

Boko Haram-induced displacement: a critique of Nigeria's implementation of the African Union Internally Displaced Persons Convention

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Abstract

Conflicts have largely been recognised as a fundamental cause of internal displacement in Africa. In recent years, internal conflicts in several African countries including Nigeria have contributed to the rise in internally displaced persons (IDPs) across Africa. In Nigeria, the violence orchestrated by the Boko Haram group in particular, has led to the displacement of over one million persons.

Motivated in part by the need to prevent conflict-induced displacement and protect conflict-induced IDPs, African leaders meeting in Uganda in 2009, adopted the 'African Union Convention for the Protection and Assistance of Internally Displaced Persons' (Kampala Convention). As at April 2016, twenty-five African states, including Nigeria, had ratified the Kampala Convention. Article 9(1) mandates states to protect the rights of IDPs in displacement situations, while Article 9(2) imposes specific obligations upon states to protect and assist IDPs.

While Nigeria is in the process of finalising a national legislation on IDPs, its obligations under the Kampala Convention requires it to ensure that IDPs are protected and assisted. Against the backdrop of Article 9(2) of the Kampala Convention, I examine the implementation by Nigeria of its obligation to protect and assist persons displaced by the Boko Haram-fuelled conflict in Northern Nigeria.

INTRODUCTION

Globally, the human cost of conflict has been profound. During the last seven decades, over 170 million people have died as a result of more than 250 conflicts.¹ Between 2014 and 2015, the global estimate of IDPs rose

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¹ See M Cherif Bassiouni, 'The International Recognition of Victims' Rights' in M Cherif Bassiouni, *International Criminal Law III: International Enforcement* (Martinus Nijhoff 2008) 635 at 639.

from thirty-eight million to 40,8 million.² By 2015, Africa had hosted more than twelve million conflict-induced displacees.³ Of this figure, more than two million were internally displaced in Nigeria.⁴

Since the mid-1990s, Africa has recorded the greatest proportion of displaced persons in the world.⁵ As of 2016, nearly thirty per cent of the world's IDP population and close to twenty per cent of the world's refugee population were in Africa.⁶ As early as 1994, during a joint symposium by the Organisation of African Unity (now African Union) and the United Nations High Commissioner for Refugees, the problem of internal displacement in Africa was recognised as 'one of the most tragic humanitarian and human rights crisis in Africa'.⁷ The problem of internal displacement in Africa has persisted and escalated. Aside from conflict, other root causes of internal displacement such as climate change, development projects, and natural and man-made disasters have contributed to displacement in Africa.⁸

The prevalence of this problem⁹ led the African Union Executive Council in 2004 to request the AU Commission to 'collaborate with relevant cooperating partners and other stakeholders to ensure that [i]nternally [d]isplaced [p]ersons are provided with an appropriate legal framework to ensure their adequate protection and assistance'.¹⁰ Resolving that a legal document was essential to protect IDPs, the African Union Executive Council requested that IDPs 'specific needs ... such as protection and assistance should be addressed through a separate legal document'.¹¹ Over a five-year period, the African Union Commission, with the involvement

² Norwegian Refugee Council and Internal Displacement Monitoring Centre *Global Overview 2015: People Internally Displaced by Conflict and Violence* (2015) at 7–8; Internal Displacement Monitoring Centre *Global Report on Internal Displacement* (2016) at 27.

³ Internal Displacement Monitoring Centre (n 2) at 27.

⁴ *Ibid* at 98.

⁵ In 1993, an estimated twenty million displaced persons lived in Africa. This figure is not specific to conflict-induced displacement alone. See Organisation of African Unity, *Addis Ababa Document on Refugees and Forced Population Displacement in Africa* (10 September 1994) <www.refworld.org/docid/3ae68f43c.html> accessed 7 June 2016.

⁶ Romola Adeola, 'Africa Has Some Work To Do Before It Starts Its Own Humanitarian Agency' *The Conversation* 10 October 2016.

⁷ Organisation of African Unity Addis Ababa document (n 5).

⁸ Romola Adeola, 'The Right Not To Be Arbitrarily Displaced Under the United Nations Guiding Principles on Internal Displacement' (2016) 16 *African Human Rights Law Journal* 83 at 85.

⁹ In 2003, over half of the world's 25 million IDPs were recorded as being in Africa. African Union, 'African Union addressing the challenge of forced displacement in Africa' (Conference Background Paper, Special Summit on Refugees, Returnees and Displaced Persons in Africa, Addis Ababa, 5–11 November 2008).

¹⁰ African Union Executive Council, fifth ordinary session 25 June – 3 July 2004, Addis Ababa, Ethiopia, *Decision on the Situation of Refugees, Returnees and Displaced Persons*, Doc EX.CL/ 108 (V) para 8.

¹¹ African Union Executive Council, fifth ordinary session 25 June – 3 July 2004, Addis Ababa, Ethiopia, *Decision on the Meeting of Experts on the Review of OAU/AU treaties*, Doc EX/CL/95 (V) para 4 (i).

of civil society organisations, government officials, and legal experts, developed the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention).¹²

The Kampala Convention, which was adopted in 2009, came into force on 6 December 2012. As of April 2016, twenty-five states had ratified the instrument.¹³ On 17 April 2012, Nigeria ratified the Kampala Convention¹⁴ and deposited its instrument of ratification with the African Union Commission on 22 May 2012.¹⁵

As with many African countries, one of the gaps in the protection and assistance provided to IDPs in Nigeria is the absence of a legal framework – a gap which the Kampala Convention seeks to fill by setting out the obligations of states in the protection of IDPs. In Article 9(2) of the Kampala Convention specific measures are required of states to protect and assist internally displaced persons. Within the framework of this article, I assess Nigeria's compliance with the obligation to protect conflict-induced displacees in northern Nigeria.

