Brothers what shall we do? The role of ECOWAS Institutions in the Implementation of the African Union Internally Displaced Persons Convention

Abstract

In West Africa, more than 3 million people have in the last decade been displaced by conflict, climate change and development projects. Owing to the severity of the problem, Ministers in the region pledged a commitment to the implementation of the African Union Internally Displaced Persons Convention (IDP Convention). The IDP Convention, adopted in 2009, requires states to address the root causes of internal displacement on the continent; prevent individuals against arbitrary displacement; and ensure the protection and assistance of internally displaced persons. Within the ECOWAS institutional system, this paper examines what can be done in addressing the issue of internal displacement in through the implementation of the IDP Convention.

Keywords: IDP convention; Kampala convention; African union; Internally displaced persons

Introduction

The issue of internal displacement has emerged as one of the pressing human rights concerns in recent years. Of more than 40 million global internally displaced persons, over 11 million internally displaced persons (IDPs) are in Africa. While conflict is a major root cause of internal displacement in Africa and accounts for a huge number of IDPs on the continent, several other factors such as disaster and development have, over the years, resulted in massive displacements. Recognising the need to address internal displacement, African leaders developed the African Union Convention for the Protection and Assistance of Internally Displaced Persons (IDP Convention) in 2009 which essentially mandate states to prevent arbitrary displacement and ensure the protection and assistance of IDPs.

At the first Ministerial Conference on internal displacement in West Africa, West African states pledged commitment to the implementation of the IDP Convention. As at 2015, all West African states except for Ghana, Liberia, Senegal and Cape Verde had ratified the IDP Convention. In pledging commitment to the implementation of the IDP Convention, West African states acknowledge the treaty as a framework for addressing the issue of internal displacement in the sub-region and recognise the need for ECOWAS institutions to foster compliance of states within the sub-region with the obligations set out in regional framework. However, it is not clear how these institutions within the sub-regional government can foster compliance [1-10].

Within the framework of the IDP Convention norm, this paper considers what ECOWAS can do in addressing internal displacement in the sub-region. In advancing this discourse, this paper begins with a background on ECOWAS and its role in promoting human rights in the sub-region. Afterwards, the prevalence of internal displacement in West Africa is discussed. Following the discourse, this paper examines what ECOWAS can do in ensuring that internal displacement is addressed in the sub-region.

Human Rights in ECOWAS

ECOWAS was formed in 1975 as an economic union to further integration of states and the realisation of a common economic vision. Article 2 of the ECOWAS treaty underscores this fact in providing that ECOWAS ‘shall … promote co-operation and development in all fields of economic activity’. The union was formed by fifteen member states (15) of the African Union in the West African region. In the ECOWAS treaty, human right was not specifically mentioned and no reference was made to any human rights instruments. However, overtime, ECOWAS began to adopt certain instruments that while seeking to protect rights advanced such protection from an economic and political perspective.

For instance, in 1979, ECOWAS adopted a Protocol Relating to Free Movement of Persons, Residence and Establishment which provided for the free movement of persons within the sub-region and explicitly emphasises that ECOWAS citizens shall ‘have the freedom of movement and residence in all States Parties’ [11].


Ibid., art 2(1).

Nigeria, Ghana, Côte d’Ivoire, Benin, Togo, Mali, Niger, Gambia, Senegal, Burkina Faso, Liberia, Sierra Leone, Guinea Bissau, Guinea, Mauritania, Cape Verde joined ECOWAS in 1977. However, Mauritania pulled out of the union in 2000.

right to enter, reside and establish in the territory of Member States11 [11-16].

