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Protecting Internally Displaced Children in Armed Conflicts: Nigeria in Focus

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Cover Page Footnote

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PROTECTING INTERNALLY DISPLACED CHILDREN IN ARMED CONFLICTS: NIGERIA IN FOCUS

OLAITAN O. OLUSEGUN & ADEDOKUN OGUNFOLU*

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INTRODUCTION

Armed conflicts have become a regular occurrence in the lives of many children who are victims and witnesses of various atrocities.¹ Contemporary internal conflicts significantly impact civilians, including children, due to the strategies that armed groups employ to bring hostilities closer to the civilian population and into the lives of millions of children.² Children need greater protection during armed conflicts than they do during peacetime; they are at great risk of being abused and represent the highest number of casualties of those suffering from international humanitarian and human rights violations in these conflict periods.³ Children are highly vulnerable to the effects of armed conflict for multiple reasons. They depend on adults for their survival needs, including food, water, shelter, and clothing, which makes child-parent separation a real danger during such situations.⁴ In addition, children are still developing physically and psychologically. Thus, “[t]he consequences of [armed conflict], such as mental trauma and physical injury, can . . . have a . . . long-term impact on their development and growth into adulthood.”⁵ Children in developing countries “already experience [more] difficulty in accessing schooling and health care and in receiving adequate nutrition.”⁶ Armed conflict violates children’s rights to life, health, education, an adequate standard of living, and the right to be with family and to be nurtured and protected.⁷ It further violates their right to be protected from sexual “abuse, exploitation, neglect, discrimination, and recruitment into” armed forces.⁸ Many children are killed, injured, and left disabled, while others are deprived of their material and emotional needs when they lose parents and support structures.⁹ These children are also more likely to develop psychological problems, due to the atrocities that perpetrators committed against their parents before their eyes, or because of acts they themselves were forced to commit.¹⁰

Nigeria has been experiencing armed conflict because of the activities of Boko Haram, an Islamic terrorist organization that has its roots in North-East Nigeria.¹¹ Boko Haram intends to wage war against “corrupt” Muslims and

¹ See MYRIAM DENO, *CHILD SOLDIERS: SIERRA LEONE’S REVOLUTIONARY UNITED FRONT* 21 (2010).

² UNITED NATIONS CHILDREN’S FUND (UNICEF), *MACHEL STUDY 10-YEAR STRATEGIC REVIEW: CHILDREN AND CONFLICT IN A CHANGING WORLD* 8 (Apr. 2009) [hereinafter, *MACHEL STUDY*].

³ See JAVAID REHMAN, *INTERNATIONAL HUMAN RIGHTS LAW* 580 (2010).

⁴ KENDRA E. DUPUY & KRIJN PETERS, *WAR AND CHILDREN: A REFERENCE HANDBOOK* 23 (2010).

⁵ See *id.*

⁶ *Id.*

⁷ UNICEF, *CHILDREN AFFECTED BY ARMED CONFLICT: UNICEF ACTIONS 109* (2002) [hereinafter *UNICEF ACTIONS*].

⁸ *Id.*

⁹ U.N. Secretary-General, *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children*, ¶¶ 8, 29, U.N. Doc. A/51/306 (Aug. 26, 1996) [hereinafter *Promotion and Protection of the Rights of Children*].

¹⁰ See UNICEF ACTIONS, *supra* note 7, at 48.

¹¹ See U.N. High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights on Violations and Abuses Committed by Boko Haram and the Impact*

against Nigeria as a whole, with the aim of creating a “‘pure’ Islamic state ruled by [S]haria law.”¹² “Although the twelve northern states have implemented [S]haria governance, Boko Haram believes it is too lenient and violates [the strict rules of] Islam.”¹³ The war also extends to the rejection of Western education, as their supporters were compelled to withdraw from schools where they received formal education, and those who had already acquired certificates were also asked to destroy them, based on their belief that anything “Western” is evil.¹⁴ The phrase “Boko Haram” is derived from a combination of the Hausa word *boko* (meaning “book”) and the Arabic word *haram* (meaning “something forbidden, ungodly, or sinful”). Literally, it translates to “book is sinful;” although “its deeper meaning is that Western education is sinful, sacrilegious or ungodly and should therefore be forbidden.”¹⁵ The group’s official name is *Jama’atu Ahlis Sunna Lidda’awati wal-Jihad*, which means “People Committed to the Propagation of the Prophet’s Teachings and Jihad.”¹⁶

According to Amnesty International, the situation in North-East Nigeria became a non-international armed conflict as of May 2013, due to several “factors including the level of intensity of hostilities and the fact that Boko Haram is a well-organized force which controls territory and has a clear command structure.”¹⁷ Nigeria has also employed its military forces to combat Boko Haram, rather than relying solely on its police force.¹⁸ These activities have affected Nigeria’s economy, environment, and development, and have had adverse impacts for children, including internal displacement.

Internally Displaced Persons (IDPs) have certain needs that are distinct from the general population, which is due to their “unique needs and heightened vulnerabilities that arise as a result of forced displacement, including their need for a durable solution.”¹⁹ However, little attention has been given to the legal protection of the children who have been internally displaced in Nigeria. Children who are internally displaced experience various forms of abuse which could affect their development and wellbeing, if they are not effectively protected.²⁰ Thus, this Article seeks to discuss the concept of internal displacement, as well as its effects on children. It analyzes the international protection of internally displaced children, both in human rights and humanitarian laws, in addition to their legal protection in Nigeria. Further,

on *Human Rights in the Affected Countries*, 4, U.N. Doc. A/HRC/30/67 (Sept. 29, 2015) [hereinafter *UNHC Report*].

¹² ANDREW WALKER, U.S. INST. OF PEACE, SPECIAL REPORT 308: WHAT IS BOKO HARAM? 1 (2012).

¹³ Ryan Mauro, The Clarion Project, *Boko Haram: Nigerian Islamist Group* 4 (2017), <https://clarionproject.org/boko-haram-nigerias-islamist-group/>.

¹⁴ See Emmanuel O. Ojo, *Boko Haram: Nigeria’s Extra-Judicial State*, 12 J. SUSTAINABLE DEV. AFR. 45, 50 (2010).

¹⁵ Abimbola Adesoji, *The Boko Haram Uprising and Islamic Revivalism in Nigeria*, 45 AFR. SPECTRUM 95, 100 (2010).

¹⁶ The Clarion Project, *supra* note 13, at 3.

¹⁷ Amnesty Int’l, *Stars on Their Shoulders. Blood on Their Hands: War Crimes Committed by the Nigerian Military* 19 (2015), <https://www.amnesty.org/en/documents/afr44/1657/2015/en/>.

¹⁸ See Int’l Criminal Court [ICC], Office of the Prosecutor, Report on Preliminary Examination Activities 2013, ¶ 207 (Nov. 2013), <https://www.icc-cpi.int/OTP/Reports/otp-report-2013.aspx>.

¹⁹ Erin Mooney, *The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern*, 24 REFUGEE SURV. Q. 9, 18 (2005).

²⁰ *Id.* at 15.

this Article highlights the challenges of effectively protecting internally displaced children. It also recommends solutions to the challenge of internally displaced children in Nigeria.

I. INTERNALLY DISPLACED PERSONS

The United Nations Guiding Principles on Internal Displacement defines IDPs as:

[P]ersons or group 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 State border.²¹

According to the Internal Displacement Monitoring Centre (IDMC), countries that have produced the highest numbers of IDPs in recent years, like Sudan and Colombia, have been plagued by internal armed conflicts.²² Conflict-related displacement may be a normal consequence of war, where many civilians flee the general dangers resulting from confrontations with the parties to the conflict. Nevertheless, in a 1992 report, the Representative of the Secretary-General on IDPs observed that the number of displaced persons usually multiplies due to the excesses committed against the civilian population.²³ The destinations of persons who flee from their homes determine whether they will become IDPs in their own countries or refugees who have crossed national borders.²⁴ Refugees and IDPs both flee their homes, but while refugees often move outside war zones, IDPs usually remain close to places of conflict and are often likely to be displaced repeatedly if conflict reoccurs.²⁵ IDPs remain within the jurisdiction of their own state and the responsibility to protect and assist them rests primarily on their state and cannot be shifted entirely to the international community.²⁶ It is estimated that across more than fifty countries in the world today, an estimated 27.1 million individuals have been internally displaced because of armed conflict, and at least half of them are children.²⁷ In

²¹ See U.N. Office for the Coordination of Humanitarian Affairs [OCHA], Guiding Principles on Internal Displacement, U.N. Doc. E/CN.4/1998/53/Add.2 (1998) [hereinafter U.N. Guiding Principles on Internal Displacement].

