

A CRITIQUE OF THE LEGAL FRAMEWORK FOR ARRESTING THE THREAT OF INTERNAL DISPLACEMENT OF PERSONS TO NIGERIA'S NATIONAL SECURITY*¹

Abstract

Internal displacement of persons is a phenomenon that uproots people from their social, economic, cultural and educational environment and turns them into wanderers within the territory of their country. It is a situation that brings varying degrees of hardship to different categories of people. The aged, sick and children are tossed into the difficult condition of losing the social assistance from their loved ones. Family units and ties of kinship are broken. The working population is thrown into unemployment with the attendant loss of income for their sustenance and the support of their dependents. The youths are uprooted from school and the other formative programs in their communities. The serious human rights deprivations engendered by internal displacement is witnessed in Nigeria amongst the thousands of people displaced on account of the Boko Haram terrorism together with herdsmen persecution and sacking of people in different parts of the country. This situation causes serious insecurity in the country which is a grave deficit to national development. The visible difficulties of these unfortunate citizens ask the question, what is government doing to ameliorate the pains of these people? Thus this paper critically reviewed the effectiveness of the legal framework for arresting the threat of internal displacement in Nigeria, especially the National Policy on IDPs in Nigeria. With doctrinal methodology adopted, the finding of the paper is that the policy is inefficient due to some crippling defects.

Keywords: internally displaced persons (IDPs), security, Nigeria, national policy, legal framework, legal institution

1. Introduction

Security of a state is a key ingredient for development as it guarantees the general state of peace which results from conditions like safety, justice, socio-economic resources and civil rights. No sustainable developmental stride can be made without security. One big threat to national security in Nigeria is the internal displacement of persons as it has resulted in millions of persons being forced to flee their homes and villages with their right to life and other human rights undermined. Oduwole and Fadeyi observed that the magnitude of internal displacement in Nigeria “is capable of threatening national cohesion of the country”.² Ethno-religious conflicts, Boko Haram and Herdsmen terrorism are particular causes of internal displacement. While efforts must be geared towards dealing with the root causes of displacement, the IDPs in their actual state of vulnerability need to be catered for by government in the interest of national security. Thus, this paper critically examined the legal initiative for addressing the plight of the IDPs in Nigeria. With the doctrinal methodology adopted in this paper, the finding is that the National Policy on Internally Displaced Persons (IDPs) in Nigeria adopted a discredited response model for dealing with the issue and in effect is inefficient for successfully addressing the needs of the

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² TA Oduwole and AO Fadeyi, ‘Issues of Refugees and Displaced Persons in Nigeria’, (2013) *Journal of Sociological Research*, (4)(1) 1

IDPs. The paper recommends revamping the policy and passing it as bill in order to make it better responsive to the security challenges of IDPs.

2. Conceptual Clarifications

The *UN Guiding Principles on Internal Displacement* gives a definition of internally displaced persons that is very widely accepted. It defines IDPs as:

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, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border.³

The acceptance of this definition stems from the fact that it covers all the manners in which persons can react to escape the situation or effect of armed conflict, generalized violence, violations of human rights or natural or human-made disasters. Escape of these harmful situations could be by fleeing or by planned departure in anticipation of any of these disasters. Another crucial point in this definition is that however and whenever the displaced person escapes the disaster, his destination must not be beyond the internationally recognized borders of the country where the disaster originates, otherwise he ceases to be internally displaced and he becomes a refugee. This is the gravamen of the difference between a refugee and an IDP. While both are displaced, a refugee in seeking refuge crossed the internationally recognized border of the State where the disaster originated whereas an IDP remained within. It is on the basis of this distinction that the care, prevention and protection of IDPs are primarily the municipal responsibilities of the State where it occurs whereas the care and protection of refugees are the burdens of the international community.⁴ IDPs are not only victims of human induced disasters but also victims of natural disasters such as flooding and earthquake. Mooney recalls that ‘there had been many cases where floods, earthquakes and famine as well as human-made disasters such as nuclear or chemical accidents, had uprooted populations and it could not be discounted that these were also major causes of population displacement.’⁵ The definition recognized that people can be displaced not only by sudden or expected conflicts but also by situations of generalize violations of human rights like was the case in Burma, Ethiopia and Iraq, where the displacement of populations was not a spontaneous event but an organized state policy implemented over years or even decades.⁶ The departure of IDPs need not be in numbers or groups. People can leave in small groups or even individually.⁷ Another important point of the definition is that a person does not need to have been a home-owner before he could be an IDP. It is enough that the disaster caused him to leave from his habitual residence. This implies that non-natives or even non-citizens who reside in a community or country respectively could be IDPs. The phrase ‘who have not crossed an internationally recognized State border’ connotes a safety net against sudden border change which has the effect of throwing people of what was hitherto their country as happened with the break-up of the former Yugoslavia and the dissolution of the Soviet Union.⁸ This situation was