In advancing the discourse, this paper is divided into three parts. The first offers an insight into the insurgency, violence and displacement. The second addresses the extent of Nigeria's compliance with the obligations in Article 9(2) of the Kampala Convention. In the third part, I conclude by offering recommendations on measures for the protection of conflict-induced displacees in line with the obligations under the Kampala Convention.

THE INSURGENCY, VIOLENCE AND DISPLACEMENT

Although religious violence is not new to Nigeria, the spate of attacks perpetrated by the *Jama'atu Ahlis Sunna Lidda'awati Wal-Jihad* sect (widely known as Boko Haram) is unprecedented.¹⁶ While the existence of

¹² African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, adopted at the Special Summit of the African Union Heads of States and Government in Kampala, Uganda (19–23 October 2009) (Kampala Convention).

¹³ African Union, 'List of countries which have signed, ratified/acceded to the African Union Convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention)' (April 2016).

¹⁴ Romola Adeola, 'Kampala Convention and protection of IDPs in Nigeria' *Punch* (Nigeria, 28 April 2016).

¹⁵ African Union 2016 (n 13).

¹⁶ This is in comparison to former religious violence such as the Maitatsine riot in the 1980s. See Abimbola Adesoji, 'Between Maitatsine and Boko Haram: Islamic Fundamentalism and the Response of the Nigerian State' (2011) 57 (4) *Africa Today* 98; Tyodzua Atim, *African Politics and Society in the 21st Century* (AuthorHouse 2013) 177–179; Mahmud Jega, 'Between Maitatsine and Boko Haram' *Daily Trust* (Nigeria, 29 December 2014) <www.dailytrust.com.ng/daily/columns/monday-columns/43060-between-maitatsine-and-boko-haram> accessed 26 April 2017.

Boko Haram dates back to 1995, the first major attack carried out by the sect in Bauchi state was in 2004.¹⁷

The attack was carried out under the leadership of Yusuf Mohammed, an Islamic fundamentalist of Kanuri origin who upheld the teachings of Ibn Taymiyyah and Ibn Abd al-Wahhab. Both scholars, in the fourteenth and eighteenth centuries respectively, had argued that political and spiritual leadership must follow the laws of Islam. Born in the fourteenth century, Ibn Taymiyyah's teachings were partly influenced by the political climate at the time which saw the fall of the Abbasid Empire at the hand of the Mongol armies and consequently, the decline of Islamic thoughts from its pure form. Taymiyyah argued that the practice of Islam and establishment of political authority must be based solely on the Quran and the Sunna of the Prophet. Taymiyyah further argued for the elevation of jihad to the status of the five pillars of Islam, and regarded Muslims leaders who did not observe sharia law as apostates who should be rebelled against. Inspired by the teachings of Ibn Taymiyyah, Ibn Wahhab revived the ideologies of radical jihad in the eighteenth century. Like Ibn Taymiyyah, Ibn Abd al-Wahhab argued for the establishment of an Islamic caliphate. Followers of the Wahhabi school of thought regard non-Wahhabis as *kafirs*, who, in the teachings of Ibn Abd al-Wahhab must be put to death. This school of thought heavily influences the doctrinal beliefs of terrorist organisations around the world including the Boko Haram sect which was originally headquartered in a mosque named after Ibn Taymiyyah.

Through its violent calls for the rejection of western education, Boko Haram furthers the form of Islam which rejects political and social orders built on Western educational ideals rather than on the tenets of Sharia.¹⁸ Following the death of Yusuf Mohammed in 2009, and a lull in violent attacks between 2009 and 2010, the sect embarked upon a series of sporadic attacks in North and Central Nigeria.¹⁹ On 31 December 2010, a bomb planted by the sect exploded in the Sani Abacha army barracks in Abuja, killing four and injuring thirteen others.²⁰ On 27 and 29 May 2011, the sect

¹⁷ See Steven Simon, 'The New Terrorism: Securing the Nation Against a Messianic Foe' (2003) <www.brookings.edu/research/articles/2003/01/winter-terrorism-simon> accessed 7 June 2016; Devin R Springer, James L Regens and David N Edger, *Islamic Radicalism and Global Jihad* (Georgetown University Press 2009) at 29; Andrew Walker, 'What is Boko Haram' (United States Institute of Peace Special Report, 30 May 2012) at 8–9; Joe Bavier, 'Nigeria: Boko Haram 101' Pulitzer Center on Crisis Reporting 17 January 2012; Marinus Iwuchukwu, *Muslim-Christian dialogue in post-colonial Northern Nigeria: The Challenges of Inclusive Cultural and Religious Pluralism* (Palgrave Macmillan 2013) at 112; Atta Barkindo, 'Join the Caravan: The Ideology of Political Authority in Islam from Ibn Taymiyya to Boko Haram in North-Eastern Nigeria' (2013) 7 (3) *Perspectives on Terrorism* 30, 32; Jeremy Weate, 'Boko Haram's Roots in Nigeria Long Predate Al-Qaeda era' *Aljazeera* (Qatar, 23 April 2014).