²² Internal Displacement Monitoring Ctr., *Internal Displacement: Global Overview of Trends and Developments in 2005* 13 (2006).

²³ See MÉLANIE JACQUES, ARMED CONFLICT AND DISPLACEMENT: THE PROTECTION OF REFUGEES AND DISPLACED PERSONS UNDER INTERNATIONAL HUMANITARIAN LAW 19 (2012).

²⁴ See *Promotion and Protection of the Rights of Children*, supra note 9, at ¶ 63.

²⁵ *Id.* at ¶ 65.

²⁶ U.N. Office of the Special Representative of the Sec'y-Gen. for Children and Armed Conflict, *Working Paper No. 2: The Rights and Guarantees of Internally Displaced Children in Armed Conflict*, 11–12 (Sept. 2010), [hereinafter *U.N. Rights and Guarantees of IDCs*].

²⁷ *Id.* at 11.

Nigeria, the conflict between Boko Haram and military forces has displaced a large number of people. As of December 2015, there were 2,151,979 IDPs in Nigeria, the majority of whom were located in Borno (64%), Adamawa (6.32%), and Yobe (6.1%).²⁸ Ninety-two percent of these IDPs lived in host communities, while eight percent live in the camps.²⁹

II. EFFECTS OF INTERNAL DISPLACEMENT ON CHILDREN

Displacement is a destabilizing experience for children, as it exposes them to risks at a time in their lives when they most need protection and stability. It becomes even more traumatizing because the difficult conditions they endure might persist for years without a solution. In the process of fleeing their homes and communities to avoid being killed or abducted, children are often exposed to physical dangers, such as attacks, landmines, and illness. Further, they often “walk for days with only limited quantities of water and food.”³⁰ Under such circumstances, children often become undernourished and prone to illness and death. They are particularly vulnerable during these long journeys when they have lost their parents and relatives and have to travel alone.³¹ A large number of displaced persons end up in camps, but instead of these camps being places of safety and protection, occupants experience various problems.³² Children are more prone to abuse and exploitation in IDP camps due to their weak physical stature, age, and inability to protect themselves.³³ The effects of internal displacement on children include a lack of physical security, inadequate access to education, sexual abuse, inadequate food and nutrition, and various health risks.³⁴

A. LACK OF PHYSICAL SECURITY

Lack of physical security is a significant problem in IDP camps as people are subjected to threats, harassment, and attacks from armed groups.³⁵ In Nigeria, more than sixty people were killed and seventy-eight other persons injured by a twin suicide bomb attack at an IDP camp in Dikwa, Borno State, in 2016.³⁶ Also, the concentration of vulnerable children in these poorly

²⁸ Aisosa Jennifer Isokpan & Ebenezer Durojaye, *Impact of the Boko Haram Insurgency on the Child's Right to Education in Nigeria*, 19 POTCHEFSTROOM ELEC. L. J. 2, 14 (2016).

²⁹ *Id.*

³⁰ See *Promotion and Protection of the Rights of Children*, *supra* note 9, at ¶ 68.

³¹ *U.N. Rights and Guarantees of IDCs*, *supra* note 26, at 11.

³² See Philista Onyango, *The Impact of Armed Conflict on Children*, 7 CHILD ABUSE REV. 219, 222 (1998).

³³ Nargis Asad et al., *Preventing Abuse and Trauma to Internally Displaced Children Living in Camps Due to Disasters in Pakistan*, 19 CHILD CARE PRAC. 267, 269 (2013).

³⁴ *Id.*

³⁵ JACQUES, *supra* note 23, at 210.

³⁶ See *Boko Haram Kills More Than 60 in Borno IDP Camp*, NEWS (Feb. 10, 2016), <http://thenewsnigeria.com.ng/2016/02/boko-haram-kills-more-than-60-in-borno-idp-camp/>. Also, in 2017, two camps were attacked in Maiduguri, Borno State, Nigeria, leaving two persons dead and several others injured. See Michael Olugbode, *Six Killed in Suicide Attacks on Two IDP Camps in*

secured areas makes it relatively easy for the camps to be raided and the children to be abducted for conscription by armed groups or the army.³⁷ As noted by the United Nations (U.N.) Office for the Coordination of Human Affairs (OCHA), “[a]lthough the camps were initially created to protect civilians from rebel attacks, they have now become just as much of a target for these attacks as the villages once were.”³⁸ The 1998 U.N. Guiding Principles on Internal Displacement expressly prohibit attacks or other acts of violence against IDP camps or settlements.³⁹

B. INADEQUATE ACCESS TO EDUCATION

Another problem for internally displaced children is inadequate access to education. Out of more than twenty-seven million children estimated to lack access to education in emergency situations, substantial numbers are internally displaced.⁴⁰ Since the Boko Haram-induced armed conflict commenced in Nigeria, attacks on education have been at the forefront, as evident in the group’s name, which means “Western education is forbidden,” with teachers and schools as the group’s first targets.⁴¹ “Prior to the conflict enrolment [sic.] and attendance rates in North East Nigeria were among the lowest in the country with girls particularly lagging behind.”⁴² This will result in a significant knowledge gap for students who cannot catch up to their peers after the conflict ceases.⁴³ Over the years, Boko Haram has carried out coordinated and routine attacks on primary and secondary schools in northern Nigeria.⁴⁴ Between 2009 and 2014, the group burned down hundreds of school buildings, threatened and killed teachers, and abducted and killed students.⁴⁵ University lecturers have also been attacked. In 2017, five lecturers in the University of Maiduguri, Borno State, were killed, while Boko Haram kidnapped four others who were on an oil exploration assignment in the Lake Chad Basin.⁴⁶

Internally displaced children are not only denied their educational development, but are deprived of other important benefits as well. The daily

Maiduguri, THIS DAY (Oct. 15, 2017), <https://www.thisdaylive.com/index.php/2017/07/25/six-killed-in-suicide-attacks-on-two-idp-camps-in-maiduguri/>.

³⁷ See Onyango, *supra* note 32, at 222.

³⁸ JACQUES, *supra* note 23, at 210 (citing *Crisis in Northern Uganda*, OCHA IRIN NEWS (Sept. 2003)).

³⁹ *Id.* at 211 (citing U.N. Guiding Principles on Internal Displacement, *supra* note 21, at § 3 princ. 10(2)(D)).

⁴⁰ Women’s Comm’n for Refugee Women and Children, *Global Survey on Education in Emergencies*, at iii (2017).

⁴¹ OCHA, 2017 HUMANITARIAN RESPONSE PLAN: NIGERIA 8 (2016).

⁴² *Id.*

⁴³ See *id.*

⁴⁴ See *Boko Haram Killed 611 Teachers in Six Years—UN*, PUNCH (Sept. 23, 2016), <http://punchng.com/boko-haram-killed-611-teachers-displaced-952029-pupils-six-years-un/>.

⁴⁵ *Id.* According to the U.N., about 611 teachers were killed in Nigeria between 2009 and 2015 in the Boko Haram crisis. See generally Watchlist on Children and Armed Conflict, “Who Will Care for Us?”: Grave Violations against Children in Northeastern Nigeria (Sept. 2014), http://watchlist.org/wp-content/uploads/2111-Watchlist-Nigeria_LR.pdf (discussing research into Boko Haram’s violations against children and recommendations for improving child protection).

