

A BILL

FOR

AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA (KAMPALA CONVENTION) AND FOR RELATED MATTERS

Sponsors:

Hon. Yakub Abiodun Balogun

Hon. Mohammed Sani Zorro

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 1. As from the commencement of this Bill, the provisions of the
2 Convention for the Protection and Assistance of Internally Displaced
3 Persons in Africa which are set out in the schedule to this Bill shall, subject
4 as there under provided, have the force of law and shall be given full
5 recognition and effect and be applied by all Authorities and persons
6 exercising Legislative, Executive and Judicial powers in the Federal
7 Republic of Nigeria.

Africa Union
Convention for
the Protection and
Assistance of
Internally Displaced
Persons in Africa

8 2. This Bill may be cited as the Convention for the Protection and
9 Assistance of Internally Displaced Persons in Africa (Ratification and
10 Enforcement) Bill, 2016.

Short Title

SCHEDULE

12 AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE
13 OF INTERNALLY DISPLACED PERSONS IN AFRICA
14 (KAMPALA CONVENTION)

15 Preamble

16 We the Heads of State and Government of the Member States of the African
17 Union;

1 CONSCIOUS of the gravity of the situation of internally displaced persons as a
2 source of continuing instability and tension for African states;
3 ALSO CONSCIOUS of the suffering and specific vulnerability of internally
4 displaced persons;
5 REITERATING the inherent African custom and tradition of hospitality by
6 local host communities for persons in distress and support for such
7 communities;
8 COMMITTED to sharing our common vision of providing durable solutions to
9 situations of internally displaced persons by establishing an appropriate legal
10 framework for their protection and assistance;
11 DETERMINED to adopt measures aimed at preventing and putting an end to
12 the phenomenon of internal displacement by eradicating the root causes,
13 especially persistent and recurrent conflicts as well as addressing displacement
14 caused by natural disasters, which have a devastating impact on human life,
15 peace, stability, security, and development;
16 CONSIDERING the 2000 Constitutive Act of the African Union and the 1945
17 Charter of the United Nations;
18 REAFFIRMING the principle of the respect of the sovereign equality of States
19 Parties, their territorial integrity and political independence as stipulated in the
20 Constitutive Act of the African Union and the United Nations Charter:
21 RECALLING the 1948 Universal Declaration of Human Rights, the 1948
22 Convention on the Prevention and Punishment of the Crime of Genocide, the
23 1949 Four Geneva Conventions and the 1977 Additional Protocols to the
24 Geneva Conventions, the 1951 United Nations Convention Relating to the
25 Status of Refugees and the 1967 Protocol Relating to the Status of Refugees,
26 the 1969 OAU Convention Governing the Specific Aspects of Refugee
27 Problems in Africa, the 1979 Convention on the Elimination of All Forms of
28 Discrimination Against Women, the 1981 African Charter on Human and
29 Peoples' Rights and the 2003 Protocol to the African Charter on Human and
30 Peoples' Rights on the Rights of Women in Africa, the 1990 African Charter on

1 the Rights and Welfare of the Child, the 1994 Addis Ababa Document on
2 Refugees and Forced Population Displacement in Africa, and other relevant
3 United Nations and African Union human rights instruments, and relevant
4 Security Council Resolutions;

5 MINDFUL that Member States of the African Union have adopted
6 democratic practices and adhere to the principles of non-discrimination,
7 equality and equal protection of the law under the 1981 African Charter on
8 Human and Peoples' Rights, as well as under other regional and
9 international human rights law instruments;

10 RECOGNISING the inherent rights of internally displaced persons as
11 provided for and protected in international human rights and humanitarian
12 law and as set out in the 1998 United Nations Guiding Principles on Internal
13 Displacement, which are recognized as an important international
14 framework for the protection of internally displaced persons;

15 AFFIRMING our primary responsibility and commitment to respect,
16 protect and fulfill) the rights to which internally displaced persons are
17 entitled, without discrimination of any kind;