In 1981, ECOWAS adopted the Protocol Relating to Mutual Assistance of Defence which recognised respect for ‘sovereignty and territorial integrity’ as an ‘inalienable right’ of member states12. Similarly, the Protocol on Non-Aggression recognised this right of states13. However, as it became apparent that there were developments both at the sub-regional and regional levels which ought to be taken into account, ECOWAS approved the creation of a Committee of Eminent Persons (Committee) in 199014. The ‘high-powered Committee’15 was chaired by the former Nigerian Military Head of State, General Gowon. In a Report by the United Nations Economic Commission for Africa (UNECA), from which an advisory opinion on the revision process was requested [17-25], UNECA emphasised that for ECOWAS to enhance economic integration an enabling environment must be created. In the report, it was emphasised that ‘there must be an enabling environment in terms of political freedom and human rights’16 as it is in such political clime ‘that a high level of productivity can be generated’17. The Committee noted several shortcomings with the treaty and suggested, among other things that ‘ECOWAS become a supranational organization, as opposed to an intergovernmental one’18. The outcome of the revision process was the development of new treaty19 which sought to transform ECOWAS from the past in order to align with the demands of contemporary times20.

On the human rights plane, ECOWAS was equally transformed. The Revised ECOWAS Treaty in its preamble makes mention of the African Charter on Human and Peoples’ Rights (African Charter). Article 4(g) of the Revised ECOWAS Treaty further iterate the commitment of states to the ‘promotion and protection of human and peoples’ rights’ in line with the African Charter21. In 1981, the Organisation of African Unity developed the African Charter for the protection and promotion of human rights on the continent. As at 1992, all the 15 member states of ECOWAS had ratified the African Charter22. As such, recognition of human rights in the Revised ECOWAS Treaty was a reiteration of the commitment of West African states to the regional commitments made with the adoption of the African Charter in Nairobi, Kenya. Of the various sub-regional institutions in Africa, the ECOWAS has been at the forefront of human rights protection. There are 9 principal institutions recognised under the Revised ECOWAS Treaty, namely23: (a) the Authority of Heads of State and Government; (b) the Council of Ministers; (c) the Community Parliament; (d) the Economic and Social Council; (e) the Community Court of Justice; (f) the Executive Secretariat; (g) the Fund for Cooperation, Compensation and Development; (h) Specialised Technical Commissions.

Article 6(1) (g) of the Revised ECOWAS Treaty further gives recognition to other institutions as may be decided by the Authority of Heads of State and Government. Within the African Union (AU), this paper considers what ECOWAS can do in addressing internal displacement in Africa. However, before this is done, it is relevant to highlight the prevalence of the problem of internal displacement in West Africa for which a response by ECOWAS is essential.

Internal displacement in West Africa

There are several root causes of internal displacement in West Africa ranging from conflict to development projects24. As with other parts of Africa25, conflict is a primary root cause of internal displacement in West Africa. Armed conflict in West African countries have, for many years, displaced millions of people both internally and externally. Between 1998 and 1999, over 400,000 individuals were displaced by the conflict in Guinea-Bissau26. In Sierra Leone, about 247,590 persons were reportedly internally displaced as at 2001 from the civil war27. Following an insurgency by extremist group in the northern part of Mali in 2012, between 300,000 and 500,000 individuals were internally displaced28. In Nigeria, the Boko Haram crisis in the north of the country has...

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6Ibid, p. 20.
7Ibid.
11The Revised ECOWAS Treaty (13), art 4(g).
13The Revised ECOWAS Treaty (13), art 6(1).
14In 2014, one of the root causes of displacement specific to West Africa was the Ebola crisis. In 2014, the Ebola virus which affected more than three countries across West Africa and resulted in the death of thousands emerged as a significant ‘driver of migration’. In Guinea, for instance, about 6000 individuals fled from their homes in order to avoid contacting the virus. ‘Thousands of Guineans displaced by Ebola-linked unrest’ (Daily Mail 11 November 2014). ‘Displaced by disease: 5 displacement patterns emerging from the Ebola epidemic’ (Internal Displacement Monitoring Centre 20 November 2014); ‘Ebola outbreak in West Africa’ (Assessment Capabilities Projects (ACAPS) Briefing Note, 2014).
15East Africa (post-election violence in Kenya in 2007/2008); North Africa (Darfur crisis in Sudan since 2003); Central Africa (Kivu conflicts in the eastern part of the Democratic Republic of Congo since 2004); Southern Africa (post-election conflict in Zimbabwe in 2008). In 2012, the Darfur crisis was the last ‘driver of migration’.
resulted in the internal displacement of over two million people\textsuperscript{23}. The 2011 post-election violence in Côte d’Ivoire resulted in the displacement of over 500,000 people\textsuperscript{41}. Between 1989 and 2003, over 500,000 were internally displaced in the Liberian civil war\textsuperscript{26}.

