

PROTECTION OF THE LEGAL RIGHTS OF INTERNALLY DISPLACED PERSONS IN NIGERIA VIS-A-VIS COMPLIANCE WITH THE INTERNATIONAL PROTECTION STANDARDS*

Abstract

This work appraised the protection of the legal rights of the internally displaced persons 'IDPs' in Nigeria under the national legal regimes and the extent to which they comply with the international protection standards or the minimum essential elements requirements of state regulations for IDPs' protection using five (5) basic legal rights of the IDPs. The research found that Nigeria's legal regimes for IDPs and the protections provided therein, generally and specifically do not meet the international protection standards or the minimum essential elements requirements of state regulations for adequate protection of IDPs. Key among the factors that necessitated the inadequacy and gaps included the Nigeria's government poor attitude and weak policies marring the fulfillment of government's national responsibility to adequate legal protection of IDPs in Nigeria, the non-existence of any legal binding IDPs-specific legislations or established specific institution for the protection and assistance of IDPs in Nigeria. The research generally recommended and called on the Nigerian Government, the Nigerian Legislatures, policy makers and the Nigerian judiciary to be pro-active in ensuring the fulfillment of the Nigeria's National responsibility to adequate protection of IDPs through proactive pronouncements by the Nigerian courts re-enforcing the IDPs' legal rights, enactment of a legal binding IDPs-Specific legislation that embodies the minimum essential elements requirements of state regulations or the international protection standards for adequate protection of the legal rights of IDPs in Nigeria and provision of adequate resources and effective mechanisms for ensuring the full implementation of the recommended legal measures.

Keywords: Internally Displaced Persons, Legal Rights, International Protection Standards, Nigeria

1. Introduction

When we talk about legal protection, we mean protection under the laws or legal norms or legal framework. The extent to which IDPs' rights in Nigeria have been protected depends largely on the legal and institutional frameworks for the protection of IDPs and the extent to which these frameworks conform to the international protection standards and as are being implemented. Successive Nigerian governments have taken numerous steps and measures towards responding to the problem of internal displacement of persons in Nigeria. There exist in Nigeria some legal regimes applicable to protection of IDPs in Nigeria. However, this study probes the Nigeria's legal regimes compliance with the international standards for the protection of some specific legal rights of internally displaced persons in Nigeria. The appraisal of the Nigeria's legal regimes compliance with the international standards or the minimum essential elements requirements of state regulations for the legal protection of internally displaced persons will be carried using five (5) basic legal rights of IDPs as a measure. The international protection standards and the minimum essential elements requirements of state regulations for the legal protection of internally displaced or the benchmarks are found in the Framework for National Responsibility. These minimum essential elements requirements of state regulations or benchmarks for national responsibility are set out in the Brookings-Bern Publication, entitled 'Protecting Internally Displaced Persons: A manual for Law and Policy Makers'.¹ The Brookings Manual sets out and organizes the issues relating to IDPs protection in thematic areas of concern from the perspective of the relevant minimum essential elements or supranational protection standards required of State regulations for adequate protection of IDPs.²

This work will appraise the protection of the legal rights of the internally displaced persons 'IDPs' in Nigeria under the national legal regimes vis-à-vis compliance with the international protection standards or the minimum essential elements requirements for the protection of internally displaced persons focusing on five (5) IDPs' basic rights against the related protection benchmarks as a gauge. The five (5) IDPs' basic rights to be used for this study are as follows: i) Prevention of Displacement and Prohibition of Arbitrary Displacement as well as Displacement related to Disaster; ii) Protection of IDPs against Discrimination; iii) Right to family life; iv) Right to personal liberty and freedom of movement; v) Right to basic necessities of life that includes: shelter and housing, food, water and hygiene, clothing, health, education among others.

2. Probing the Protection of the Legal Rights of IDPs in Nigeria against the International Protection Benchmarks

Discussions on the extent to which the legal protections afforded to IDPs in Nigeria under the Nigerian legal regimes meet the international protection standards or benchmarks or the minimum essential elements required of State regulations for the protection of IDPs are made hereunder:

Prevention of Displacement and Prohibition of Arbitrary Displacement as well as Displacement Related to Disaster

The standards upon which states are to make regulations or the minimum essential elements in which the state regulation should incorporate for the prevention of displacement, prohibition of arbitrary displacement and addressing displacement related to disaster are set out in the Brookings Manual to include: Recognising the right to be free from arbitrary displacement, penalise arbitrary displacement in domestic law under circumstances in which it amounts to a crime against humanity or war crime in accordance with the Rome Statute of the International Criminal Court, take penal and administrative measures to ensure

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¹Brookings-Bern Publication, *Protecting Internally Displaced Persons: A manual for Law and Policy Makers*, October 2008 <<https://www.brookings.edu/research/protecting-internally-displaced-persons>> accessed on 4th November, 2025. [hereinafter, *The Brookings Manual*].