⁴⁶ Abdulkareem Haruna & Agency Report, *Boko Haram NNPC Ambush: Unimaid ASUU Confirms Five Staff Dead, Four Missing*, PREMIUM TIMES (July 27, 2017), <https://www.premiumtimesng.com/news/headlines/238366-boko-haram-nnpc-ambush-unimaid-asuu-confirms-five-staff-dead-four-missing.html>.

routine of going to school provides internally displaced children with a degree of stability and normalcy and can be a source of psychosocial support.⁴⁷ It can help to reduce children's exposure to threats like physical attacks, sexual exploitation, and military recruitment.⁴⁸ In classrooms, children can be given information regarding the risks around them and how they can guard themselves against such risks.⁴⁹ A lack of access to education undermines their development and future potential.⁵⁰

Several factors serve as barriers to internally displaced children from enjoying their rights to education. Many camps are located beyond the access of humanitarian agencies, which makes it difficult to receive basic assistance and relief resources with respect to education.⁵¹ In addition, the closest school buildings may be far away, and walking to school may not be safe for displaced children, particularly girls.⁵² Children may encounter armed groups while en route to school and risk being abducted or abused, or could walk on landmines, all of which prompt their ultimate decision not to attend school.⁵³ Furthermore, displacement frequently results in the loss, destruction, or confiscation of identity documents, such as birth certificates and identity cards, without which IDPs may be unable to enroll in school.⁵⁴ It is also possible that they never possessed such documentation even before they were displaced.⁵⁵ Another barrier could be difficulties in buying school supplies, such as pencils, school uniforms, shoes, and books.⁵⁶ Internally displaced children often miss school because they are needed at home to support or supplement household income.⁵⁷ In some instances, they are the sole provider for their families in displacement camps. Moreover, education is often seen as a secondary need that should only be addressed after a conflict has waned.⁵⁸ Accordingly, few donors include education in their funding for humanitarian aid.⁵⁹ A study conducted by Ellen Mapiko and Kudzai Chinyoka on the plight of internally displaced children in Zimbabwe revealed that "education was completely

⁴⁷ Erin Mooney & Colleen French, *Barriers and Bridges: Access to Education for Internally Displaced Children* 1, 1 (2017), https://www.brookings.edu/wp-content/uploads/2016/06/20050111_mooney.pdf.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See generally *id.* at 1, 5.

⁵¹ See Asad et al., *supra* note 33, at 268.

⁵² Mooney & French, *supra* note 47, at 2.

⁵³ *Id.*

⁵⁴ See U.N. *Rights and Guarantees of IDCs*, *supra* note 26, at 40.

⁵⁵ *Id.*

⁵⁶ See Olaleye Aluko, *Displaced by Boko Haram, 272 School Children Starve in Abuja IDPs' Camp*, PUNCH (Oct. 21, 2017), <https://punchng.com/displaced-by-boko-haram-272-schoolchildren-starve-in-abuja-idps-camp/>. The Durumi camp in Abuja, Nigeria, "which houses displaced persons from Bama and Gwoza Local Government Area of Borno State, was inaugurated by the Federal government in August 2014," and the primary school began in 2015. As of the date of this report, no teacher had been sent to work at the schools, despite letters to the Federal Government. The schools had to make do with persons with secondary school certificates. Students sit on mats and tarpaulins and do not have school uniforms or shoes. Several of the students do not have food to eat in school, mainly because there is insufficient food at home to be brought to school. There is also the additional challenge of getting some parents to send their children to school at all. *Id.*

⁵⁷ Mooney & French, *supra* note 47, at 5.

⁵⁸ See U.N. *Rights and Guarantees of IDCs*, *supra* note 26, at 46.

⁵⁹ *Id.*

unavailable to the children in the emergency phase of displacement as international and national actors focused on security and provision of basic necessities of life.”⁶⁰ However, as displacement went on “more attention was devoted to education, though not sufficient to meet the needs and expectations of the IDPs.”⁶¹ Other barriers include a lack of infrastructure in schools due to damaged school building and facilities, language barriers, and targeted attacks against schools, teachers, and students.⁶²

C. SEXUAL ABUSE

The sexual abuse of children is “the involvement of a child in sexual activities that he or she does not fully comprehend, is unable to give informed consent to . . . or that violates the laws or social taboos of society.”⁶³ Internally displaced children can suffer from gender-based sexual violence. Threats of such violence come from both within the camp and from outside, and are often due to poor security conditions.⁶⁴ Armed groups may attack and sexually abuse displaced women and girls as a weapon of war, either to humiliate or to ethnically cleanse groups of people.⁶⁵ In addition, “[w]omen and girls may be coerced into providing sex to gain access to basic needs such as food, water, and medicine.”⁶⁶ Further, internally displaced girls can be forced into early marriages “due to the economic pressures faced by internally displaced families” who have been deprived of their usual sources of income.⁶⁷ Some displaced children are also abused by those sent to protect them—that is, security forces, peacekeepers, and even humanitarian aid workers—while others may fall prey to traffickers who promise them a better life.⁶⁸ The effects of sexual abuse, including anxiety, depression, insomnia, suicidal behaviors, aggressive behaviors, nightmares, and memory problems, can compound because the abuse occurs during armed conflicts.⁶⁹ This abuse violates several fundamental human rights instruments. The Rome Statute of the International Criminal Court (ICC) considers sexual violence, such as rape, sexual slavery, forced prostitution, forced pregnancy, and forced sterilization, to be war crimes in serious violation of the Geneva Conventions.⁷⁰ In *Akaeysu v. ICTR*, the International Criminal Tribunal for Rwanda (ICTR) held that sexual violence

⁶⁰ See Ellen Mapiko & Kudzai Chinyoka, *The Plight of Internally Displaced Children: A Case of Zimbabwe*, 3 GREENER J. EDUC. RES. 432, 436 (2013).

⁶¹ *Id.*

⁶² See Mooney & French, *supra* note 47, at 1–5.

⁶³ EINAR A. HELANDER, CHILDREN AND VIOLENCE: THE WORLD OF THE DEFENCELESS 20 (2008).

⁶⁴ See DUPUY & PETERS, *supra* note 4, at 28.

⁶⁵ *See id.*

⁶⁶ Save the Children, *State of the World's Mothers 2014: Saving Mothers and Children in Humanitarian Crises* 19–20 (2014).

⁶⁷ See U.N. Rights and Guarantees of IDCs, *supra* note 26, at 35.

⁶⁸ *Id.*

⁶⁹ GREGORY K. MOFFATT, WOUNDED INNOCENTS AND FALLEN ANGELS: CHILD ABUSE AND CHILD AGGRESSION 73 (2003).

⁷⁰ See Rome Statute of the International Criminal Court art. 8, ¶ 2(b)(xxii), July 17, 1998, 2187 U.N.T.S. 90 [hereinafter Rome Statute]; see also Int'l Comm. of the Red Cross [ICRC], *Children in War* 19 (2009).

is not only a war crime and crime against humanity, but can amount to genocide under certain circumstances.⁷¹

D. INADEQUATE FOOD AND NUTRITION

One of the most urgent needs of the internally displaced is adequate food, as lack of access to land cuts them off from their normal means of income, which mostly includes farming and hunting.⁷² For example, in North-East Nigeria, farmers and herdsman find it challenging to go to their farms and graze their cattle for fear of being killed by Boko Haram.⁷³ The situation of food insecurity does not usually improve over time. A study by the ICRC and World Food Programme (WFP) in Colombia found that “there is no indication that households who have been displaced for a long time have the ability to generate the income needed to obtain sufficient food.”⁷⁴ Further, a study conducted by Aiah A. Gbakima and others on the nutritional status of children in displacement camps in Sierra Leone indicated that younger children, especially those below four years old, were underweight compared to adults.⁷⁵ The study found that this was a consequence of the inadequate feeding patterns of the children in displaced camps and inadequate supply of food.⁷⁶

E. HEALTH RISKS

Every human is entitled to enjoy “the highest attainable standard of health conducive to living a life in dignity.”⁷⁷ Thus, states have the obligation to respect the right to health of their citizens to the extent that states must not interfere directly or indirectly with the enjoyment of that right. Essential services that facilitate the right to health, such as sufficient food, basic shelter, sanitation, portable water, health information, and essential drugs, must also be made available on a non-discriminatory basis.⁷⁸

This applies to children of a state as well, as “[t]he true wealth of a nation can be measured by the health of its youngest citizens.”⁷⁹ Healthy children find it easier to learn and ultimately become healthy adults who will contribute positively to the development and productivity of the society.⁸⁰ Internally displaced children are one of the special groups which are most vulnerable to health hazards. They usually become sick and injured in these periods, and the

⁷¹ Akaeysu v. ICTR, Case No. ICTR 96-4-T, Judgment, ¶ 731 (Sep. 2, 1998).

⁷² World Food Programme, *The Right to Food in Emergencies*, in U.N. FOOD AND AGRIC. ORG., *THE RIGHT TO FOOD IN THEORY AND PRACTICE* 10–11 (1998).

⁷³ See Int’l Crisis Grp., *Stopping Nigeria’s Spiralling Farmer-Herder Violence* 1-3 (July 26, 2018).

⁷⁴ ICRC, *IDPs in Colombia: A Joint Needs Assessment by the ICRC and the World Food Programme* 8 (2005) [hereinafter *Joint Needs Assessment*].

