mainstreamed;
- The International Committee of the Red Cross is working along with Government institutions such as the Ministries of Justice, Foreign Affairs, and the Law Reform

Commission to ensure that all of Liberia's human rights international instruments are ratified in record time;

- The Liberia Refugee Repatriation and Resettlement Commission has requested the National Legislature to ratify the Kampala Convention, and recently a taskforce on the Kampala Convention was created;
- The National Disaster Relief Commission (NDRC) has drawn up an agency act that establishes its mandate, and it is hoped to be presented to the legislature upon their return from agriculture break in January

## **Chapter Four: - Conclusion and Recommendation**

### **4.1 Conclusion**

#### **Negative Conclusion**

The Government of Liberia, status wise, has not done the following:

- Ratified the Kampala Convention in order to set the basis for best solution to the problems associated with internal displacement;
- Not raised sufficient awareness on the problem of internal displacement, and neither taken adequate available to address it;
- Not collected current data on the number, location and condition of internally displaced persons;
- Minimally supported training on Rights of IDPs, around and in sync with the drive to ratify the Kampala convention;
- Not developed a National policy on internal displacement;
- Not designated an agency de jure to address the problems of internal displacement;
- Not fully supported the INHRC to carry out independent capacity building and monitoring of respect for the rights of vulnerable people, including internally displaced persons specifically from land disputes and disasters;
- Not taken strong measures to ensure that displaced persons can through appropriate policy measures participate in national decision making, and that in such events like elections they can vote even though away from home;
- Not allocated sufficient resources for the agencies that look at predatory events that stimulate or influence displacement, and has not made public overtures to the international community for assistance in this regard.

#### **Positive Conclusion**

The Government of Liberia has however taken positive steps aimed addressing the problem of internal displacement, by:

- Taking sufficient steps to ensure that it ratifies the Kampala Convention next year, and in so doing prepare the way for the development of policies aimed at providing durable solutions to internally displaced persons. The Government has in the absence of policies

adopted the World Bank's policies on IDPs predicated by development initiatives such as roads, dams, etc.

- Preparing to put the issue of ratification on the next legislative agenda of the President, and has named a defacto agency to address the issue of internal displacement;
- An informal collaborative group involving key stakeholders has been organized and is poised to spearhead the way the ratification of the convention;
- An International Humanitarian Law Group has been organized, courtesy of the ICRC, Ministry of Justice, Law Reform Commission and Ministry of Foreign Affairs; and this group seeks to ensure that all Liberia's international human rights treaty are ratified and domesticated subsequently.

## 4.2 Recommendations

### Government of Liberia

- The Liberian Government should ensure that it ratifies the **AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa**, as soon as it is practicable, and should be exemplary in Africa because of its unique experience with the problem with IDP's, unlike countries which have not had similar wealth of experience in this area;
- Liberia must designate a specific agency for handling Internally Displaced Persons (IDPs) de facto and de jure, so as to strengthen the mandate of the agency, and then add impetus and traction to its work;
- The Government of Liberia, through its respective agencies, must carry out sufficient civic education on the causes and problems associated with displacement; including, especially disaster related displacement and government preparedness to assist regarding these situations;
- The Government should broaden the scope of the NDRC so that it can address issues of displacement from disaster or expand the scope of LRRRC so that it covers it as well in its agency act verbatim;
- The Disaster Risk Management Policy must be inclusive of all stages of displacement, so that a data base of persons displaced can be an objective in the Disaster Risk Management Plan, and that vulnerable people are provided adequate, needed assistance for resettlement to reorganize their lives;

### Collaborative Groups

- The Kampala Taskforce must be broaden to include wide range of stakeholders, including additional civil society groups, specifically the Civil Society Council (umbrella of all groups), which would then designate focal groups in these areas; media groups, specifically the Press Union of Liberia; Women Groups, specifically the Women NGO Secretariat of Liberia;

Youth Groups, specifically the Federation of Liberian Youths; Disability Groups, specifically the National Union of Organizations of the Disabled;

- The Kampala Taskforce must build synergies with the International Humanitarian Law committee, in order to give more traction to its advocacy;

#### **UN Agencies and NGO's**

- Conduct more training exercises for both members of Civil Society and technical agencies of government so as to broaden the knowledge base, especially for LRRRC, NDRC, and the County officials likely to manage the County Disaster Risk Management Plan;
- UNHCR should reactivate its network of partners and tap on it. It would be good for people who had real time experience to write about them in manuals that can be used to train others, lest this knowledge fizzle away;
- UNHCR and other agencies and NGOs should engage with the NDRC to help mainstream human rights issues into the GOL National and County Disaster Risk Management Plan.

Appendix 1  
Liberia Instrument of Adoption of the Guiding Principles

The Guiding Principles on Internally Displaced Persons

Instrument of Adoption

Mindful that the crisis of internal displacement affects over twenty million people worldwide, including segments of the people of Liberia affected by years of civil war and unrest,

Recognizing that the National Transitional Government of Liberia has the foremost authority and responsibility for internally displaced persons within Liberia's borders,

Affirming that internally displaced persons have certain rights and freedoms that are based on international humanitarian and human rights instruments, many of which Liberia is a resolute party to,

Further recognizing that the Guiding Principles on Internal Displacement, as issued by the Secretary-General's Special Representative on Internally Displaced Persons and fully supported by the Inter-Agency Standing Committee of the United Nations, provide guidance and support to nations in the discharge of protections, guarantees and fundamental rights to internally displaced populations within their borders,

Committed to ensuring that internally displaced persons in Liberia enjoy the rights and guarantees set forth in the Guiding Principles on Internal Displacement,

Determined to foster a legal and institutional framework in Liberia that can make use of the guidance provided by the Guiding Principles on Internal Displacement,

The National Transitional Government of Liberia does hereby adopt in Perry Town, Liberia, on 8 November 2004, the Guiding Principles on Internal Displacement to serve as a source of ongoing guidance and reference for the protection, dignity and rights of internally displaced persons, who themselves are the People of Liberia and are worthy of the rights and freedoms thereof.

Signed,



C. Gyude Bryant  
Chairman, National Transitional Government of Liberia

## **CHAPTER FIVE**

### **Conclusion and Recommendations**

#### **5.1 Conclusion**

It is evident from the analysis provided in the previous chapters particularly chapters 1 and 3, managing the affairs of IDPs in the ECOWAS region remains a grave challenge due to complex causes and constrained responses by national authorities. This reflects the global trend and understanding that governments cannot always control the factors that cause internal displacement, but they can take measures to improve the lives and uphold the rights of IDPs. If national authorities are convicted of the importance of addressing internal displacement, they can take actions to respond to the needs of those who are displaced and to support durable solutions to displacement. In the three countries studied, the motivation to address displacement does seem to be based on both humanitarian concerns and political calculations/pressures.

It is further evident from chapters 1, 3 and 4 of this study, the following major pointers pertaining to internal displacement in the ECOWAS region: -

- 1) Evidence of a growing improvement and standardization of national responses in the ECOWAS region, particularly, pertaining to the political will to draft policies on IDPs, (as exemplified by Nigeria) sign and ratify the Kampala Convention (Cote D'Ivoire reported by the Ivorian case study to be the tenth member state of ECOWAS) or adopted the UN Guiding Principles on Internal Displacement as legally binding (in the case of Liberia) as well as the setting up of national focal points to coordinate the affairs of IDPs and humanitarian crises.
- 2) That assessing a government's performance on each of the twelve benchmarks of the Framework for National Responsibility provides an accurate picture of political will. For example, a government may collect data on internal displacement, set up an institutional focal point on IDPs, adopt an IDP law or take action toward meeting many or most of the benchmarks without necessarily having the genuine political will to protect the rights of IDPs and assist them in a sustainable manner. Even the indicators developed for each benchmark cannot give a complete picture of a government's exercise of its responsibility toward IDPs. That said, it does seem that action on the benchmarks can indicate a certain degree of political will; certainly it suggests that a government is ready to acknowledge IDPs as an issue and understands that doing so raises expectations for a government response. Furthermore, taking no action on certain benchmarks—for example, Benchmark 2 on acknowledgment of the existence of internal displacement—indicates a lack of political will to take certain actions on the issue. That is in and of itself quite revealing.
- 3) This comparative analysis has revealed certain trends for each benchmark in terms of the readiness and capacity of the included governments to mount an effective national response and in terms of the modality of response. In looking at the overall results of this analysis, it must be said that no one government performed well on all twelve of the benchmarks; conversely, most governments were taking at least some measures in line with at least some of the benchmarks, at least for certain groups of IDPs. Overall, governments performed much better on the three benchmarks on legal frameworks,

- policies and institutional focal points (Benchmarks 5, 6 and 7, respectively) than the others, at least with respect to taking the basic minimum actions recommended; very often, however, effective implementation was limited.
- 4) While there is a dearth of information about living conditions for IDPs generally, much less is known about IDPs living outside of camp settings—for example, whether they are sharing a house with relatives or friends, whether they are squatting on public property, or whether they have joined the ranks of the urban poor. And little is known about their specific needs for protection and assistance. Are they generally eking out a living? Are they exploited and threatened? Do they face discrimination any different from that experienced by the urban poor? Answers to these important questions are simply unknown.
  - 5) While recognising that years of armed conflict (as was the case with internal conflict/counter-insurgency operations) negative impact on the capacity of nearly all of the countries studied, at the same time, the level of development of a country, including in terms of governance structures, does appear to have better equipped some government institutions to respond. Nigeria, with an active national coordinating body, NEMA, a well-established judiciary and an activist National Human Rights Commission and civil society/media, has developed comprehensive policies, plans of action and strategies for resource mobilization for responding to internal displacement and humanitarian crises, through many observers consider such efforts still inadequate to address the scale of displacement nationwide, especially in the Niger-Delta and North-Eastern parts of the country.
  - 6) As discussed in chapters 2 and 4 of this study, although the Framework for National Responsibility has been widely used by government and international practitioners, and has been employed to analyze specific government responses to internal displacement, overall, the study found the Framework to be very useful tool for conducting assessments, although the collection of data for some of the benchmarks was especially challenging.