³ UN doc. E/CN.4/1998/53/Add.2 (11 February 1998)

⁴ See UN Human Rights Office, ‘Questions and Answers about IDPs’ <http://www.ohchr.org/EN/Issues/IDPersons/Pages/Issues.aspx#5> accessed 24 April 2017

⁵ E. Mooney, ‘The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern’ [2005] (24)(3)*Refugee Survey Quarterly*, 10

⁶ *Ibid*

⁷ *Ibid*

⁸ E. Mooney, *op cit*, 11

not foreseen by the 1992 definition from the office of the UN Secretary-General talked of persons 'within the territory of their own country'.⁹

'National Security' is another key concept in this paper. 'National' refers to a nation. And from ethnological perspective it refers to a people from a common ancestry. Thus, in Nigeria we talk of Yoruba nation, Igbo nation, Ijaw nation, etc. From the perspective of political sovereignty, a nation is used synonymously with a sovereign political State like Nigeria. It is in this sense that it is used in this paper and 'national', therefore, refers to that which relates to a political society as a sovereign State. 'Security' has different meanings in different areas of life but generally it suggests freedom from danger and freedom from fear or anxiety. When it is connected with a sovereign political State as it is in this paper as national security, it refers to the stability and freedom of the State from external threat and internal insurrection, which comes from the state of both internal and external peace. National security conveys the idea of freedom from danger, fear and anxiety in a nation. It is from this perspective that Hon. Justice O.A. Ezeoke defined national security as 'safeguarding the sovereignty, territorial integrity, citizenry and socio-economic functionality of the nation from aggressor's intent on undermining a particular valued aspect of a nation through violent or unjust means'.¹⁰

Consequently, national insecurity would occur if all the necessities of life like food, shelter, employment, healthcare, and education which conduce to the socio-economic functionality of the nation are threatened as under the phenomenon of IDPs. 'Legal response' refers to the solution offered by law to the problem of IDPs in Nigeria. We next examine the negative impact of IDPs on Nigeria's security.

3. Security Challenges of Internal Displacement in Nigeria

Security in Nigeria demands that not only that Nigeria should be free from external aggression but also that inside the country people should be free from threats to their physical existence as well as to the rights and conditions on which their physical well-being is based. IDPs has become a major threat to Nigeria's security given the millions of people who have been uprooted from their homes, residences and environments, and thrown into the wide uncertainties and deprivations connected with being displaced persons. According to Internal Displacement Monitoring Centre (IDMC), as at 2013, 3.3 million people were displaced in Nigeria essentially as a result of insurgency. The same high figure of 3.3 million was quoted for the succeeding year, 2014.¹¹ The statistics is not much different for the following year, 2015, when it was put at 2,152,000.¹² The figures could be higher taking into cognizance the fact that these figures are mostly accounted for by insurgency by Islamists in the northern part of the country. The IDMC reported that at December 2015, the total number of IDPs identified in Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe amounted to 2,152,000 people.¹³ This is the figure the agency quoted as the estimate of IDPs for Nigeria for the entire 2015. But there are other causes of IDPs in Nigeria such as natural disasters and the herdsmen terrorism. An IDMC report published in 2015 noted that after a conflict between herdsmen and farmers in central Plateau State, about 258,000

⁹ UN Doc. E.CN.4/1992/23 (14 February 1992), para. 17.

¹⁰ 'The Potency of Extant Laws Regulating Security in Nigeria' [2013](1)(1) *The Premier Bar Journal* 28

¹¹ IDMC, *Global Overview 2014: People Internally Displaced by Conflict and Violence*, 31 <http://www.internal-displacement.org/assets/publications/2014/201405-global-overview-2014-en.pdf> accessed 23 April 2017

¹² *Ibid*, 'Nigeria IDP Figures Analysis', <<http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis>> accessed 12 April, 2017

¹³ *Ibid*, 'Nigeria IDP Figures Analysis' <<http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis>> accessed 24 April 2017

people were displaced.¹⁴ Today, herdsmen terrorism has extended to virtually all the seventeen States of Southern Nigeria.¹⁵