18 NOTING the specific roles of international Organizations and agencies
19 within the framework of the United Nations inter-agency collaborative
20 approach to internally displaced persons, especially the protection expertise
21 of the Office of the United Nations High Commissioner for Refugees
22 (UNHCR) and the invitation extended to it by the Executive Council of the
23 African Union in Decision EXJCL413 (XIII) of July 2008 at Sharm El
24 Sheikh, Egypt, to continue and reinforce its role in the protection of and
25 assistance to internally displaced persons, within the United Nations
26 coordination mechanism; and noting also the mandate of the International
27 Committee of the Red Cross to protect and assist persons affected by armed
28 conflict and other situations of violence, as well as the work of civil society
29 organizations, in conformity with the laws of the country in which they
30 exercise such roles and mandates;

1 RECALLING the lack of a binding African and international legal and
2 institutional framework specifically, for the prevention of internal
3 displacement and the protection of and assistance to internally displaced
4 persons;

5 REAFFIRMING the historical commitment of the AU Member States to the
6 protection of and assistance to refugees and displaced persons and, in
7 particular, the implementation of Executive Council Decisions
8 EX.CL/Dec.129 (V) and EX.CL1127 (V) of July 2004 in Addis Ababa, to the
9 effect that that the specific needs of internally displaced persons (IDPs) such as
10 protection and assistance should be addressed through a separate legal
11 instrument, and to collaborate with relevant cooperating partners and other
12 stakeholders to ensure that internally displaced persons are provided with an
13 appropriate legal framework to ensure their adequate protection and assistance
14 as well as with durable solutions, respectively;

15 CONVINCED that the present Convention for the Protection and Assistance of
16 Internally Displaced Persons presents such a legal framework;

17 Have agreed as follows:

18 ARTICLE I - DEFINITIONS

19 For the purpose of the present Convention:

20 (a) "African Charter" means the African Charter on Human and
21 Peoples' Rights;

22 (b) "African Commission" means the African Commission on
23 Human and Peoples' Rights;

24 (c) "African Court of Justice and Human Rights" means the African
25 Court of Justice and Human Rights:

26 (d) Arbitrary displacement means arbitrary displacement as referred
27 to in Article 4 (4) (a) to (h);

28 (e) "Armed Groups" means dissident armed forces or other organized
29 armed groups that are distinct from the armed forces of the state;

30 (f) "AU" means the African Union;

1 (g) "AU Commission" means the Secretariat of the African Union,
2 which is the depository of the regional instruments;

3 (h) "Child" means every human being below the age of 18 years;

4 (i) "Constitutive Act" means the Constitutive Act of the African
5 Union;

6 (j) "Harmful Practices" means all behaviour, attitudes and/or
7 practices which negatively affect the fundamental rights of persons, such as
8 but not limited to their right to life, health, dignity, education, mental and
9 physical integrity and education:

10 (k) "Internally Displaced Persons" means persons or groups of
11 persons who have been forced or obliged to flee or to leave their homes or
12 places of habitual residence, in particular as a result of or in order to avoid
13 the effects of armed conflict, situations of generalized violence, violations
14 of human rights or natural or human-made disasters, and who have not
15 crossed an internationally recognized State border;

16 (l) "Internal displacement" means the involuntary or forced
17 movement, evacuation or relocation of persons or groups of persons within
18 internationally recognized state borders;

19 (m) "Member State" means a Member State of the African Union;

20 (n) "Non-state actors" means private actors who are not public
21 officials of the State, including other armed groups not referred to in article
22 1(d) above, and whose acts cannot be officially attributed to the State;

23 (o) "OAU" means the Organization of African Unity;

24 (p) "Women" mean persons of the female gender, including girls;

25 (q) "Sphere standards" mean standards for monitoring and
26 evaluating the effectiveness and impact of humanitarian assistance; and

27 (r) "States Parties" means African States which have ratified or
28 acceded to this Convention.