The easiest benchmarks to analyze were those with tangible indicators, in particular, the benchmarks related to data collection (Benchmark 3), national laws (Benchmark 5), policies (Benchmark 6) and institutional focal points (Benchmark 7). Data on these four benchmarks were for the most part publicly available, and it was relatively easy to find straightforward answers to questions such as whether a government had adopted a law on IDPs or had named an institutional focal point. It was more difficult to assess whether the data collected were comprehensive and whether laws, policies and focal points were active and effective. While it was relatively easy to “tick the box” indicating that a government had established a focal point, it was much more difficult to assess whether the focal point was effective. Moreover, in this case—and indeed with many of the benchmarks—the situation is often fluid and using the benchmarks to assess responsibility is sometimes akin to taking a snapshot at a particular moment in time.

Benchmark 8, on national human rights institutions, and Benchmark 10, on durable solutions, proved especially difficult to analyze in depth. While it was relatively easy to assess whether a national human rights institution existed, its role, degree of political independence and

stature were often unclear. The classification of NHRIs undertaken by OHCHR on the basis of the Paris Principles was an important reference standard. With respect to IDP issues specifically, however, it was often difficult to ascertain whether the NHRI was active on IDP issues, whether it was truly independent of the government and whether it was effective.

It was also relatively easy to compile information on certain government policy statements and efforts to support durable solutions for IDPs (Benchmark 10), although the sustainability of reported returns could usually not be assessed, particularly in countries with ongoing conflict. As a benchmark, “support for durable solutions” is likely too broad. It encompasses a wide range of activities, such as negotiating peace agreements, ensuring that returning IDPs are not subjected to discrimination, supporting economic opportunities and resolving housing, land and property issues. In order to assess whether a government was supporting durable solutions, the net needed to be cast very wide. Cooperation with the international community (Benchmark 12) was another benchmark that was relatively easy to measure on the level of the government’s willingness to accept international financial assistance. However, determining the extent to which the government facilitated access by international actors was more difficult. Finally, the issue of data collection turned out to be somewhat surprisingly difficult to assess, given the various different methodologies used and difficulties in tracking down existing datasets.

The most difficult benchmarks to analyze were those whose underlying concepts are very broad and those for which data simply were not publicly available. In the first category are the benchmarks on prevention (Benchmark 1), raising national awareness (Benchmark 2) and participation (Benchmark 9). As with finding durable solutions, preventing internal displacement includes a wide range of activities—from early-warning systems to disaster risk reduction to peace building and tolerance-promotion activities in areas at particular risk. Such diverse activities make it difficult to assess the extent to which the government is trying to prevent displacement—if it is not actively involved in creating or continuing displacement.

Assessing the extent to which governments are trying to raise national awareness of displacement and accept their responsibility toward IDPs is difficult. Political leaders can say the right things and publicly indicate their commitment to resolving displacement without in fact intending to do so. The indicators that we developed on participation of IDPs (Benchmark 9) proved to be difficult to use, both because the term “participation” encompasses components as diverse as IDP-friendly voter registration systems and mechanisms for needs assessment (which are likely to be covered under different aspects of government policy as well as by different parts of government.) As with other benchmarks, it is also difficult to assess the extent to which participation is meaningful or is token. In the second category were cases for which tracking down data proved especially difficult. The question regarding participation (Benchmark 9) proved challenging in this respect as well. It also was difficult to gather even basic information on whether the government was devoting adequate resources to IDPs (Benchmark 11), in part because no government had a budget in which all of its support for IDPs was included in a single figure and in part because of the time required to track down this information.



## 5.2 Recommendations for Action

### 5.2.1 To ECOWAS Member States

First, Member States to implement the following selected key points of the Resolution of the First Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa, held in Abuja on 7 July 2011: -

- i. **On the Prevention of Forced Displacement in the Economic Community of West African States:** to undertake to examine further all the factors that cause or contribute to forced displacement of people in our region, with a view to preventing displacement emanating from conflict and generalized violence and mitigating its devastating effects on our people; to encourage every Member State to install at the national level an early warning and rapid response system in close coordination with the already established system at the regional level run by ECOWAS and thereby facilitating its integration to the continental early warning system. The early warning system should cover all positive root causes of forced displacement in West Africa, guided by a comprehensive and participatory vulnerability analysis.
- ii. **On the Protection, Assistance and Durable Solution for Internally Displaced Persons:** to reaffirm our commitment to fully respect at all times the internationally recognized humanitarian principles of humanity, independence, impartiality and neutrality; in line with principles of the Kampala Convention, we commit ourselves to strengthen national and regional mechanisms for the promotion, respect and protection of human rights in our region, including of internally displaced persons; to urge Member States to undertake additional measures to ensure that the internally displaced persons enjoy all fundamental human rights on the same basis as all nationals.
- iii. **On the Promotion, Signing, Ratification, Domestication and Implementation of the African Union Kampala Convention on the Protection and Assistance of Internally Displaced Persons:** to commit ourselves to lead in the advocacy and promotion of the African Union Kampala convention in our countries so as to secure the rapid signing; ratification and deposit of the instruments at the AU Commission by Member States who have not signed and ratified the Convention; to agree and commit ourselves to lead in the national efforts towards the domestication and implementation of the Kampala convention in our countries.
- iv. **On Collaboration with the International Humanitarian Community:** to strongly reaffirm our commitment to continue the partnership that exists between the international community, ECOWAS and governments in our region in the provision of humanitarian assistance, protection and finding durable solution for internally displaced persons, refugees and returnees; to commit to specially assure the coordinated and unfettered access of humanitarian actors to affected populations and grant them full access to all relevant information needed to facilitate the provision of assistance and to the observance of the highest international standards in the delivery of humanitarian assistance to displaced persons.

Second, on domestic implementation of the Kampala Convention, the ten State parties (Benin, Burkina Faso, Gambia, Guinea-Bissau, Mali, Niger, Nigeria, Sierra Leone, Togo and Cote D'Ivoire<sup>376</sup>) to the Kampala Convention in the ECOWAS region need to adopt the AU Model Law (See Annex I of this study) on domestic implementation of the Kampala Convention in their respective States as a practical demonstration of their political will to address the phenomenon of internal displacement and in the best interest and welfare of IDPs.

Third, while this study has given some indication of how various governments studied have implemented each of the benchmarks, which could well serve as practical advice to other governments in the ECOWAS region, much greater attention is needed to both ensuring that *data* on IDPs exist and collecting data on the benchmarks of the Framework for National Responsibility.

Other recommendations are as follows:

- **Engage all stakeholders in particular IDPs, in decision-making and implementation process regarding internal displacement.** Decision-making processes and the implementation of programs on internal displacement should involve the active consultation and participation of the full range of stakeholders, and particularly IDPs themselves. IDPs should also have the opportunity to take part in deliberations on internal displacement at all levels.
- **Strengthen efforts to address the specific needs of IDPs with increased vulnerability.** Among internally displaced persons, women, children, the elderly, and the disabled may have special needs, which should be identified and addressed during all phases of displacement and in all contexts, including camps and urban environments.
- **Ensure protection and assistance programs address the needs of host communities.** Host communities make invaluable contributions to assisting the internally displaced. Responses to internal displacement must take into account not only the needs of IDPs, but also the concerns of the families and communities that provide them shelter.
- **Facilitate humanitarian access to the internally displaced.** States should ensure that civil society partners and international agencies have safe and unhindered access to internally displaced populations requiring protection and assistance.
- **Enhance protection and empowerment of IDP women.** While displaced many IDP women develop valuable professional and livelihood skills, particularly as heads of households. Greater efforts are required to ensure that IDP women can preserve and continue to develop these skills following return, resettlement and family reunification. Domestic violence against IDP women and the health and psychosocial needs of the survivors of sexual abuse also increased attention from national authorities and NGOs.
- **Promote IDPs' access to justice and reconciliation processes.** Legal redress and reconciliation is essential to promote social cohesion and the sustainability of returns. IDPs' access to national justice systems should be facilitated and every effort should be made to combat impunity for human rights violations. Community-based approaches to reconciliation such as cooperative economic projects should also be pursued.
- **Improve data collection on internal displacement in West Africa.** Relevant state authorities, in conjunction with civil society organizations, academic institutions and

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<sup>376</sup> Code D'Ivoire acceded on 20/12/2013 and deposited on 22/01/2014 at Addis Ababa.

international agencies should collaborate to improve methods of gathering, analyzing and disseminating data on the location, condition and needs of IDPs and the communities in which they live. When appropriate, the internally displaced should be registered in conditions that do not threaten their security or undermine their privacy.