¹⁸ Farouk Chothia, 'Who are Nigeria's Boko Haram Islamists?' *BBC* (London, 4 May 2015).

¹⁹ Bavier (n 17).

²⁰ Editorial Staff, 'Many Dead in Nigeria Market Blast' *Aljazeera* (Qatar, 31 December 2010).

orchestrated a set of attacks in Borno and Bauchi state killing some twenty-seven people.²¹ On 26 August 2011, the sect claimed responsibility for the bombing of the UN building in Abuja which resulted in the death of some twenty-five people.²² In November 2011, it killed over 100 people in attacks on Damaturu in the north-eastern state of Yobe.²³ Between December 2011 and December 2014, the sect killed over 3 000 individuals in various states across Northern and Central Nigeria, burnt down places of worship, abducted over 300 individuals (including over 200 girls at Chibok), and perpetuated indiscriminate violence in Nigeria and neighbouring countries including Cameroon and Chad.²⁴ In 2013, the office of the prosecutor of the International Criminal Court declared the insurgency a non-international armed conflict, owing to the intensity of the hostilities and the organisation of Boko Haram.²⁵ From its small-scale violent attacks in 2010, Boko Haram has morphed into a violent armed group orchestrating large-scale kidnappings, suicide bombings, and capturing cities in states across Northern Nigeria.

One notable result of the terror tactics employed by the group has been the displacement of individuals and communities in the North-Eastern region of Nigeria. Estimates of those internally displaced by the Boko Haram crisis range between 1,9 million and 5 million.²⁶ In May 2016, the

²¹ Thirteen individuals in the attack in Borno on 27 May and fourteen individuals in the attack in Bauchi on 19 May 2011. See Ndahi Marama, '4 Policemen, 9 Others Killed in Fresh Boko Haram Attacks' *Vanguard* (Nigeria, 28 May 2011); 'Nigeria Attacks Claimed by Islamist Sect Boko Haram' (*BBC*, 1 June 2011).

²² 'Nigeria: Boko Haram Widens Terror Campaign: Bring Attackers to Justice, Step Up Security' (*Human Rights Watch News*, 23 January 2012) <www.hrw.org/news/2012/01/23/nigeria-boko-haram-widens-terror-campaign> accessed 26 April 2017.

²³ Editorial Staff, 'Muslim Sect Kills More Than 100 in Attacks on North-East Nigeria' *The Guardian* (London, 6 November 2011).

²⁴ Farouk Chothia, 'Boko Haram Timeline: From Preachers to Slave Raiders' *BBC* (London, 15 May 2013); Editorial Staff, 'A Year of Attacks Linked to Nigeria's Boko Haram' *CNN* (London, 27 February 2014); Editorial Staff, 'Timeline on Boko Haram Activities' *Punch* (Nigeria, 17 October 2014); Faith Karimi and Aminu Abubakar, 'Nine Days Later, Bodies Still Litter Bushes from Boko Haram's 'Deadliest' Massacre' *CNN* (London, 13 January 2015); Thomas Fessy, 'Nigeria's Boko Haram Militants Attack Chad for First Time' *BBC* (London, 13 February 2015); Abdoulaye Massalaki, 'Boko Haram Attacks Island on Niger Side of Lake Chad' *Reuters* (Niamey, 21 February 2015).

²⁵ Office of the Prosecutor, International Criminal Court *Report on Preliminary Examination Activities 2013* (2013), para 218.

²⁶ In October 2015, the Speaker of the Nigerian House of Representatives noted that the IDP figures had reached five million. According to National Emergency Management Agency, about 1 934 765 IDPs lived in camps and host communities across Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe states as at April 2016, however, the International Organization for Migration identified 2 155 618 IDPs across thirteen northern states. Emman Ovuakporie and Johnbosco Agbakwuru, 'IDPs in north-east now 5 million – Dogara' *Vanguard* (Nigeria, 13 October 2015); Okechukwu Nnodim, '1.9 Million Displaced Persons Live in Camps Others – NEMA' *Punch* (Nigeria, 24 April 2016); International Organisation for Migration, 'Nigeria Emergency Operations' (Situation Report April 2016).

UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief noted that more than nine million people had been affected by Boko Haram insurgency.²⁷

A very real concern raised by the IDP situation is how best to protect and assist IDPs. An offshoot of this concern relates to the normative blueprint for assessing protection and assistance. This concern is exacerbated by the fact that a national draft policy has remained in a developmental stage for close to a decade.²⁸ However, having ratified the Kampala Convention, Nigeria is obliged to act in accordance with the provisions of the regional instrument in the protection and Assistance of IDPs. A significant provision for consideration is Article 9(2) of the Kampala Convention, which specifically highlights measures that must be considered when protecting and assisting IDPs. Against the backdrop of Article 9(2) of the Kampala Convention, I now assess Nigeria's compliance with the obligation to protect and assist conflict-induced displaced persons in the Northern region of Nigeria.