Aside from conflict, natural disaster induced by climate change has been a cause of internal displacement in the sub-region. One of the manifestations of climate-related natural disasters in Africa has been weather changes and the consequent floods and displacement from torrential rainfalls.\textsuperscript{26} Flood in Guinea in 2001 resulted in the displacement of an estimated 30,000 people\textsuperscript{27}. In August 2005, about 20,000 people were displaced due to heavy rain falls in Senegal\textsuperscript{28}. In Togo, about 20,000 people were displaced by floods in September 2007\textsuperscript{27}. Heavy rain falls in Benin resulted in the displacement of about 120,000 people in 2010\textsuperscript{29}. In Gambia, over 6000 people were displaced following heavy rainfalls in the months of July through to September 2007\textsuperscript{21}. The displacement resulted in people seeking ‘refuge in neighbouring houses, schools and community structures’\textsuperscript{22}. In Niger, over 36,000 were rendered ‘homeless’ following heavy-rain falls in August 2014\textsuperscript{19}. In August 2015, about 20,000 were displaced due to weeks of rainfall in Niger\textsuperscript{41}. In Ghana, flood from torrential rain falls in Tema resulted in the displacement of over 6000 people in early 2015\textsuperscript{41}. In September 2015, Hurricane Fred rendered families homeless in Cape Verde\textsuperscript{19}.

Aside from conflict and natural disaster, development projects are a significant root cause of internal displacement and have resulted in displacements in the region as far as the 1960s. In Ghana, over 80,000 individuals were displaced by the Akosombo dam in the 1960s ‘many of whom never received compensation for their land’\textsuperscript{22}. Gold mining in the Tarkwa region resulted in the displacement of over 30,000 between 1990 and 1998\textsuperscript{41}. Although the mining companies implemented resettlement, Akabzaa and Darimani note that ‘[i]n many instances, the housing units provided by the mining companies have not conformed to the size of households’\textsuperscript{23}. In recent times, displacements as a result of development projects have also resonated in cities across Nigeria including Abuja, Lagos and Rivers states\textsuperscript{41}. From 2003 to 2007, over 80,000 persons were displaced by government authorities in Abuja for the implementation of the Abuja Master Plan\textsuperscript{41}. Not only was violence reported, the displacement was carried out without adequate compensation and proper resettlement\textsuperscript{41}.

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\textsuperscript{23}Internal Displacement Monitoring Centre (2016) Internal Displacement Monitoring Centre Global report on internal displacement p. 27.

\textsuperscript{24}Kate Seaman (2015) ‘The regionalization of the responsibility to protect’. In: Daniel Flott & Joachim Koops (Eds.), The responsibility to protect and the third pillar: legitimacy and operationalization Palgrave Macmillan p. 66.