⁷⁵ Aiah A. Gbakima et al., *Nutritional Status of Children in Displacement Camps in Sierra Leone*, 4 *SIERRA LEONE J. BIOMEDICAL RES.* 22, 26 (2012).

⁷⁶ *Id.*

⁷⁷ Lawrence O. Gostin, *At Law: The Human Right to Health: A Right to “The Highest Attainable Standard of Health,”* 31 *HASTINGS CTR. REP.* 29, 29 (2001).

⁷⁸ *Id.* at 29–30.

⁷⁹ ANGELA UNDERDOWN, *YOUNG CHILDREN’S HEALTH AND WELL-BEING* 3 (2007).

⁸⁰ NAT’L RESEARCH COUNCIL AND INST. OF MED., *CHILDREN’S HEALTH, THE NATION’S WEALTH: ASSESSING AND IMPROVING CHILD HEALTH* 1 (2004).

more prolonged and intense the conflict is, the greater the need for effective and impartial health care.⁸¹ These health risks result from poor sanitation, lack of access to adequate medical services, lack of clean water, insufficient nutritious food, trauma of displacement, and overcrowding.⁸² They are plagued by diseases, such as cholera, measles, malaria, respiratory diseases, malnutrition, and tuberculosis.⁸³

III. INTERNATIONAL LEGAL PROTECTION OF INTERNALLY DISPLACED CHILDREN

The welfare of internally displaced populations has become the subject of international attention, because the governments legally accountable for their care and protection are often unable or unwilling to protect them.⁸⁴ Also, internal displacement can pose serious threats to the security and stability of states.⁸⁵

A. AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD, 1999

The Summit of the Heads of State of the Organisation of African Unity adopted the African Charter on the Rights and Welfare of the Child (ACRWC) in 1990, and the Charter entered into force in 1999.⁸⁶ The Charter, which notes that the child “occupies a unique and privileged position in the African society,” stresses the preservation and strengthening of positive African values that are complementary to the development of the African child.⁸⁷ In addition, it seeks to discourage those values that are harmful to the health and status of children.⁸⁸ Article 22(3) provides that children who have been affected by tensions and strife caused by situations of non-international armed conflicts, should be well cared for and protected.⁸⁹ Article 23 provides that internally displaced children who are victims of natural disasters, non-international armed conflicts, and civil strife, should receive appropriate protection and humanitarian assistance so as to enjoy their rights expressly stated in international instruments.⁹⁰

⁸¹ See ICRC, *Health Care in Danger: The Responsibilities of Health-Care Personnel Working in Armed Conflicts and Other Emergencies* 18–19 (2012) [hereinafter *Health Care in Danger*].

⁸² See Mooney, *supra* note 19, at 17.

⁸³ *Id.* See also INT'L ORG. FOR MIGRATION, DISPLACEMENT TRACKING MATRIX (DTM), ROUND VII REPORT (Feb. 2016).

⁸⁴ GLOBAL IDP PROJECT & NOR. REFUGEE COUNCIL, INTERNALLY DISPLACED PEOPLE: A GLOBAL SURVEY 3 (2d ed. 2003).

⁸⁵ *Id.*

⁸⁶ Thoko Kaime, *The Foundations of Rights in the African Charter on the Rights and Welfare of the Child: A Historical and Philosophical Account*, 3 AFR. J. LEG. STUD. 120, 124 (2009).

⁸⁷ African Charter on the Rights and Welfare of the Child, *pmbli.*, adopted July 11, 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force Nov. 29, 1999).

⁸⁸ See generally *id.*

⁸⁹ *Id.* at art. 22(3).

⁹⁰ *Id.* at art. 23.

*B. AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF
INTERNALLY DISPLACED PERSONS IN AFRICA (KAMPALA CONVENTION)*

On October 23, 2009, the African Union (AU) adopted the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).⁹¹ The Kampala Convention is the first regional, legally binding convention imposing clear duties on states with regard to the protection and assistance of IDPs.⁹² It reiterates existing human rights and international humanitarian law (IHL) standards and combines them, thus offering a new legal framework that can both address the situation of internal displacement on the African continent and provide a clearer and stronger legal basis for the protection of IDPs.⁹³ The Kampala Convention requires states to prevent arbitrary displacement by respecting their obligations under international law.⁹⁴ The Convention provides that states “shall bear the primary duty and responsibility for providing protection of and humanitarian assistance to [IDPs] . . . without discrimination of any kind.”⁹⁵ Accordingly, the Convention imposes obligations on states to assess the needs and vulnerabilities of IDPs and host communities,⁹⁶ and to provide adequate humanitarian assistance to IDPs, in all phases of displacement.⁹⁷

Article 7 provides that members of armed groups “shall be held criminally responsible for their acts which violate the rights of [IDPs] under international law and national law.”⁹⁸ The Convention prohibits armed groups from recruiting children or allowing them to participate in hostilities.⁹⁹ Armed groups are also prohibited from kidnapping, abducting, or sexually abusing and trafficking women and children.¹⁰⁰ States also have the obligation to prevent the recruitment of children and their use in hostilities.¹⁰¹ The Kampala Convention highlights the specific needs of separated and unaccompanied children and notes that they shall have equal rights to obtain necessary identity documents, “such as passports, personal identification documents, civil certificates, birth certificates and marriage certificates,” and those that have been lost should be replaced.¹⁰² On April 17, 2012, Nigeria became the twelfth African country to ratify the Kampala Convention. However, since ratification,

⁹¹ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), Oct. 23, 2009 (entered into force Dec. 6, 2012), <http://au.int/en/content/african-union-convention-protection-and-assistance-internally-displaced-persons-africa> [hereinafter Kampala Convention].

⁹² African Union Econ., Soc. And Cultural Council et al., *Making the Kampala Convention Work for IDPs: Guide for Civil Society on Supporting the Ratification and Implementation of the Convention for the Protection and Assistance of Internally Displaced Persons in Africa* 13 (Oct. 22, 2017).

⁹³ *Id.*

⁹⁴ Kampala Convention, *supra* note 91, at art. 3(1)(a).

⁹⁵ *Id.* at art. 5(1).

⁹⁶ *Id.* at art. 5(5).

⁹⁷ *Id.* at art. 9(2)(b).

⁹⁸ *Id.* at art. 7(4).

⁹⁹ *Id.* at art. 7(5)(e).

¹⁰⁰ *Id.* at art. 7(5)(f).

¹⁰¹ *Id.* at art. 9(1)(d).

¹⁰² *Id.* at art. 13.

the Convention has not been domesticated.¹⁰³ There is a draft bill currently before the National Assembly of Nigeria that seeks to domesticate the Kampala Convention. The Bill was submitted to the House of Representatives in April 2016 and passed the second reading in July 2016.¹⁰⁴ If domesticated, the Convention will offer enforceable guidance on the protection of IDPs, including children.¹⁰⁵

C. UNITED NATIONS GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT, 1998

The United Nations (U.N.) Guiding Principles on Internal Displacement were developed by the Representative of the U.N. Secretary-General on Internally Displaced Persons.¹⁰⁶ They spell out the rights of IDPs, as well as the responsibilities of states and other actors with regard to the IDPs.¹⁰⁷ Although not a binding document, the Guiding Principles are based on and reflect existing binding standards of international human rights law and IHL, all brought together in one document of thirty principles.¹⁰⁸ The Guiding Principles cover all phases of displacement, which include “protection from arbitrary displacement; protection and assistance during displacement; and [protection] while finding a durable solution.”¹⁰⁹ Principle 1 affirms that IDPs “shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country” and “shall not be discriminated against . . . on the ground that they are displaced.”¹¹⁰ In situations of armed conflict, civilians have the right to be protected from being arbitrarily displaced from their home, unless it is for their security or for military reasons.¹¹¹ When such displacement has to occur, it “shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.”¹¹² Regarding the right to respect of family life, Principle 17 provides that in situations of internal displacement, family members who wish to remain together shall be allowed to do so and that “[f]amilies which are separated by displacement should be reunited as quickly as possible.”¹¹³ Special attention is paid in the Guiding Principles to the situation of internally displaced children. As a general principle, internally displaced children, especially unaccompanied minors as well as expecting mothers, and mothers with young children, are “entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.”¹¹⁴ Further, Principle 11 prohibits “any

¹⁰³ See Romola Adeola, *Kampala Convention and Protection of IDPs in Nigeria*, PUNCH: OPINION (Apr. 28, 2016), <http://punchng.com/kampala-convention-protection-idps-nigeria/>.

