

AN ANALYSIS OF THE LEGAL FRAMEWORKS FOR DURABLE SOLUTIONS AND PROPERTY RIGHTS OF INTERNALLY DISPLACED PERSONS IN NIGERIA

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Abstract

This paper analysed the legal frameworks for achieving durable solutions and securing the property rights of internally displaced persons 'IDPs' in Nigeria and ascertained the adequacy and compliance of these legal frameworks to the set legal criteria or the minimum essential elements requirements of state regulations for ensuring IDPs' rights to durable solutions, property and housing. The research discovered that achieving durable solutions and achieving the intertwined rights of IDPs to property and housing during and after displacement are complex processes which cannot be achieved without strong legal framework. The analysis of the national legal frameworks for achieving durable solutions and securing the property and housing rights of IDPs in Nigeria carried out indicated that the Nigerian national legal frameworks relating to durable solutions and property rights of internally displaced persons (IDPs) are still not yet in compliance with the set international legal benchmarks and criteria. The research therefore, recommended for development of a binding and effective legal instrument as well as robust administrative mechanisms that will inform and guide the Nigerian government's responses and efforts at creating the conditions and providing the means for IDPs to find durable solutions and enjoy their rights to properties and housing.

Key words: Internal displacement; IDPs; durable solutions; property/housing rights.

1.0 Introduction

Though the effects of displacement cannot be totally erased, IDPs need to be able to start living their normal lives through achievement of durable solution. A durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights and exercise their rights without discrimination on account of their displacement.² Durable solution for IDPs have been noted to be achievable in three forms: either through sustainable reintegration at the place of origin (normally referred to as 'return') or through sustainable local integration in areas where internally displaced persons take refuge (local integration); and or through sustainable integration in another part of the country (settlement elsewhere in the country).³

Researchers have noted that ending displacement is a process rather than an endpoint.⁴ That displacement doesn't necessarily end when an IDP camp is closed, a peace agreement is signed or flood waters diminish.⁵ That if people return home but are not safe, IDPs have not found a solution and that if an IDP camp is closed, but IDPs have nowhere to go, they have not found a durable solution.⁶

Besides, intertwined with the Rights of IDPs to durable solutions are their rights to property and housing. The IDPs' inability to exercise their property and housing rights is another big problem facing IDPs before or after return. For example, IDPs who have physically returned to their place of origin may find that they are unable to take back the houses and properties they left behind which have either been destroyed or are unsafe for habitation or now occupied by others. Recovery of lost property has been noted to be crucial to the achievement of durable solution to internal displacement.⁷

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² Inter-Agency Standing Committee (IASC), *IASC Framework on Durable Solutions for Internally Displaced Persons*, (Washington, DC; USA: The Brookings Institution Publication, 2010) p.5. [herein after, IASC Framework on Durable Solution for IDPs 2010]

³ Norwegian Refugee Council (NRC), 'Durable Solutions for Internally Displaced People: in a Nutshell' November 2019 Briefing Note. <https://www.nrc.no/globalassets/pdf/briefing-notes/durable-solutions-for-internally-displaced-people/durable-solutions_briefer_eng.pdf> accessed on 7th December, 2025.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ E Ferris, 'Durable Solutions for IDPs', August 2020 UN Secretary-General's High-Level Panel on Internal Displacement Research Briefing Paper, p2. <https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/durable-solutions-ferris_1_apr_2021.pdf> accessed on 7th December, 2025.

⁷ Brookings-Bern Publication, *Protecting Internally Displaced Persons: A manual for Law and Policy Makers*, October 2008, p.171 <<https://www.brookings.edu/research/protecting-internally-displaced-persons>> accessed on 3rd December, 2025. [hereinafter, *The Brookings Manual*].

Unequivocally, it is the national governments that are primarily responsible for providing the legal means, resources and conditions for IDPs to find durable solutions as well as enjoying their rights to property and housing. The UN Guiding Principles on IDPs and the related normative frameworks for IDPs protection identify that the national governments have the primary duty and responsibility to establish conditions, as well as provide the legal means and resources, which allow IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.⁸ While national governments and authorities have the primary responsibility and obligation to providing solutions to durable solutions and property rights of IDPs, international community, international humanitarian and development actors have complementary roles.