\textsuperscript{26}As with Africa, weather-related disasters have, become a significant challenge in countries such as Bangladesh, the Philippines, Pakistan, Canada and Nepal. Of 64 districts in Bangladesh, 24 have been produced climate displaced persons. In 1995, half of Bangladesh’s Bhola Island was permanently swallowed in water due to the rise in sea level, as a result, half a million people were displaced. By 2030, it is estimated that an estimated 20 million people will have been displaced by climate change in Bangladesh. In Pakistan, over 20 million people were affected by a flood incidence in 2010 that submerged villages, rendered millions homeless and resulted in the death of over a thousand people. In 2014, an estimated 895,572 people were affected by a flood incidence in 15 provinces in the Philippines. Out of this estimate, over 260,000 people were displaced. In addition, droughts in African countries including Somalia, Kenya, Ethiopia, and Tanzania further evince the reality of climate-induced displacements. MD Shamsuddoha, M Shahadat Hossain and Mohammed Shahjahan ‘Land availability for climate-displaced communities in Bangladesh’. In: Scott Leckie (Ed.), Land solutions for climate displacement (Routledge 2014); Angie Knox, ‘Sinking feeling in Tuvalu’ BBC News 28 August 2002; Koko Alhassan Sillah (2001) ‘Flood misery in Guinea’ BBC News (Africa). 30

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IDP Convention\textsuperscript{43}. However, before considering what ECOWAS institutions can do in implementing the IDP Convention, it is relevant to examine the IDP Convention and some of the practical implications of its implementation.

The African response

The IDP Convention is the first binding global treaty on internal displacement. Adopted in 2009, it has been welcomed by states as a useful tool in addressing the issue of internal displacement. In 2004, the AU Executive Council requested the AU Commission to develop a durable solution to the problem of internal displacement. Recognising that a binding instrument was needed, the AU Executive Council requested the AU Commission to commence the development of such instrument in collaboration with relevant partners. Following this request, the Division of Humanitarian Affairs [26-37], Displaced Persons and Humanitarian Affairs within the Department of Political Affairs commenced a drafting process. The resultant effect of the process was the development of the IDP Convention which sets out state obligations in addressing the issue of internal displacement. The IDP Convention seeks to provide durable solutions to the issue of internal displacement and as an objective seeks to [p] promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement as well as provide for durable solutions\textsuperscript{44}.

Specifically, the IDP Convention recognises the right not to be arbitrarily displaced and mandate states to ‘respect and ensure respect for their obligations under international law, including human rights and humanitarian law, so as to prevent and avoid conditions that might lead to the arbitrary displacement\textsuperscript{45}. The IDP Convention sets out the obligation of states with respect to various root causes of internal displacement including conflict, natural disasters and development projects.

In relation to conflict, the IDP Convention specifically provides that civilian population shall not be displaced unless for security concerns or in situations of military exigencies in line with the provision of international humanitarian law. Article 7(3) of the IDP Convention specifically mandate states to ensure that conflict-induced displaced persons are protected in accordance with the rules of international law, specifically, the rule of international humanitarian law. In this regard, the provision of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)\textsuperscript{46} is instructive. In line with the Fourth Geneva Convention, specifically the provision of article 49, displacement of civilians is allowed only on account of safety and military necessity. Where such displacement occurs, the displaced persons must be provided with adequate accommodation and following the end of hostilities they must be returned back to their place of residence. Families may not be separated and it is equally essential that relocation is done in a safe and proper manner. The IDP Convention further provides for certain requirements that must be met specifically by armed groups. Article 7(5) of the IDP Convention further emphasises the obligations of armed groups in the context of conflict-induced displacement. In line with the provision of this section, armed groups are to ensure that they do not occasion arbitrary displacement; prevent assistance to IDPs [38-46]; deprive IDPs of the right to basic necessities; restrict freedom of movement of IDPs; engage in child soldiering; engage in human trafficking; prevent humanitarian aid workers or attack them or seize humanitarian aid materials; and infiltrate IDP camps or violate the civilian character or humanitarian nature of places where IDPs are kept\textsuperscript{47}.