¹⁰⁴ ICRC, *Internal Displacement in North East Nigeria: Operationalising the Kampala Convention in Borno, Adamawa and Yobe States* 23 (2017).

¹⁰⁵ Adeola, *supra* note 103.

¹⁰⁶ U.N. *Rights and Guarantees of IDCs*, *supra* note 26, at 15.

¹⁰⁷ See generally U.N. Guiding Principles on Internal Displacement, *supra* note 21.

¹⁰⁸ U.N. *Rights and Guarantees of IDCs*, *supra* note 26, at 15.

¹⁰⁹ *Id.*

¹¹⁰ U.N. Guiding Principles on Internal Displacement, *supra* note 21, at princ. 1.

¹¹¹ *Id.* at princ. 6(2)(b).

¹¹² *Id.* at princ. 8.

¹¹³ *Id.* at princ. 17(3).

¹¹⁴ *Id.* at princ. 4(2).

contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour [sic.] of children.”¹¹⁵ In addition, internally displaced children shall not be recruited or permitted to take part in hostilities.¹¹⁶ The right to education was also emphasized, and displaced children are to receive free and compulsory education at the primary level, which should “respect their cultural identity, language and religion.”¹¹⁷ Special efforts should be taken to include girls in such educational programs.¹¹⁸

To adequately protect internally displaced children, the above stated human rights provisions must be supplemented with international humanitarian rules, because a number of human rights guarantees may be significantly limited or even derogated in situations of armed conflict. Moreover, IHL applies not only to states, but also to insurgent groups and other non-state authorities engaged in conflict.¹¹⁹ IDPs benefit from the general rules of protection granted to the civilian population against the effect of hostilities. For example, Article 48 of the first Additional Protocol to the Geneva Conventions provides that:

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives.¹²⁰

Also known as the principle of distinction, this customary rule of IHL is applicable in international and non-international armed conflicts.¹²¹ In addition, in accordance with the principle of proportionality, even attacks with military objectives may not be carried out if the attack is expected to cause civilian casualties or damage “which would be excessive in relation to the concrete and direct military advantage anticipated.”¹²² The second Additional Protocol to the Geneva Conventions provides that displaced civilians should have “satisfactory conditions of shelter, hygiene, health, safety and nutrition.”¹²³ Rules requiring parties to a conflict to allow relief materials to reach civilians in need also affords protection to IDPs.¹²⁴

¹¹⁵ *Id.* at princ. 11(2)(b).

¹¹⁶ *Id.* at princ. 13(2).

¹¹⁷ *Id.* at princ. 23(1)–(2).

¹¹⁸ *Id.* at princ. 23(3).

¹¹⁹ See Erin D. Mooney, *Principles of Protection for Internally Displaced Persons*, 38 INT’L MIGRATION 81, 83 (2002).

¹²⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, art. 48, June 8, 1977, 1125 U.N.T.S. 3 [hereinafter Protocol I].

¹²¹ *Rule 1. The Principle of Distinction Between Civilians and Combatants*, INT’L COMMITTEE RED CROSS, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1 (last accessed May 8, 2019).

¹²² See Protocol I, *supra* note 120, at art. 51(5), 57(2)(a)(iii).

¹²³ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, art. 17, June 8, 1977, 1125 U.N.T.S. 609 [hereinafter Protocol II].

¹²⁴ See *id.* at art. 18(2).

IV. LEGAL PROTECTION OF INTERNALLY DISPLACED CHILDREN IN NIGERIA

A. *THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999*

The Nigerian Constitution contains provisions generally protecting all Nigerians from violations of their rights to life, human dignity, movement, freedom from torture and inhumane treatment, as well as granting freedom of religion and culture.¹²⁵ These provisions also apply to internally displaced children, even though not specifically stated.¹²⁶

B. *CHILD RIGHTS ACT, 2003*

The Nigerian Federal Government enacted the Child's Rights Act (CRA) in December 2003.¹²⁷ The Act is a comprehensive statute that enacts the principles of the U.N. Convention of the Rights of the Child (UNCRC), and is aimed at protecting and promoting the wellbeing of children and improving the quality of their lives.¹²⁸ According to the Act, a child is considered in need if he or she is disabled, internally displaced, a refugee, or if his or her health and development are likely to be significantly impaired without assistance.¹²⁹ Therefore, the state governments have the responsibility to “safeguard and promote the welfare” and upbringing of these children by providing services appropriate to their needs.¹³⁰ The duties and powers of the state government in this regard are set out in Part 1 of Schedule 7 to this Act, designed to enable the easy discharge of duties.¹³¹ Part 1 of Schedule 7 provides that every state government shall take reasonable steps to identify the extent to which there are children in need within their area and publish information about services they provide as well as services provided by other organizations.¹³² The services provided by a state government in the discharge of its duty to assist a child in need may include the giving of monetary assistance in kind or in exceptional cases, with the assistance being conditional or unconditional.¹³³ Before giving assistance or imposing any condition under this Section, a state government “shall have regard to the means of the child concerned and of each of his [or her] parents.”¹³⁴

V. CHALLENGES TO THE EFFECTIVE PROTECTION OF INTERNALLY DISPLACED CHILDREN IN NIGERIA

¹²⁵ CONSTITUTION OF NIGERIA (1999), ch. IV [hereinafter CONSTITUTION OF NIGERIA].

¹²⁶ *See id.*

¹²⁷ Child Rights Act No. (26) (2003) (Nigeria) [hereinafter Child Rights Act].

¹²⁸ *See Child Rights Act [Nigeria]*, GIRLS VOICES INITIATIVE (Jan. 5, 2016), <https://www.girls-voices.org/apps/blog/show/43721457-child-rights-act-nigeria->

¹²⁹ *See* Child Rights Act, *supra* note 127, at § 171(10).

¹³⁰ *Id.* at §§ 171(1)(a)–(b).

¹³¹ *See id.* at § 171.

¹³² *Id.*

¹³³ *See id.* at § 171(7).

¹³⁴ *See id.* at § 171(8).

A. INADEQUATE LEGAL PROTECTION

Law is the foundation of rights and obligations in every human society. In armed conflicts, law has the purpose of preventing abuse as well as assisting those who have suffered in asserting their grievances and achieving redress for the wrongs that have been done to them.¹³⁵ The legal framework protecting internally displaced children in Nigeria is insufficient. Currently, there is no specific legal framework for the protection of internally displaced children in Nigeria, except for general provisions reflected in the Constitution and Section 171 of the CRA.¹³⁶ Only the Kampala Convention has been ratified, with no further efforts undertaken by Nigeria to make the Convention enforceable.¹³⁷ International conventions are not enforceable in Nigeria unless they are domesticated, as Section 12(1) of the Constitution provides that “[n]o treaty between the Federation and any other country shall have the force of law to the extent to which any such treaty has been enacted into law by the National Assembly.”¹³⁸ This position was reaffirmed by the Supreme Court of Nigeria in the case of *Abacha v. Fawehinmi*.¹³⁹ Thus, it is only where a Convention has been enacted into law by the National Assembly that such a treaty becomes binding and effective in the courts.

Reference to internally displaced children in the CRA—the main act protecting children in Nigeria—is also not satisfactory, as it does not emphasize their protection at all phases of displacement. This is despite the fact that internally displaced children are sexually abused, attacked, and lack access to adequate education, health care, sufficient food, and balanced nutrition. A draft national policy on IDPs spells out the rights of IDPs, rights of internally displaced children, and the obligations and responsibilities of government towards IDPs, among others.¹⁴⁰ However, this policy has not yet been adopted by the National Assembly.¹⁴¹ Some states in Nigeria have also failed to adopt the CRA, while others that have adopted the Act have made little or no efforts to implement it.¹⁴²

B. LACK OF POLITICAL WILL

The pattern of contemporary governance is such that responsibilities for the welfare of citizens of a state vests in the government of that state.¹⁴³ Similarly, the Nigerian Constitution provides that “the security and welfare of

¹³⁵ Angela Hegarty, *Truth, Law and Official Denial: The Case of Bloody Sunday*, 15 CRIM. L. F. 199, 200 (2004).

¹³⁶ See CONSTITUTION OF NIGERIA, *supra* note 125, at ch. IV; Child Rights Act, *supra* note 127, at § 171.