THE OBLIGATIONS UNDER ARTICLE 9 (2) OF THE KAMPALA CONVENTION

Article 9 (2) of the Kampala Convention places explicit obligations on state parties in regard to protecting and assisting internally displaced persons. This article sets out thirteen obligations as part of the basic standards states must fulfil in protecting IDPs.

In line with the provisions of Article 9(2)(a) of the Kampala Convention, states are required to

[t]ake necessary measures to ensure that internally displaced persons are received, without discrimination of any kind, and live in satisfactory conditions of safety, dignity and security.²⁹

Since the rise of the insurgency, the government has, through the National Emergency Management Agency (NEMA), set up displacement camps in North-Eastern Nigeria.³⁰ While IDPs are received into displacement camps, they do not live in satisfactory conditions. Living conditions in the camps

²⁷ Wale Odunsi, 'Boko Haram: Affected Persons Hit 9 Million: Nigeria, Others Risk Worse Conditions – UN' *Daily Post* (Nigeria, 20 May 2016).

²⁸ The national draft policy for the protection and assistance of internally displaced persons was first developed in 2006. See Muhammed Ladan, 'Strategies For Adopting the National Policy on IDPs and Domesticating in Nigeria the African Union Convention for the Protection and Assistance of IDPs in Africa' (National Summit on IDPs, Nigeria, 19–20 August 2015); Adeejat-Kubra Kolawole, 'Towards the Evolution of Legal and Institutional Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria' (2013) 6(5) *International Journal of Sustainable Development* 141; Adeola (n 14).

²⁹ Kampala Convention (n 12) art 9(2)(a).

³⁰ United Nations Office for the Coordination of Humanitarian Affairs 'Nigeria: Northeast Crisis' (Situation Report January 2015).

have been described as 'unpleasant',³¹ and although facilities (such as rooms, toilets, and clinics) exist, these facilities are overstretched.³² In one of the IDP camps in Borno state, 'about 40 IDPs sleep together in one hall, with the entire camp environment looking unkempt'.³³ The living conditions of IDPs in the Federal Capital Territory have been compared to 'slavery'.³⁴ The unhygienic conditions in some of the IDP camps in Borno, Taraba, and Maiduguri states have led to the outbreak of cholera which has resulted in the death of ninety-one people in IDP camps across these three states.³⁵

Article 9(2)(b) of the Kampala Convention obligates states to provide IDPs

with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services.³⁶

The provision mandates states to ensure that this is provided 'to the fullest extent possible' and 'with the least possible delay', and emphasises that the provision should be extended to host communities. With the rising IDP figures, reports have indicated that most makeshift camps, in addition to being overcrowded, lack water, hygiene, and sanitation and are 'grossly inadequate'.³⁷ With the increased provision of humanitarian assistance to IDPs in camps, local communities where these camps are situated have been largely forgotten. The resources of these communities, who are 'often poor and disenfranchised' and where 'basic services and infrastructure

³¹ Hamza Idris and others, 'Tough Question From North-East Idp Camps: "How Long Shall We Live in Refugee Camps?"' *Sunday Trust* (Nigeria, 28 September 2014); NAN, 'Borno IDPs Decry Poor Living Condition in Camps' *Leadership* (Nigeria, 21 February 2016); Magnus Eze, 'We're Neglected, IDPs Cry Out' *Daily Nigeria News* (Nigeria, 27 April 2016).

³² *Ibid.*

³³ *Ibid.*

³⁴ Jonathan Hembe, 'We're Living Like Slaves in Abuja - IDPs' *Today* (Nigeria, 1 March 2016).

³⁵ Out of the seventy people who died in the IDP camp situated in Bali local government in Taraba, forty-eight died of cholera, thirteen died of the measles epidemic and nine died of other sicknesses. Michael Olugbode, 'Cholera Claims 27 Lives in Biu Refugee Camp' *This Day* (Nigeria, 4 August 2014); Wole Ayodele, 'Taraba: 70 Killed in Displaced Persons' Camp' *This Day* (Nigeria, 1 October 2014); Ndahi Marama, '16 Die, 172 Hospitalised as Cholera Hit Maiduguri IDPs Camp' *Vanguard* (Nigeria, 16 September 2015).

³⁶ The Kampala Convention (n 12) art 9(2)(b).

³⁷ 'Nigeria's Forgotten Crisis' (2014) 51 (11) *African Research Bulletin: Economic, Financial and Technical Series* 20634; Internal Displacement Monitoring Centre *Nigeria: Multiple Displacement Crises Overshadowed by Boko Haram* (2015) 11 <www.internal-displacement.org/assets/library/Africa/Nigeria/pdf/201412-af-nigeria-overview-en.pdf> accessed 26 April 2017.

are limited',³⁸ have been significantly strained.³⁹ Psycho-social support provided to displaced person in camps is seldom replicated in host communities.⁴⁰ The foreseeable danger in not meeting the needs of IDPs in these communities is that communities that have been sympathetic to the plight of the IDPs may become hostile. It is important, therefore, that IDPs in host communities are provided for and that host communities are also supported in their provision of assistance to IDPs.