Security challenges created by the phenomenon of IDPs include loss of home, loss of traditional livelihood and sources of generating income, break-up of families and community support networks, loss of intangible goods, and loss of documentation. Permit us to discuss some of them. Home is not just shelter, or abode, but is much more than that. It includes the spiritual, emotional, psychological, social and cultural attachments that surround the physical shelter or abode. Cultural attachments to home for instance include kinship and traditional relationships which are over time. With the loss of home the right to life of the IDPs is threatened on different dimensions; they are exposed to the harsh weather conditions of the heat of the sun and rains, privacy and environment for family life are lost. Consequently, the loss of home becomes a traumatic destabilization of life which in the case of the IDPs amounts to serious national insecurity. Another stark reality facing IDPs is the loss of traditional livelihood and sources of generating income. Usually people' jobs and means of livelihood are tied around their homes. Either they choose a job because it is close to their home or they establish business close home. Some other times people find a home where they have a job, business or means of livelihood. Whichever way it is looked at, their home is crucial to their means of livelihood such that any displacement from home or residence means a loss of means of livelihood. In most cases, loss of home goes with being cut off from one's land which is a huge economic resource for purposes of agricultural activities. Being an IDP usually goes with the break-up of family and community support networks. Family is defined as the smallest cell of the society because members of a family establish support network amongst themselves and, their kith and kin around their established homes. Internal displacement breaks this support network and throws people into difficulties. Studies show that children are worst for it as "displacement not only disrupts their education and normal development but also frequently results in their being separated from their families in the chaos of flight, left to fend for themselves and at heightened risk of abuse."¹⁶ Problems associated with IDPs is not only in the loss of physical and tangible resources like homes, farms and jobs, but also it goes with the loss of intangible goods like friendship, cultural heritage and a sense of belonging to a particularly place.¹⁷ Loss of documentation is perhaps a very critical consequence of internal displacement. As the society gets more and more literate, people have to do with a lot of documentation such as bank papers, academic certificates and property titles. During flight these documents could be lost, confiscated or destroyed. For instance during the December 2004 Tsunami, it is estimated that more than 70 percent of survivors lost their documentation.¹⁸

4. Causes of Internal Displacement in Nigeria

The definition of IDPs by the *UN Guiding Principles on Internal Displacement* hints at the following general causes of internal displacement: armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters. In Nigeria it cannot be correct to talk of these as causes of internal displacement without adding the often immediate dynamic motivators for them, which in most cases are things like religion and ethnicity/tribe. It is for this reason that the National

¹⁴ *Ibid*, 'Internal displacement in Nigeria: a hidden crisis', <<http://www.internal-displacement.org/publications/2005/internal-displacement-in-nigeria-a-hidden-crisis->> accessed 12 April 2017

¹⁵ See Ajibola Amzat, 'Menace of Fulani Herdsmen', *The Guardian*, 8 January 2016 <<https://guardian.ng/features/menace-of-fulani-herdsmen/>> accessed 23 April 2017

¹⁶ E. Mooney, *op cit*, 15

¹⁷ *Ibid*, 16

¹⁸ Walter Kalin, *Protection of Internally Displaced Persons in Situations of Natural Disasters*, (UN HCHR 2005) 19-20

Policy on Internally Displaced Persons (IDPs) in Nigeria states that most of the incidences of internal displacement in Nigeria occur because of violent conflicts with ethnic religious and/or political undertones.¹⁹ This reality creates a particular local nuance to the causes of internal displacement in Nigeria. And we shall consider these causes next.

Inter-Ethnic Rivalries

Nigeria is a country of over 250 ethnic nationalities and rivalry between these nationalities sometimes degenerate to armed conflicts resulting in IDPs. The Tiv and Jukun inter-ethnic conflict in October 2001 displaced between 300, 000 and 500, 0000 people.²⁰ In February 2002 the inter-ethnic clash in Lagos between Yorubas and Hausas from the North displaced more than 2000 people.²¹ There are cases of intra-ethnic conflicts like the Ife-Modakeke conflict that left in their trails IDPs. Inter-Ethnic conflicts are sustained by the indigene/non-indigene discriminations that thrive heavily in the country in spite of the constitutional guarantee of freedom from discrimination in section 42 of the 1999 Constitution (as amended).

Religious Clashes

Christianity and Islam are the religions of the majority of Nigerians and both are rated to enjoy numerical parity; with Muslims more amongst the Hausa-Fulani in the North, while Christians more in the other ethnic groups in the Middle Belt and Southern part of the country. Records show that since the enthronement of the Sharia law in twelve Northern States from the year 2000, Nigeria has witnessed more clashes between Muslims and Christians than ever particularly in the North, which leave behind thousands of IDPs. The distrust between the adherents of these two religions colours many inter-ethnic conflicts between the Muslim majority Hausa-Fulani and the other ethnic nationalities. The Boko Haram terrorism that has produced million of IDPs is religiously motivated.

Agricultural Policies

The Global IDP project reports that agricultural policies in Nigeria have favoured large-scale agricultural projects which have forced farmers away from their land. According to it this resulted directly in communal violence, often of an ethnic character over borderlands and fishing waters.²² This however, is not present in most parts of Southern Nigeria.