¹³⁷ See Adeola, *supra* note 103.

¹³⁸ CONSTITUTION OF NIGERIA, *supra* note 125, at § 12(1).

¹³⁹ See General Sanni Abacha & Ors v. Chief Gani Fawehinmi [2000] S.C. 45/1997 (Nigeria).

¹⁴⁰ FED. REPUBLIC OF NIGERIA, NATIONAL POLICY ON INTERNALLY DISPLACED PERSONS (IDPS) IN NIGERIA (2012), [hereinafter NATIONAL POLICY ON IDPS].

¹⁴¹ *Id.* at 9.

¹⁴² Child Rights Act, *supra* note 127.

¹⁴³ See ICRC, *International Humanitarian Law: Answers to Your Questions* 65 (2015) [hereinafter *International Humanitarian Law*] (“Under international law, States bear the primary responsibility for ensuring that the basic needs of civilians and civilian populations under their control are met.”).

the people shall be the primary purpose of government.”¹⁴⁴ Unfortunately, the Nigerian government has not fulfilled its responsibilities of protecting the welfare of internally displaced children during armed conflicts, mostly due to a lack of political will.¹⁴⁵ Political will can be defined as the determination of the government to do things that will produce a desired outcome for the benefit of the citizens.¹⁴⁶ It stems from a determination to succeed and the motivation to achieve desired and stated outcomes at a particular point in time or during a phase in one’s life. Several leaders in Nigeria contest particular positions, not because of the need to change the plight of the less disadvantaged and to develop the nation, but for their own selfish interests.¹⁴⁷ Even before the armed conflict started in Nigeria, the lack of political will was evident in the welfare and condition of children in some of the country’s states.¹⁴⁸ The lack of a sustained political will has resulted in the failure to devise appropriate solutions to protect displaced children, as well as achieve sustainable peace in the present Boko Haram conflict that has plagued Nigeria since 2009.

C. INADEQUATE FINANCIAL RESOURCES

A lack of resources is a major reason why some states are incapable of protecting the rights of internally displaced children, and Nigeria is not an exception. States require significant resources to take care of internally displaced children, educate them during and in the aftermath of conflict, and prosecute violators.¹⁴⁹ However, during prolonged conflicts, the bulk of government resources is spent on purchasing arms, ammunition, uniforms, and other equipment needed by the military.¹⁵⁰ Moreover, a large amount of money must be spent on reconstructing, repairing, and rebuilding infrastructure that has been destroyed, making it difficult for the government to provide for the physical, emotional, and educational needs of displaced children. Also, some resources are improperly expended, and are diverted into personal pockets.¹⁵¹ This has led to the neglect of internally displaced children suffering from the impact of armed conflicts, to their disability, both mentally and physically, or even to death.¹⁵² Lack of adequate resources is also an important factor hindering the domestication and implementation of relevant international conventions.¹⁵³

¹⁴⁴ CONSTITUTION OF NIGERIA, *supra* note 125, at § 14(2)(b).

¹⁴⁵ See Hilary Matfess, ‘*It Is Survival of the Fittest Here*,’ FOREIGN POL’Y (Apr. 3, 2015), <https://foreignpolicy.com/2015/04/03/nigeria-buhari-idp-kuchigoro/>.

¹⁴⁶ JAMES MANOR, U.K. DEP’T FOR INT’L DEV., POLITICKING FOR THE POOR. FINAL REPORT TO THE U.K. DEPARTMENT FOR INTERNATIONAL DEVELOPMENT (2004).

¹⁴⁷ See Matfess, *supra* note 145.

¹⁴⁸ H. Ahmed, *Effects of Poverty on Child Health and Paediatric Practice in Nigeria: An Overview*, 6 ANNALS AFR. MED. 142 (2007).

¹⁴⁹ Meetings Coverage, Security Council, Children’s Rights Violations During Armed Conflicts on Rise Despite National Action Plans to End Abuse, Security Council Told in Day-Long Debate; Speakers Urge Concrete Steps to Tackle Root Causes of Displacement, Violent Extremism, U.N. Meetings Coverage SC/12470 (Aug. 2, 2016).

¹⁵⁰ MACHEL STUDY, *supra* note 2, at 9.

¹⁵¹ U.N. Rights and Guarantees of IDCs, *supra* note 26, at 5.

¹⁵² *Id.* at 11.

¹⁵³ *Id.* at 19–20.

D. LACK OF COORDINATION AND COLLABORATION BETWEEN INSTITUTIONS

Several children's rights actors aim to ensure the wellbeing of internally displaced children in the context of armed conflicts. These actors include a country's government and its agencies, NGOs, international humanitarian organizations, local governments, private companies, and individuals. These actors have, over the years, performed various roles in the ongoing armed conflict in Nigeria. However, a lot of children are still suffering. One of the challenges in protecting them is the lack of coordination and collaboration between these agencies.¹⁵⁴ Coordination is important between these actors because it prevents confusion and fosters effectiveness. It extends the scope and impact of humanitarian actions and establishes priorities, ultimately leading to better management, planning, and accountability. Without collaboration and coordination, resources are wasted, and the roles and responsibilities of various actors are confused. Coordination underscores the strengths of bodies to produce a better impact. For example, international humanitarian organizations may have sufficient resources, but without information from local NGOs that are more familiar with the community, they may not be aware of appropriate needs or areas that most need their resources.

E. CONSTRAINTS ON HUMANITARIAN ACCESS AND ASSISTANCE

Internally displaced children require humanitarian assistance due to the destruction of property as a result of combat operations, inability to use farming areas because of fear of attacks or landmine explosions, and displacement from their homes, which amounts to abandoning sources of income.¹⁵⁵ The conflict across North-East Nigeria has resulted in a deepening humanitarian crisis. Prior to the conflict, the six states in North-East Nigeria already lagged behind the rest of the country in terms of socio-economic development, which led to an exacerbation of the situation.¹⁵⁶ Humanitarian access and assistance are significant challenges to the protection of internally displaced children in armed conflicts in Nigeria.¹⁵⁷ The U.N. Security Council has identified the denial of humanitarian access for children as one of six grave violations that affect children in periods of armed conflict.¹⁵⁸

¹⁵⁴ Internal Displacement Monitoring Ctr. & Nor. Refugee Council, *Nigeria: Institutional Mechanisms Fail to Address Recurrent Violence and Displacement: A Profile of the Internal Displacement Situation* 11 (Oct. 29, 2007).

¹⁵⁵ See *International Humanitarian Law*, *supra* note 143, at 64–65.

¹⁵⁶ See OCHA, *supra* note 41. In the most-affected and least accessible areas of Borno and Yobe, severe forms of hunger and even famine-like conditions have been reported. As the humanitarian crisis continues to deepen, mortality rates are rising. The three most-affected states are predominately agricultural, and due to insecurity, a dramatic reduction in cultivated lands has resulted in agricultural production that is inadequate to meet the needs of the communities. People engaged in agricultural livelihoods need some measure of security to allow them to return to their land; the inability to return due to the fear of Boko Haram attacks means they will have to continue relying on assistance. *Id.*

¹⁵⁷ See U.N. Office of the Special Representative of the Sec'y-Gen. for Children and Armed Conflict, *Working Paper No. 1: The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation*, 23-24 (2013).

¹⁵⁸ *Id.* at 9.

Humanitarian organizations need access to war-torn areas to assist children in need to ensure they survive the armed conflict. Constraints on humanitarian access are usually due to security threats, especially in non-international armed conflicts that are complex, unstructured, and occur unexpectedly.¹⁵⁹ Armed groups have committed several attacks against humanitarian workers and facilities, either for criminal purposes, political reasons, or both.¹⁶⁰ Security-related concerns make it difficult for humanitarian actors to reach populations situated in areas where hostilities are ongoing, due to the fear of being killed or abducted. As such, some relief operations are cancelled or suspended when the risk of casualties is significant.¹⁶¹ Humanitarian access may also be denied for political reasons. A state may deny access to some areas on the pretext of trying to protect the humanitarian workers from danger, “when in reality it has a hidden agenda of limiting witnesses to human rights abuses.”¹⁶² Access may also be denied when relief actions are seen as a threat to the sovereignty of a state or because of the perceived “legitimization” of a non-state group as a result of engagement with it for humanitarian purposes.¹⁶³ Thus, “[i]n such cases the relevant authorities often argue that they have the capacity to handle the situation themselves, without external support.”¹⁶⁴ They may also claim that proposed relief actions do not meet the conditions of being exclusively humanitarian and impartial, as required by IHL.¹⁶⁵

Refusal of access of humanitarian relief is a violation of children’s right to survival. This refusal increases children’s vulnerability to disease and malnutrition, both because they might be unable to get to distribution centers and because they might be isolated in the midst of hostilities where food, clothing, and other life-saving humanitarian aid cannot reach them.¹⁶⁶ In some circumstances, aid organizations have access to war-torn areas but their efforts

¹⁵⁹ See, e.g., ICRC, *ICRC Q&A and Lexicon on Humanitarian Access 2* (2014).