- **Seek and apportion adequate resources for internal displacement.** Human and material resources are required in order for states to meet their obligations towards internally displaced persons. Allocations for IDP programs should be made in national budgets, and opportunities for public-private funding partnerships should be explored. International donors should provide consistent and reliable support.
- **Provide durable solutions to internal displacement.** A comprehensive approach to durable solutions is required that addresses the original causes of displacement as well as the vulnerability of IDPs and communities in which they may be receiving shelter. In order to ensure the sustainability of return, resettlement and reintegration, post-conflict transition programs should be implemented, as well as land tenure reform and employment generation programs. In particular, youth unemployment should be addressed and skills training provided.
- **Respect the right of the internal displaced to freedom of choice regarding durable solutions.** Internally displaced persons have the right to choose whether to return, resettle or integrate locally. In order to make an informed choice, the displaced must be provided with accurate and comprehensive information about places of return, resettlement and reintegration, including the security situation and availability and adequacy of basic services and infrastructure.
- **Improve protection and access to durable solutions for IDP children.** Increased support should be directed towards family reunification programs to lessen the risk of recruitment of IDP children into armed forces. Provisions on displaced children should be integrated into national child protection laws, and the ECOWAS Peer Review Mechanism should be applied to promote the protection of IDP children. Durable solutions should be presented in a way that children can understand, and support should be provided in return and resettlement communities to ensure that displaced children are able to integrate without risk of abuse, discrimination or exploitation. Specialized training should be provided to improve services for displaced children, particularly child combatants.
- **Ensure clear and effective coordination among stakeholders.** Organizations at the governmental, non-governmental, regional and international levels should coordinate their activities to ensure a comprehensive approach to internal displacement that avoids duplication of efforts and the inefficient use of resources. To this end, each ECOWAS state should identify a national focal point with responsibility for internal displacement issues.

### 5.2.2 To ECOWAS

- **Strengthen the engagement of ECOWAS on issues of internal displacement.** In this context, ECOWAS should place the issue of internal displacement on the agenda of Heads of State meetings and ensure compliance with the ECOWAS humanitarian policy and plan of action. In addition, ECOWAS should encourage member States to create emergency

response mechanisms and focal points for internal displacement, and should facilitate the development of networks working on issues of internal displacement.

- **Reinforce the capacity of ECOWAS to advocate on issues of internal displacement.** ECOWAS should appoint a focal point dedicated to addressing issues of internal displacement in West Africa. This person may be an eminent dignitary responsible for raising awareness of displacement issues, investigating situations of displacement, and promoting protection and assistance for IDPs in West Africa.
- **Encourage ratification and implementation of the Kampala Convention and other relevant ECOWAS Protocols.** ECOWAS has developed various norms and standards relevant to internal displacement, including the ECOWAS Protocol on Free Movement, the ECOWAS Protocol relating to the Mechanism on Conflict Prevention, Management, Resolutions, Peacekeeping and Security, and the Supplementary Protocol on Good Governance. States commitment to these Protocols should be consolidated through universal ratification or other process. ECOWAS should undertake regular monitoring of the implementation of these instruments especially the Kampala Convention that had been ratified by ten ECOWAS Member States as at January 2014.
- **Encourage stronger inter-regional dialogue on issues of internal displacement.** In particular, national human rights institutions from across Africa should meet and compare experiences in addressing internal displacement.
- **Train the ECOWAS Stand-By Force on issues of internal displacement.** ECOWAS has recognized that its stand-by force should be trained on the Kampala Convention. Training at all levels should take place before deployment, and reinforced regularly.

### 5.2.3

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# **ANNEX I**

## **DRAFTAU Model Law (Kampala Convention)**

**AFRICAN UNION**

**الاتحاد الأفريقي**



**UNION AFRICAINE**

**UNIÃO AFRICANA**

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Commission on International Law (AUCIL)  
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Original: English**

### **DRAFT AU MODEL LAW FOR THE IMPLEMENTATION OF THE AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA**

#### **DRAFT AU MODEL LAW FOR THE IMPLEMENTATION OF THE AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA**

#### **CHAPTER I**

#### **General Provisions**

#### **Article 1 Short Title**

This legislation shall be cited as “The Law for the Protection and Assistance of Internally Displaced Persons.”

#### **Article 2 Definitions**

For the purpose of this legislation:

- (1) “Armed Groups” means dissident armed forces or other organized armed groups that are distinct from the armed forces of the state.
- (2) “Disaster” means a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, displacement of population or large-scale material or environmental damage, thereby seriously disrupting the functioning of society.

- (3) “Harmful Practices” means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of persons, such as but not limited to their right to life, health, dignity, education, and mental and physical integrity.
- (4) “Internally Displacement” means the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognised state borders.
- (5) “Internally Displaced Persons” 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 armed conflict, situation of generalised violence, violation of human rights or natural or human-made disasters and who have not crossed an internationally recognised state border.
- (6) “Non-state actors” means private actors who are not public officials of the state, including armed groups and whose acts cannot be officially attributed to the state.

### **Article 3                      Objectives and Scope of the legislation**

1. This legislation shall have the following objectives:

- a) Provide for the prohibition of arbitrary displacement in the State.
- b) Establish a legal framework for preventing internal displacement, and protecting and assisting internally displaced persons in the country;.
- c) Implement the human rights of internally displaced persons as provided for under the Constitution of [ country name] and other relevant subsidiary laws.
- d) Give effect to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa , and other relevant international and regional treaties to which [ country name] is a State party .
- e) Provide for the respective obligations, responsibilities and roles of armed groups, non-state actors and other relevant actors, including civil society organizations.
- f) Establish a national coordination mechanism for the implementation of the legislation and define its power and responsibilities.
- g) Promote and strengthen the national framework for the prevention or mitigation, and elimination of root causes of internal displacement as well as the provision for durable solutions for internally displaced persons.

2. The Provisions of this legislation shall apply to all situations of internal displacement notwithstanding its causes.

### **Article 4                      Principles**

This legislation shall be implemented in accordance with the following principles:

- (1) Every person shall be protected against arbitrary internal displacement.
- (2) Internally displaced persons shall enjoy the full protection of their human rights under the Constitution of [name of the country] and enjoy the right not to be discriminated against.
- (3) Internally displaced persons shall enjoy the rights provided under regional and international human rights treaties to which the country is a party.



- (4) The Government has the primary duty and responsibility for preventing internal displacement, protecting and assisting internally displaced persons and creating conditions conducive to durable solutions for internally displaced persons.
- (5) Protection and assistance activities shall take into account the specific circumstances and needs of marginalized/vulnerable groups such women, communities with special attachment to land, single-headed households, elderly, persons with disabilities, and unaccompanied and separated children
- (6) Every person, including public authorities, involved in the protection and assistance of internally displaced persons shall act in accordance with this Act and give due regard to the needs of displacement affected populations and host communities.
- (7) Provision, assistance and protection to internally displaced persons shall be undertaken without distinction with regard to where the internally displaced persons originated or are located.
- (8) The implementation of provisions of this legislation shall not be construed to grant special legal status to internally displaced persons.
- (9) When interpreting this Legislation due consideration must be given to its principles and objectives, the Constitution and any international instruments. In so doing, any reasonable interpretation that favors the rights of internally displaced persons must be preferred to any adverse interpretation.

## **CHAPTER II**

### **Internal displacement induced by Climate Change and disasters**

#### **Article 5                      Climate Change Induced Displacement**

- (1) The Government assumes the primary duty to protect populations and give particular attention to the special needs of the people most vulnerable to and most affected by climate change and other environmental hazards, including the displaced, hosting communities and those at the risk of displacement.
- (2) Competent authorities shall take adaptive measures to prevent and mitigate displacement induced by climate change.
- (3) Competent authorities should take specific measures to integrate internal displacement in their contingency planning and national adaptation programs.
- (4) Climate change related processes at the national and local levels should involve a meaningful and informed participation of communities likely to be affected by internal displacement.
- (5) Mitigation measures involving relocation of populations or communities shall be undertaken with full participation and consultation with affected communities and should comply with human rights standards and norms.

#### **Article 6                      Protection of internally displaced persons during disasters**

- (1) Competent authorities shall take measures to ensure that persons displaced by disasters have unimpeded and non-discriminatory access to public services necessary to meet their basic needs.
- (2) Competent authorities shall protect those displaced by disaster against the dangers of potential secondary hazards and other disaster risks.
- (3) Law enforcement personnel and local authorities shall take effective measures to ensure the security of populations affected by disasters.

