



Forced displacement as a crime against humanity: Evaluating prosecutorial challenges in Nigerian legal framework

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Abstract

The study evaluated forced displacement in Nigeria as a potential crime against humanity under international law, focusing on the transition from humanitarian protection to criminal accountability for organised population removal. The research adopted a doctrinal methodology involving analysis of international legal instruments, domestic legislation, judicial decisions, regional frameworks and relevant academic literature. The study assessed the evolution of forced displacement, the international legal framework governing displacement crimes, and the adequacy of Nigerian domestic response to displacement caused by terrorism, armed conflicts, communal violence, insecurity and environmental pressures. Findings revealed that international law recognises forced displacement as conduct capable of attracting individual criminal responsibility under the Rome Statute of the International Criminal Court, international humanitarian law and regional instruments such as the Kampala Convention. However, Nigerian legal framework does not expressly criminalise forced displacement or crimes against humanity as independent offences. Existing laws address related offences, including terrorism, murder, assault and property destruction, but provide limited accountability for individuals responsible for organised campaigns of civilian displacement. The study identified challenges relating to domestic incorporation of international crimes, proving the elements of forced displacement, evidence collection, institutional capacity and victim protection. The study recommended the incorporation of crimes against humanity into Nigerian law, creation of a specific offence of forced displacement, improved investigative mechanisms, stronger protection for displaced persons and enhanced cooperation among accountability institutions.

Keywords: Forced displacement, Crimes, humanity, criminal law, Nigeria, Internally displaced persons

Introduction

Forced displacement has remained a recurring consequence of warfare, persecution, territorial expansion and efforts to control civilian populations. Historical evidence demonstrates that communities have been compelled to abandon their homes because of armed conflicts, religious persecution, insecurity and environmental threats (Mayer *et al.*, 2013) ^[21]. Population movements resulting from coercion were present in earlier political struggles involving territory, identity, authority and access to resources. In Westphalian Europe, religious persecution generated large movements of displaced persons seeking protection from violence and discrimination. The migration of the Huguenots following the revocation of the Edict of Nantes illustrates displacement arising from religious intolerance and state failure to provide security to minority groups (Zolberg *et al.*, 1989) ^[72]. Colonial expansion created further patterns of forced movement through territorial restructuring, dispossession and disruption of existing social and economic relations. Colonial administrations altered traditional land ownership systems, displaced communities from ancestral territories and restricted access to resources necessary for livelihood and survival (Ashcroft *et al.*, 2013) ^[14].

The relationship between displacement and warfare shaped the development of international legal regulation. During armed conflicts, civilian populations have been removed through violence, threats, persecution and coercive measures. The mass population transfers during the Second World War contributed to the development of legal rules prohibiting forced movement of civilians. The issue

received attention at the 17th International Conference of the Red Cross in Stockholm in 1948 due to population transfers carried out for political, racial and territorial purposes (Felfli, 2025). The Fourth Geneva Convention of 1949 ^[31, 33] prohibited individual or mass forcible transfers and deportations of protected persons from occupied territories, irrespective of the reasons presented for such actions (Andreu-Guzmán, 2013) ^[12]. The early international response to displacement focused on humanitarian protection rather than criminal accountability. The League of Nations represented the first formal international attempt to address refugee protection, although state obligations remained limited (Jaeger, 2001) ^[48]. The refugee protection system developed mainly after displacement occurred, providing assistance and protection to persons who had crossed international borders (Philip, 2018; Goodwin-Gill, 2018) ^[35, 56]. This approach changed with the emergence of international criminal law, which recognised that forced displacement constitute an offence attracting individual criminal responsibility.

The development of crimes against humanity created legal grounds for prosecuting acts committed against civilian populations. The Charter of the International Military Tribunal identified murder, extermination, enslavement, deportation and other inhumane acts committed against civilians as crimes against humanity (International Military Tribunal, 1946; Acquaviva, 2011) ^[3]. International criminal tribunals later developed the legal understanding of displacement as a criminal act rather than only a consequence of armed conflict. The International Criminal Tribunal for the former Yugoslavia (ICTY) examined