¹⁶⁰ See MACHEL STUDY, *supra* note 2, at 23. On March 1, 2018, three aid workers were killed in a recent attack in Rann, a remote village in North-East Nigeria, which houses more than 55,000 IDPs. This attack resulted in the evacuation of fifty-two aid workers, with the resultant effect of lack of free medical attention as well as lack of treatment for malnourished children. At the time, members of Doctors Without Borders were administering treatment to about sixty children. See Amy Held, *Aid Group Pulls Out Of Nigerian Town Following Deadly Suspected Boko Haram Attack*, NAT. PUB. RADIO (Mar. 3, 2018), <https://www.npr.org/sections/thetwo-way/2018/03/03/590550649/aid-group-pulls-out-of-nigerian-town-following-deadly-suspected-boko-haram-attack>; Joel Duku, *Boko Haram Attack Rann, Kill UNICEF Doctor, Eight Others*, NATION (Mar. 2, 2018), <http://thenationonlineng.net/boko-haram-attack-rann-kill-unicef-doctor-eight-others/>. Furthermore, on December 16, 2017, Boko Haram terrorists ambushed a food convoy of one of the U.N. agencies, the World Food Programme, which was taking food to IDPs in Ngala, Borno State. The U.N. Humanitarian Coordinator in Nigeria, Edward Kallon, described the attack as “a setback in delivering humanitarian assistance in the northeast.” The attack “resulted in the reported loss of at least four civilians as well as the destruction of basic aid items initially destined to alleviate the suffering of thousands of women, children and men.” Maina Maina, *Boko Haram: UN Condemns Killing of Aid Workers in Borno*, DAILY POST (Dec. 18, 2017), <http://dailypost.ng/2017/12/18/boko-haram-un-condemns-killing-aid-workers-borno/>.

¹⁶¹ ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, at 24, Doc. No. 311C/11/5.1.2 (Oct. 2011) [hereinafter *Challenges of Contemporary Armed Conflicts*].

¹⁶² See MACHEL STUDY, *supra* note 2, at 24.

¹⁶³ *Challenges of Contemporary Armed Conflicts*, *supra* note 161, at 23.

¹⁶⁴ *Id.*

¹⁶⁵ See *id.* at 27.

¹⁶⁶ See *Promotion and Protection of the Rights of Children*, *supra* note 9, at ¶¶ 78, 137, 147, 154–56.

are not sufficient to meet the increasing needs of children affected by armed conflict.¹⁶⁷ A study conducted by International Alert and UNICEF on four IDP camps representing four local governments that have suffered heavy attacks by Boko Haram in Nigeria, established that while humanitarian assistance is reaching survivors, it is inadequate to meet the magnitude of the need.¹⁶⁸ Moreover, those who arrived at the camps first had better access to goods and services than those who came much later.¹⁶⁹ The humanitarian response in Nigeria has been slow, fragmented, and unable to meet the needs of those affected by the conflict.¹⁷⁰ Few international organizations work directly in the North-East, leaving the government and local groups with limited capacity to support and assist survivors of attacks.¹⁷¹ Many of these local NGOs operate informally and without strong donor support, and as a result of the limited humanitarian presence, basic resources that are made available to children affected by the conflict are inadequate, particularly in remote areas.¹⁷² In 2014, meal consumption in some communities dropped to one meal per day, and hospitals lacked staff, supplies, and infrastructure.¹⁷³ Since February 2012, acute malnutrition rates for children under five in Borno and Yobe States have been above the global cutoff of ten percent.¹⁷⁴ Furthermore, humanitarian actors lack formal expertise in child protection issues, which limits assistance to children in armed conflict.¹⁷⁵ The broader needs of children are usually not taken into consideration during relief actions.

VI. RECOMMENDATIONS

The primary responsibility for the protection and assistance of IDPs rests with national governments. Specifically, states have a responsibility to “safeguard populations on their territory from arbitrary displacement; to protect and assist those who have been displaced; and to support and facilitate voluntary, safe and dignified solutions to displacement.”¹⁷⁶ The response to the plight of internally displaced children has been inadequate in Nigeria, despite the abuse and exploitation these children experience.¹⁷⁷ In view of the serious

¹⁶⁷ UNICEF & Int’l Alert, ‘*Bad Blood*’: Perceptions of Children Born of Conflict-Related Sexual Violence and Women and Girls Associated With Boko Haram in Northeast Nigeria 12 (2016) [hereinafter *Bad Blood*]. This study specifically looked at the effect of sexual and gender based violence.

¹⁶⁸ These camps and local governments are: Bama (Dalori IDP camp), Gwoza (Government College IDP camp), Dikwa (Sandi-Kyarimi II School IDP camp), and Damboa (NYSC Permanent Orientation IDP camp). *Id.* at 11.

¹⁶⁹ *Id.* at 12.

¹⁷⁰ *Id.* at 21.

¹⁷¹ *Id.* at 12.

¹⁷² See Watchlist on Children and Armed Conflict, *supra* note 45, at 39 (citing OCHA, *Humanitarian Bulletin Nigeria Issue 2*, at 2 (Mar. 2014)).

¹⁷³ *Id.*

¹⁷⁴ See *id.* at 39 (citing OCHA, *The United Nations Country Team Assessment on the Humanitarian Impact of the Insurgency and Subsequent State of Emergency in North East Nigeria*, at 10 (Sept. 2013)).

¹⁷⁵ See *id.* at 41; see also Watchlist on Children and Armed Conflict, *supra* note 45, at 41.

¹⁷⁶ See *U.N. Rights and Guarantees of IDCs*, *supra* note 26, at 12.

¹⁷⁷ See Watchlist on Children and Armed Conflict, *supra* note 45, at 39.

consequences of the internal displacement of children and an exploration of the factors that have made protection efforts ineffective, this Article recommends the following steps.

A. *STRENGTHENING OF THE LEGAL FRAMEWORK*

The law protecting internally displaced children should be strengthened in Nigeria, as the existing laws are insufficient in this regard. The 1998 U.N. Guiding Principles on Internal Displacement should be used as a standard in developing adequate laws for these children, so that all aspects of protection will be covered.¹⁷⁸ The CRA of 2003 should be amended to make such provisions.¹⁷⁹ The Kampala Convention that has been ratified should be domesticated so that it can provide sustainable solutions to the plight of displaced persons—including children—and can be enforceable.¹⁸⁰ These laws should prohibit sexual abuse and physical attacks, and should protect access to education and health care. Provisions should also be made for family unity during displacement. This would allow children to stay with their parents in the same camps and enjoy emotional support and the best available protection their parents can offer. Clear guidelines regarding the processing of IDPs should be taken to ensure they can return to their homes and that children are protected. The draft National Policy on IDPs should be adopted to ensure effective protection of internally displaced children because it contains important principles that will serve as a laudable addition to the legal protection of children if appropriately implemented.¹⁸¹ Apart from the enactment and adoption of laws and policies, the government must also take steps to ensure that parties comply with these relevant laws protecting displaced children, so that efforts will yield results.

B. *POLITICAL WILL AND GOOD GOVERNANCE*

There has to be sufficient political will from all relevant stakeholders to implement laws protecting internally displaced children, to enforce sanctions, and subsequently, to hold accountable those responsible. The Nigerian government should demonstrate a genuine intent and resolve to protect children, by performing all of its obligations as clearly specified under international human rights and humanitarian laws. The government's current lack of political will is resulting in abuse and exploitation of displaced children. The government should commit to ensure that camps that temporarily accommodate these children are clean and safe, and provide the children with sufficient basic materials. Efforts to protect children should also be consistent. The government should not neglect matters of concern only because the issue had been addressed previously. For example, after the creation of schools within an IDP camp, further steps should be taken to provide children with

¹⁷⁸ See generally U.N. Guiding Principles on Internal Displacement, *supra* note 21.