29 ARTICLE 2 - OBJECTIVES

30 The objectives of this Convention are to:

1 (a) Promote and strengthen regional and national measures to prevent
2 or mitigate, prohibit and eliminate root causes of internal displacement as well
3 as provide for durable solutions;

4 (b) Establish a legal framework for preventing internal displacement,
5 and protecting and assisting internally displaced persons in Africa;

6 (c) Establish a legal framework for solidarity, cooperation, promotion
7 of durable solutions and mutual support between the States Parties in order to
8 combat displacement and address its consequences;

9 (d) Provide for the obligations and responsibilities of States Parties,
10 with respect to the prevention of internal displacement and protection of, and
11 assistance, to internally displaced persons;

12 (e) Provide for the respective obligations, responsibilities and roles of
13 armed groups, non-state actors and other relevant actors, including civil
14 society organizations, with respect to the prevention of internal displacement
15 and protection of, and assistance to, internally displaced persons;

16 ARTICLE 3 - GENERA' OBLIGATIONS RELATING TO STATES PARTIES

17 1. States Parties undertake to respect and ensure respect for the
18 present Convention. In particular, States Parties shall:

19 (a) Refrain from, prohibit and prevent arbitrary displacement of
20 populations;

21 (b) Prevent political, social, cultural and economic exclusion and
22 marginalisation, that are likely to cause displacement of populations or persons
23 by virtue of their social identity, religion or political opinion;

24 (c) Respect and ensure respect for the principles of humanity and
25 human dignity of internally displaced persons;

26 (d) Respect and ensure respect and protection of the human rights of
27 internally displaced persons, including humane treatment, nondiscrimination,
28 equality and equal protection of law;

29 (e) Respect and ensure respect for international humanitarian law
30 regarding the protection of internally displaced persons,;

1 (f) Respect and ensure respect for the humanitarian and civilian
2 character of the protection of and assistance to internally displaced persons,
3 including ensuring that such persons do not engage in subversive activities;

4 (g) Ensure individual responsibility for acts of arbitrary
5 displacement, in accordance with applicable domestic and international
6 criminal law;

7 (h) Ensure the accountability of non-State actors concerned,
8 including multinational companies and private military or security
9 companies, for acts of arbitrary displacement or complicity in such acts;

10 (I) Ensure the accountability of non-State actors involved in the
11 exploration and exploitation of economic and natural resources leading to
12 displacement;

13 (j) Ensure assistance to internally displaced persons by meeting
14 their basic needs as well as allowing and facilitating rapid and unimpeded
15 access by humanitarian organizations and personnel;

16 (k) Promote self-reliance and sustainable livelihoods amongst
17 internally displaced persons, provided that such measures shall not be used
18 as a basis for neglecting the protection of and assistance to internally
19 displaced persons, without prejudice to other means of assistance;

20 (2) States Parties shall:

21 (a) Incorporate their obligations under this Convention into
22 domestic law by enacting or amending relevant legislation on the protection
23 of, and assistance to, internally displaced persons in conformity with their
24 obligations under international law;

25 (b) Designate an authority or body, where needed, responsible for
26 coordinating activities aimed at protecting and assisting internally displaced
27 persons and assign responsibilities to appropriate organs for protection and
28 assistance, and for cooperating with relevant international organizations or
29 agencies, and civil society organizations, where no such authority or body
30 exists;

1 (c) Adopt other measures as appropriate, including strategies and
2 policies on internal displacement at national and local levels, taking into
3 account the needs of host communities;

4 (d) Provide, to the extent possible, the necessary funds for protection
5 and assistance without prejudice to receiving international support;

6 (e) Endeavour to incorporate the relevant principles contained in this
7 Convention into peace negotiations and agreements for the purpose of finding
8 sustainable solutions to the problem of internal displacement.