Armed Pastoralists (Herdsman)

The violence of armed pastoralists, otherwise known as herdsmen, is another major cause of IDPs today in Nigeria. With their cows and other livestock they invade people's farms and kill and sack the people from their villages at any least resistance to the ravage of their farms. Conflicts between herdsmen and their host communities have resulted to many people being displaced from their homes while the herdsmen take over their homes and farms.²³ This again has ethno-religious character because the herdsmen are generally Hausa-Fulani and so Muslims. Thomson Reuters Foundation reported in

¹⁹ NPIDPN, ch 1.1.2

²⁰ Walter Kalin, *op cit* 19-20

²¹ Ibid.

²² Global IDP Project, 'Background Information on the IDP Situation in Nigeria', 22 July 2002 <<http://reliefweb.int/report/nigeria/background-information-idp-situation-nigeria-0>>accessed 24 April 2017

²³ Emmanuel Maya, SPECIAL REPORT: Inside Agatu killing field: blood on the streets, charred bodies everywhere" in *Premium Times*, 18 March 2016< <http://www.premiumtimesng.com/news/headlines/200369-special-report-inside-agatu-killing-field-blood-on-the-streets-charred-bodies-everywhere.html>> accessed 23 April 2017

February 2017 of 27,000 people in Kaduna having been forced to flee their homes due to violence between Muslim herdsmen and largely Christian farmers in Southern Kaduna which killed at least 800 people.²⁴ Thousands of Agatu people in Benue State have also been displaced by the same Fulani herdsmen in 2016 and 2017.²⁵

Land Conflicts

Land conflict is another cause of IDPs. Conflicts over large parcels of land particularly between towns and states can result to internal displacement. This kind of conflict can be intra-ethnic, as in Ife-Modakeke, or inter-ethnic as between Anambra State and Kogi State.

Displacement Related to Oil Exploration

Oil exploration, production and transportation have entailed huge environmental devastation such that life has become impossible in the oil producing areas particularly in the Niger Delta with the result that many people are displaced from their homes and communities. Corroborating this point Terminski noted:

Long-lasting environmental degradation has forced Ogoni people to protest campaign against Shell and other oil companies.... Following protests in 1993, 27 villages were raided, resulting in the death of 2,000 Ogoni people and the displacement of 80,000-100,000. More than 2,000 Ogoni people have been forced to leave Ogoniland and escaped to neighboring states.²⁶

Natural Disasters

Flooding, drought and desertification are instance of natural disasters that force people out of their homes or places of residence. In the recent times the overflow of River Niger along its banks in Nigeria produces thousands of IDPs. The drying up of Lake Chad is held responsible for the southward movement of herdsmen.

5. Legal and Institutional Frameworks for Addressing Internal Displacement in Nigeria

A jurisprudential issue with the legal protection of internally displaced persons is the justification for taking IDPs as a category for particular concern. Those against such recognitions argue that IDPs should be treated as ordinary victims of conflicts.²⁷ But this view presumes erroneously that every internal displacement is as a result of conflict. Internal displacement as we have seen could result also from natural disaster or in anticipation of conflicts. Another point from this school of thought is that singling out IDPs for special consideration would privilege them and lead to discrimination against others.²⁸ On the other hand, persuasive arguments are advanced from the vulnerability of internally displaced person to support their being isolated for particular concern. On the vulnerability of IDPs, Mooney noted:

Once it occurs, internal displacement brings about a set of circumstances that renders those affected highly vulnerable. Most obviously, it forces people from their homes, depriving them of shelter and the basic protection it can provide. Cut off from their

²⁴ Eromo Egbujule, 'Nigeria's Spiralling Herdsmen-Farmer Violence Fuels Fears of Humanitarian Crisis', <<http://reliefweb.int/report/nigeria/feature-nigerias-spiralling-herdsmen-farmer-violence-fuels-fears-humanitarian-crisis>> accessed 15 April 2017.

²⁵ Emmanuel Maya, *op cit*

²⁶ B. Terminski, 'Oil-induced Displacement and Resettlement: Social Problem and Human Rights Issue', <<https://www.files.ethz.ch/isn/156127/1c56976ceb4f8e825e294e5268469185.pdf>> accessed 21 April 2017.

²⁷ F. Bouchet-Sauliner, 'Using the Law of War to Protect the Displaced: MSF Activity Report 2000-2001' (Medecins sans Frontieres 2001) in E. Mooney, *op. cit.*

²⁸ See, for instance, the remarks of James Hathaway in *Proceedings of the 90th Annual Meeting of the American Society of Public International Law* (American Society of International Law 1996) 562.

land, traditional livelihood and means of generating income, and compelled to leave all but a few possessions behind, IDPs suddenly find themselves stripped of their means of survival. At the same time, it breaks up families and community support networks.