² The Brookings Manual, p.1.

compliance with relevant rules of international humanitarian law, including rules on the conduct of hostilities and the duty to distinguish between civilians and combatants and between civilian objectives and military objectives, adopt national policies that not only regulate response but also focus on risk reduction and preparedness, include in national development plans and resettlement policies a clear articulation that forced displacement or relocation induced by development projects must be authorised by law, justified by compelling and overriding public interests, necessary to protect these interests and carried out with full respect for the human rights of affected persons. These must also include provisions on procedures by which any such displacement or relocation will be affected, available remedies including resettlement and compensation, and the right to administrative or judicial review among others.³

Both the Kampala Convention and the UN Guiding Principles contain provisions relating to prevention from displacement, prohibition of arbitrary displacement; as well as displacement related to disaster.⁴ The Kampala Convention provides that States Parties shall be liable to compensate IDPs for damage when that State Party refrains from protecting and assisting IDPs in the event of natural disasters.⁵ On Nigerian-specific analysis, aside the Nigerian National Policy on IDPs which contains provisions on the right to Protection from Displacement and right not to be arbitrary displaced;⁶ there is no other normative framework in Nigeria that contains provisions relating to prevention from displacement and prohibition of arbitrary displacement. The National Policy on IDPs also contains provisions on strategies for prevention of internal displacement.⁷ The NEMA Act⁸ on the other hand, contains provisions relating to disaster management and prevention in Nigeria. Though the Act does not mention IDPs in its provisions, some IDPs undoubtedly are victims of disaster. The Agency (NEMA) coordinates disaster management in Nigeria with state-level established disaster management agencies called the State Emergency Management Agency (SEMA).

From the above discussions, it could be deduced that the Nigerian legal framework with respect to prevention from displacement and prohibition of arbitrary displacement does not meet the required minimum essential elements for prevention and prohibition of arbitrary displacement in Nigeria. There is no legally binding legislation specifically safeguarding against displacement of persons in Nigeria. The IDPs National Policy 2012 which contains provision on prevention and prohibition of internal displacement of person in Nigeria is only a mere policy that does not have the force of law. For displacement related to disasters, the Nigerian legal framework met the minimum essential elements required through provisions of the NEMA.

Protection of IDPs against Discrimination

The minimum essential elements for protection of IDPs against discrimination calls for the recognition of the right of any IDP to be protected against discrimination on the ground that he or she is internally displaced as well as against discrimination in relation to other IDPs or non-displaced individuals and communities on any ground such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, or birth or any similar criteria.⁹ The AU Kampala Convention specifically prohibits discrimination based on displacement status, in several of its provisions. It prohibits discrimination on two main aspects namely: Non-discrimination vis-à-vis non-displaced persons and communities on one hand and discrimination among IDPs and protection of inherently vulnerable groups of IDPs on the other hand.¹⁰ The Kampala Convention also in its article 3(1) (d) provides that parties shall respect and ensure respect and protection of the human rights of internally displaced persons, including humane treatment, nondiscrimination, equality and equal protection of law.¹¹ Moreover, aside the non-discrimination provisions under the UN Guiding Principles and the Kampala Convention; the African Charter on Human and Peoples Rights 1981 explicitly provides for the right to freedom from discrimination for all people in Africa.¹² The African Charter generally provides that every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or

³ The Brookings Manual, Annex III, p. 264.

⁴ AU Kampala Convention 2009, article 3(1) provides that state parties have obligation to refrain, prohibit and prevent arbitrary displacement, article 4 (1) of the Kampala Convention makes provision relating to prevention from displacement, while article 4(6) of the Convention also imposes obligations on states to protect individuals from arbitrary displacement and to punish acts of arbitrary displacements. See also articles 4(2), 4(4) (f) & 5(4) of the Kampala Convention and Principle 6 of the UN Guiding Principles which contain provisions on disaster related displacements.

⁴ *Ibid*, article 4(2).