9 ARTICLE 4 - OBLIGATIONS OF STATES PARTIES RELATING TO PROTECTION
10 FROM INTERNAL DISPLACEMENT

11 1. States Parties shall respect and ensure respect for their obligations
12 under international law, including human rights and humanitarian law, so as to
13 prevent and avoid conditions that might lead to the arbitrary displacement of
14 persons;

15 2. States Parties shall devise early warning systems, in the context of
16 the continental early warning system, in areas of potential displacement,
17 establish and implement disaster risk reduction strategies, emergency and
18 disaster preparedness and management measures and, where necessary,
19 provide immediate protection and assistance to internally displaced persons;

20 3. States Parties may seek the cooperation of international
21 organizations or humanitarian agencies, civil society organizations and other
22 relevant actors;

23 4. All persons have a right to be protected against arbitrary
24 displacement. The prohibited categories of arbitrary displacement include but
25 are not limited to:

26 (a) Displacement based on policies of racial discrimination or other
27 similar practices aimed at/or resulting in altering the ethnic, religious or racial
28 composition of the population;

29 (b) Individual or mass displacement of civilians in situations of armed
30 conflict, unless the security of the civilians involved or imperative military

1 reasons so demand, in accordance with international humanitarian law;
2 (c) Displacement intentionally used as a method of warfare or due
3 to other violations of international humanitarian law in situations of armed
4 conflict;

5 (d) Displacement caused by generalized violence or violations of
6 human rights;

7 (e) Displacement as a result of harmful practices;

8 (f) Forced evacuations in cases of natural or human made disasters
9 or other causes if the evacuations are not required by the safety and health of
10 those affected;

11 (g) Displacement used as a collective punishment;

12 (h) Displacement caused by any act, event, factor, or phenomenon
13 of comparable gravity to all of the above and which is not justified under
14 international law, including human rights and international humanitarian
15 law.

16 5. States Parties shall endeavour to protect communities with
17 special attachment to, and dependency, on land due to their particular culture
18 and spiritual values from being displaced from such lands, except for
19 compelling and overriding public interests;

20 6. States Parties shall declare as offences punishable by law acts of
21 arbitrary displacement that amount to genocide, war crimes or crimes
22 against humanity.

23 ARTICLE 5 - OBLIGATIONS OF STATES PARTIES RELATING TO
24 PROTECTION AND ASSISTANCE

25 1. States Parties shall bear the primary duty and responsibility for
26 providing protection of and humanitarian assistance to internally displaced
27 persons within their territory or jurisdiction without discrimination of any
28 kind.

29 2. States Parties shall cooperate with each other upon the request
30 of the concerned State Party or the Conference of State Parties in protecting

1 and assisting internally displaced persons.

2 3. States Parties shall respect the mandates of the African Union and
3 the United Nations, as well as the roles of international humanitarian
4 organizations in providing protection and assistance to internally displaced
5 persons, in accordance with international law.

6 4. States Parties shall take measures to protect and assist persons who
7 have been internally displaced due to natural or human made disasters,
8 including climate change.

9 5. States Parties shall assess or facilitate the assessment of the needs
10 and vulnerabilities of internally displaced persons and of host communities, in
11 cooperation with international organizations or agencies.

12 6. States Parties shall provide sufficient protection and assistance to
13 internally displaced persons, and where available resources are inadequate to
14 enable them to do so, they shall cooperate in seeking the assistance of
15 international organizations and humanitarian agencies, civil society
16 organizations and other relevant actors. Such organizations may offer their
17 services to all those in need.

18 7. States Parties shall take necessary steps to effectively organize,
19 relief action that is humanitarian, and impartial in character, and guarantee
20 security. States Parties shall allow rapid and unimpeded passage of all relief
21 consignments, equipment and personnel to internally displaced persons. States
22 Parties shall also enable and facilitate the role of local and international
23 organizations and humanitarian agencies, civil society organizations and other
24 relevant actors, to provide protection and assistance to internally displaced
25 persons. States Parties shall have the right to prescribe the technical
26 arrangements under which such passage is permitted.

27 8. States Parties shall uphold and ensure respect for the humanitarian
28 principles of humanity, neutrality, impartiality and independence of
29 humanitarian actors.

30 9. States Parties shall respect the right of internally displaced persons

1 to peacefully request or seek protection and assistance, in accordance with
2 relevant national and international laws, a right for which they shall not be
3 persecuted, prosecuted or punished.

4 10. States Parties shall respect, protect and not attack or otherwise
5 harm humanitarian personnel and resources or other materials deployed for
6 the assistance or benefit of internally displaced persons.