It is on this philosophical ground that Nigeria adopted the National Policy on Internally Displaced Persons (IDPs) in Nigeria in 2012 as a manifestation of particular concern for the IDPs which is geared to responding to their human rights needs. Nonetheless, the policy has only remained a policy and not a statute.²⁹ By a Presidential fiat, the statutory mandates of National Commission for Refugees established in 1989 were extended in 2002 to cover migrants and in 2009 to embrace IDPs protection and assistance. With these extensions, the hitherto National Commission for Refugees became National Commission for Refugees, Migrants and Internally Displaced Person (NCFRMI). Yet the needed amendment to the original Act to reflect these changes in scope has not been made. Without this amendment the activities of the Commission in the area of internally displaced persons remain outside of law. Thus, Ekpa and Dahlan opined that a change in the name of this Commission to reflect the newly ceded mandates remains a mere window dressing in the absence of appropriate legislative amendment, and thus it is preposterously akin to 'new wine in an old bottle'.³⁰ Hence there is no particular statute regulating internal displacement in Nigeria.

All the same, the 1999 Constitution (as amended) is a bulwark for the obligation of government to respond to the human rights needs of the IDPs. The power given to the Federal Executive by section 5(1)(b) of the 1999 Constitution (as amended) to execute and maintain this Constitution includes seeing that the human rights of IDPs, particularly as enshrined in Chapter IV, are protected. It is pursuant to this obligation that the National Policy on Internally Displaced Persons (IDPs) in Nigeria 2012 was drafted and adopted by the Presidency.³¹ Parts of the legal framework for the regulation of IDPs in Nigeria are treaties and other international instruments relating to human rights and humanitarian law which Nigeria is legally bound to comply with. Among them is the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, (otherwise known as the Kampala Convention) of 2009 which Nigeria ratified in 2012 and which in article 4 calls on States-party to respond to human rights needs of IDPs. But this Convention is yet to be domesticated in Nigeria pursuant to section 12 of the 1999 Constitution (as amended). Another framework is the United Nations Guiding Principles on Internally Displacement of 1998.³²

The overriding aspiration of the policy is the achievement of the durable solution to internal displacement. Durable solution, according to the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons, 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.³³ The policy adopts a definition of IDPs that is very broad covering human induced

²⁹ See A Jimoh, 'UN urges Nigeria to pass IDP policy into law', <<https://www.dailytrust.com.ng/news/general/un-urges-nigeria-to-pass-idp-policy-into-law/184668.html>> accessed 10th July 2017.

³⁰ S Ekpa and NHM. Dahlan, 'Legal Issues and Prospects in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria' (2016) *Journal of Law, Policy and Globalization* (49) 110

³¹ NP on IDPs in Nigeria, ch 5.6

³² *Ibid*, ch. 5.2

³³ *Ibid*, ch 5.2

displacements, whether through violence or through violations of human rights, natural disaster and any other cause of displacement.³⁴

To ensure that the human rights of the IDPs are protected even under displacement, the policy in chapter three recognizes certain rights for the IDPs, which rights are classified into general and specific rights. The general rights belong to all displaced persons and they include the right to protection from displacement,³⁵ right of every displaced person to protection and assistance during and after displacement,³⁶ and right of IDPs to voluntary return, local integration and relocation.³⁷ On the other hand, the specific rights are rights guaranteed for particular categories of persons needing special attention. The rights include the rights of internally displaced children,³⁸ the rights of internally displaced women,³⁹ the rights of internally displaced persons with disabilities,⁴⁰ and rights of internally displaced elderly persons.⁴¹ Though the rights are for all displaced persons, they, nonetheless, do not guarantee for displaced non-citizens rights that they cannot enjoy if they were not displaced, such as the right to vote or be voted for in public elections. The policy also has obligations for the IDPs. They must be law abiding and personally responsible for any crime committed under international and municipal law.⁴² They are also to respect the culture and norms of host communities⁴³ and abide by rules and regulations in collective settlements.⁴⁴

In chapter four the policy places varying degrees of responsibilities on major stakeholders in the IDPs issue; government, humanitarian agencies, host communities and armed groups. Government at all tiers is recognized as the primary bearer of the responsibility of preventing internal displacement and when it occurs, it has the responsibility of protecting and assisting IDPs in Nigeria.⁴⁵ This duty consists of three dimensions: first, being responsive, that is, aiming to prevent imminent or stop on-going violations that lead to displacement;⁴⁶ second, being remedial, that is, aiming to provide redress (e.g. access to justice, reparation or rehabilitation) for past violations.⁴⁷ The third is environment-building, that is, aiming at creating the necessary legal and institutional framework, capacity and awareness that is necessary to promote respect for human rights of internally displaced persons and prevent future violations.⁴⁸ Humanitarian agencies operating in Nigeria and working with the IDPs have the obligation to comply with law, both international and municipal law, and policy guidelines on IDPs.⁴⁹

Aware that sometimes preoccupations of government and humanitarian agencies with displaced persons lead to conflict between the displaced persons and their host communities, the policy recognizes the rights of the host communities which government and humanitarian agencies must respect pursuant to the principles of impartiality and non-discrimination. These rights include socio-economic rights, right

³⁴ *Ibid*, ch 2.1

³⁵ *Ibid*, ch 3.1.2

³⁶ *Ibid*, ch 3.1.3

³⁷ *Ibid*, ch 3.1.8.