displacement arising from ethnic and political persecution during the Balkan conflicts and recognised that forced movement of civilians could establish criminal responsibility (Acquaviva, 2011) ^[3]. The ICTY Statute recognised deportation and unlawful transfer of civilians as offences, while the International Criminal Tribunal for Rwanda (ICTR) addressed displacement in prosecutions involving crimes against humanity and other inhumane acts (Andreu-Guzmán, 2013) ^[12]. The Rome Statute of the International Criminal Court further developed the criminalisation of forced displacement. Article 7(1)(d) classifies deportation or forcible transfer of population as a crime against humanity where it forms part of a widespread or systematic attack directed against a civilian population with knowledge of the attack (Felfli, 2025) ^[31]. Forced displacement also constitute a war crime under Article 8(2)(b)(viii) in international armed conflicts and Article 8(2)(e) in non-international armed conflicts (Felfli, 2025) ^[31]. The distinction between deportation and forcible transfer depends on the location of removal. Deportation involves movement beyond a state or state-like boundary, whereas forcible transfer concerns displacement occurring in the territory of the same state (ICTY, 2006; Acquaviva, 2011) ^[3, 17].

Contemporary displacement has increased due to armed conflicts, terrorism, ethnic violence, human rights violations and state instability. Internally displaced persons face loss of homes, livelihoods, family connections, education, healthcare and personal security (Cohen & Deng, 1998) ^[19]. The Internal Displacement Monitoring Centre recorded an increase in internal displacement from approximately 1.2 million persons in 11 countries in 1982 to between 20 and 25 million persons in more than 40 countries by 1995 (IDMC, 2009) ^[7]. Conflict-related displacement remains a major challenge, including crises affecting Syria, Ukraine, the Democratic Republic of Congo, Colombia and Nigeria (IDMC, 2022). Africa has experienced extensive displacement resulting from armed conflicts, political instability and violations of human rights. Countries such as Mali, South Sudan, Central African Republic and Somalia have recorded displacement linked to insecurity and armed violence (Hassan, 2020) ^[36]. Internal displacement creates particular legal difficulties because displaced persons remain in their national borders and depend on domestic authorities for protection despite weaknesses in national response mechanisms (UNHCR, 2005).

Nigerian displacement crisis reflects the effects of terrorism, armed conflict, communal violence, insecurity and environmental pressures. Since the return to democratic governance in 1999 ^[25], violence arising from ethno-religious conflicts, political disputes, inter-communal clashes and insurgency has displaced populations in different regions of the country (Adesote & Peters, 2015). Environmental factors, including flooding, erosion, ecological degradation and development activities, have also contributed to displacement by affecting settlements and livelihoods (Ejiofor *et al.*, 2017) ^[26]. The Boko Haram insurgency represents one of Nigerian largest displacement emergencies. Violence in north-eastern Nigeria forced civilians to flee to other parts of Nigeria and neighbouring countries, including Niger, Chad and Cameroon (Hassan, 2020) ^[36]. Killings, destruction of communities, kidnapping and sexual violence created conditions of insecurity that resulted in widespread displacement (Folami & Ihinmoyan,

2019) ^[32]. These acts raise questions of international criminal responsibility because conduct directed against civilians fall in the categories of war crimes and crimes against humanity (Folami & Ihinmoyan, 2019) ^[32].

Other security challenges, including farmer-herder conflicts, communal violence, banditry, separatist activities, flooding, coastal erosion and oil pollution, have displaced communities in different parts of Nigeria (Falade, 2024 ^[27]; Adesote & Peters, 2015; Onu, 2019) ^[53]. Although Nigeria provides constitutional protection for rights relating to life, dignity, liberty, movement, privacy and property ownership, displaced persons continue to experience difficulties relating to housing, education, healthcare, employment, security and livelihoods (Constitution of the Federal Republic of Nigeria, 1999; Falade, 2024 ^[20, 27]; UNHR, 2021). Nigerian legal response faces accountability limitations. Although international criminal law recognises forced displacement as a crime, domestic prosecutions have largely focused on related offences such as terrorism, murder and assault rather than displacement as an independent criminal act (Andreu-Guzmán, 2013) ^[12]. Proceedings against Boko Haram suspects produced convictions, acquittals and discharges, but concerns remain regarding accountability for violations affecting displaced populations (HRW, 2018; Amnesty International, 2023). The absence of domestic legislation criminalising crimes against humanity and forced displacement creates further barriers to prosecution (Alobo & Obaji, 2016) ^[8]. This study examines forced displacement as a crime against humanity by assessing Nigerian legal challenges and the capacity of international criminal law to address organised displacement campaigns.