⁴ *Ibid*, article 4(4)(f). Principle 6 of the UN Guiding Principles also contains similar provisions

⁵ *Ibid*, article 12(3).

⁶ Nigerian National Policy on IDPs 2012, chapter 3.1.2.

⁷ *Ibid*, chapter 5.1.1

⁸ National Emergency Management Agency (Establishment, etc.) Act, Cap. N.34, Vol. 10 Laws of the Federation of Nigeria, 2004

⁹ Brookings Manual, Annex III, p.263.

¹⁰ *Ibid*, p.236

¹¹ AU Kampala Convention 2009, article 9 (1) (a).

¹¹ *Ibid*, article 9(2) (a).

¹¹ See also Kampala Convention, article 5 (1) which provides that State 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.

¹¹ *Ibid*, article 4 (4) (a).

¹² African Charter on Human and Peoples Rights 1981, articles 2, 3 & 19.

other status.¹³ The Charter on non-discrimination further provides that every individual shall be equal before the law and shall be entitled to equal protection of the law.¹⁴

On Nigeria-Specific Analysis on non-discrimination benchmark, the Nigerian Constitution contains a non-discrimination provision.¹⁵ Section 42 of the Nigerian constitution enshrined the doctrine of equality and non-discrimination in treatment of every citizen. The Nigerian constitution prohibits all forms of discrimination against persons either based on community of descent, ethnic group, place of origin, sex, religion or political opinion.¹⁶ These constitutional safeguards are meant for every person in Nigeria, IDPs inclusive. Moreover, Nigeria has ratified and domesticated the African Charter through the Ratification and Enforcement Act¹⁷ in 1983. However, it is observed that neither the Constitution nor any other law in Nigeria specifically prohibits discrimination based on displacement condition, as required by the Kampala Convention and the UN Guiding Principles. It is therefore advocated that since Nigeria is a party to the Kampala Convention, the UN Guiding Principles and other international¹⁸ and regional¹⁹ human rights instruments, it is required that the principle of non-discrimination based on displacement should be incorporated into specific domestic laws on the IDPs protection and assistance in Nigeria. The above observations notwithstanding, this research nevertheless states that the general non-discrimination provision of the Nigerian Constitution meets the minimum essential elements for prohibiting all forms of discriminations against IDPs.

Right to Family Life

The key issues and the minimum essential elements on the rights of IDPs to family life include; recognizing and preserving the right of IDPs family unity, pursuing family unification through assigning responsibilities to government agencies to search for and reunite members of families who have become separated in the course of displacement; and/or to seek support from the international community for this task, determining the fate of any missing family members, treating the dead with appropriate respect, and ensuring adequate living condition through the provision of housing.²⁰ On the relevant supranational normative framework, the Kampala Convention, the UN Guiding Principles and other relevant supranational normative frameworks clearly provide for the protection of the rights of IDPs to family life. The Kampala Convention firstly requires States Parties to take necessary measures, including the establishment of specialised mechanisms, to trace and reunify families separated during displacement, and otherwise facilitate the re-establishment of the family ties.²¹ The Kampala Convention further requires that armed groups be prohibited from separating members of the same family,²² including “recruiting children or requiring or permitting them to take part in hostilities²³ and “forcibly recruiting persons, kidnapping, abduction or hostage taking, engaging in sexual slavery and trafficking in persons, especially women and children.²⁴ Moreover, the Kampala Convention requires African Union Member States to, “provide special protection for and assistance to internally displaced persons 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.”²⁵

The UN Guiding Principles also provides for the protection of the rights of IDPs to family life.²⁶ Principles 16(1) and (2) provides that all IDPs have the right to “know the fate and whereabouts of missing relatives”, and requires authorities to establish the fate of IDPs reported missing, and cooperate with international organisations engaged in the task and that authorities must also inform next of kin on the progress of the investigation and notify them of any results. Principle 16(3) requires authorities to endeavour to collect and identify the remains of the deceased, to prevent their disrespect and mutilation of the remains, and facilitate return of remains to next of kin, or dispose of them respectfully. Principle 16(4) requires that grave sites of IDPs be protected and respected in all circumstances, and that IDPs have the right to access the grave sites of deceased relatives. Principle 17 (1) provides that every human being has the right to respect of his or her family life, and that to give effect to this right, family members wishing to remain together should be allowed to do so.²⁷ Principle 17 (3) of the Principles provides that;

Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.