Article 9(2)(c) of the Kampala Convention obliges states to provide 'special protection' to IDPs with 'special needs', including:

separated and unaccompanied children, female heads of households, expectant mothers, mothers with young children, the elderly, and persons with disabilities or with communicable diseases.⁴¹

For the purpose of protecting expectant mothers, the government has taken significant strides in establishing maternal-care committees in camps.⁴² Ambulances and health kits have also been provided in cases of emergency. However, in respect of mothers with young children, the elderly, and unaccompanied children, the special protection mechanisms are inadequate. Street begging by unaccompanied children or mothers with young children has become a significant challenge in view of inadequate provisions.⁴³ Elderly women in the camps have also reported partiality in treatment by

³⁸ International Organization for Migration, 'IOM Highlights Need for Regional Response to Boko Haram Displacement' *International Organisation for Migration (Press Release)* 17 February 2015 <www.iom.int/news/iom-highlights-need-regional-response-boko-haram-displacement> accessed 26 April 2017; Omeiza Ajayi, '7m Nigerians Facing Humanitarian Crisis – Report' (*Vanguard*, Nigeria, 18 April 2016) <www.vanguardngr.com/2016/04/7m-nigerians-facing-humanitarian-crisis-report/> accessed 26 April 2017.

³⁹ UN Office for the Coordination of Humanitarian Affairs, 'Nigeria: Update on IDPs in Camp and Host Communities in Adamawa State' (Situation Report No 1, 2 October 2014) 1; UN Office for the Coordination of Humanitarian Affairs, '2016 Humanitarian Needs Overview: Nigeria' (November 2015) 3.

⁴⁰ UN Office for the Coordination of Humanitarian Affairs, 'Nigeria: Update on IDPs in Camp and Host Communities in Adamawa State' (Situation Report, November 2014) 4.

⁴¹ Kampala Convention (n 12) art 9(2)(c).

⁴² Ndahi Marama, '30 Women Give Birth in Borno Refugee Camp' *Vanguard* (Nigeria, 20 December 2014); See also Sola Ogundipe, 'Nigeria: Succour For Pregnant Women at Internally Displaced Persons Camps' *Vanguard* (Nigeria, 24 February 2015); Editorial Staff, '1,500 Women Gave Birth in Borno State' *News24* (Nigeria, 8 February 2016); National Emergency Management Authority, 'NEMA Distributes Delivery Kits To 410 Pregnant Women in Maiduguri' (16 October 2015) <<http://nema.gov.ng/nema-distributes-delivery-kits-to-410-pregnant-women-in-maiduguri/>> accessed 26 April 2017.

⁴³ As at April 2016, there were 20,000 unaccompanied children. Maina Maina, 'Boko Haram: Women IDPs Take To Street Begging, Accuse FG of Unfair Treatment' *Daily Post* (Nigeria, 25 October 2014); See also Kareem Haruna, 'Insurgency: How IDPs Take Over Maiduguri Streets, Beg To Survive' *Leadership* (Nigeria, 15 August 2015); Joshua Odeyemi, 'Northeast Not Yet Conducive for Nigerian IDPs, Refugees' return - UNHCR' *Daily Trust* (Nigeria, 6 June 2016).

government officials who give preference to young women 'while ... the older ones are being left out'.⁴⁴

With respect to protecting the sexual and reproductive health of women, and providing support in situations of abuse in accordance with Article 9(2)(d) of the Kampala Convention, some initiatives have been developed. Government departments – including the National Agency for Control of AIDs and civil society organisations – have embarked on campaigns providing free HIV screening in IDP camps.⁴⁵ The NEMA and the UN Population Fund have also taken significant steps in providing reproductive health kits in IDP camps.⁴⁶ However, with the rising population of displaced persons, these provisions have proved inadequate.⁴⁷

While the right of IDPs to move freely and seek safety in places of their choice within Nigeria in accordance with Article 9(2)(e) and (f) of the Kampala Convention is recognised, the inadequate security measures existing in the north-east, and generally within the country, has significantly hindered the exercise of these rights by IDPs. As regards the obligation of the state to maintain the humanitarian character of camps,⁴⁸ there have

⁴⁴ Maina (n 43).

⁴⁵ Editorial Staff, 'Boko Haram: When HIV Visited Borno, Yobe IDPs' camps' *Tribune* (Nigeria, 15 February 2015); UNICEF 'UNICEF Nigeria Response To Internally Displaced Children and Women in North-East Nigeria' (Situation Report, April 2015); Nigerian Navy Offers Free Medical care in Maiduguri IDP Camp (*Channels Television*, 24 May 2016) <<http://www.channelstv.com/2016/05/24/nigerian-navy-offers-free-medical-care-maiduguri-idp-camp/>> accessed 26 April 2017; Henry Umaru, 'NACA: Foreign Affairs Ministry Takes AIDS Campaign to IDP Camp Wassu' 2 June 2016 <<http://naca.gov.ng/test/demos-contents?page=2>> accessed 26 April 2017.

⁴⁶ Wale Odunsi, 'NEMA Distributes Kits To Over 400 Internally Displaced Pregnant Women' *Daily Post* (Nigeria, 13 August 2015); Agency Report, 'UNFPA Provides Reproductive Health Services in 176 Facilities' *Leadership* (Nigeria, 3 December 2015).