¹⁷⁹ See generally Child Rights Act, *supra* note 127.

¹⁸⁰ See generally Kampala Convention, *supra* note 91.

¹⁸¹ NATIONAL POLICY ON IDPS, *supra* note 140.

teachers, as well as writing materials and textbooks. Food and other basic necessities should be consistently delivered to camps, according to national capacities and with the help of donor organizations, to ensure delivery of adequate resources. Successive governments should also continue from where their predecessors have stopped, in addition to taking up other projects to protect children in armed conflict.

C. STRENGTHENING HUMANITARIAN RESPONSE AND ACCESS

Internally displaced children have many needs essential to their development, physical growth, and future, all of which can be addressed through humanitarian actions. Article 4(3) of the second Additional Protocol to the Geneva Conventions mandates that parties in conflict provide children with the care and aid they need.¹⁸² Thus, efforts should be made to meet children's needs during armed conflict, despite the obstacles that stand in the way. The Nigerian government should take steps to provide consistent support for internally displaced children. The specific location of IDP camps and the number of children residing in each should be known, so that no child will be abandoned. More support from international children's rights advocates should be sought in response to the needs of children. In addition, further humanitarian responses "must emphasize the reproductive health needs of women and girls," including access to family planning services for women, prenatal and postnatal care, and treatments for infections and sexually transmitted diseases, including HIV/AIDS.¹⁸³ Humanitarian agencies and NGOs also need skilled personnel who are trained on child protection issues to disseminate relevant information concerning the rights of children.

Adequate security and protection should be provided for these humanitarian actors who are trying to reach displaced persons. This would help guarantee their safety so that they will be willing to assist those in need.¹⁸⁴ These humanitarian actors cannot protect children if their own lives are at risk. Corporations need to be more involved in humanitarian assistance and make donations to children who are affected by armed conflict in Nigeria. This could be considered part of their corporate social responsibility.¹⁸⁵ Humanitarian relief must be delivered under the rules of humanity, impartiality, and non-discrimination. That is, the assistance and relief materials must be given to persons in need, regardless of their religion, sex, age, and other circumstances.¹⁸⁶

D. PROVISION OF FUNDS TO PROTECT INTERNALLY DISPLACED CHILDREN

Sufficient funds and resources are required to protect displaced children in Nigeria. Governments should "commit funds to improving the health, educational and social welfare of [these] children through prioritized

¹⁸² Protocol II, *supra* note 123, at art. 4(3).

¹⁸³ *Promotion and Protection of the Rights of Children*, *supra* note 9, at ¶ 110.

¹⁸⁴ *Challenges of Contemporary Armed Conflicts*, *supra* note 161, at 5.

¹⁸⁵ *Id.* at 34.

¹⁸⁶ *Joint Needs Assessment*, *supra* note 74, at 8.

budgeting.”¹⁸⁷ Government agencies that provide basic social services to displaced children affected by armed conflict should be adequately provided with funds to better achieve their mandates. In March 2018, Saudi Arabia came to Nigeria’s aid with the provision of ten million dollars, in the form of both cash and military equipment.¹⁸⁸ The money was intended to fight the insurgency and assist IDPs in the North-East, as well as provide aid to other victims of the Boko Haram attacks.¹⁸⁹ This fund, along with other relief that has been realized, will have a positive impact on the lives of children—as long as the money is properly channeled and not diverted or stolen.

E. BRIDGING THE EDUCATIONAL GAP FOR INTERNALLY DISPLACED CHILDREN

Education should be a priority for internally displaced children, so that they do not miss the vital aspects of their development, especially given the fact that conflicts are often protracted. Donors should extend emergency funding to include support for education during conflicts, including the provision of teaching aids and basic educational materials.¹⁹⁰ Teachers should be hired to teach these children in a language they understand. In the event of threatened attacks, security guards should be placed in schools to make the children feel safe and to encourage attendance. Girls should be encouraged to attend school, instead of staying at home to do house chores. Encouraging girls to attend school can be achieved in many different ways, including “by supplying girls with clothing, soap, and sanitary material, building separate latrines, providing childcare opportunities for adolescent mothers, as well as by hiring female teachers.”¹⁹¹ Such education should include peace education, HIV/AIDS awareness and health courses, basic life-skills instruction, survival courses, and vocational and employment training. Providing education during a conflict protects children from harm, as it equips them with the knowledge to survive during an emergency situation.¹⁹² Education can also provide young people with alternatives to engaging in hostilities. National authorities should encourage existing schools to accommodate children by providing additional resources and teachers, rather than establishing separate schools that will increase their marginalization.¹⁹³ However, children should not be forced to attend schools at the risk of losing their lives. Thus, in cases of violent armed conflicts, which may endanger children who venture outside of their camps, alternative modes of schooling—such as community schooling—should be adopted. In such cases, children will receive lessons within the community, in makeshift classes, with the supervision of adults.

¹⁸⁷ Damilola S. Olawuyi, *Terrorism, Armed Conflict and the Nigerian Child: Legal Framework for Child Rights Enforcement in Nigeria*, 13 NIGERIAN JURID. REV. 1, 21–22 (2015).

¹⁸⁸ Kingsley Omonobi, *Saudi Arabia Donates \$10m Arms, Relief Aid to Nigeria*, VANGUARD NEWS NIGERIA (Mar. 5, 2018), <https://www.vanguardngr.com/2018/03/boko-haram-saudi-arabia-donates-10m-arms-relief-aid-nigeria/>.

¹⁸⁹ *Id.*

¹⁹⁰ *Promotion and Protection of the Rights of Children*, *supra* note 9, at ¶ 203.

¹⁹¹ Mooney & French, *supra* note 47, at 6.

¹⁹² DUPUY & PETERS, *supra* note 4, at 34.

¹⁹³ *See U.N. Rights and Guarantees of IDCs*, *supra* note 26, at 47.

F. COOPERATION AND CO-ORDINATION OF HUMANITARIAN ACTORS

The Nigerian government should collaborate with NGOs as well as regional and international human rights bodies to play a complementary role in protecting displaced children who are victims of the Boko Haram-induced armed conflicts. This collaboration should happen through the sharing and delivery of skills and resources. The government could lend its support through the provision of resources, capacity building, provision of institutions for rehabilitation, vocational trainings, and the building of shelters. NGOs can also play important roles by contributing to the government's policies and legislation, in addition to influencing the development of treaties and international legal instruments for child protection during armed conflicts. NGOs can also support the Nigerian government in their efforts to implement and spread knowledge of IHL through the provision of accurate data, information, awareness raising and advice. These activities should be well coordinated to bring about increased resources and effective and efficient efforts to protect children. However, this will require planning, transparency and commitment, both of which is currently lacking in Nigeria.¹⁹⁴

CONCLUSION

Internally displaced children experience a significant amount of trauma, and all efforts must be taken to ensure they are well protected. Article 38(4) of the UNCRC enjoins parties to ensure that children who are affected by armed conflicts are protected and cared for in accordance with their obligations under IHL.¹⁹⁵ Thus, the Nigerian government has the primary responsibility to protect these children by enacting adequate laws and establishing effective institutions that will alleviate their suffering and shield them from the effects of armed conflict.¹⁹⁶ Internally displaced children should be provided with a durable solution to their predicament through voluntary return, access to health care, and education.¹⁹⁷

The government must also consider the root causes of armed conflict, whether they be economic, social, political, or religious. Addressing the root causes is essential for stopping the armed conflict altogether and for preventing the occurrence of future conflicts. As armed conflicts become prolonged, more children will be affected, either directly or indirectly. More support should be sought from the international community to help internally displaced children, although funds and materials that are donated must not be diverted into

¹⁹⁴ See Watchlist on Children and Armed Conflict, *supra* note 45, at 39.

¹⁹⁵ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990).

¹⁹⁶ *International Humanitarian Law*, *supra* note 143, at 65.

¹⁹⁷ See Watchlist on Children and Armed Conflict, *supra* note 45, at 29, 46 (recommending that the Nigerian Federal Government enforce the 2003 Childs Rights Act, provide baseline emergency planning for education, and other acts to ensure children have the right to access education).

personal pockets, because such corruption will discourage additional funding. Measures must therefore be taken to ensure that the above-stated challenges are addressed, so that the effective legal protection of children in armed conflicts will be achieved in Nigeria. Special attention must be paid to internally displaced children in order to raise children who will contribute to Nigeria's development.