Evolution of Forced Displacement as a Crime Against Humanity

Forced displacement has evolved from a humanitarian concern associated with armed conflict, political instability and persecution into conduct capable of generating individual criminal responsibility under international law. Population removal has historically occurred during wars, ethnic conflicts, territorial struggles and campaigns aimed at controlling civilian communities. International law gradually recognised that displacement result from deliberate actions involving violence, persecution, intimidation, or coercion rather than from unavoidable conditions of conflict (Cohen & Deng, 1998) ^[19]. Such displacement affects not only physical location but also rights relating to dignity, security, livelihood, family relationships, education and access to essential services. Internally displaced persons are individuals or groups compelled to leave their homes because of armed conflict, human rights violations, or circumstances threatening their safety while remaining in their national borders (Cohen & Deng, 1998). Goldman and Kalin (1998) ^[19, 34] observed that displacement result in the loss of property, social networks, economic opportunities and protection from violence. These consequences supported the recognition that deliberate displacement require criminal accountability beyond humanitarian assistance.

The legal foundation for treating forced displacement as an international crime developed after the Second World War. The prosecution of perpetrators responsible for wartime atrocities established the principle that individuals could be held responsible for serious violations committed against civilian populations. The International Military Tribunal

Charter included murder, extermination, enslavement, deportation and other inhumane acts committed against civilian populations in the category of crimes against humanity (International Military Tribunal, 1946). The inclusion of deportation reflected the understanding that forced removal of civilians could constitute conduct affecting the international legal order. The emergence of international criminal law altered the traditional view that violations against civilians were matters reserved exclusively for domestic jurisdiction. Individuals responsible for genocide, crimes against humanity and war crimes became subject to prosecution regardless of official position or state authority (Folami & Ihinmoyan, 2019) ^[32]. Later international criminal tribunals developed the legal elements of crimes against humanity through prosecutions arising from conflicts in the former Yugoslavia and Rwanda. The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) In *Prosecutor v. Milošević* [1999 ^[59]], established that crimes against humanity require acts committed as part of a widespread or systematic attack directed against a civilian population.

The International Criminal Tribunal for the former Yugoslavia (ICTY) jurisprudence contributed to the distinction between deportation and forcible transfer. Deportation involves the removal of persons beyond an international border, while forcible transfer concerns movement in the territory of the same state. Both offences involve the displacement of persons from areas where they are lawfully present through coercive circumstances (ICTY, 2006) ^[17]. The ICTY also recognised that physical force is not required in every case. Conditions created by threats, intimidation, persecution, destruction of property, detention, or fear of violence deprive civilians of genuine choice and result in unlawful displacement (UNSC, 2003). The jurisprudence of international criminal tribunals influenced the adoption of the Rome Statute of the International Criminal Court, which established jurisdiction over genocide, crimes against humanity, war crimes and aggression (RSICC, 1998). Article 7 of the Rome Statute provides the legal basis for prosecuting crimes against humanity by defining them as specified acts committed as part of a widespread or systematic attack directed against a civilian population with knowledge of the attack. Article 7(1)(d) specifically recognises deportation or forcible transfer of population as a crime against humanity (RSICC, 1998).

The classification of forced displacement as a crime against humanity requires proof that the removal formed part of a widespread or systematic attack against civilians. A widespread attack concerns the scale and number of persons affected, while a systematic attack relates to the organised nature of the conduct and the existence of a pattern directed against civilians (Acquaviva, 2011; RSICC, 1998) ^[3, 19]. Displacement therefore becomes an international crime where population removal is used as an instrument of persecution, territorial control, or domination rather than an incidental consequence of conflict. Another requirement concerns the lawful presence of victims in the area from which they were removed. International criminal law protects persons residing in communities from deliberate removal through unlawful conduct. The ICTY in *Prosecutor v. Popović et al.*, [2010 ^[60]], recognised that lawful presence is not restricted to permanent residents and include persons

who have established residence following previous displacement. Forced displacement is also addressed through international and regional protection instruments. The United Nations Guiding Principles on Internal Displacement define internally displaced persons as individuals or groups forced or obliged to flee their homes because of armed conflict, violence, human rights violations, or disasters without crossing an internationally recognised border (Deng, 1998 ^[19]).