⁴⁷ Shortages of sexual and reproductive health services have been reported in IDP camps in Maiduguri. Reports of sexual abuse and trafficking in children and young girls have also emanated in IDP camps. In 2016, the Human Rights Watch reported rape incidences perpetuated by government authorities in IDP camps in Maiduguri. However, the conspiracy of silence in the IDP camps, coupled with the slow response from government, has fuelled the continuation of such sexual exploitation. Earlier, in 2015, the International Centre for Investigative Reporting had alleged sexual exploitation in the camps, however, the government refuted these claims concluding that 'two girls might have been raped'. However, Human Rights Watch in a 2016 report documented the rape, sexual exploitation and abuse of 43 women and girls across seven IDP camps. Charles Dickson, 'Grim Tales of Rape, Child Trafficking in Displaced Persons Camp' *International Centre for Investigative Reporting* (Nigeria 29 January 2015); Kayode Idowu, 'Panel Dismisses Rape in IDP Camps, Suspects Two Cases' *Punch* (Nigeria, 19 February 2015); Human Rights Watch, 'Nigeria: Officials Abusing Displaced Women, Girls: Displaced by Boko Haram and Victims Twice Over' (31 October 2016) <www.hrw.org/news/2016/10/31/nigeria-officials-abusing-displaced-women-girls> accessed 26 April 2017; John Okeke, 'Matters Arising from UN Envoys Tour to IDP Camps in Northern Nigeria' *The Authority* (Nigeria, 4 February 2016); Francisca Vigaud-Walsh, 'Nigeria's Displaced Women and Girls: Humanitarian Community at Odds, Boko Haram's Survivors Forsaken' *Refugees International* (Field report, April 2016).

⁴⁸ Kampala Convention (n 12) art 9(2)(g).

been concerns expressed in light of incidences of infiltration into camps by members of Boko Haram,⁴⁹ and bomb attacks in various IDP camps across Northern Nigeria.⁵⁰

Article 9(2)(h) of the Kampala Convention mandates signatory states to:

[t]ake necessary measures, including the establishment of specialised mechanisms, to trace and reunify families separated during displacement and otherwise facilitate the re-establishment of family ties.⁵¹

As a result of the insurgency, several IDPs have been separated from their family members.⁵² The implications of this separation for children have been pronounced in that they lose parental support and have to survive on their own, sometimes in harsh conditions. A number of unaccompanied children from the Damboa, Gwoza, and Chibok areas of Borno state, who are living in camps and host communities in other parts of the state, have lost contact with family members for close to a year, and have had to fend for themselves often turning to begging and child labour.⁵³ Although some have been reunited with family members, there are still many children and adults who need to be assisted in tracing family members.⁵⁴ However, it is noteworthy that in February 2015, some 158 individuals (fifty-two adults and ninety-six children) abducted from Katarko town in Gujba local government in Yobe, were reunited with their families⁵⁵ with assistance from government officials.

In line with article 9(2)(i) of the Kampala Convention, states are mandated to:

⁴⁹ Rafiu Ajakaye, 'Boko Haram infiltrating IDP Camps: Nigeria' *Anadolu Agency Turkey* (Lagos, 18 February 2015); Panshak Ibrahim, 'Boko Haram Members infiltrate IDP Camps – FG Reveals' *Nigerian Tell* (Nigeria, 18 February 2015).

⁵⁰ Iro Fulani, '7 Killed in Yola IDP Camp Bomb Blast' *Premium Times* (Nigeria, 11 September 2015); 'Nigeria Refugee Camp hit by Twin Suicide Bombings' (*Aljazeera*, Qatar, 11 February 2016) <www.aljazeera.com/news/2016/02/suicide-bombers-hit-nigerian-displaced-persons-camp-160210184351280.html> accessed 26 April 2017.

⁵¹ Kampala Convention (n 12) art 9(2)(h).

⁵² Will Ross, 'Boko Haram insurgency tearing Nigerian families apart' *BBC* (London, 3 October 2014).

⁵³ Mohammed Ismail, 'The plight of Unaccompanied Children in Yola IDPs Camp' (*Leadership Nigeria*, 4 January 2015).

⁵⁴ Ibid; Ibrahim Abdulaziz and Michelle Faul, '7 kids reunite with parents lost in Nigeria Islamic uprising' (*Lubbock Avalanche-Journal Online*, 9 January 2015) <<http://lubbockonline.com/filed-online/2015-01-09/7-kids-reunite-parents-lost-nigeria-islamic-uprising>> accessed 26 April 2017; Associated Press, 'Amnesty: Nigeria Massacre Deadliest in History of Boko Haram' *Daily Mail* (Nigeria, 10 January 2015).

⁵⁵ Michael Olugbode, '158 Freed Boko Haram Abductees Reunited With Their Families' *This Day* (Nigeria, 20 February 2015).

[t]ake necessary measures to protect individual, collective and cultural property left behind by displaced persons as well as in areas where internally displaced persons are located.⁵⁶

Linked to the realisation of this obligation in the context of the Boko Haram crisis, is the need for adequate security measures. While the Nigerian military has, since the rise of the insurgency, engaged in combat in order to restore peace and security, it has faced enormous challenges such as maladministration, corruption, and poor military equipment⁵⁷ which have made it difficult to defeat the sect. By extension, protecting the properties of displaced persons has also been difficult.⁵⁸

Article 9(2)(j) of the Kampala Convention obliges signatory states to protect IDPs from environmental degradation. While this obligation appears to relate more to situations of displacement from development projects such as oil mining and the extraction of natural resources, it is equally relevant in the context of conflict-induced displacement in situations where basic amenities are not sufficiently provided in host communities or IDP camps. For instance, issues around environmental cleanliness have been raised

⁵⁶ Kampala Convention (n 12) art 9(2)(i).