³⁸ *Ibid*, ch. 3.1.4.

³⁹ *Ibid*, ch. 3.1.5.

⁴⁰ *Ibid*, ch. 3.1.6.

⁴¹ *Ibid*, ch. 3.1.7.

⁴² *Ibid*

⁴³ *Ibid*, ch. 3.2(d).

⁴⁴ *Ibid*, ch. 3.2(e).

⁴⁵ *Ibid*, ch. 4.1.

⁴⁶ *Ibid*, ch. 4.1.

⁴⁷ *Ibid*

⁴⁸ *Ibid*

⁴⁹ *Ibid*, ch 4.2.1

to security of life and property, right to adequate and appropriate compensation, right to food security, right to safe environment, and right to quality health.⁵⁰ At the same time the host communities bear responsibilities which include providing adequate security and safety for internally displaced persons settled or resident in their communities,⁵¹ and allowing IDPs the freedom to express their cultural, religious and political beliefs without undue discrimination, molestation or inhibition.⁵²

The overall implementation of the policy is assigned to the IDP Focal Coordinating Institution⁵³ to be created in the presidency pursuant to chapter 5.3.1 of the policy. The responsibilities of this institution are listed in chapter 5.3.1(a-m) and they include advising the president, government and inter-governmental agencies and donor partners on IDP policy issues;⁵⁴ and identifying, mobilizing and coordinating camp management agencies and other sectoral partners, ensuring that there is co-ordination among other sectors.⁵⁵ For predictability, speed, effectiveness, leadership, coordination, collaboration and accountability this chapter breaks down the needs of the IDPs into sectors which *inter alia* include the nine listed in chapter 5.3.2g (i-ix). They include the Food Aid and Agriculture Sector,⁵⁶ Human Rights and Protection Sector,⁵⁷ and Education Sector.⁵⁸ The chapter lists institutions, public and private, which shall, supposedly under the IDP Focal Coordinating Institution, integrate the responsibilities for protection and assistance of internally displaced persons into their core mandates, and shall perform such roles as required by the sector arrangements to which they shall be assigned. These institutions include National Commission for Refugees,⁵⁹ National/State Emergency Management Agency,⁶⁰ National Human Rights Commission,⁶¹ Private Sector Institutions,⁶² and Mass Media.⁶³ Chapter six, the last chapter, provides the mechanisms for funding the policy which involve not only federal government financial interventions but also appeals to donor agencies and recourse to loans/grants from international organizations like the UN and African Union (AU).⁶⁴ This chapter prescribes also for the establishment in the IDP Focal Coordinating Institution a special monitoring and evaluation unit for monitoring and evaluating the implantation of the policy.⁶⁵

6. The Challenges of National Policy on IDPs to National Security in Nigeria

The National Policy on IDPs is expected to be germane ingredient for national security by responding efficiently to the short, medium and long term needs of the IDPs. No doubt, the policy is a bold step in this direction bearing in mind that it is the first such policy in Nigeria. Another thing that goes for it is that it has a very broad concept of internal displacement by defining the scope of the policy to cover arbitrary displacement and other forms of displacement. Arbitrary displacement refers to displacement resulting from machinations such as policies of discrimination, armed conflicts, violations of human

⁵⁰ *Ibid*, ch 4.3.1

⁵¹ *Ibid*, ch. 4.3.2 (a).

⁵² *Ibid*, ch. 4.3.2(g).

⁵³ *Ibid*, ch 5.5.1

⁵⁴ *Ibid*, ch 5.3.1(a)

⁵⁵ *Ibid*, ch 5.3.1(f)

⁵⁶ *Ibid*, ch 5.2.g(i)

⁵⁷ *Ibid*, ch 5.2.g(iii)

⁵⁸ *Ibid*, ch 5.2.g(v)

⁵⁹ *Ibid*, ch 5.4(a)

⁶⁰ *Ibid*, ch 5.4(b)

⁶¹ *Ibid*, ch 5.4(c)

⁶² *Ibid*, ch 5.4(q)

⁶³ *Ibid*, ch 5.4(s)

⁶⁴ *Ibid*, ch 6.1

⁶⁵ *Ibid*, ch 6.2

rights, harmful practices and collective punishment.⁶⁶ In other words, it understands internal displacement to embrace all displacements cause by human actions and natural disasters. This notwithstanding, the policy is marred by a number of problems.