Coincidentally, the main problem affecting the achievement of durable solutions and securing the property and housing rights of IDPs in Nigeria stemmed from the unavailability of robust legal frameworks and policies and the adaptation and implementation of these existing legal measures and policies. Incidentally, achieving durable solutions for internally displaced persons (IDPs) which are complex processes cannot be achieved without strong legal measures and the political will to implement the legal measures to the later.

This research would therefore, determine whether the available national legal framework for achieving durable solutions and securing the property and housing rights of IDPs in Nigeria are adequate? The study in this paper would involve the analysis of the legal frameworks for durable solutions and property rights of internally displaced persons in Nigeria and the extent to which they comply with the minimum essential elements requirements of state regulations for ensuring IDPs' rights to durable solutions, property and housing. The analysis of the legal measures on durable solutions and property rights of IDPs in Nigeria will be drawn from the UN Guiding Principles on Internal Displacement 1998, the AU Kampala Convention 2009, the UN's Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons⁹, the Pinheiro Principles,¹⁰ the Brookings Manual¹¹ and the Nigerian specific legal measures relating to IDPs' rights to durable solutions and property and housing.

2.0 Minimum Essential Elements of State Regulations in Relation to Durable Solutions and Property Rights of IDPs

The Brookings Manual, the IASC Framework on Durable Solutions for Internally Displaced Persons and the Pinheiro Principles set out and itemized the minimum essential elements of state regulations in relation to durable solutions and property rights of IDPs. The Pinheiro Principles set out standards and provide guidance relating to the loss of property and homes in the context of displacement and provides for the rights of Refugees and IDPs to housing and property restitution,¹² the right to respect to home and peaceful enjoyment of possessions¹³ and also provides for legal policy, procedural and institutional implementation mechanisms.

Accordingly, the minimum essential elements of state regulations in relation to durable solutions and property rights of IDPs are summarised hereunder:

A. Minimum Essential Elements of State Regulations in Relation to Durable Solution Right of IDPs

- Recognise that the national authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.
- Recognise that national and international actors from the humanitarian and development sectors have a complementary role to play and should be given rapid and unimpeded access to IDPs.
- Ensure that IDPs' needs, rights and legitimate interests should be the primary consideration, and should guide all laws and policies on durable solution to internal displacement.
- Ensure that IDPs, who return, integrate locally or settle elsewhere in the country must not be subjected to discrimination, in particular for reasons related to their displacement.
- Adopt a community-based approach that addresses the needs of both IDPs and their hosts, which in turn reduces the risk of tensions arising and facilitates (re)integration.

⁸ See principle 28 of the UN Guiding Principles on Internal Displacement 1998, AU Kampala Convention 2009, article 11(1) and Nigerian National Policy for IDPs 2012, chapter 4.1(10).

⁹ IASC Framework on Durable Solution for IPDs 2010.

¹⁰By Resolution 1708 (2010), Solving Property issues of Refugees and Internally Displaced Persons, PACE adopted the *Pinheiro Principles*, calling on member states to resolve property and housing rights of refugees and IDPs in accordance with these Principles.

¹¹ Brookings-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 3rd December, 2025. [herein after, *The Brookings Manual*].

¹²Pinheiro Principles, principle 2.

¹³*Ibid*, principle 6 & 7.

- Ensure that under no circumstances should IDPs be encouraged or compelled to return or relocate to areas where their life, safety, liberty or health would be at risk. IDPs' right to make an informed and voluntary choice about their settlement options should be respected by all relevant actors, as should their right to participate in the planning and management of strategies and programmes that facilitate durable solutions.
- Establish Procedures to identify the right strategies and activities to assist IDPs in this process, and set criteria that will help to determine to what extent a durable solution has been achieved.¹⁴

B. Minimum Essential Elements of State Regulations in Relation to Property Rights of IDPS:

- Recognise the property rights of IDPs to their abandoned homes, property and land, including the right to protection and restitution of such property.
- Take basic measures to secure homes, lands and property left behind by IDPs against destruction, unlawful use or occupation and appropriation.
- Develop facilitated procedures to restore or compensate IDPs' rights in housing, land and property; where this is not possible, provide support to informal dispute resolution bodies to take into account human rights law in negotiating solutions to local property claims.
- Recognise individual rights to a minimum level of tenure security, regardless of tenure status.¹⁵