⁵⁷ Editorial Staff, “‘Why We Could Not Defeat Boko Haram’ – Army Commander Writes A Powerful Letter to President Jonathan” (*Sahara Reporters* Nigeria, 15 December 2014) <<http://saharareporters.com/2014/12/15/why-we-could-not-defeat-boko-haram-army-commander-writes-powerful-letter-president/>> accessed 18 April 2017.

⁵⁸ During attacks on towns and villages, members of the Boko Haram sect not only killed people, they also burnt down houses, churches and building structures. In an attack in Borno on January 2015, members of the sect destroyed at least sixteen towns and damaged an estimate of about 3 700 properties. In February 2015, thirty people were killed and several structures were torched by members of the Boko Haram sect in attacks on two villages close to Chibok. Although the state has taken significant strides in reclaiming cities captured by the Boko Haram sect, livelihood reconstruction and construction of building structures for displaced persons who have lost individual, collective and cultural properties need to form part of the government’s central concern in protecting and assisting the displaced persons. Editorial Staff, ‘Boko Haram Destroys Sixteen Towns, Villages in Nigeria’ *News24* (Africa, 8 January 2015); Amnesty International, ‘Nigeria: Satellite Images Show Horrific Scale of Boko Haram Attack on Baga’ (*Amnesty International*, 15 January 2015) <www.amnesty.org/en/latest/news/2015/01/nigeria-satellite-images-show-horrific-scale-boko-haram-attack-baga/> accessed 26 April 2017; Editorial Staff, ‘Deadly Boko Haram raids destroy two Nigerian villages’ *The Guardian* (London, 20 February 2015); Editorial Staff, ‘Troops reclaim Monguno from Boko Haram’ *The Citizen* (Nigeria, 16 February 2015); Editorial Staff, ‘Nigerian Army Reclaims Baga from Boko Haram’ (*Channels Television*, Nigeria, 21 February 2015) <www.channelstv.com/2015/02/21/nigerian-army-reclaims-baga-from-boko-haram/> accessed 26 April 2017.

in several camps in Abuja, Adamawa, Borno and Taraba.⁵⁹ According to the United Nations Office for the Coordination of Humanitarian Affairs, ‘most IDPs are observed to resort to open defecation in all the camps visited (in Adamawa) and sanitary conditions are deplorable’,⁶⁰ increasing the likelihood of airborne and waterborne contamination and environmental degradation.

Article 9(2)(k) of the Kampala Convention obliges states to:

consult internally displaced persons and allow them to participate in decisions relating to their protection and assistance.⁶¹

This obligation is integral to fostering durable solutions, as these processes are means through which IDPs can express their concerns and develop initiatives with the state on issues concerning their protection and assistance. Consultation and participation processes are equally important in highlighting and addressing challenges experienced by IDPs. While the government, through the NEMA and with the support of civil society organisations, has been providing humanitarian assistance to IDPs, these are often initiated on the preconceived notion of the basic humanitarian needs of IDPs. While such notions are legitimate, acting solely on them would result in the neglect of other significant issues such as sustainable livelihood, reconstruction, and the specific needs of different categories of displaced person most notably the elderly, children, and persons with disabilities. With regard to health and environmental concerns in the camps, many IDPs lament the poor living conditions which are only addressed in dribs and drabs.⁶² In Adamawa, the unhygienic toilet conditions were only prioritised after the outbreak of cholera.⁶³ In an IDP camp in Abuja,

⁵⁹ Mohammed Ismail, ‘In Adamawa IDPs Camp, It’s 300 People To a Toilet’ *The Nigeria Today* (Nigeria, 20 September 2014); Editorial Staff, ‘Addressing Health Concerns in IDP Camps’ *Daily Trust* (Nigeria, 10 October 2014); Assessment Capacities Project ‘Nigeria: Borno State Cholera Outbreak’ (Briefing note, 30 October 2014) <<http://reliefweb.int/sites/reliefweb.int/files/resources/b-acaps-start-bn-nigeria-borno-state-cholera-30-oct-2014.pdf>> accessed 26 April 2017; Ifeanyi Nsofor, ‘Inside a Nigerian IDP camp – a public health perspective’ *Nigeria Health Watch* (Nigeria, 18 August 2015).

⁶⁰ UN Office for the Coordination of Humanitarian Affairs, ‘Nigeria: Update on IDPs in Camp and Host Communities in Adamawa State’ (Situation Report, November 2014) 3; see also Internal Displacement Monitoring Centre (n 37) 11.

⁶¹ Kampala Convention (n 12) art 9 (2) (k).

⁶² Hamza and others (n 31); Janet Audu, ‘Taraba IDPs Lament Govt Neglect’ *Daily Independent* (Nigeria, 1 February 2015); Igho Oyoyo, ‘Insecurity: how IDPs Cope With Threat of Displacement’ *Leadership* (Nigeria, 24 February 2015); see also Akin Oyewobi, ‘NHRC Decries Neglect of 4,000 IDPs in Taraba’ *Premium Times* (Nigeria, 17 January 2016).