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) requires states to prevent arbitrary displacement and protect persons affected by conflict, violence, human rights violations and disasters (AU, 2009) ^[7]. The prohibition of forced displacement is also recognised under international humanitarian law. The Fourth Geneva Convention of 1949 ^[33] prohibits forcible transfers and deportations of protected persons during armed conflict (Geneva Convention IV, 1949 ^[33], art. 49). Crimes against humanity developed from the recognition that attacks against civilians involve not only physical destruction but also the removal of communities through persecution and coercion (Acquaviva, 2011) ^[3]. The presence of coercion distinguishes criminal displacement from voluntary migration. Coercive circumstances include fear of violence, imprisonment, psychological persecution and other pressures that eliminate genuine freedom of choice (Felfli, 2025) ^[31]. Threats to human security, including conflict, resource scarcity, environmental degradation and violence, contribute to conditions producing displacement (Dhirathiti, 2011; Betts *et al.*, 2006) ^[17, 24]. The mental element of forced displacement requires knowledge that the conduct forms part of a widespread or systematic attack against civilians (RSICC, 1998) ^[19].

Criminal responsibility requires proof that perpetrators intended the removal of civilians and understood the circumstances surrounding the displacement. Forced displacement does not automatically constitute genocide because genocide requires specific intent to destroy a protected group, wholly or partly (Felfli, 2025) ^[31]. The recognition of forced displacement as a crime against humanity provides a legal basis for examining Nigerian displacement crisis. Nigeria has experienced large-scale displacement arising from Boko Haram insurgency, communal violence, ethnic and religious conflicts and insecurity. Boko Haram attacks involving killings, abductions, destruction of communities, attacks on schools and religious institutions and forced movement of civilians raise questions concerning possible violations of international criminal law (Folami & Ihinmoyan, 2019) ^[32]. The evolution of forced displacement from a humanitarian condition into an offence attracting criminal responsibility demonstrates the capacity of international law to address organised campaigns that remove civilian populations through violence, intimidation, persecution, or other coercive circumstances.

International Criminal Justice Framework on Forced Displacement

1. Rome Statute Framework

The Rome Statute of the International Criminal Court (ICC) established a permanent judicial institution with jurisdiction over genocide, crimes against humanity, war crimes and aggression. The Court operates under the principle of

complementarity, which preserves the primary responsibility of national courts to investigate and prosecute international crimes while allowing ICC intervention where domestic authorities are unwilling or unable to conduct genuine proceedings (ICC, 2002). Forced displacement is recognised under the Rome Statute as both a crime against humanity and a war crime. Article 7(1)(d) identifies “deportation or forcible transfer of population” as a crime against humanity where the conduct forms part of a widespread or systematic attack directed against a civilian population with knowledge of the attack (ICC, 2002; Felfli, 2025) ^[31]. The offence requires proof that displacement occurred in the context of an organised attack against civilians rather than as an isolated event. Coercion remains a central element because criminal displacement arises where individuals are compelled to leave through force, threats, fear of violence, imprisonment, persecution, or other circumstances that remove genuine freedom of choice (Felfli, 2025) ^[31].

The offence also requires that victims were lawfully present in the area from which they were removed. Questions concerning lawful presence create legal difficulties, particularly where displaced populations have uncertain residence status or where competing authorities claim control over territory (Felfli, 2025) ^[31]. International criminal jurisprudence has recognised that forced population removal constitute criminal conduct where it forms part of an attack directed against civilians. The International Criminal Tribunal for the former Yugoslavia (ICTY) in *Prosecutor v. Krnojelac* [2002 ^[57]], confirmed that organised displacement campaigns attract criminal responsibility under international law. Forced displacement also constitute a war crime where it occurs in connection with an armed conflict. Article 8 of the Rome Statute criminalises unlawful deportation and transfer as serious violations of international humanitarian law (ICC, 2002) ^[45].

Article 8(2)(b)(viii) applies to international armed conflicts and prohibits the transfer or deportation of civilian populations by an occupying power (Rome Statute, 1998 ^[62], art. 8). This provision reflects Article 49 of the Fourth Geneva Convention, which prohibits the removal of protected persons from occupied territory except in narrowly defined circumstances (Geneva Convention IV, 1949 ^[33], art. 49). The preparatory work of the ICC relied on existing humanitarian law principles in developing the elements of forced displacement as a war crime (Felfli, 2025) ^[31]. In non-international armed conflicts, Article 8(2)(e) of the Rome Statute recognises unlawful displacement as a war crime. Article 17 of Additional Protocol II prohibits ordering the movement of civilians unless required for their security or justified by imperative military reasons (ICRC, 1977) ^[42]. The prohibition applies to parties involved in internal armed conflicts where the conditions for application of the Protocol are satisfied (ICRC, 1987).