7 11. States Parties shall take measures aimed at ensuring that armed
8 groups act in conformity with their obligations under Article 7.

9 12. Nothing in this Article shall prejudice the principles of
10 sovereignty and territorial integrity of states.

11 ARTICLE 6 - OBLIGATIONS RELATING TO INTERNATIONAL
12 ORGANIZATIONS AND HUMANITARIAN AGENCIES

13 1. International organizations and humanitarian agencies shall
14 discharge their obligations under this Convention in conformity with
15 international law and the laws of the country in which they operate.

16 2. In providing protection and assistance to Internally Displaced
17 Persons, international organizations and humanitarian agencies shall
18 respect the rights of such persons in accordance with international law.

19 3. International organizations and humanitarian agencies shall be
20 bound by the principles of humanity, neutrality, impartiality and
21 independence of humanitarian actors, and ensure respect for relevant
22 international standards and codes of conduct.

23 ARTICLE 7 - PROTECTION AND ASSISTANCE TO INTERNALLY DISPLACED
24 PERSONS IN SITUATIONS OF ARMED CONFLICT

25 1. The provisions of this Article shall not, in any way whatsoever,
26 be construed as affording legal status or legitimizing or recognizing armed
27 groups and are without prejudice to the individual criminal responsibility of
28 the members of such groups under domestic or international criminal law,

29 2. Nothing in this Convention shall be invoked for the purpose of
30 affecting the sovereignty of a State or the responsibility of the Government,

1 by all legitimate means, to maintain or re-establish law and order in the State or
2 to defend the national unity and territorial integrity of the State.

3 3. The protection and assistance to internally displaced persons under
4 this Article shall be governed by international law and in particular
5 international humanitarian law.

6 4. Members of Armed groups shall be held criminally responsible for
7 their acts which violate the rights of internally displaced persons under
8 international law and national law.

9 5. Members of armed groups shall be prohibited from:

10 (a) Carrying out arbitrary displacement;

11 (b) Hampering the provision of protection and assistance to internally
12 displaced persons under any circumstances;

13 (c) Denying internally displaced persons the right to live in
14 satisfactory conditions of dignity, security, sanitation, food, water, health and
15 shelter; and separating members of the same family;

16 (d) Restricting the freedom of movement of internally displaced
17 persons within and outside their areas of residence;

18 (e) Recruiting children or requiring or permitting them to take part in
19 hostilities under any circumstances;

20 (f) Forcibly recruiting persons, kidnapping, abduction or hostage
21 taking, engaging in sexual slavery and trafficking in persons especially women
22 and children;

23 (g) Impeding humanitarian assistance and passage of all relief
24 consignments, equipment and personnel to internally displaced persons;

25 (h) Attacking or otherwise harming humanitarian personnel and
26 resources or other materials deployed for the assistance or benefit of internally
27 displaced persons and shall not destroy, confiscate or divert such materials; and

28 (i) Violating the civilian and humanitarian character of the places
29 where internally displaced persons are sheltered and shall not infiltrate such
30 places.

1 ARTICLE 8 - OBLIGATIONS RELATING TO THE AFRICAN UNION

2 1. The African Union shall have the right to intervene in a Member
3 State pursuant to a decision of the Assembly in accordance with Article 4(h)
4 of the Constitutive Act in respect of grave circumstances, namely: war
5 crimes, genocide, and crimes against humanity;

6 2. The African Union shall respect the right of States Parties to
7 request intervention from the Union in order to restore peace and security in
8 accordance with Article 4(j) of the Constitutive Act and thus contribute to
9 the creation of favourable conditions for finding durable solutions to the
10 problem of internal displacement;

11 3. The African Union shall support the efforts of the States Parties
12 to protect and assist internally displaced persons under this Convention. In
13 particular, the Union shall:

14 (a) Strengthen the institutional framework and capacity of the
15 African Union with respect to protection and assistance to internally
16 displaced persons;

17 (b) Coordinate the mobilisation of resources for protection and
18 assistance to internally displaced persons;