¹³*Ibid*, article 2.

¹⁴*Ibid*, article 3.

¹⁵Constitution of the Federal Republic of Nigeria 1999 (as amended), section 42.

¹⁶*Ibid*, section 42 (1) & (2).

¹⁷Cap 10 Laws of Federation of Nigeria, 2004.

¹⁸ Such as Universal Declaration on Human Rights, 1948, International Covenant on Civil and Political Rights, 1966, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 and Convention on Elimination of all Forms of Discrimination Against Women, 1979.

¹⁹ Such as The African Charter on Human and Peoples Rights, 1981 and African Charter on the Protection and the Welfare of the Child, 1990.

²⁰ Brookings Manual, p. 93 and Annex III, p. 265.

²¹ AU Kampala Convention 2009, article 9 (2)(h).

²² *Ibid*, article 7(5)(e).

²³ *Ibid*, article 7(5)(e).

²⁴ *Ibid*, article 7(5)(f).

²⁵ *Ibid*, article 9(2)(c).

²⁶ UN Guiding Principles 1998, Principles 16 & 17.

²⁷ UN Guiding Principles 1998, Principle 17 (2).

Principle 17(4) of the UN Guiding Principles provides that members of IDP families whose personal liberty has been restricted to internment or confinement camps, have the right to remain together. African Charter on the Rights and Welfare of the Child²⁸ and the Convention on the Rights of the Child²⁹ both guarantee the right to family life for children's and imposes an obligation up on states to refrain from interfering with and provide as well as take necessary measures for the implementation of this right.³⁰ The Convention on the Rights of the Child provides for the child's right to an identity, including nationality, name and family relations³¹ and the rights of the child not to be separated from his or her parents against their will unless "such separation is necessary for the best interests of the child."³²

On the Nigeria-Specific Analysis, the Constitution of the Federal Republic of Nigeria guarantees the right to family life as a constitutional right entitled to by every person in Nigeria. Section 37 of the Nigerian Constitution guarantees the right to private and family life. The Nigerian National policy on IDPs also contains provisions on the right to family life. The Policy in one of its chapters provides thus:

Respect for family life should be guaranteed for all human beings. Proper accommodation should be provided to the greatest extent possible; members of the same family should not be separated. All efforts should be made to reunite families quickly. The relevant IDPs camp management authorities should make all effort to respond to enquiries by families and should facilitate the work of national and international organizations involved in family reunification. While in camps, IDPs are entitled to the sanctity of normal family relationships.³³

The Child's Rights Act contains provision on the right of the child to private and family life. The Act provides that every child is entitled to his privacy, family life, home, correspondence, telephone conversation and telegraphic communications.³⁴

From the foregoing discussions, it could be seen that the Constitution of the Federal Republic of Nigeria and some Nigerian legislations and Policy contain provisions that broadly protect the right to private and family life. However, these domestic provisions on the IDPs' right to family life do not contain the various specificities relating to IDPs' right to family life as provided under the supranational normative frameworks like the Kampala convention. These specificities include: explicit prohibition of family separation, explicit provision that all non-state actors, including armed group in particular, are prohibited from separating members of the same family, including recruiting children or requiring or permitting them to take part in hostilities, and forcibly recruiting persons, kidnapping, abduction or hostage taking, engaging in sexual slavery and trafficking in person (especially against women and children) and ensure the right to adequate housing.

Right to Basic Necessities of Life

The AU Kampala Convention generally obligates State parties to ensure the assistance to internally displaced persons by meeting their *basic needs* as well as allowing and facilitating rapid and unimpeded access by humanitarian organizations and personnel.³⁵ In highlighting the basic needs of IDPs which the states are obligated to provide for IDPs, article 9 (2) (b) of the Convention provides that 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.

The Convention on the other hand also prohibits members of armed group from denying 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.³⁶ The UN Guiding Principles in respect to the rights of IDPs to necessities of life also provides that internally displaced persons have the right to an adequate standard of living.³⁷ The Guiding Principles further provides that:

At 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.³⁸

²⁸ African Charter on the Rights and Welfare of the Child 1990.

²⁹ Convention on the Rights of the Child 1989.

³⁰ African Charter on the Rights and Welfare of the Child 1990, article 18 (1).

³¹ Convention on the Rights of the Child 1989, article 8.

³² *Ibid*, article, 9 (1).

³³ National Policy for IDPs 2012, chapter 3.1.3 (g).