- (4) The Government and humanitarian organization shall establish camps only as a last resort and the latter should only be established as long as the possibility of self-sustainability or fast rehabilitation assistance does not exist.
- (5) The government shall be responsible for maintaining law and order in the camps and their vicinity.
- (6) Competent authorities shall take measures to grant priority access to such groups as women, communities with special attachment to land, single-headed households, elderly, persons with disabilities, and unaccompanied and separated children.
- (7) Competent authorities should take measure to ensure that those displaced by disaster are given access to psychosocial assistance and social services, when necessary. Special attention should be given to the health needs of women, including provision of appropriate clothing and hygienic supplies, access to female healthcare providers and such services as reproductive health care.
- (8) Forced evacuations of individuals in cases of natural or human made disasters or other causes shall not be undertaken unless such measures are justified by considerations of the safety and health of those affected.
- (9) In situations where the state fails to provide effective remedies to situations of internally displaced persons, internally displaced persons shall be provided with effective remedies, as provided for under Chapter VIII of this legislation.
- (10) The Government shall endeavor to establish a system to trace the fate of persons missing and cooperate with international organizations working in this area. Next of kin(s) shall be informed of the result of ongoing investigation(s).
- (11) Competent authorities shall endeavor to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next-of-kin or dispose of them respectfully.

## **Article 7            National Disaster Early Warning, Preparedness and Management Mechanism**

- (1). The National Disaster Early Warning, Preparedness and Management Mechanism is hereby established. The National Mechanism shall, inter alia, have the following functions:
  - a) Establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures.
  - b) Establish national plans for enterprises, factories, construction sites, buildings, engineering structures, transport and communication links, with potential dangerous exposure to people and the environment, with the necessary levels of safety and reliability and observance and monitoring systems.
  - c) Monitoring trends and patterns of disasters that may potentially cause internal displacement.
  - d) Monitoring areas inhabited by persons at risk of displacement.
  - e) Identify and submit areas suitable for designation by the Government for settlement of internally displaced persons in the State.
  - f) Prepare periodic reports on the situation of areas of high risk and submit them to the Government
- (2). The Government shall facilitate the involvement of internally displaced persons in the development and implementation of early warning system, disaster reduction strategies, emergency and disaster preparedness and management measures.

**Article 8****Needs Assessment and Initiation of International Assistance**

- (2) (1) Immediately after the onset of or prior to a major disaster, the National Mechanism established under Article 7 of this legislation shall, upon consultation with relevant government authorities at all levels and based on an initial estimate, shall make a determination whether local capacities are sufficient to effectively respond to the needs of internally displaced persons and affected communities. In the event of determination that domestic response capacities are not likely to be sufficient, the National Mechanism shall, without any further delay, advise the highest executive organ a request be made for an international assistance.
- (3) A determination that domestic capacities are likely to be sufficient and international assistance is therefore not necessary shall be regularly reviewed based on information on the needs and magnitude of internally displaced persons and the affected population.

**Article 9****Termination of International Assistance**

- 1) The decision to seek termination of assistance including international relief efforts shall be made on the basis of effective assessment of the needs of the affected population including the displaced and based on a broad-based and effective consultation with internally displaced persons and international organisations providing such assistance.
- 2) The termination date shall be announced three months prior to the date when the termination will be effective.
- 3) All disaster response actors shall undertake measures to minimise the negative impacts on affected population including internally displaced persons from such termination.

## **Article 10                      Relocation Procedures**

- 1) Measures to relocate the affected populations shall not involve actions more than what is proportionate and necessary.
- 2) Relocation measures shall fully take into account and be carried out in a manner that fully respects the right to life, dignity, liberty, security and based on an effective consultation and participation of these persons.
- 3) The involvement of law enforcement bodies and the military shall comply with applicable human rights standards.
- 4) All communities affected by a natural disaster should be entitled to easily accessible information concerning:
  - a. the nature and level of disaster they are facing;
  - b. the possible risk mitigation measures that can be taken;
  - c. early warning information; and
  - d. information on ongoing humanitarian assistance, recovery efforts and their respective entitlements
- 5) Measures should be taken to safeguard homes and common assets left behind by affected populations.

## **Article 11                      Protection of the Right to Property during Disasters**

- 1) Competent authorities shall take measures to protect, to the maximum extent possible, against looting, destruction, and arbitrary or illegal appropriation, occupation or use of property and possessions left behind by persons or communities displaced by the natural disaster.
- 2) Owners, whose land deeds or property documents have been lost or damaged during the natural disaster or whose land boundaries have been destroyed, should be provided with accessible procedures to reclaim ownership of their original land and property without undue delay.
- 3) The Government shall put in place legal procedures to consider competing claims to land and property with due process guarantees and without delay.
- 4) Specific arrangements shall be made to enable women, particularly widows, as well as orphans and vulnerable children to (re-)claim housing, land or property and to acquire housing or land, and get the title deeds through their legal guardian or at emancipation in their own name.

## **Article 12                      Coordination and administration of settlement areas**

- 1) The National Disaster Early Warning, Preparedness and Management Mechanism shall coordinate the National Focal Point and local authorities on internal displacement with the view to fully integrating the needs of internally displaced persons in the administration of settlement areas, inter alia, in the following areas:
  - a) Ensure adequate provision of basic social and health services.
  - b) Safeguard and maintain the civilian human character of settlement.

- 2) International and national actors involved in providing humanitarian assistance shall fully take into account the protection needs of internally displaced persons.

### **CHAPTER III**

#### **Internal Displacement Caused by Armed conflicts and generalized violence**

##### **Article 13                      Obligations of the Government and Non-state actors**

- (1) The Government, armed groups and any other person, irrespective of their legal status and applied without any adverse distinction, shall respect and ensure compliance with their obligations under international humanitarian law and human rights law treaties ratified by the State, so as to prevent and avoid conditions that might lead to internal displacement of persons.
- (2) The Government shall take all measures to safeguard areas where internally displaced persons are located, and protect such locations against infiltration by armed groups or elements and disarm and separate such groups or elements from internally displaced persons.
- (3) All groups shall refrain from attacking camps, settlements, or any other areas where internally displaced persons might be located.
- (4) All groups shall respect the right of internally displaced persons to voluntarily return in safety and dignity to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist.

##### **Article 14                      Protection of Internally Displaced Persons**

- (1) All parties to armed conflicts shall not forcefully displaced civilian population for reasons of the conflict unless the security of the civilian involved or imperative military reasons so demand.
- (2) Internally displaced persons shall be protected from:
  - a) Genocide, murder, summary or arbitrary executions, and enforced disappearances.
  - b) Direct or indiscriminate attack or other acts of violence.
  - c) Starvation as method of war.
  - d) Being used as a shield for military objectives.
  - e) Rape, mutilation, torture, cruel, inhuman, or degrading treatment, or punishment and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution, and any other form of indecent assault.
  - f) Slavery or any other contemporary forms of slavery, including sale into forced marriage, sexual exploitation, forced labour, child exploitation.
  - g) Acts of terror.
  - h) Internment or confinement into a camp;
  - i) Discriminatory forced recruitment into the military or armed groups?.
- (3) In case of internal displacement, all possible measures shall be taken in order that persons are received under satisfactory conditions of shelter, hygiene, health, safety, nutrition, and that members of the family are not separated.
- (4) The property and possession of internally displaced persons shall be protected against:
  - a) Pillage.
  - b) Direct or indiscriminate attacks or other forms of violence
  - c) Being used to shield military operation or objectives.
  - d) Being made the object of reprisal

- e) Being destroyed or appropriated as a form of collective punishment, and destruction, and arbitrary and illegal appropriation or use.

#### **Article 15                      Penalties**

- (1) Any person who has caused the arbitrary displacement of individuals and groups in violation of provisions under this Chapter shall be punished in accordance with Chapter XI of this legislation.
- (2) Order issued by the military, the police or any other law enforcement section of the government shall not be used to justify such actions.

### **CHAPTER IV Displacement Induced by Projects**

#### **Article 16                      Principles and Obligations**

- (1) The Government shall give priority to exploring strategies that minimize displacement.
- (2) The Government, as much as possible, shall prevent displacement caused by projects carried out by public or private actors.
- (3) The Government shall ensure that the stakeholders concerned will explore feasible alternatives, with full information and consultation of persons likely to be displaced by projects.
- (4) The Government shall carry out a socio-economic and environmental impact assessment of a proposed project prior to undertaking such a project.
- (5) The Government shall ensure the protection of internally displaced persons consistent with this legislation to receive protection their right to adequate housing and without discrimination.
- (6) Internally displaced persons have the right to be resettled, including the right to alternative provision of land or housing of equal or comparable quality.

#### **Article 17                      Impact Assessment**

- (1) The Government shall institute comprehensive and holistic impact assessments as a requirement prior to the initiation of any project that could result in internal displacement.
- (2) Assessment should also include exploration of alternatives and strategies for minimizing harm.
- (3) Impact assessments must take into account the differential impacts of forced evictions on women, children, the elderly, and marginalized or vulnerable persons. All such assessments should be based on the collection of disaggregated data.

#### **Article 18                      Procedure and Participation**

- (1) Any forced relocation or forced displacement or eviction shall be:
  - a) Conducted after a decision passed in accordance with applicable law and the provisions of this legislation.
  - b) Carried out if justified by compelling and overriding public interest in each particular case.
  - c) Undertaken solely for the purpose of promoting the general welfare, including that of the internally displaced persons.
  - d) Considered only when there are no feasible alternatives to such measure.

- e) Reasonable and proportional.
  - f) Regulated so as to ensure full and fair compensation and rehabilitation.
- (2) All potentially affected groups and persons, including women, people with special attachment to, and dependency, on land due to their particular culture and spiritual values, and persons with disabilities, as well as others working on their behalf, have the right to be involved in the planning and implementation of development projects and shall be provided with adequate and timely information.