Policy Based on a Discredited Response Model

The policy is wired on the collaborative approach response model by which the response to the needs of the IDPs is done in a collegial manner by which different needs of the IDPs are handed to different agencies, governmental and non-governmental, to cater for. There is no central institution at the helm of affairs with the direct and proper responsibility for the needs of the IDPs. Rather, the highest authority under this model is only a coordinator, a kind of *primus inter pares* amongst the other collaborating agencies. Thus, the Nigerian policy in chapter 5.3.1 requires the president to designate a Focal coordinating institution under the Presidency to provide overall leadership and coordination on IDP issues and the implementation of the provisions of this policy framework. To operate the IDP Focal Coordinating Institution is required to constitute an IDP Inter-Agency Coordinating Committee (IACC) comprising heads of the various Ministries, Departments and Agencies identified in the broad Institutional framework. The fact that these agencies are not all governmental institutions sets great limits to their responsibility and accountability. The common sense maxim, ‘he who pays the piper determines the tune’ readily comes in to colour their commitment. Even amongst government agencies cooperation and collaboration is not usually free of crippling bureaucracies and inter-departmental discords. All this will impact negatively on efficiency in responding to the needs of the IDPs. After reviewing the application of the collaborative approach in handling IDPs in Liberia, Davies and Murray underscored strongly the unworkability of the collaborative response approach.⁶⁷ According to them, it is so because ‘abnegation of responsibility is possible because there is no formal responsibility apportioned to agencies under the Collaborative Response, and thus no accountability when agencies renege on their promises.’⁶⁸ A similar position was held by Cohen after reviewing the evaluations of the use of the approach in other places. He wrote:

Nearly every UN and independent evaluation has found the collaborative approach deficient when it comes to IDPs. To begin with, there is no real focus of responsibility in the field for assisting and protecting...There is also no predictability of action, as the different agencies are free to pick and choose the situations in which they wish to become involved on the basis of their respective mandates, resources, and interests. In every new emergency, no one knows for sure which agency or combination thereof will become involved.⁶⁹

The poor handling of IDPs in Nigeria has been attributed to the ineffectiveness of the collaborative model. According to Ugwu, ‘a lack of coordination among Nigerian agencies regarding IDPs has constrained efforts to reach these populations. One of the big issues has been who at the helm is in charge. The agencies have not had a particularly coherent approach towards the issue of this needy population.’⁷⁰ Consequently, there is the need to overhaul the policy with a view to creating a particular agency that would be charged with the responsibility of responding to the needs of the IDPs.

⁶⁶ *Ibid*, ch 1.2

⁶⁷ Anne Davies and Magnus W. Murray, ‘Implementation of the Collaborative Response in Liberia’ in Marion Couldrey and Tim Morris (eds), *Forced Migration Review*, (Refugee Studies Centre 2005), 17

⁶⁸ *Ibid*, 18

⁶⁹ Roberta Cohen, “*Strengthening Protection of IDPs: The UN's Role*” , (2006) *Georgetown Journal of International Affairs*, 101-109 at 105

⁷⁰ Ochiaka Ugwu, ‘Rising Nigeria IDPs: What solution?’, *People’s Daily*, July 8, 2015, <<http://www.peoplesdailyng.com/rising-nigeria-idps-what-solution/>> accessed 30 April 2017

Right of IDPs to Integrate into Their Host Communities

The right of IDPs to integrate with their host communities is not an easy one to enforce. It could lead to conflicts and further displacements that would create further national insecurity. It is a fact that there may be circumstances where return of IDPs might be difficult, where for instance the displaced persons lived in a low lying area that is regularly flooded. Nonetheless the fact should also be noted that the present Nigerian society is heavily ethno *cum* tribal centric and as a result would not allow non-members to be forced into their communities. A reasonable precursor to such a right would be first to deal with the indigene/non-indigene problem that reinforces ethnic and tribal insularity. Moreover, this right could be manipulated by the aggressors who unjustly caused the displacement to see that the IDPs do not return to their land. And this would in turn worsen the situation of insecurity as host communities would be hostile to the IDPs as they would see the IDPs as 'unwilling invaders.' Consequently, more efforts and resources should be directed to seeing that IDPs return in peace and security to their homes and communities.