19 (c) Collaborate with international organizations and humanitarian
20 agencies, Civil society organizations and other relevant actors in accordance
21 with their mandates, to support measures taken by States Parties to protect
22 and assist internally displaced persons;

23 (d) Cooperate directly with African States and international
24 organizations and humanitarian agencies, civil society organizations and
25 other relevant actors, with respect to appropriate measures to be taken in
26 relation to the protection of and assistance to internally displaced persons;

27 (e) Share information with the African Commission on Human and
28 Peoples' Rights on the situation of displacement, and the protection and
29 assistance accorded to internally displaced persons in Africa; and

30 (f) Cooperate with the Special Rapporteur of the African

1 Commission on Human and Peoples' Rights for Refugees, Returnees, IDPs and
2 Asylum Seekers in addressing issues of internally displaced persons.

3 ARTICLE 9 - OBLIGATIONS OF STATES PARTIES RELATING TO PROTECTION
4 AND ASSISTANCE DURING INTERNAL DISPLACEMENT

5 1. States Parties shall protect the rights of internally displaced
6 persons regardless of the cause of displacement by refraining from, and
7 preventing, the following acts, amongst others:

8 (a) a Discrimination against such persons in the enjoyment of any
9 rights or freedoms on the grounds that they are internally displaced persons;

10 (b) Genocide, crimes against humanity, war crimes and other
11 violations of international humanitarian law against internally displaced
12 persons;

13 (c) Arbitrary killing, summary execution, arbitrary detention,
14 abduction, enforced disappearance or torture and other forms of cruel,
15 inhuman or degrading treatment or punishment;

16 (d) Sexual and gender based violence in all its forms, notably rape,
17 enforced prostitution, sexual exploitation and harmful practices, slavery,
18 recruitment of children and their use in hostilities, forced labour and human
19 trafficking and smuggling; and

20 (e) Starvation.

21 2. States Parties shall:

22 (a) Take necessary measures to ensure that internally displaced
23 persons are received, without discrimination of any kind and live in
24 satisfactory conditions of safety, dignity and security;

25 (b) Provide internally displaced persons to the fullest extent
26 practicable and with the least possible delay, with adequate humanitarian
27 assistance, which shall include food, water, shelter, medical care and other
28 health services, sanitation, education, and any other necessary social services,
29 and where appropriate, extend such assistance to local and host communities;

30 (c) Provide special protection for and assistance to internally

1 displaced persons with special needs, including separated and
2 unaccompanied children, female heads of households, expectant mothers,
3 mothers with young children, the elderly, and persons with disabilities or
4 with communicable diseases:

5 (d) Take special measures to protect and provide for the
6 reproductive and sexual health of internally displaced women as well as
7 appropriate psycho-social support for victims of sexual and other related
8 abuses;

9 (e) Respect and ensure the right to seek safety in another part of the
10 State and to be protected against forcible return to or resettlement in any
11 place where their life, safety, liberty and/or health would be at risk;

12 (f) Guarantee the freedom of movement and choice of residence of
13 internally displaced persons, except where restrictions on such movement
14 and residence are necessary, justified and proportionate to the requirements
15 of ensuring security for internally displaced persons or maintaining public
16 security, public order and public health;

17 (g) Respect and maintain the civilian and humanitarian character
18 of the places where internally displaced persons are sheltered and safeguard
19 such locations against infiltration by armed groups or elements and disarm
20 and separate such groups or elements from internally displaced persons:

21 (h) Take necessary measures, including the establishment of
22 specialized mechanisms, to trace and reunify families separated during
23 displacement and otherwise facilitate the re-establishment of family ties:

24 (i) Take necessary measures to protect individual, collective and
25 cultural property left behind by displaced persons as well as in areas where
26 internally displaced persons are located, either within the jurisdiction of the
27 State Parties, or in areas under their effective control;

28 (j) Take necessary measures to safeguard against environmental
29 degradation in areas where internally displaced persons are located, either

1 within the jurisdiction of the State Parties, or in areas under their effective
2 control;

3 (k) States Parties shall consult internally displaced persons and allow
4 them to participate in decisions relating to their protection and assistance;

5 (l) Take necessary measures to ensure that internally displaced
6 persons who are citizens in their country of nationality can enjoy their civic and
7 political rights, particularly public participation, the right to vote and to be
8 elected to public office; and

9 (m) Put in place measures for monitoring and evaluating the
10 effectiveness and impact of the humanitarian assistance delivered to internally
11 displaced persons in accordance with relevant practice, including the Sphere
12 Standards.