## **Article 19                      Protection during Project Related Displacement**

- (1) Displacement or relocation resulting from projects shall not be carried out in a manner that violates the dignity and the rights to life and security of those affected.
- (2) The Government shall take steps to ensure that women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected.
- (3) The Government shall take steps to ensure that no one is subject to direct or indiscriminate attacks or other acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment.
- (4) Property and possessions left behind involuntarily should be protected against destruction and arbitrary and illegal appropriation, occupation or use.
- (5) Regardless of circumstances and without discrimination, competent authorities shall ensure that all persons are provided with have access to health, food, water, sanitation and health services.

## **Article 20**

### **Advance Preparation and Mitigation Measures**

- (1) In the context of projects undertaken by the government, the relevant government authority shall undertake the necessary environmental and impact assessment studies
- (2) Private companies shall also be required to conduct environmental and impact assessment prior to the implementation of their projects.
- (3) Internally displaced persons shall fully participate in the conception and implementation of these assessment studies.
- (4) In situations where displacement from projects occurs, the following guarantees shall be applicable:
  - a) The measure shall be taken by a Government competent authority fully empowered by law.
  - b) Individuals and groups who will be affected by the measure shall have full access to information on the reasons and procedure for the displacement, and where applicable, also information on compensation and relocation.
  - c) Securing free and informed consent of those to be displaced shall be given priority.
  - d) Opportunity for those opposing the relocation measure to challenge the decision and ask for review before a body constituted for this purpose or before the ordinary courts.
  - e) Law enforcement measures, where required, shall be carried out by competent authorities and shall be in full compliance with applicable human rights standards.
  - f) Individuals affected by projects shall enjoy the right to an effective remedy as provided for under Article 19 of this law.

## **Article 21**

### **Relocation**

- (1) Identified relocation sites shall fulfil the criteria for adequate housing according to applicable human rights standards.
- (2) Resettlement must ensure that the human rights of women, children, and other vulnerable groups are equally protected, including their right to property ownership and access to resources.
- (3) The Government shall provide all necessary amenities, services and economic opportunities at the proposed site.
- (4) The entire resettlement process should be carried out with full participation of affected persons, groups and communities.
- (5) The Government shall give due consideration to all alternative plans proposed by the affected persons, groups and communities.

## **Article 22**

### **Effective Remedies**

- (1) The Government shall ensure that fair and just compensation is made for any loss of life, real or other property or goods, including rights or interests in property.
- (2) Compensation shall be provided for any economically quantifiable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as: loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medicine and medical services, and psychological and social services.



- (3) Women and men must be co-beneficiaries of all compensation packages. Single women and widows should be entitled to their own compensation on an equal basis with men without discrimination.

## **CHAPTER V**

### **Protection of Internally Displaced Persons**

#### **Article 23                      Civil and political rights**

- (1) Internally displaced persons shall exercise the full civil and political rights enjoyed by persons under the jurisdiction of the State. ordinary citizens.
- (2) Internally displaced persons shall, whether they are located in camps or not, enjoy the following rights without any discrimination:
  - a) Freedom of thought, conscience, religion, or belief, opinion or expression.
  - b) To seek freely opportunities for employment and participate in economic activities.
  - c) Enjoy their civil and political rights, particularly public participation, the right to vote and to be elected to public office.
  - d) To receive education which should be free and compulsory at the primary level
- (3) No one shall be subjected to discriminatory and arbitrary detention on account of her or his displacement.
- (4) Internally displaced persons shall be protected against adverse reaction for exchanging information or expressing their opinions and concerns regarding the disaster relief, recovery and reconstruction efforts.
- (5) Competent authorities shall ensure that internally displaced persons are provided with the opportunity to conduct peaceful assemblies or to form associations.
- (6) Competent authorities should take measures to ensure that internally displaced persons can exercise their right to vote in elections and to be elected. Such measures may include voter registration and arrangements for absentee voting.

#### **Article 24                      Family Reunification**

- (1) Competent authorities shall take measures to realize the rights of every person to his or her family life. They shall respect the rights of family members whose movement is temporarily restricted including in camps to stay together.
- (2) The government shall cooperate with international and local humanitarian organisations engaged in the task of family reunification.
- (3) Families that are separated by displacement should be made possible to reunite as quickly as possible. Authorities shall undertake specific measures to reunify separated and unaccompanied children
- (4) The responsible authorities shall facilitate inquiries made by family members.
- (5) All authorities should allow members of displaced families who wish to remain together to do so during the emergency phase and in the context of return or resettlement.

**Article 25****Economic, Social, and Cultural Rights**

- (1) Competent authorities shall respect and ensure the rights of all internally displaced persons to economic, social and cultural rights including an adequate standard of living in a progressive manner and subject to available resources.
- (2) As the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
  - a) Essential food and potable water;
  - b) Basic shelter and housing;
  - c) Appropriate clothing; and
  - d) Essential medical services and sanitation.
  - e) Health care.
  - f) Education
- (3) Competent authorities shall take specific measures to ensure the full participation of women, children and persons with disabilities in the planning and distribution of these basic services.

**Article 26****Registration and Personal Documentation**

- (1) The Government shall establish a mechanism for the registration and collection of information on internally displaced persons.
- (2) The Government shall take all necessary measures to facilitate the registration of internally displaced persons whether they are located in urban areas, rural environment or any other forms of settlements.
- (3) The Government shall facilitate timely and efficient issuance of all necessary documentations including passports, personal IDs, birth certificates, marriage certificates, and licences, which might have been lost or damaged during their displacement.
- (4) Due consideration shall be given to the special needs of women, children, and persons with disabilities. Persons with disabilities, women and unaccompanied or separated children shall be issued with the necessary documents in their own name.
- (5) The relevant Government institution shall elaborate a simplified, (gender, age, and disability sensitive) procedure for issuing the necessary documentations upon applications by internally displaced persons. These procedures shall be publicised to areas where internally displaced persons are located.
- (6) The Government shall, as it deems appropriate, establish modalities for collaboration with international humanitarian and civic organisations in the registration and collection of data and information.
- (7) Loss of personal documentation should not be used: (a) to justify the denial of essential food and relief services; (b) to prevent individuals from travelling to safe areas or from returning to their homes; or (c) to impede their access to employment opportunities.

## **Article 27                      Access to Information**

- (1) The Government shall establish procedure to allow internally displaced persons and organisations working on the promotion of the rights of internally displaced persons access to data collected under this Legislation.
- (2) The Government shall establish procedures for sharing and exchanging of personally identifiable information concerning internally displaced persons with humanitarian organisations involved in the provision of humanitarian and protection services, inter alia, for the purpose of avoiding imminent death or physical harm to individuals, or grave harm to public health or safety, or for facilitating family reunification.

## **Article 28                      Consultation**

Internally displaced persons shall be consulted in the design, implementation and review of programs aimed at providing protection, assistance and durable solutions to internally displaced persons.

## **Article 29                      Freedom of Movement**

- (1) Internally displaced persons are at liberty to move freely and chose their areas of residence.
- (2) The Government shall ensure that a person's freedom of movement and choice of place of residence will not be subject to any restrictions save those maintained by the law as they are deemed necessary, justified and proportionate for reasons pertaining to national security, public order or health, morals or other people's rights and freedoms.
- (3) The Government shall respect and ensure respect the right of internally displaced persons to seek safety in another part of the State and to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.
- (4) The right of internally displaced persons to move freely in and out of camps or other settlements shall not be restricted unless it is done under transparent rules based on public necessity.
- (5) Internally displaced persons shall enjoy the right to leave the country without discrimination.

# **CHAPTER VI**

## **Assistance to Internally Displaced Persons**

### **Article 30                      General provisions**

While providing assistance to internally displaced persons, the Government shall:

- (1) bear the primary duty and responsibility for providing humanitarian assistance to internally displaced persons within the territory or jurisdiction of the State without discrimination of any kind.
- (2) allow and facilitate a rapid and unimpeded access by humanitarian organizations and personnel.
- (3) take necessary measures to ensure that internally displaced persons are received, without discrimination of any kind and live in a satisfactory conditions of safety, dignity and security.
- (4) request for international assistance when its available resource is not adequate to enable it to provide the required assistance to the affected population
- (5) not persecute, or punish internally displaced persons for peacefully requesting or seeking protection in accordance with relevant national and international laws
- (6) uphold and ensure respect for the humanitarian principles of humanity, neutrality, impartiality and independence of humanitarian actors.

- (7) ensure the participation of internally displaced persons in the planning, execution and evaluation of humanitarian assistance programs.