3.0 Analysis of Relevant Supranational Normative Frameworks for Durable Solutions and Property Rights of IDPs

In relation to IDPs' right to durable solution, the Kampala Convention firstly provides that state shall Respect and ensure the right to seek safety in another part of the State and to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.¹⁶ Article 11 of the Kampala Convention provides for the obligations of States Parties relating to sustainable return, local integration or relocation in promoting durable solutions for IDPs. Article 11(1) of the Convention obliges state parties to seek lasting solutions to displacement by promoting and creating the conditions for voluntary and sustainable return, local integration or settlement elsewhere in the country to take place in safety and dignity. It further provides that States Parties shall enable internally displaced persons to make a free and informed choice on whether to return, integrate locally or relocate by consulting them on these and other options and ensuring their participation in finding sustainable solutions.¹⁷

Because durable solution does not end with IDPs return, local integration or settlement elsewhere, the Kampala convention also provides that States Parties shall provide persons affected by displacement with effective remedies.¹⁸ It also requires State Parties to establish an effective legal framework to provide just and fair compensation and other forms of reparations, where appropriate, to internally displaced persons for damage incurred as a result of displacement, in accordance with international standards.

Similarly, the UN Guiding Principles¹⁹ set out the concept that underpins the pursuit of durable solution for IDPs by stipulating that "displacement shall last no longer than required by the circumstances".²⁰ Principle 15(d) also states that IDPs have the right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk. The Guiding Principles further stipulates that the primary responsibility to provide durable solutions for IDPs and ensure their protection and assistance needs to be assumed by the national authorities.²¹ It further states that special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.²² The Guiding Principles also recognises that though the primary responsibility to protecting and assisting IDPs rests with national authorities, international humanitarian and development actors have a complementary role and should be granted unimpeded access to assist IDPs in finding a durable solution.²³ It moreover, states that internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced.²⁴

¹⁴ IASC Framework on Durable Solution for IDPs 2010, pp. 11-14.

¹⁵ Brookings Manual, annex III, p.264.

¹⁶ AU Kampala Convention 2009, article 9(2)(e).

¹⁷ *Ibid*, article 11(1).

¹⁸ *Ibid*, article 12(1).

¹⁹ UN Guiding Principles on Internal Displacement 1998.

²⁰ *Ibid*, principle 6(3).

²¹ *Ibid*, principle 28(1).

²² *Ibid*, principle 28(2).

²³ UN Guiding Principles on Internal Displacement 1998, principle 30.

²⁴ *Ibid*, principle 29(1).

In relation to IDPs' right to property, both the Kampala Convention and UN Guiding Principles mandate States Parties to establish appropriate mechanisms providing for simplified procedures where necessary, for resolving disputes relating to the property of internally displaced persons and assist IDPs to recover their properties.²⁵ The UN Guiding Principles provide that no one shall be arbitrarily deprived of property and possessions²⁶ and that the property and possessions of IDPs shall be protected against destruction and arbitrary and illegal appropriation, occupation or use.²⁷ The UN Guiding Principles overly provides thus:

Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.²⁸

The Kampala Convention also requires States Parties to take all appropriate measures, whenever possible, to restore the lands of communities with special dependency and attachment to such lands upon the communities.²⁹

On the legal preservation of the property and housing rights of IDPs, referral discussions will be made on the European Union legal regimes. The European Union region have a more comprehensive legal regime when it comes to protection of the property and housing rights of persons. In the European context, the right to property is guaranteed under Article 1 of Protocol No. 1 of the ECHR which provides for the right of everyone to peaceful enjoyment of possession. On the other hand, the Pinheiro Principles³⁰ set out standards and provide guidance relating to the loss of property and homes in the context of displacement. The Pinheiro Principles provides for the rights of Refugees and IDPs to housing and property restitution,³¹ the right to respect to home and peaceful enjoyment of possessions³² and also provides for legal policy, procedural and institutional implementation mechanisms.³³ The European Court of Human Rights (ECtHR) in its recent judgments in *Sargsyan v Azerbaijan* and *Chiragov v Armenia* breathed life into the Pinheiro Principles and pronounced that:

The "Principles on Housing and Property Restitution for Refugees and Displaced Persons" ... are the most complete standards on the issue. They are also known as the Pinheiro principles. The aim of these principles, which are grounded within existing international human rights and humanitarian law, is to provide international standards and practical guidelines to States, UN agencies and the broader international community on how best to address the complex legal and technical issues surrounding housing and property restitution.³⁴

In *Chiragov v Armenia case* the court among others things held that IDPs' right to their homes and properties should be respected and that states have obligation to ensure the full protection of this human rights of IDPs irrespective of where they are resettled. The court further ruled that States have the duty to put an end to violations, adopt general measures to end and or prevent future violations, and to make reparations to the affected parties in order to restore to the extent possible the situation in place before the breach (*restitutio in integrum*).

4.0 Analysis of Nigeria-Specific National Legal Frameworks for Durable Solutions and Property Rights of IDPs

In Relation to right of IDPs to durable solution the Constitution of the Federal Republic of Nigeria is of immense significance. It sets out the policy objectives for the State and also provides for the fundamental human rights of all persons in Nigeria. Chapter II of the Constitution (sections 13 to 24) provides for the Fundamental Objectives and Directive Principles of State Policy relating to economic, social, political, cultural and environmental rights of all persons in Nigeria. In the chapter, the Constitution provides that the security and welfare of the people shall

²⁵ See AU Kampala Convention 2009, articles 11 (4) & (5) and UN Guiding Principles on Internal Displacement, principle 29(2).

²⁶ UN Guiding Principles on Internal Displacement 1998, principle 22 (1).

²⁷ *Ibid*, principle 21.3.

²⁸ *Ibid*, principle 29(2).

²⁹ AU Kampala Convention, article 11(5).

³⁰ By Resolution 1708 (2010), Solving Property issues of Refugees and Internally Displaced Persons, PACE adopted the *Pinheiro Principles*, calling on member states to resolve property and housing rights of refugees and IDPs in accordance with these Principles.

³¹ Pinheiro Principles, principle 2.

³² *Ibid*, principle 6 & 7.

³³ *Ibid*, principles 11-22.

³⁴ *Sargsyan v Azerbaijan*, No. 40167/06 [GC], 16/06/2015, para.96; *Chiragov and Others v Armenia*, No. 13216/05 [GC], 16/06/2015, para. 98

be the primary of government.³⁵ It also mandates the State to direct its policies towards all citizens.³⁶ Chapter IV of the Constitution provides for the fundamental human rights for all persons in Nigeria (including IDPs) in its sections 33 to 46. Apparently, the full enjoyment of these constitutional rights by IDPs without discrimination would be a pointer that durable solution has been achieved.

In relation to IDPs' right to property, the Constitution of the Federal Republic of Nigeria provides that every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.³⁷ In protection this right to property, the Constitution states that:

No movable property or any interest in any immovable property shall be taken possession of compulsorily and no right over interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things.³⁸

Moreover, Nigerian National Policy for IDPs in relation to IDPs' right to durable solution and property declares that the overriding aspiration of this Policy is to achieve durable solutions to the problem of internal displacement.³⁹ The Policy states that IDPs shall have the right to decide if they want to return to their homes or places of habitual residence, be integrated in the host community, be relocated to another place within the country or seek asylum in another country.⁴⁰ It also states that the obligations and responsibilities of government shall include supporting durable solutions from prevention of displacement to long term development goals.⁴¹ Chapter 5.1.4 of the Policy provides the strategies for return, relocation and local integration of IDPs to include: provision of comprehensive return packages for IDPs, recovery and restoration of lands, houses and other property left behind by IDPs during displacement ensuring safety & security prior to, during and after return, reconstruction of shelters and settlements lost during displacement, provision of sustainable livelihood opportunities, restoration of social services, infrastructure & amenities and activation of social protection measures and safety net mechanisms. The Policy also recognises the right of IDPs not to be discriminated against on account of the displacement, the right to participate fully in public affairs, access to public services and to vote and be voted for, the right to own property wherever durable solution has been achieved for them like other Nigerians under the Constitution of Nigeria and other relevant laws and the right to any special or general existing empowerment initiatives of the government.⁴²

From the discussions above, it is seen that the Nigerian Constitution contains significant provisions that can be applied in the preservation of the IDPs' rights to durable solution and property. The Nigerian National Policy on IDPs also contains provisions relating to IDPs' rights to durable solution and property. However, and regrettably, the rights provided for in chapter II of the Nigerian Constitution are not justiciable or enforceable. There is also the issue of non-inclusion of IDPs' specific rights under the fundamental human rights provisions of the Constitution, which are enforceable rights. The Nigerian National Policy on IDP is a mere policy manual or guide yet to be translated into a law.