13 3. States Parties shall discharge these obligations, where appropriate,
14 with assistance from international organizations and humanitarian agencies,
15 civil society organizations, and other relevant actors.

16 Article 10 - Displacement induced by Projects

17 1. States Parties, as much as possible, shall prevent displacement
18 caused by projects carried out by public or private actors;

19 2. States Parties shall ensure that the stakeholders concerned will
20 explore feasible alternatives, with full information and consultation of persons
21 likely to be displaced by projects;

22 3. States parties shall carry out a socio-economic and environmental
23 impact assessment of a proposed development project prior to undertaking
24 such a project.

25 ARTICLE 11 - OBLIGATIONS OF STATES PARTIES RELATING TO SUSTAINABLE 26 RETURN, LOCAL INTEGRATION OR RELOCATION

27 States Parties shall seek lasting solutions to the problem of displacement by
28 promoting and creating satisfactory conditions for voluntary return, local
29 integration or relocation on a sustainable basis and in circumstances of safety
30 and dignity.

1 In doing so, States Parties may collaborate with international organizations or
2 humanitarian agencies or civil society organizations.

3 2. States Parties shall ensure that internally displaced persons shall be
4 issued with relevant documents necessary for the enjoyment and exercise of
5 their rights, such as passports, personal identification documents, civil
6 certificates, birth certificates and marriage certificates.

7 3. States Parties shall facilitate the issuance of new documents or the
8 replacement of documents lost or destroyed in the course of displacement,
9 without imposing unreasonable conditions, such as requiring return to one's
10 area of habitual residence in order to obtain these or other required documents.
11 The failure to issue internally displaced persons with such documents shall not
12 in any way impair the exercise or enjoyment of their human rights.

13 4. Women and men as well as separated and unaccompanied children
14 shall have equal rights to obtain such necessary identity documents and shall
15 have the right to have such documentation issued in their own names.

16 ARTICLE 14 - MONITORING COMPLIANCE

17 1. States Parties agree to establish a Conference of States Parties to
18 this Convention to monitor and review the implementation of the objectives of
19 this Convention.

20 2. States Parties shall enhance their capacity for cooperation and
21 mutual support under the auspices of the Conference of the States Parties.

22 3. States Parties agree that the Conference of the States Parties shall
23 be convened regularly and facilitated by the African Union,

24 4. States Parties shall, when presenting their reports under Article 62
25 of the African Charter on Human and Peoples' Rights as well as, where
26 applicable, under the African Peer Review Mechanism indicate the legislative
27 and other measures that have been taken to give effect to this Convention.

28 FINAL PROVISIONS

29 ARTICLE 15 - APPLICATION

30 1. States Parties agree that except where expressly stated in this

1 Convention, its provisions apply to all situations of internal displacement
2 regardless of its causes.

3 2. States Parties agree that nothing in this Convention shall be
4 construed as affording legal status or legitimizing or recognizing armed
5 groups and that its provisions are without prejudice to the individual
6 criminal responsibility of their members under domestic or international
7 criminal law.

8 ARTICLE 16 - SIGNATURE, RATIFICATION AND MEMBERSHIP

9 This Convention shall be open to signature, ratification or accession by
10 Member States of the AU in accordance with their respective constitutional
11 procedures.

12 2. The instruments of ratification or accession shall be deposited
13 with the Chairperson of the African Union Commission.

14 ARTICLE 17 - ENTRY INTO FORCE

15 1. This Convention shall enter into force thirty (30) days after the
16 deposit of the instruments of ratification or accession by fifteen (15)
17 Member States.