### **Article 31                      Internally Displaced Persons with special needs**

- (1) The Government shall provide special protection for and assistance to internally displaced persons with special needs, including children, female heads of households, expectant mothers, mothers with young children, the elderly, and persons with disabilities, the wounded and the sick or those with communicable diseases.
- (2) Assistance to persons with special needs shall take into account the specific needs required by their individual circumstance and shall take into account their health needs, reproductive health care as well as appropriate counseling including access to psychological and social counseling.
- (3) The Government shall undertake, including by cooperating with relevant international humanitarian organisations, to trace and reunify unaccompanied minors with their families.
- (4) The best interests of an internally displaced child, whether unaccompanied or accompanied by parents, legal guardians or close relatives, shall be a paramount consideration in providing for protection and assistance.
- (5) The Government authorities shall effectively/fully cooperate with international [humanitarian] organizations working in tracing family members.
- (6) The Government shall adopt specific laws, laws, strategies and programs to address the problem of traditional harmful practices including those that specifically affect women and children.
- (7) The Government shall take special measures to protect and provide for the reproductive and sexual health of internally displaced women.
- (8) The Government shall adopt specific measures to address problems of criminalizing sexual and gender based violence and provide appropriate psycho-social support for victims of sexual and other related abuses.
- (9) Competent authorities should take into account all appropriate measures as quickly as possible to protect affected populations, in particular women and children, against forced or compulsory labour and human trafficking or other contemporary forms of slavery such as sale into marriage, forced prostitution, and sexual exploitation.

### **Article 32                      Communities with special dependency and attachment to land**

With respect to communities with special attachment to, and dependency on land, the government shall:

- (1) ensure that their special interest to land is duly protected;
  - (2) ensure that land leases and agreements take into account their rights and interests;
  - (3) guarantee that they are not displaced from their land except for compelling and overriding public interest.
  - (4) endeavour to protect their particular culture and spiritual values from being displaced from such lands.
- 1) ensure that through their representatives, they are duly allowed to participate in the process of elaboration of land leases agreements.
  - 2) take appropriate measures, whenever possible, to restore their lands of communities with special dependency and attachment to such lands upon return.

## **CHAPTER VII**

### **Humanitarian assistance and protection**

#### **Article 30**

#### **Humanitarian Assistance**

- (1) The Government through the competent authorities shall provide internally displaced persons, at the minimum and without any discrimination whatsoever,
  - a) adequate food, water, clothing
  - b) basic shelter and housing.
  - c) essential medical services including psychosocial support.
- (2) The Government shall fulfill its obligations, where appropriate, with assistance from international organizations and humanitarian agencies, civil society organizations, and other relevant actors.
- (3) The Government shall ensure humanitarian assistance is delivered to internally displaced persons without discrimination and used only for its intended purpose.

#### **Article 31**

#### **Humanitarian Access**

- (1) The Government may provide technical arrangements under which humanitarian access will be permitted. These conditions should be provided in a publicly accessible instrument.
- (2) The Government shall:
  - a) Allow rapid and unimpeded passage of all relief consignments, equipment and personnel to internally displaced persons.
  - b) Enable and facilitate the role of local and international organizations and humanitarian agencies, civil society organizations and other relevant actors, to provide protection and assistance to internally displaced persons.

#### **Article 32**

#### **Facilitation of the work of humanitarian actors**

Based on the recommendation by the National Mechanism established under Article 41 of this legislation, the Government shall carry out specific measures to expedite the entry of humanitarian goods, personnel and transportation.

#### **Article 33**

#### **Protection of humanitarian personnel**

The Government shall guarantee security and protection of humanitarian personnel.

#### **Article 34**

#### **Obligations Relating to International Organizations and Humanitarian Agencies**

National and International humanitarian organisations requested or authorized to provide humanitarian assistance to internally displaced persons shall,

- (1) Respect the laws and regulations of the country.
- (2) Respect the primary responsibility of the Government in protecting and assisting internally displaced persons.
- (3) Coordinate with the government in the implementation of their activities.
- (4) Be bound by the principles of humanity, neutrality, impartiality and independence of humanitarian actors, and ensure respect for relevant international standards and codes of conduct.
- (5) Refrain from making any adverse distinctions, or exclusions.
- (6) Respect the rights of internally displaced persons.

- (7) Consult and involve internally displaced persons in the designing, implementation and monitoring of their programs.
- (8) Ensure that humanitarian assistance and programs are used for their intended purposes.
- (9) Put in place measures for monitoring and evaluating the effectiveness and impact of the humanitarian assistance delivered to internally displaced persons in accordance with relevant practice.

## **CHAPTER VIII**

### **Remedies**

#### **Article 35                      Access to Judicial mechanisms**

- (1) Internally displaced persons shall have full access to judicial institutions and national human rights mechanisms to seek appropriate compensation consistent with international treaties ratified by the State.
- (2) In case of forced displacement caused by projects, affected individuals and groups shall be entitled to get decisions causing their displacement reviewed.
- (3) Internationally displaced persons shall not be prosecuted, persecuted or otherwise negatively affected for seeking compensations and other remedies.
- (4) The Government shall provide legal aid scheme to assist internally displaced persons enjoy full access to judicial institutions.

#### **Article 36                      Compensation and other forms of reparations**

- (1) The Government hereby establishes a national mechanism for the provision of fair and effective compensation and other appropriate forms of reparation consistent with applicable human rights standards. The specific modalities of such mechanism shall be determined by implementing legislation.
- (2) Internally displaced persons have the right to reclaim any housing and/or land and properties they might have been deprived of arbitrarily or unlawfully.
- (3) The military, law enforcement agencies, the police or any agency of the government shall be liable to pay compensation where their actions and omission in the context of internal displacement results in the death of persons, physical, physiological, financial harm or any other harm.
- (4) Non-state actors whose action caused arbitrary internal displacement shall be liable to pay compensation.

## **CHAPTER IX**

### **Durable Solutions**

#### **Article 37                      Obligations**

- (1) The Government shall have the primary duty and responsibility to establish conditions that allow internally displaced persons to return voluntarily, in safety and dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.
- (2) Authorities shall ensure the protection of internally displaced persons from human rights violations, attacks or threat of attacks to their safety and security.
- (3) The Government shall, where appropriate, cooperate with the African Union, the United Nations, and international humanitarian organizations, and civil society organizations in the process of

finding and implementing durable solutions and shall grant rapid and unimpeded access to internally displaced persons to assist their resettlement and reintegration.

- (4) Competent authorities shall enable internally displaced persons to make free and informed choice on whether to return, integrate locally or relocate by consulting them on these and other options and ensuring their participation in finding durable solutions.
- (5) The return of internally displaced persons to their homes or places of habitual residence should only be prohibited if these homes or places are in areas where there are real dangers of potential secondary hazards and other disaster risks. Such restrictions should only last as long as such dangers and risks exist and only be implemented if other less intrusive measures of protection are not available or possible.

#### **Article 38                      Protection of property rights including land**

- (1) The Government shall establish simplified procedure for settling property related disputes that are sensitive to the situation of internally displaced persons.
- (2) Competent authorities, including the local government authorities concerned, have the duty and responsibility to assist returned and or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement.
- (3) When recovery of such property and possessions is not possible, competent authorities, including the local government units concerned, shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.
- (4) Competent authorities shall ensure the rights to property restitution and compensation to all internally displaced persons, including in particular women and children, regardless of existing obstacles to ownership and inheritance. Where appropriate, legal arrangement shall be made for holding property of children in trust based on the principle of the best interest of the child.
- (5) With respect to the role of customary or traditional institution, the government shall.
  - a) Recognize their role as alternative and informal community based mechanisms and processes for resolving property disputes, with simple requirements of proof of ownership based upon reliable and verifiable testimony;
  - b) Recognize, as much as it does not violate any provisions of this legislation or other law in the State, the customary holding of land tenure system

#### **Article 39                      Procedure for Return, and integration**

- (1) Special efforts shall be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.
- (2) Any plan to relocate internally displaced persons shall be undertaken on the basis of the free consent of the individual concerned.

#### **Article 40                      Guarantees upon Return, and integration**

- (1) Competent authorities shall ensure the following guarantees of human rights of internally displaced persons in the areas of their return, integration.
  - a) Full protection for long-term safety and security
  - b) Enjoyment of an adequate standard of living without discrimination, including adequate shelter, housing, food, water, sanitation, as well as health and medical care, education

- c) Equal and unimpeded access to generally available public programmes, such as social housing or welfare measures, poverty alleviation programmes.
  - d) Access to employment and livelihoods.
- (2) Competent authorities shall take measures to eliminate gender inequality and should give special attention to claims of protection by returning spouses, single parents, and single women with respect to disputes on the ownership of family or other property when a displaced spouse is deceased.
- (3) Competent authorities shall guarantee the full protection of children including right to inherit family property when in the event of death of parents and the establishment of legal arrangements for holding these children's inheritance of property in trust that comply with the best interests of the child principle.
- (4) The Government shall recognize special protection of the property of returning communities, pastoralists and other groups whose mode of livelihood depends on special attachment to their lands in situations where such communities or groups exist. These communities, pastoralists or other groups,
  - a) shall be reintegrated in areas previously occupied them.
  - b) shall be provided in all possible cases with lands at least equal in value to those previously occupied by them
  - c) Where alternative lands of equal value cannot be allocated, an appropriate compensation package shall be made available as provided for in the national legislation of the Member States.

## **CHAPTER X**

### **National Coordination and Implementation Mechanism**

#### **Article 41                      Establishment/Designation of a National Coordinating and Implementation Mechanism**

- (1) The Government shall establish or designate a National Coordinating and Implementation Mechanism to coordinate government's effort regarding prevention, mitigation and response to internal displacement.
- (2) The Government shall appropriate the necessary funds for the effective implementation of the powers and responsibilities of the Mechanism.