³⁴ Childs Rights Act 2003, section 8 (1).

³⁵ AU Kampala Convention 2009, article 3 (1) (j).

³⁶ *Ibid*, article 7 (5) (c).

³⁷ UN Guiding Principles on Internal Displacement 1998, principle 18 (1).

³⁸ *Ibid*, principle 18 (2).

The minimum essential elements required to ensure the protection of IDPs' rights to basic necessities of life are summarised to include: recognise the right to adequate necessities of life for IDPs³⁹; designate an agency or a governmental authority to be responsible for ensuring the satisfaction of the rights of IDPs to basic necessities of life, Seek and accept the support of the international community if needs cannot be sufficiently satisfied at the domestic level; establish procedures to identify and prioritise beneficiaries of the basic necessities of life and other assistance on the basis of need and particular vulnerability; to eliminate unreasonable and discriminatory administrative obstacles that limit access of IDPs to necessities of life among others.⁴⁰

On Nigeria-Specific Analysis, Chapter II of the Constitution of the Federal Republic of Nigeria⁴¹ contains provisions on the economic, social and cultural rights of all persons in Nigeria. These rights which include the right to clothing, feeding, housing, education, health, among others are the basic necessities of life a person requires to be alive.⁴² Section 14 (2) (b) of the Nigerian Constitution generally declared that the security and welfare of the people shall be the primary responsibility of the government. Section 15 (3) (b) of the Nigerian Constitution also states that it shall be the duty of the state to secure full residence right for every citizen in all parts of the federation. Section 16 (2) (d) of the Constitution provides that state shall direct its policy towards ensuring that suitable and adequate shelter, suitable and adequate food among others are provided for all citizens. Section 17 (3) (c) of the Constitution states that State shall direct its policy towards ensuring that health, safety and welfare of all persons in employment are safeguarded and not endangered or abused. Section 17 (3) (d) of the Constitution further states that the State shall direct its policy towards ensuring that there are adequate medical and health facilities for all persons. On the right to education, section 18 (1) of the Constitution provides that the State shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels. Noticeably, the Nigerian Constitution did not specifically mention the right to water and sanitation or hygiene in its provisions. However, the right to water has been recognized through interpretation of the enjoyment of other rights like right to life and right to health.⁴³ The Nigerian Constitution in its chapter II provides for the rights of all persons to the basic necessities of life which includes the right to food, water, shelter, adequate housing, right to medical and health facilities and right to education. These rights the Constitution states are for all persons. This implies that IDPs are also entitled to these rights in the form of basic necessities of life.

Regrettably, these rights to necessities of life provided for in chapter II of the Nigerian constitution are not Justiciable owing to the dictates of section 6 (6) (c).⁴⁴ The above constitutional provision makes the right to basic necessities of life provided for in chapter II of the Nigerian Constitution unenforceable. On the other hand, the Nigerian National Policy on IDPs contains provisions on the rights of IDPs to basic necessities of life. The Policy specially provides thus:

All IDPs shall have the right to an adequate standard of living. At the minimum and without discrimination, relevant authorities shall provide IDPs with safe access to essential food and water, basic shelter and housing, appropriate clothing, and essential medical services and sanitation. Women should be full participants in the distribution of these supplies. Good conditions of safety, nutrition, health, and hygiene should be ensured.⁴⁵

The Policy also provides that:

All wounded, infirmed, and IDPs with disability shall receive medical care to the fullest extent practicable which shall include psychological and social services whenever necessary. Special provision should be made for female health care needs. Attention should also be given to contagious and infectious diseases including HIV/AIDS among IDPs.⁴⁶

Regrettably also, the Nigerian National Policy on IDPs being a mere policy does not have the force of law. To this end, it is observed that the provisions of the Nigerian normative frameworks on the IDPs right to basic necessities of life fall short of the minimum essential elements or standards required of State regulation to ensure the satisfaction of IDPs rights to basic necessities of life.

Right to Employment, Economic Activities and Social Protection Programmes

Right to employment, participation in economic activities and access to social protection programmes have been adjudged to be important prerequisites for IDPs to achieve a durable solution to their displacement and to develop self-sufficiency.⁴⁷ The minimum essential elements requirements for state regulations relating to rights of IDPs to employment, participation in economic activities and social protection programmes are as follows:

³⁹ See the Brookings Manual, Annex III, p.264 in relation to food;

⁴⁰ Brookings Manual, Annex III, p.264. These minimum essential elements required to ensure the protection of IDPs' rights to basic necessities of life are in relation to food, water and sanitation, shelter and adequate housing, medical care and other health services and education

⁴¹ Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁴² These rights are found in chapter II of the Nigerian Constitution as Fundamental Objective and Directive Principles of State Policy.