In relation to natural disasters, the IDP Convention provides that evacuation of the civilian population shall be prevented unless such evacuation is premised on the safety and health of the civilian population. As to the measure states should adopt in protecting persons displaced by climate change, it is relevant to consider the Peninsula Principles on Climate Displacement within States (PPCD). Principle 9 of the PPCD require states to conduct climate displacement risk management. The essence of this requirement is to ensure that the nexus between climate change and displacement are factored into action plans for the prevention of climate change-induced displacement and in order for states to take early actions so as to protect persons that may be displaced by climate change. But in situations where displacement cannot be avoided, it is imperative for states to ensure that climate change IDPs are properly resettled. For this purpose, states should ensure their participation in relocation processes and ensure that in the relocation master plan, basic necessities are catered for and the social structure of the society is preserved. In line with the provision of article 5(5) of the IDP Convention, states are mandated to ensure that the ‘needs and vulnerabilities of internally displaced persons and of host communities, in cooperation with international organizations or agencies’ are adequately assessed\textsuperscript{48}.

In relation to development projects, article 10(1) of the IDP Convention mandate states to ensure that states ‘as much as possible’ prevent displacement caused by projects executed by public or private actors. In the realisation of this obligation, the provisions of article 10(2) and (3) of the IDP Convention is relevant. These provisions require states to ensure that persons likely to be displaced are engaged in consultation processes on feasible alternatives to the proposed development project. To foster the consultation process, full information should be accorded to these persons. Article 10(3) of the IDP Convention require states to conduct a socio-economic and environmental impact assessment of a proposed project prior to its execution [47-52].

While the IDP Convention specifically sets out the obligation of states in relation to certain root causes of internal displacement, it is in-exhaustive on the root causes of internal displacement. However, the IDP Convention prohibits ‘displacement caused by any act, event, factor, or phenomenon ... which is not

\textsuperscript{44}Ibid, art 2(a).
\textsuperscript{45}IDP Convention (43), art 4(1).

\textsuperscript{47}IDP Convention (43), art 7(5).
\textsuperscript{48}IDP Convention (43), art 5(5).
justified under international law. By implication, any form of displacement must be rooted in international law. In article 9(2) of the IDP Convention, certain standards relating to the protection and assistance of IDPs all forms of internal displacement are explicitly set out. Principally, article 9(2)(k) of the IDP Convention mandate states to ‘consult internally displaced persons and allow them to participate in decisions relating to their protection and assistance’. Article 9(2)(m) further mandate states to ‘put in place measures for monitoring and evaluating the effectiveness and impact of the humanitarian assistance delivered to internally displaced persons in accordance with relevant practice’.

While the primary obligation to prevent internal displacement and ensure the protection of IDPs is on state parties, the IDP Convention equally emphasises cooperation among states and with the international organisations. Article 2(c) emphasises that one of the objectives of the IDP Convention is to “establish a legal framework for solidarity, cooperation, promotion of durable solutions and mutual support between the States Parties in order to combat displacement and address its consequences”. At the first Ministerial Conference on internal displacement in West Africa, West African states committed to upholding the IDP Convention. This paper considers what ECOWAS institutions can do in ensuring that this obligation is realised.

The Role of ECOWAS

One of the advantages of the sub-regional system in addressing issues over the regional and global system is the influence of proximity. Proximity in the strong region often tend to ignite a strong bond which may be likened to ‘brotherhood’. In relation to democracy, Wejnert recognises proximity as one of the key factors that can ‘strongly positively affects the mean level of democracy of countries located in … a sub-region’. Ebobrah highlights the fact that sub-regional institutions fill the gap of ‘lack of monitoring of implementation of existing norms by global and continental supervisory mechanisms’. Due to proximity, states within sub-regions can spot particular issues with ‘particular detail’. In relation to peace and security, ECOWAS has been a leading force in ensuring stability in West Africa. With various interventions in West African states including military interventions in Sierra Leone, Liberia and Côte d’Ivoire and diplomatic interventions in Guinea-Bissau and Mali, ECOWAS has established itself as a vital institution in providing solutions to West African problems.