2. International Humanitarian Law Framework

International humanitarian law regulates conduct during armed conflict and protects civilians from unlawful harm. Civilians affected by armed conflict, including internally displaced persons, are protected against attacks, forced displacement, starvation and other forms of mistreatment (ICRC, 2015). The Fourth Geneva Convention of 1949 ^[33] provides specific protection against unlawful population

transfer. Article 49 prohibits individual or mass forcible transfers and deportations of protected persons from occupied territory, except where civilian evacuation is required for security reasons or imperative military necessity (Geneva Convention IV, 1949 ^[33], art. 49). The Convention also prohibits an occupying power from transferring parts of its own civilian population into occupied territory. These provisions developed from the experience of wartime population transfers that caused loss of property, exploitation and separation from communities (Felfli, 2025). Additional Protocol I of 1977 ^[31, 42] strengthens civilian protection during international armed conflicts by prohibiting forced displacement and establishing responsibilities for commanders and superiors to prevent violations committed by persons under their authority (Felfli, 2025) ^[31]. Additional Protocol II extends protection to non-international armed conflicts through Article 17, which prohibits displacement of civilians except where required for civilian safety or imperative military reasons (ICRC, 1977) ^[42].

3. International Human Rights Law Framework

International human rights law protects rights affected by forced displacement, including dignity, security, movement, property, family life and access to remedies. Nigerian Constitution protects rights relevant to displaced persons, including life, dignity, liberty, freedom of movement and property ownership (Abonyi & Ezema, 2026) ^[2]. Freedom of movement is recognised under international human rights law. General Comment No. 27 of the Human Rights Committee confirms that persons lawfully in a territory possess the right to move freely and choose their residence (UNHRC, 1999). Forced displacement violates this right where individuals are removed from their communities or prevented from determining their place of residence. The Guiding Principles on Internal Displacement recognise that displaced persons retain their rights under national and international law despite displacement status. They protect displaced persons against attacks, starvation, sexual violence, torture, cruel treatment and degrading practices (Deng, 1998 ^[19]). Displacement result in homelessness, poverty, loss of property, insecurity and separation from family and community structures (Felfli, 2025) ^[31]. International law also recognises rights relating to voluntary return, restitution, compensation and access to justice. The Guiding Principles require authorities to assist with family reunification and provide information concerning missing relatives. The Kampala Convention also establishes obligations concerning remedies and documentation of internally displaced persons (AU, 2009) ^[7].

4. African Regional Framework

African regional instruments address internal displacement through human rights obligations and state responsibility. The African Charter on Human and Peoples’ Rights protects rights relating to life, dignity, liberty, movement, property and security. Nigeria incorporated the Charter through the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act. In *SERAC v Nigeria (2001)* ^[63], the African Commission on Human and Peoples’ Rights recognised state responsibility for protecting individuals from human rights violations and ensuring effective remedies. The decision confirms that governments have obligations to prevent abuses and protect affected

communities. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) was adopted in 2009^[7] to establish obligations concerning prevention, protection, assistance and durable solutions for internally displaced persons (AU, 2009)^[7]. The Convention requires states to address causes of displacement and prevent arbitrary removal arising from armed conflict, violence, human rights violations, discrimination and harmful practices. The Kampala Convention requires state parties to provide protection and humanitarian assistance to displaced populations, including access to security, food, water, shelter, healthcare, education and other basic needs (AU, 2009). For Nigeria, these obligations apply to displacement caused by terrorism, armed conflict, communal violence and other forms of insecurity affecting civilian populations.

Nigerian Legal Framework on Forced Displacement

1. Constitutional Framework

The 1999 Constitution of the Federal Republic of Nigeria provides the foundation for protecting persons affected by displacement. Section 14(2)(b) establishes that “the security and welfare of the people shall be the primary purpose of government.” This obligation applies to internally displaced persons because displacement does not remove their citizenship status or entitlement to state protection (Abonyi & Ezema, 2026)^[2]. The Supreme Court in *Attorney-General of Ondo State v Attorney-General of the Federation* (2002)^[15] recognised that constitutional provisions must be interpreted in accordance with the objectives of governance, public welfare and the protection of citizens. Chapter IV of the Constitution protects fundamental rights relevant to persons affected by armed conflict and displacement, including rights to dignity, personal liberty, movement and property. Internally displaced persons retain these rights because displacement changes their physical location but does not remove their legal status as citizens entitled to protection (UNHR, 2021). In *Fawehinmi v Abacha* (1996)^[28], the Supreme Court recognised the relevance of international human rights principles in Nigerian legal system while affirming that enforcement must comply with domestic constitutional procedures.