5.0 Conclusion and Recommendations

The analysis of the legal measures on durable solutions and the property rights of internally displaced persons (IDPs) in Nigeria, as undertaken in this paper and drawn from the UN Guiding Principles on Internal Displacement (1998), the AU Kampala Convention (2009), the UN Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons, the Pinheiro Principles, the Brookings Manual, and Nigeria-specific legal measures relating to IDPs' rights to durable solutions and property, indicates that there are established minimum essential elements of state regulation relating to durable solutions and the property rights of IDPs. However, the central issue remains whether these minimum essential elements for achieving durable solutions for IDPs have been sufficiently incorporated and implemented within Nigerian law.

The analysis of the relevant supranational normative frameworks on durable solutions and the property rights of IDPs shows that these frameworks provide for and incorporate the minimum essential elements required for ensuring IDPs' rights to durable solutions and property. The UN Guiding Principles on Internal Displacement and the AU Kampala Convention make provisions for durable solutions to the challenges faced by IDPs by imposing obligations on States to seek lasting solutions to displacement and to create satisfactory conditions for return, local integration, or relocation on a sustainable basis. States are also mandated to provide restitution, and where restitution is not possible, compensation or other forms of just reparation.

³⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), section 14.

³⁶ *Ibid*, section 17.

³⁷ *Ibid*, section 43.

³⁸ *Ibid*, section 44.

³⁹ Nigerian National Policy for IDPs 2012, chapter 5.2.

⁴⁰ *Ibid*, chapter 3.1.9.

⁴¹ *Ibid*, chapter 4.1 (10).

⁴² Nigerian National Policy for IDPs 2012, chapter 3.1.9 (a-d).

With respect to IDPs' right to property, both the Kampala Convention and the UN Guiding Principles require States Parties to establish appropriate mechanisms, including simplified procedures where necessary, for resolving disputes relating to the property of internally displaced persons and for assisting IDPs to recover their property. On the legal protection of the property and housing rights of IDPs, reference was made to the European context, where these rights are safeguarded under the European Convention on Human Rights (ECHR), the Pinheiro Principles, and proactive judicial decisions enforcing IDPs' rights to their homes and properties.

The analysis of Nigeria-specific national legal frameworks on durable solutions and the property rights of IDPs reveals a general absence of IDP-specific legal regimes for achieving durable solutions in Nigeria. Although the Nigerian Constitution contains provisions that may be applied to the protection of IDPs' rights to durable solutions and property, these provisions do not satisfy the minimum essential elements required of state regulations in this regard. The rights contained in Chapter II of the Nigerian Constitution are non-justiciable and therefore unenforceable, while IDP-specific rights relevant to the subject of this study are not included under the enforceable fundamental human rights provisions of the Constitution.

The Nigerian National Policy on Internally Displaced Persons also contains provisions relating to IDPs' rights to durable solutions and property. However, the Policy remains a non-binding policy document that has not yet been enacted into law.

In light of the foregoing, this research concludes that further efforts are required to bring Nigeria's normative framework into compliance with the minimum essential elements established under supranational legal frameworks. The study therefore recommends the development of a binding and effective legal instrument, alongside robust administrative mechanisms, to guide and inform the Nigerian government's responses and efforts toward creating the conditions and providing the means for IDPs to achieve durable solutions and enjoy their rights to property and housing.

Moreover, given that the inability to exercise property and housing rights constitutes a major obstacle to IDPs' attainment of durable solutions and social integration, the Nigerian government and policymakers are urged to establish administrative and social mechanisms for compensating property damaged or destroyed as a result of displacement, or alternatively, to provide government-funded affordable housing. The availability of adequate housing constitutes a critical pathway toward achieving durable housing solutions for IDPs.