A justification for its role in issues on peace and security and in human rights resonates from the objectives set out in article 4 and is further justified by article 56(1) of the Revised ECOWAS Treaty. In light of article 56(1) of the Revised ECOWAS Treaty, ECOWAS states commit to ‘co-operate on political matters, and in particular, to take appropriate measures to ensure effective application of the provisions of [the Revised ECOWAS Treaty]’. As respect for human rights is emphasised in the Revised ECOWAS Treaty, the role of ECOWAS in addressing the issue of internal displacement is significant. In March 2015, ECOWAS along with the United Nations High Commissioner for Refugees held a set of conferences in Côte d’Ivoire, Nigeria and Liberia to discuss the IDP Convention and the responsibility of states, particularly Côte d’Ivoire, Nigerian and Liberia in responding to the situation of internal displacement. In the report, the sub-regional significance of ECOWAS in the discourse on addressing internal displacement was highlighted. Within the provision of article 6(1) of the Revised ECOWAS Treaty, this paper considers what key ECOWAS institutions can do in addressing internal displacement in West Africa.

The authority of heads of state and government

Article 6(1) (a) of the Revised ECOWAS Treaty recognises the Authority of Heads of State and Government. The Authority is the highest decision-making body of ECOWAS. Similar to the African Union Assembly of Heads of States and Government, the Authority is saddled with the mandate of exercising control over ECOWAS, formulating policies and following up on the objectives in the treaty. The decisions of the Authority are binding on all other ECOWAS institutions save the Court of Justice. The Community has been instrumental in decision-making on a range of issues within ECOWAS including on issues of trade, peace and security, human rights and in the establishment of institutions for the advancement of the objectives of the Revised ECOWAS Treaty including the Peace and Security Architecture of ECOWAS. The Authority has also expanded the powers of the Court of Justice to hear human rights matters. In relation to the issue of internal displacement, one important role which the Authority

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can perform is to create a specific institution for monitoring the progress of states in the prevention of internal displacement and in the protection of IDPs. The Authority can create this institution in light of its power under article 6(1)(i) of the Revised ECOWAS Treaty. The Authority may also develop standards for ensuring corporate accountability particularly in relation to the objective of article 3(1)(h) and (i) of the IDP Convention which mandate states to develop corporate accountability mechanisms within the context of internal displacement.

The council of ministers

Next to the Authority, the Council of Ministers (the Council) is another significant institution within ECOWAS relevant in addressing the issue of internal displacement. And recognised under article 6(2)(1)[a] of the Revised ECOWAS Treaty. With respect to internal displacement, the Council has been proactive. In 2011, the Council adopted a resolution on internal displacement iterating the commitment of states to observe the provisions of the IDP Convention and65. Under the Revised ECOWAS Treaty, the Council is mandated to perform certain functions including making recommendations to the Authority, exercising powers delegated by the Authority and approving the programmes and budget of ECOWAS66. In relation to internal displacement, this paper argues that the Council should make recommendations to the Authority on the mandate of the institution to be created for monitoring internal displacement in the sub-region. Further, the Council should mainstream internal displacement issues into the programs of ECOWAS and provide adequate financing for ECOWAS organs to address internal displacement within their institutional mandates.

Community parliament

Article 13(1) of the Revised ECOWAS Treaty establishes a Community Parliament for ECOWAS whose functions are to be determined by a subsequent protocol. In 2006, the Authority adopted the Protocol A/P2/8/94 Relating to the Community Parliament (Parliament Protocol)67. Article 6(1) of the Parliament Protocol grants the Parliament the authority to consider issues relating to ECOWAS, particularly issues of human rights. The Parliament is also vested with the competence of making recommendation to ECOWAS institutions on the issues it considers. Although it is not a legislative arm, Protocol A/SP3/06/06 Amending Protocol A/P2/8/94 Relating to the Community Parliament recognises that ‘the powers of the ECOWAS Parliament shall be progressively enhanced from advisory to co-decision making and subsequently to a law making role in areas to be defined by the Authority’68. In its Strategic Plan, a significant point that is emphasised is that the Community Parliament ‘provides an avenue for popular participation of the people of West Africa in the laudable programmes of … [ECOWAS]’69. Through resolutions, debates and statements, the Community Parliament has been involved in issues of security, human rights violations and the millennium development goals70. In light of its functions, one relevant role which the Community Parliament can perform in relation to internal displacement is to adopt resolutions on situations of internal displacement in West Africa referencing the IDP Convention and call on relevant states to address the situation in line with the provisions of the IDP Convention. The Community Parliament may also serve as a platform for amplifying the voices of IDPs across the sub-region by enhancing the participation of these persons in relevant sessions on internal displacement in the sub-region.