⁶³ (n 59).

the sanitary conditions have remained deplorable despite complaints to authorities.⁶⁴

Article 9(2)(l) of the Kampala Convention mandates states to:

[t]ake necessary measures to ensure that internally displaced persons who are citizens in their country of nationality can enjoy their civic and political rights.⁶⁵

The right of IDPs to vote was a significant highlight of national discussions during the 2015 General Elections. In December 2014, the Independent National Electoral Commission noted that over one million displaced IDPs would not be able to vote due to displacement and security concerns, unless the Nigerian Electoral Act was amended.⁶⁶ The National Assembly of Nigeria, prior to the April/May elections, took a significant step in this regard by amending the Electoral Act and so empowering the Independent National Electoral Commission to make laws to enable IDPs to vote.⁶⁷

In line with article 9(2)(m) of the Kampala Convention, states are required to:

[p]ut in place measures for monitoring and evaluating the effectiveness and impact of the humanitarian assistance delivered to internally displaced persons.⁶⁸

In 2014, Nigeria adopted a Strategic Response Plan for the protection of IDPs.⁶⁹ The plan, developed through the joint efforts of the NEMA, government institutions, UN agencies, and civil society organisations

⁶⁴ Paul Obi, 'Pains of war' *This Day* (Nigeria, 25 February 2015).

⁶⁵ Kampala Convention (n 12) art 9(2)(l).

⁶⁶ In line with art 12 of the Electoral Act 2010, one of the conditions upon which a person may be registered to vote is where such person is 'ordinarily resident, works in, originates from the Local Government Area Council or Ward covered by the registration centre'. The Electoral Act further prohibits a person from registering in more than one registration centre at a time. Due to displacement, IDPs stand to be disqualified 'INEC: 1m Boko Haram Victims Can't Vote in 2015' *The Nation* (Nigeria, 16 December 2014); Ahmed Ajobe, 'We'll Ensure IDPs Vote in 2015 – Sen Ndume' *Weekly Trust* (27 December 2015); Ayodele Daniel, 'Reps Amend Electoral Act to Allow IDPs Vote During Elections' *Information Nigeria* (Nigeria, 15 January 2015); Abdulkareem Aminu, and others '2015 Elections: How IDPs Will Vote – Jega' *Daily Trust* (Nigeria, 17 January 2015); Samuel Orovwuje, 'The 2015 Elections: INEC and the Rights of IDPs' *Daily Independent* (Lagos, 23 February 2015).

⁶⁷ Editorial Staff, 'INEC Told to Uphold Voting Rights of Internally Displaced Persons' *Channels Television* (Nigeria, 16 December 2014).

⁶⁸ Kampala Convention (n 12) art 9(2)(m).

⁶⁹ UN Office for the Coordination of Humanitarian Affairs, 2014-2016 Revised Strategic Response Plan: Nigeria (August 2014) <https://docs.unocha.org/sites/dms/CAP/Revision_2014-2016_Nigeria_SRP_August2014.pdf> accessed 18 April 2017.

creates an ‘inter-sector coordination group [to] track and analyse outcomes and outputs indicator and to measure progress’.⁷⁰

CONCLUSION

Since its inception, the Boko Haram conflict has created migration and security concerns within Nigeria and in neighbouring states. One of the pertinent migration concerns is the internal displacement of over two million people. Owing to the severity of the problem of internal displacement on the continent, the Kampala Convention was adopted in 2009, and was ratified by Nigeria in 2012.

One of the objectives of the Kampala Convention is to outline the duties of states in the protection and assistance of IDPs. Article 9(2) of the Kampala Convention sets out specific issues that states should address in the protection and assistance of IDPs. However, from the critique advanced in this paper, it is evident that on most of these issues, significant progress is yet to be made.

Although Nigeria is yet to domesticate the Kampala Convention, its ratification of the treaty places on it the responsibility of ensuring its implementation. As a first step therefore, it is important for Nigeria to incorporate the instrument domestically. Aside from normative protection, Nigeria should also set up adequate mechanisms for the protection of specific groups that are particularly vulnerable to the effects of displacement, including mothers with young children, unaccompanied children, elderly persons and persons with disabilities. In localising protection, Nigeria should utilise traditional institutions in the northern region. One of the ways through which these institutions can feature is with respect to consultation with IDPs under Article 9(2)(k) of the Kampala Convention. Due to the respect for traditional institutions in communities across the northern region, Nigeria can harness these institutions to foster effective dialogue for the purpose of creating durable solutions to the issue of internal displacement in Nigeria.

While in some respect remarkable progress has been made in the protection of and assistance to IDPs, the provisions of Article 9(2) of the Kampala Convention are not being fully implemented. One significant reason for this relates to the extent of popularisation of the Kampala Convention. While the domestication of the Kampala Convention is imperative, it is equally important for the Nigerian government to popularise the provisions of the Kampala Convention widely among stakeholders involved in the protection and assistance of IDPs in Nigeria. This effort should be coordinated by

⁷⁰ Ibid.

the Nigerian National Commission for Refugees, Migrants and IDPs as the lead-agency for establishing policy direction in the protection and assistance of refugees, migrants and IDPs. The NEMA, as the principal agency for emergency response, should also co-direct popularisation efforts.