#### **Article 42                      Membership**

- (1) The Government's highest executive decision-making organ shall designate members of the coordination mechanism. It shall also appoint the chairperson of the Coordination Mechanism.
- (2) The National Coordination mechanism shall include as its members:
  - a) Relevant ministries.
  - b) Representatives of Provincial/Regional States
  - c) National Disaster Early Warning, Preparedness and Management Mechanism.
  - d) National human rights institution.
  - e) National Red Cross and Red Crescent Society
  - f) Representatives of civil society organisations.
  - g) Representatives of internally displaced persons.
  - h) The Government shall allocate the necessary funds for the running of the daily activities of the coordination mechanism.



## **Article 43 Powers and responsibilities**

The national coordination focal point shall have the following powers and responsibilities. It shall:

- (1) Serve as the focal point for the implementation of the Kampala Convention, including the preparation of implementation Report.
- (2) Monitor and evaluate the implementation of this legislation and other relevant laws and policies affecting internally displaced persons.
- (3) Coordinate the development of plans, policies and strategies including prevention, early warning, mitigation, and response on internal displacement.
- (4) Assess or facilitate the assessment of the needs and vulnerabilities of internally displaced persons and of host communities.
- (5) Carry out, by collaborating with the national human rights institution and other relevant bodies, periodic assessment on the human rights situations of internally displaced persons.
- (6) Facilitate the provision of training and capacity building programs.
- (7) Raise public awareness and sensitization, and promote educational programs on the causes, and consequences to the internally displacement, rights and welfare of internally displaced persons and impact on host societies.
- (8) Facilitate the participation of internally displaced persons and other vulnerable groups in the planning, execution and monitoring of implementation of policies, strategies and programs on internal displacement.
- (9) Coordinate with relevant regional and international actors.
- (10) Facilitate humanitarian access to internally displaced persons for relief and assistance.
- (11) Determine and establish the modalities for the participation of internally displaced persons in decisions affecting them, at all levels of Government.
- (12) Determine and establish modalities for close consultation and cooperation with United Nations bodies, relevant international organizations or agencies.
- (13) Carry out such other activities that may be necessary to fully implement its powers and responsibilities.

## **CHAPTER XI**

### **Offences related to internal displacement**

#### **Article 44 Arbitrary Displacement**

Whosoever commits arbitrary displacement under the following circumstances commits an offence:

- (1) Genocide, war crimes and crimes against humanity.
- (2) Using displacement as a collective punishment.
- (3) Arbitrary killing, summary execution, arbitrary detention, abduction, enforced disappearance or torture and other forms of cruel, inhuman or degrading treatment or punishment; Sexual and gender based violence in all its forms, notably rape, enforced prostitution, sexual exploitation and harmful practices, slavery, recruitment of children and their use in hostilities, forced labour and human trafficking and smuggling
- (4) Causing individuals and group to be displaced based on policies of racial discrimination or other similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the population.

- (5) Causing arbitrary displacement of individuals or groups shall be punishable with sentences [to be determined according to national legal systems].

**Article 45                      Offences against Internally Displaced Persons**

Whosoever;

- (1) Restricts the freedom of movement of internally displaced persons within and outside their areas of residence.
- (2) Recruits children or requiring or permitting them to take part in hostilities under any circumstances;
- (3) Forcibly recruits persons, kidnaps, abducts or takes hostage, engages in sexual slavery and trafficking in persons especially women and children shall be punishable with sentences [to be determined according to national legal systems].

**Article 46                      Offences against Humanitarian Workers Personnel**

Whosoever;

Attacks or otherwise harms humanitarian personnel working for humanitarian agencies shall be punishable with sentences [to be determined according to national legal systems].

**Article 47                      Offences against Humanitarian Assistance**

Whosoever;

- (1) Denies internally displaced persons the right to live in satisfactory conditions of dignity, security, sanitation, food, water, health and shelter; and separating members of the same family.
- (2) Impedes humanitarian assistance and passage of all relief consignments, equipment and personnel to internally displaced persons.
- (3) Attacks or otherwise harms resources or other materials deployed for the assistance or benefit of internally displaced persons or destroyed, confiscated or diverted such materials shall be punished with sentences.
- (4) Violates the civilian and humanitarian character of the places where internally displaced persons are sheltered.
- (5) Steals, loots, destroys, abuses, misuses or diverts humanitarian assistance intended for internally displaced persons, shall be punishable with sentences [to be determined according to national legal systems]

**Article 48                      Breach of this law**

Whosoever breaches provisions of this legislation shall be punishable with sentences [to be determined according to national legal systems].

**Article 49                      Jurisdiction of Courts**

The competent civilian/ordinary courts shall have jurisdiction over the offences of arbitrary displacement and offences against humanitarian assistance as penalised by this legislation.

**CHAPTER XII**  
**Miscellaneous Provisions**

**Article 50                      Repealing clause**

All laws, decrees, executive orders, ordinances, or any part thereof, which are inconsistent with the provisions of this legislation, shall be deemed repealed.

**Article 51                      Implementing subsidiary legislations**

The government may adopt regulation, directives and guidelines for implementation of this legislation.

**Article 52                      Interpretation**

- 1) This legislation shall be interpreted consistent with international law particularly international law and international human rights laws and the Kampala Convention, and other applicable African Union and United Nations treaties ratified by the State.
- 2) The implementation of this legislation shall also be informed by the United Nations Guiding Principles on Internal Displacement.
- 3) This legislation shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international law instrument or rights granted to persons under domestic legislation.

**Article 53                      Effective/commencement date**

This legislation shall take effect .....

## ANNEX II

### Indicators for Measuring the Exercise of National Responsibility\*

For each country case study, the exercise of national responsibility for addressing internal displacement will be assessed on the basis of the 12 benchmarks, in the following 2 respects:

- i) Strictly factual statement: Indicate whether the authorities have taken any measures in line with the recommended action, i.e. towards fulfilling the benchmark (YES/NO);

If YES:

- ii) Qualitative assessment: Summarize the measures taken and assess their relevance and effectiveness.

<b>1</b>	<b>Prevent Displacement and Minimize its Adverse Effects</b>	<p>Do national authorities take measures to prevent arbitrary displacement and to minimize adverse effects of any unavoidable displacement?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• What preventive strategies and measures have national authorities taken to prevent displacement, to minimize unavoidable displacement, to mitigate effects of displacement, and to ensure that displacement does not last longer than required by circumstances?</li> <li>• Have they created early warning or rapid response mechanisms to protect populations under threat of displacement, either by conflict or disasters?</li> <li>• Have these mechanisms proven effective in protecting populations at risk of displacement?</li> <li>• What, of any measures, have national authorities taken to mitigate the effects of disaster induced displacement?</li> </ul>
<b>2</b>	<b>Raise National Awareness of the Problem</b>	<p>Does the Government (at the highest Executive level, e.g. President/Prime Minister) acknowledge the existence of internal displacement and its responsibility to address it as a national priority?</p> <p><b>If YES, assess:</b></p>

		<ul style="list-style-type: none"> <li>• In what ways have national authorities acknowledged existence of internal displacement, e.g. Public pronouncements (at what level: including Executive?), radio and television, organizing meetings?</li> <li>• To what extent is this acknowledgement framed in terms of sensitivity to IDPs' plight/vulnerabilities (vs. IDPs as a problem)?</li> <li>• In what ways has Government officially recognized its responsibility to address internal displacement?</li> <li>• Do awareness campaigns address importance of IDPs' protection/rights issues as well as assistance needs?</li> </ul>
3	<b>Collect Data on Number and Conditions of IDPs</b>	<p>Do the national authorities collect data on the number and conditions of IDPs? <b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Content of data collected (# IDPs? Locations: in camps/ with host families/other settlements? Returnee #s?</li> <li>• To what extent are data disaggregated by age, gender, women/child heads of household and, if relevant, ethnicity or other characteristics?</li> </ul>

		<ul style="list-style-type: none"> <li>• Do data categorize IDPs according to causes of displacement, i.e. conflict, disasters, development etc.</li> <li>• Who collects and manages the data and how? Identify the competent authorities and the procedures. Are local and international organisations involved in data collection efforts?</li> <li>• How often are data updated?</li> <li>• Are the data (incl. numbers of IDPs) collected by the Government consistent with the data used by local NGOs and international agencies/NGOs, as a basis for programming? If there are discrepancies, specify on what issues.</li> </ul>
4	<b>Supporting Training on Rights of IDPs</b>	<p>Has there been any training of the authorities on the rights of IDPs? <b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Content: Training on what issues (protection included? Guiding principles?)? Phases? Causes of Displacement?</li> <li>• Audience: Branches of Government (Executive, legislative, judiciary?), Police? Military? National as well as local/regional authorities?</li> </ul>

		<ul style="list-style-type: none"> <li>• Trainers: From Government? NHRI? Civil society? International organisations/NGOs?</li> <li>• Initiative: Specify (if information available) – Did Government request and organize training? Or was it a training initiated and organized by another actor (e.g. civil society, UN) but which Government officials attended?</li> <li>• Duration and Frequency: How many days? How many trainings?</li> <li>• Any documented follow-up to the training?</li> </ul>
5	<b>Ensure a Legal Framework for Upholding IDPs' Rights</b>	<p>Does national legislation address the specific needs arising in situations of internal displacement and support IDPs to realize their rights?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Have the authorities committed themselves to applying the Kampala Convention or the Guiding Principles on Internal Displacement and/or IDP-specific regional standards (e.g. in statements, policies, legislation) as applicable in the country?</li> <li>• Is there a specific law on internal displacement?</li> <li>• What causes of displacement does the law cover? How are “IDPs” defined?</li> </ul>