The economic and social council

The Economic and Social Council (ECOSOC) is provided for under article 14(1) of the Revised ECOWAS Treaty. Article 14(2) defers the composition, competence and organisation of the ECOSOC to a later protocol, however, the protocol is yet to be adopted71. Article 14(1) of the Revised ECOWAS Treaty provides that ECOSOC ‘shall have an advisory role’72 and ‘shall include representatives of the various categories of economic and social activity’73. Although it is yet to be created, this paper argues that in light of the advisory mandate envisaged for ECOSOC, one of the functions it can perform following inception in relation to internal displacement is to provide concrete advice to relevant ECOWAS institutions on how they can cooperate with relevant organs in the social and economic spheres in addressing internal displacement.

The community court of justice

The Community Court of Justice (the Court) is the adjudicatory body of ECOWAS. Article 15 of the Revised ECOWAS Treaty provides for the Court, however, it defers the ‘status, composition, powers, procedure’ amongst others to a later protocol. In 1991 the Authority adopted Protocol A/P1/7/91 establishing the composition, competences and procedures of the Court among other things. While the Protocol gives the Court the competence to interpret the provisions of the Revised ECOWAS Treaty, it does not make specific reference to the competence of the Court in relation to human rights74. However, in 2005, the Authority adopted a Supplementary Protocol which gave the Court an explicit human rights competence75. In 2014, the Court found Nigerian violation of its obligations under key regional instruments when government authorities physically abused victims of forced eviction from...
a waterfront settlement during a protest. The Court ordered Nigeria to pay compensation to the victims. Through the Court, IDPs can assert legitimate claim to protection based on the IDP Convention. Aside from applying the IDP Convention in deciding on matters relating to internal displacement in the sub-region, the Court can also provide an advisory opinion clarifying the obligation of states under the IDP Convention in the protection and assistance of IDPs within the sub-region.

The ECOWAS commission

Article 17 of the Revised ECOWAS Treaty provides for the Executive Secretariat (now the ECOWAS Commission) headed by an Executive Secretary (now President of the ECOWAS Commission). The primary role of the ECOWAS Commission is to run the daily affairs of ECOWAS. In line with this role, the Executive Secretariat is mandated, among other things, to execute decisions made by the Authority and regulations of the Council, promote ECOWAS programmes and projects and develop drafts of texts for adoption by the Authority or Council. Within its institutional mandate, a relevant role which the ECOWAS Commission can perform in addressing the issue of internal displacement is to implement the decisions of the Authority or Council regulations relating to internal displacement and foster compliance of states. The ECOWAS Commission can serve as a platform for the coordination of efforts of ECOWAS institutions in addressing the issue of internal displacement in the sub-region. In this regard, it can foster sub-regional dialogues in addressing the issue of internal displacement. It can also work closely with the African Union Commission in developing and promoting initiatives on internal displacement within the context of West Africa.