18 2. The Chairperson of the AU Commission shall notify Member
19 States of the coming into force of this Convention.

20 ARTICLE 18 - AMENDMENT AND REVISION

21 1. States Parties may submit proposals for the amendment or
22 revision of this Convention.

23 2. Proposals for amendment or revision shall be submitted, in
24 writing, to the Chairperson of the Commission of the AU who shall transmit
25 the same to the States Parties within thirty (30) days of receipt thereof.

26 3. The Conference of States Parties, upon advice of the Executive
27 Council, shall examine these proposals within a period of one (1) year
28 following notification of States Parties, in accordance with the provisions of
29 paragraph 2 of this Article.

30 4. Amendments or revision shall be adopted by the Conference of

1 States Parties by a simple majority of the States Parties present and voting.

2 5. Amendments shall come into force thirty (30) days following the
3 depositing of the fifteenth (15) instrument of ratification by the States Parties
4 with the Chairperson of the AU Commission.

5 ARTICLE 19 - DENUNCIATION

6 A State Party may denounce this Convention by sending a written notification
7 addressed to the Chairperson of the AU Commission, while indicating the
8 reasons for such a denunciation.

9 2. The denunciation shall take effect one (1) year from the date when
10 the notification was received by the Chairperson of the AU Commission,
11 unless a subsequent date has been specified.

12 ARTICLE 20 - SAVING CLAUSE

13 No provision in this Convention shall be interpreted as affecting or
14 undermining the right of internally displaced persons to seek and be granted
15 asylum within the framework of the African Charter on Human and Peoples'
16 Rights, and to seek protection, as a refugee, within the purview of the 1969
17 OAU Convention Governing the Specific Aspects of Refugee Problems in
18 Africa or the 1951 U.N Convention Relating to the Status of Refugees as well
19 as the 1967 Protocol Relating to the Status of Refugees.

20 2. This Convention shall be without prejudice to the human rights of
21 internally displaced persons under the African Charter on Human and Peoples'
22 Rights and other applicable instruments of international human rights law or
23 international humanitarian law. Similarly, it shall in no way be understood,
24 construed or interpreted as restricting, modifying or impeding existing
25 protection under any of the instruments mentioned herein.

26 3. The right of internally displaced persons to lodge a complaint with
27 the African Commission on Human and Peoples' Rights or the African Court of
28 Justice and Human Rights, or any other competent international body shall
29 way be affected by this Convention.

30 The provisions of this Convention shall be without prejudice to the individual

1 criminal responsibility of internally displaced persons, within the
2 framework of national or international criminal law and their duties by
3 virtue of the African Charter on Human and Peoples' Rights.

4 ARTICLE 21 - RESERVATIONS

5 States Parties shall not make or enter reservations to this Convention that are
6 incompatible with the object and purpose of this Convention.

7 ARTICLE 22 - SETTLEMENT OF DISPUTES

8 1. Any dispute or differences arising between the States Parties
9 with regard to the interpretation or application of this Convention shall be
10 settled amicably through direct consultations between the States Parties
11 concerned. In the event of failure to settle the dispute or differences, either
12 State may refer the dispute to the African Court of Justice and Human
13 Rights.

14 2. Until such time as and when the latter shall have been
15 established, the dispute or differences shall be submitted to the Conference
16 of the States Parties, which will decide by consensus or, failing which, by a
17 two-third (2/3) majority of the States Parties present and voting.

18 ARTICLE 23 - DEPOSITORY

19 1. This Convention shall be deposited with the Chairperson of the
20 AU Commission, who shall transmit a certified true copy of the Convention
21 to the Government of each signatory State.

22 2. The Chairperson of the AU Commission shall register this
23 Convention with the United-Nations Secretary-General as soon as it comes
24 into force.

25 3. This Convention is drawn up in four (4) original texts; in the
26 Arabic, English, French and Portuguese languages, all four (4) being
27 equally authentic.

EXPLANATORY MEMORANDUM

This Bill seeks to enable effect to be given in the Federal Republic of Nigeria to the African Union Convention for the protection and assistance of internally displaced persons in Africa and other related matters.