		<ul style="list-style-type: none"> <li>• What phases of displacement (i.e. prevention, during displacement, solutions)?</li> <li>• How comprehensive and specific in addressing protection and assistance concerns?</li> <li>• To what extent has generic (not IDP-specific) national legislation been reviewed, and as necessary, revised in order to address any obstacles, resulting from displacement, that IDPs face in accessing their rights?</li> <li>• Any evidence of whether and how information about the legal instruments/ provisions relevant to IDPs has been disseminated: To IDPs? To competent authorities?</li> <li>• Any evaluations (Govt. NHRI, civil society, international actor) available as to extent to which the relevant law/legal provisions are being implemented?</li> <li>• Is there a mechanism (Governmental and/or through NGOs) by which IDPs can access legal assistance in order to file legal cases/complaints about respect for their rights? Any data as to the main issues these cases concern?</li> </ul>
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		Any indication as to responsiveness of authorities to these complaints?
6	<b>Develop a National Policy on Internal Displacement</b>	<p>Has the national government adopted a policy or plan of action to address internal displacement?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Content: What causes of displacement (e.g. conflict, disaster) does it cover? What phases of displacement: prevention, protection and assistance during displacement, durable solutions (whether return or resettlement and reintegration?)</li> <li>• Institutional responsibilities: Does the policy identify the authorities responsible for its implementation? Which Ministries/Officers are so identified? Is the role of local authorities specified?</li> <li>• Does the policy/plan of action identify a mechanism for monitoring its implementation? Specify.</li> <li>• Any indications (reports, assessments) as to the level of implementation?</li> <li>• Has the policy/plan of action been disseminated to government, civil society and IDP populations (in a language they understand)?</li> </ul>

7	<b>Designate an Institutional Focal Point on IDPs</b>	<p>Has the Government designated a national focal point on IDPs?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Specify the Ministry or office.</li> <li>• What is its mandate as regards IDPs? Is this defined by law? Does this mandate include both protection and assistance responsibilities for IDPs?</li> <li>• Does the institutional focal point have the capacity (operational, technical, resources – human and material) and political authority to fulfill its mandate?</li> <li>• Are there channels of communication and coordination between the focal point and other relevant national government ministries/offices? Local authorities? With the international community?</li> <li>• What mechanisms or procedures exist for IDPs and civil society to dialogue with the national IDP focal point?</li> </ul>
8	<b>Support NHRIs to Integrate International Displacement into their Work</b>	<p>Is there a National Human Rights Institution (NHRI) which gives attention to the issue of internal displacement?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Is there an NHRI in the country? If so, is it able to function independently from the Government?</li> </ul>

		<ul style="list-style-type: none"> <li>• To what extent does the NHRI play a role in protecting and promoting the human rights of IDPs? Specify the types of activities or programs that the NHRI has undertaken with regard to IDPs (e.g. monitoring and reporting on IDP conditions, investigating cases of alleged rights violations, reporting on implementation of national laws and policies on IDP issues, public awareness, trainings, etc).</li> <li>• Does the NHRI undertake these activities on a sustained basis or were these ad hoc initiatives?</li> <li>• What priority does the NHRI appear to give to IDP issues given the variety of human rights issues it is mandated to address?</li> <li>• Is there an IDP focal point among the NHRI staff?</li> <li>• What capacity does the NHRI to undertake IDP-related actions?</li> </ul>
9	a) <b>Facilities IDPs' Participation in Decision-Making</b>	<p>Do the national authorities encourage and facilitate the ongoing participation of IDPs in the planning and implementation of policies of policies and programs for addressing internal displacement?</p> <p><b>If YES, assess:</b></p>

		<ul style="list-style-type: none"> <li>• Are IDPs able to make their concerns known to the authorities without risk of punishment or harm?</li> <li>• What are the processes, mechanisms or channels through which IDPs can:</li> <li>• Provide input to the development of national legislation, policies and programs addressing internal displacement;</li> <li>• Report their individual concerns to the authorities;</li> <li>• Participate in decisions related to the design and delivery of humanitarian assistance and food distribution, shelter, and IDP camp design and security?</li> <li>• Make their views known to authorities engaged in a peace process.</li> <li>• Are these opportunities for IDPs engaged in planning and managing their return, resettlement or reintegration?</li> <li>• With IDPs from all causes applicable in the country, i.e. conflict? Disaster?</li> <li>• What efforts are made to facilitate the participation of women and children in these consultations and decision-making?</li> </ul>
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	<b>b) IDPs' rights to political participation, in particular to vote</b>	<p>Are IDPs able to exercise their right to vote without undue difficulties related to their displacement?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Are IDPs able to exercise their right to vote in both national and local elections?</li> <li>• Do IDPs face any specific obstacles to voter registration and voting?</li> <li>• What measures have the authorities taken to address the specific observables to voter registration and voting which IDPs have faced?</li> </ul>
10	<b>Establish the Conditions and Provide the Means for IDPs to secure Durable Solution</b>	<p>Is the Government working – or has it worked – to establish conditions enabling IDPs to secure a durable solution to displacement?</p> <p><b>If YES, assess: whether and to what extent the authorities:</b></p> <ul style="list-style-type: none"> <li>• Actively seek to address the proximate causes of displacement, e.g. seek a peace agreement in the case of conflict?</li> <li>• Promote and respect IDPs' right to choose to return OR to integrate locally OR to resettle in another part of the country, in safety and dignity?</li> <li>• Protect IDPs against forced return or resettlement?</li> </ul>

		<ul style="list-style-type: none"> <li>• Protect reintegration support to IDPs once they exercise their right to return, local integration or resettlement?</li> <li>• Ensure that IDPs, upon return or resettlement, are not subject to discrimination for having been displaced and enjoy equal access to public services and can participate fully and equally in public affairs?</li> <li>• Assist IDPs to recover land and property or, when this is not possible, to obtain compensation?</li> <li>• Support IDPs to regain a livelihood?</li> <li>• Address the root causes of displacement, e.g. promote inter-communal reconciliation, address fundamental, economic and political injustice etc?</li> </ul>
11	<b>Allocate Adequate Resources to the Problem</b>	<p>Do the authorities prioritize internal displacement in allocating budgetary resources and in mobilizing international support?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Does the national budget specially earmark funds for addressing internal</li> </ul>

		<p>displacement?</p> <ul style="list-style-type: none"> <li>• Any other, i.e. extra-budgetary, state funds, resources made available specially for addressing internal displacement?</li> <li>• Do regional or municipal government budgets earmarks funds specially for addressing internal displacement?</li> <li>• Are other funds, non-specific to IDPs, made available, whether at national, regional or local level, to address the broader causes of displacement (e.g. disaster response) and communities affected by displacement?</li> </ul> <p><b>If YES to any of the above, specify:</b></p> <ul style="list-style-type: none"> <li>• What types of activities or programs are any such funds to be used for?</li> <li>• Are they specific to a particular phase or cause of displacement?</li> <li>• To what government ministries/officers are these funds allocated?</li> <li>• Any monitoring and reporting as to how and with what results these funds actually have been spent?</li> </ul>
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		<p>When national resources are inadequate:</p> <ul style="list-style-type: none"> <li>• To what extent and from which sources do the authorities seek, as a priority, to mobilize resources from the international community to address internal displacement? With what success?</li> <li>• For what types of programs and support?</li> </ul>
12	<p><b>Cooperate with International community when National capacity is Insufficient</b></p>	<p>Does the Government facilitate efforts by international organizations to address internal displacement?</p> <p><b>If YES, assess:</b></p> <ul style="list-style-type: none"> <li>• Do national authorities invite or accept assistance from the international community to help address internal displacement? Is this cooperation specific to a certain cause or phase of displacement or type of activity (e.g. food delivery vs. protection monitoring)?</li> <li>• Do the authorities cooperate with and ensure that international actors enjoy safe and unimpeded access to the internally displaced? If not, what are the main obstacles? Do the authorities prosecute persons who commit acts of violence against aid workers?</li> <li>• What coordination mechanisms, if any, are in place to facilitate cooperation between the authorities and international actors?</li> </ul>



		<ul style="list-style-type: none"> <li>• How have the authorities responded to any request by the RSG on IDPs to undertake an official visit to the country? Was the RSG able to visit?</li> <li>• In what ways do international and regional organisations support national efforts to address internal displacement (e.g. by providing technical assistance in data collection and, if applicable, registration, technical support in the drafting of national laws and policies, needs-assessments, training on IDP issues, capacity-building support to the national institutional focal point, facilitating dialogue between IDPs and national authorities etc.)?</li> <li>• Do the authorities allow international programs assisting IDPs in areas outside of government control?</li> </ul>
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**Note:** - \*Adapted Annex of the Brookings Institution Study (2011): From Responsibility to Response: Assessing National approaches to Internal Displacement.