The mechanisms for conflict prevention, management, resolution, peace keeping and security

The Mechanisms for Conflict Prevention, Management, Resolution, Peace Keeping and Security (the Mechanism) was created by the Authority in 1999 for the promotion of collective peace and security in the ECOWAS region. The Mechanism is primarily comprised of the Authority, a Mediation and Security Council and the ECOWAS Commission. The Mediation and Security Council is to be assisted by three institutions, namely: the Defence and Security Commission, the Council of Elders and the ECOWAS Cease-fire Monitoring Group (ECOMOG). The Peace and Security Protocol also creates a sub-regional early warning system for the purpose of conflict prevention. These institutions essentially constitute the peace and security architecture of ECOWAS in relation to its efforts in promoting security in the region. Two of the objectives of the Mechanism are to ‘maintain and consolidate peace, security and stability’ and ‘promote close cooperation between Member States in the areas of preventive diplomacy and peace-keeping’. In the context of promoting peace and security particularly in internal displacement situations, the role of the Council of Elders and the Early Warning System are particularly relevant. The Council of Elders can foster sub-regional dialogues using its good office to engage states on the implementation of the IDP Convention in the realisation of the obligation to provide durable solutions to the issue of internal displacement. The Early Warning System can raise the flag on potential conflict areas within the sub-region that may give rise to conflict-induced displacement.

Conclusion

As the principal sub-regional organisation saddled with the mandate of promoting human rights, peace and security and furthering collective resolution of issues in West Africa, ECOWAS has a significant role to play in addressing internal displacement in West Africa. This paper highlights the roles which relevant ECOWAS institutions can perform in addressing the issue of internal displacement in Africa.

This paper argues that the Authority, as the highest decision-making body that exercise control over ECOWAS, can create an institution for monitoring the progress of states in preventing internal displacement in West Africa. The Authority may also develop standards in relation to corporate accountability for internal displacement. This paper argues that the Council should make recommendations to the Authority on the mandate of the institution to be created for monitoring the progress of states and mainstream internal displacement into the programs of ECOWAS. In respect of the Community Parliament, this paper argues that the Community Parliament can serve as a platform for amplifying the voices of IDPs across the sub-region and through resolutions on internal displacement referencing the IDP Convention, the Community Parliament may call on states to address the situation of internal displacement. Although ECOSOC is yet to be established, this paper argues that upon creation, ECOSOC may provide concrete advice to relevant ECOWAS institutions on cooperation with relevant organs in the social and economic spheres in addressing internal displacement in line with its advisory mandate. As the principal adjudicatory organ of ECOWAS vested with the competence of hearing human rights complaints, this paper argues that the Court should apply the IDP Convention in its decisions as it relates to internal displacement and should provide an advisory opinion, upon request, clarifying the obligation of states within the context of the IDP Convention. This paper further argues that the ECOWAS Commission can coordinate efforts of ECOWAS institutions in addressing the issue of internal displacement and work closely with the African Union Commission in creating and furthering initiatives on internal displacement in West Africa. With regards to the Mechanism, this paper argues that the Council of Elders and the Early Warning System are two relevant institutions. This paper proposes that the Council of Elders can foster sub-regional dialogues on the implementation of the IDP Convention in providing durable solutions to the issue of internal displacement.


69The Registered Trustees of the Socio-economic Rights & Accountability Project (SERAP) and 10 ors v The Federal Republic of Nigeria and 4 ors, Judgement No ECW/CCJ/JUD/16/14.
70The Revised ECOWAS Treaty, (133) art 17; Ebohrah (4): 313.
solutions to internal displacement while the Early Warning System can draw attention to potential conflict zones within the sub-region to prevent conflict-induced displacement.

While the commitment of states at the First Ministerial Conference to act in line with the IDP Convention demonstrate the commitment of ECOWAS to prevent arbitrary displacement and protect and assist IDPs, addressing the issue of internal displacement will require the functioning of states and relevant institutions with ECOWAS. This paper highlights the role of ECOWAS institutions and proposes that these institutions, in line with their institutional mandate, should prioritise internal displacement to foster the leading role of ECOWAS as a formidable human rights sub-regional institution in Africa.

Acknowledgment
None.

Conflict of Interest
None.

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