Poor Funding

Another major problem with the policy is the absence of a dedicated source for funding the implementation of the policy. The policy is meant to be mainly implemented with funds raised from appeals to donor agencies and recourse to loans/grants from international organizations. The only direct financial commitments of the Presidency to the implementation of the policy is the provision of the seed funds into the Joint Humanitarian Funding Basket to jump-start critical operations and to fund life-saving programmes that are not yet funded. What a seed fund means is not defined by the policy. From the context, it appears to refer to the fund for the take-off of very important operations. What constitutes very important operations are deemed to be left to the judgment of the IDP Focal Coordinating Institution. The Presidency is required to fund life-saving programmes only when they are not yet funded. The fringe financial commitment of the Presidency to the implementation of the policy leaves the unfortunate impression that it is not the primary responsibility of the President to respond to the needs of the IDPs, but instead that of the collaborating agencies. Without a dedicated source of funds on the part of the federal government, the policy cannot be said to have been designed to succeed. This complicates and worsens the bad conditions of the IDPs and the national insecurity created by their situation. The effects are lack of education and very poor health facilities, electoral disenfranchisement, absence of regulated return and re-integration mechanisms, religious indoctrination and fanatic acculturation in their camps, and corrupt activities of those in charge of the IDPs. Ugwu could not agree any better with these findings when he reported that 'experts have blamed the problem on the lack of dedicated resources, both monetary and organization.... Even worse, governments at all levels are not even willing to take their matter as serious as it should be'⁷¹ He stated further that 'the current national system just isn't equipped to deal effectively with those displaced in our own country.'⁷²

7. Lessons from Uganda on the Treatment of IDPs

Uganda adopted in 2004 its policy on IDPs, inspiration and form for which, like Nigeria, were drawn from the UN *Guiding Principles on Internal Displacement*. But unlike Nigeria, Ugandan government has taken far-reaching measures in committing itself to the protection of its citizens against arbitrary displacement, guaranteeing their rights during displacement and promoting durable solutions by

⁷¹ Ochiaka Ugwu, *op cit*.

⁷² *Ibid*.

facilitating voluntary return, resettlement, integration and re-integration.⁷³ Apart from the policy, it developed additional programs and plans for addressing specific aspects of the needs of the IDPs. These include the National IDP Return, Resettlement and Reintegration Strategic Plan for Lango and Teso sub-regions of 2005, the Emergency Plan for Humanitarian Interventions in North Uganda of 2006, and the Karamoja Integrated Disarmament and Development Program of 2007 as well as the Peace and Recovery and Development Plan (PRDP) of 2007.⁷⁴ The outstanding interest of Uganda in preventing internal displacement and protecting the human and humanitarian rights of IDPs led it to the advocacy for and development of the African Union Convention on Internal Displacement, also known as the Kampala Convention.⁷⁵ Today Uganda is regarded as the main driving country on promoting the IDP-rights on the African continent.⁷⁶

8. Conclusion and Recommendations

Internal displacement of persons is a grave threat to Nigeria's national security as it throws people out of their homes and habitual environments with attendant deprivations and hardships that undermine their human rights thereby threatening the security of the country. Unfortunately causes of internal displacement of persons in Nigeria are not unknown to government. It is engendered mainly by causes that are not impossible to tackle; such as inter-ethnic clashes inspired by religious rivalries, clear-cut religious intolerance, Boko Haram terrorism which is fundamentally religious, and herdsmen terrorism which also has serious religious underpinnings. It persists in the country out of the sheer lack of political will on the part of Government. Otherwise what explanation can be given to the fact that in a country where it is illegal to carry arms, government sees herdsmen with AK 47 and cannot arrest them. In a country where the Federal or State government is prohibited from adopting a State religion, the Federal government allows some States to declare religious law as the basic source of State law. The Federal government is yet to show determination in dealing with the indigene/non-indigene distinction that provokes inter-ethnic clashes that produces IDPs. These are basic contradictions the Federal government must first resolve before its policy on IDPs can be logically meaningful. It is after this is done that other positive efforts, the kind taken by Uganda can be recommended for Nigeria.

The Federal government should endeavor to see that the necessary amendment to the Act creating the National Commission for Refugees is made in order to accommodate the extension of its mandate to cover the assistance and protection of Migrants and IDPs. Efforts should also be put on top gear towards domesticating the Kampala Convention. The goal of Durable Solution of the National Policy on the IDPs should not be complete if IDPs are not afforded psychological assistance in order to deal with the trauma associated with their plight which is more lasting and crushing than the physical pains suffered during their displacement. Until these are done, Nigeria's efforts at responding to the problems of internal displacement would rather be hypocritical.

⁷³ Joy Miller, 'Uganda's IDP Policy', <<https://www.brookings.edu/articles/ugandas-idp-policy/>> accessed 26 April 2017

⁷⁴ Friedarike Santner, 'Uganda's Policy for Internally Displaced Persons: A Comparison with the Colombian Regulations on Internal displacement' [2013] (22) *Int. Law: Rev. Colomb.* <http://www.scielo.org.co/scielo.php?script=sci_arttext&pid=S1692-81562013000100004> accessed 4 May 2017

⁷⁵ *Ibid*

⁷⁶ *Ibid*