⁴³ I Okukpon & IF Anozie, 'Justifying Water Rights in Nigeria: Fiction or Achievable Panacea?' (2018) Vol. 11 (2) *The Law and Development Review*, 757-800, p. 783.

⁴⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), section 6 (6) (c).

⁴⁵ Nigerian National Policy on IDPs 2012, chapter 3.1.3 (h).

⁴⁶ *Ibid*, chapter 3.1.3 (i).

⁴⁷ IDMC & NRC, *A Review of the Normative Framework in Kenya Relating to the Protection of IDPs; in the Context of the Kampala Convention and other Supranational Frameworks* (Geneva, Switzerland: Internal Displacement Monitoring Centre & Norwegian Refugee Council, 2015), p.96.

- i) Recognise IDPs' rights to work and to access social protection programmes.
- ii) Take specific measures to protect IDPs against discrimination in the labour market and to give IDPs access to social protection programmes.
- iii) Direct government agencies responsible for employment and social security specifically to evaluate and take action in response to the particular problems faced by IDPs (for example, through provisional work programmes, access to microcredit and other assistance, skills transfers and vocational training, and access to labour market and social protection programmes).
- iv) Provide for measures (such as microcredit systems, vocational training, and distribution of farming implements, seeds or animals) that help former IDPs to regain their livelihoods or engage in new economic activities in their place of settlement.⁴⁸

On the relevant supranational normative frameworks, the Kampala Convention safeguards the rights of IDPs to self-reliance and sustainable livelihoods amongst IDPs by stating thus:

States Parties undertake to respect and ensure respect for the present Convention. In particular, States Parties shall promote self-reliance and sustainable livelihoods amongst internally displaced persons, provided that such measures shall not be used as a basis for neglecting the protection of and assistance to internally displaced persons, without prejudice to other means of assistance.⁴⁹

Principle 29 (1) of the UN Guiding Principles adds that IDPs shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services. The Principles further provides that internally displaced persons, whether or not they are living in camps, *shall not be discriminated against as a result of their displacement in the enjoyment of their right to seek freely opportunities for employment and to participate in economic activities* [emphasis added].⁵⁰ Finally, the International Covenant on Economic, Social and Cultural Rights describes right to work as the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.⁵¹

On Nigeria-specific analysis, the rights of IDPs to employment, participation in economic activities and social protection programmes, sections 14 (2) of the Nigerian Constitution⁵² firstly provides that the security and welfare of the people shall be the primary purpose of government. The Nigerian Constitution in providing for right to employment provides that State shall direct its policy towards ensuring that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment.⁵³ Section 16 (1)(b) of the Constitution also states that States shall protect the right of every person engaged in economic activity in Nigeria. Economic activities were described in the Constitution to include activities directly concerned with the production, distribution and exchange of wealth or of goods and services.⁵⁴ The Nigerian Constitution further provides that State shall direct its policy towards ensuring there is equal pay for equal work without discrimination on account of sex, or any other ground whatsoever.⁵⁵

The National Policy on Internally Displaced Persons (IDPs) in Nigeria provides that all IDPs shall have the right to an adequate standard of living.⁵⁶ The Policy further states that;

IDPs, regardless of whether they live in camps or not, shall enjoy the right to freedom of thought, conscience, religion, belief, opinion or expression; the right to seek employment or participate in economic activities; the right to vote and participate in government or civic affairs; and the right to communicate in a language they understand. IDPs shall also have the right to associate freely with other persons.⁵⁷

Invariably, there is no specific employment legislation or any enforceable provision of law prohibiting the discrimination of IDPs in employment, economic activities participation and social protection programme. Sections 16(4)(b) and 17(3)(e) of the Nigerian constitution which provide for the right of every individual to employment, economic activities and social protection are not justiciable or enforceable by virtue of section 6(6) (c) of the same constitution. However, the right of IDPs not to be discriminated on any area of life could be inferred from section 42 of the Nigerian Constitution which generally guarantees the right of all persons to freedom from discrimination for any reason. The Minimum Essential Elements described under this sub-topic require the enactment in law of specific protections from employment discrimination against IDPs. The Nigeria specific normative frameworks on ensuring employment opportunities, economic and social support for IDPs do not meet the minimum essential elements requirements.

⁴⁸ Brookings Manual, annex III, p. 264.

⁴⁹ *Ibid*, article 3(1)(k).

⁵⁰ UN Guiding Principles on IDPs, principle 22 (1)(b).

⁵¹ International Covenant on Economic, Social and Cultural Rights 1966, article 6.

⁵² Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁵³ *Ibid*, section 17 (3)(a).

⁵⁴ *Ibid*, section 16 (4) (b).

⁵⁵ *Ibid*, section 17 (3)(e).

⁵⁶ National Policy on Internally Displaced Persons (IDPs) in Nigeria 2012, chapter 3.1.3 (h).

⁵⁷ *Ibid*, chapter 3.1.3 (m).

3. Conclusion and Recommendations

This study established that there are minimum essential elements requirements or supranational protection standards or benchmarks required of State regulations to ensure adequate protection and assistance to IDPs as provided under the supranational normative frameworks. The Brookings Manual for Law and Policy Makers on Protecting IDPs distilled out and structured these minimum essential elements of State regulations necessary to ensure adequate protection to IDPs into thematic chapters or areas or headings based on the legal and protection issues that affect IDPs in different phases of displacement. The study on the extent of Nigeria's compliance with the international protection standards or benchmarks or the minimum essential elements requirements of state regulations for the protection of internally displaced persons was carried out focusing on five (5) IDPs' legal rights against the set related international protection benchmarks. In the course of discussions, the study considered the relevant minimum essential elements requirements, the relevant supranational normative frameworks and the Nigerian-specific normative frameworks relating to the protection of the legal rights of IDPs in Nigeria. The above discussions were made in order to ascertain the extent of Nigeria's compliance to the set international protection benchmarks for the protection of the legal rights of IDPs in Nigeria. The study through the above discussions also appraised the extent to which the Nigerian national legal, policy and institutional frameworks met the required minimum essential elements or supranational protection standards required for adequate protection of IDPs. The study also ascertained the adequacy of the legal protections afforded to IDPs in Nigeria as well as the existing protection gaps in the legal and institutional framework for the protection of IDPs in Nigeria.

The study found that Nigeria's legal protection regimes for IDPs, generally do not meet the minimum essential elements requirements of state regulations or the supranational protection standards or benchmarks for adequate protection of IDPs rights. There were also perceived gaps in the legal and institutional framework for IDPs' protection in Nigeria. Key among the factors that necessitated the inadequacy and gaps included the Nigeria's government poor attitude and weak policies marring the fulfillment of the government's national responsibility to the legal protection of IDPs in Nigeria, the non-existence of any legally binding IDPs-specific legislations and the non-existence of any established specific institution for the protection and assistance of IDPs in Nigeria. Overly, the protection and assistance of IDPs in Nigeria have been left in the hands of many actors and cluster of institutions with no explicit mandate for IDPs' protection and assistance. Different approaches have been adopted under the institutional framework for the protection and assistance IDPs. These institutional approaches have either been on *ad hoc* basis or collaborative basis or cluster or sectorial basis. Nonetheless, each of these approaches have faced by criticisms and challenges because of the inherent gaps in the legal and institutional frameworks for the protection and assistance of IDPs. Moreover, notwithstanding that Nigeria has ratified many international and regional human and humanitarian rights instruments relating to IDPs protection, the fatal effect of Section 12 (1) of the constitution of the Federal Republic of makes these instruments non-legal binding in Nigeria. On the other hand, the international established doctrine of sovereignty and non-intervention which gives states the sole power of control over its internal or domestic affairs and a bar to other states from intervening in other states' internal matters constitute to a clog to the applicability of the general norms to IDPs. Finally, this study calls on the Nigerian Government, the Nigerian Legislatures, policy makers and the Nigerian judiciary to be pro-active and do the needful in ensuring the fulfillment of the Nigeria's National responsibility to adequate protection of IDPs through proactive pronouncements by the Nigerian courts re-enforcing the IDPs' legal rights, enactment of a legal binding IDPs-specific legislation that embodies the minimum essential elements requirements of state regulations or the international protection standards for adequate protection of the legal rights of IDPs in Nigeria. Adequate resources and effective mechanisms should also be provided to ensure the full implementation of the recommended legal measures.