Section 34 of the Constitution protects individuals from torture, inhuman treatment and degrading conditions. This protection is relevant to displaced persons who experience inadequate shelter, violence, sexual abuse, exploitation and conditions affecting human dignity. The Violence Against Persons (Prohibition) Act, 2015 strengthens legal protection against rape, physical injury, psychological abuse, intimidation, stalking, deprivation of liberty and other forms of violence. Although the Act does not expressly identify internally displaced persons, displaced Nigerians fall in its protection because they remain subject to Nigerian law. In *Uzoukwu v Ezeonu II* (1991)^[71], the Court of Appeal affirmed that constitutional rights relating to dignity and liberty protect individuals against unlawful interference. Displacement frequently exposes affected persons to conditions capable of violating human dignity. Aloba and Obaji (2016)^[8] identify inadequate shelter, poor sanitation, harsh environmental conditions and sexual violence as challenges faced by displaced populations. The African human rights system recognises that states possess positive obligations to protect communities from serious rights violations. In *Social and Economic Rights Action Center*

(SERAC) and *Center for Economic and Social Rights v Nigeria* (2001)^[63], the African Commission on Human and Peoples’ Rights held that governments must take reasonable measures to protect individuals and communities from violations affecting social, economic and human rights.

The right to personal liberty under Section 35 of the Constitution applies to internally displaced persons. Displacement status cannot justify unlawful detention or restrictions on movement. The Guiding Principles on Internal Displacement recognise that internally displaced persons retain freedom of movement and should not be confined in camps or settlements without lawful justification (Deng, 1998^[19]). In *Director of State Security Service v Agbakogba* (1999)^[25], the Supreme Court confirmed that restrictions imposed by state authorities must comply with constitutional requirements. Similarly, in *Nwankwo v State* (1985)^[52], the Court affirmed that constitutional protections remain applicable even where government exercises powers relating to public security. Property rights are also central to displacement situations. Displaced persons frequently lose homes, farmland, businesses and personal possessions. The Constitution protects the right to acquire and own property and requires compensation where property is compulsorily acquired by government (Abonyi & Ezema, 2026)^[2]. Customary international humanitarian law prohibits theft and destruction of civilian property during armed conflict except where justified by military necessity. Property destruction affects return, restitution and reintegration processes. Hassan (2020)^[36] notes that displacement creates disputes concerning abandoned land, ownership and restitution, particularly where customary systems regulate access to land. Nigerian courts have recognised the importance of property protection. In *Osho v Foreign Finance Corporation* (1991)^[55], the Supreme Court affirmed that proprietary interests cannot be removed except according to law. In *Amale v Sokoto Local Government* (2012)^[9], the Court of Appeal considered the importance of lawful interests in land, a principle relevant to displacement-related disputes involving abandoned homes and community land.

2. Terrorism (Prevention and Prohibition) Act

Nigerian terrorism legislation provides the principal criminal framework for addressing violence associated with insurgency and extremist groups. The Terrorism (Prevention) Act 2011, amended in 2013^[14] and the Terrorism (Prevention and Prohibition) Act 2022 criminalise acts intended to cause death, serious injury, destruction of property and widespread fear among civilians. These provisions apply to conduct associated with Boko Haram and ISWAP, whose activities have involved killings, kidnapping, destruction of communities and forced movement of civilians (Adamu & Rasheed, 2016)^[4]. Nigerian courts have applied terrorism legislation in proceedings involving insurgency-related offences. In *Federal Republic of Nigeria v Mohammed Usman* (2016)^[30], the Federal High Court applied the Terrorism (Prevention) Act in prosecuting persons accused of involvement in Boko Haram activities. The decision demonstrates the use of domestic criminal law to address conduct threatening civilian populations. Opara (2026)^[54] explains that terrorism in Nigeria has produced mass casualties, destruction of infrastructure, displacement of

communities and social consequences affecting civilian populations.

Although the Terrorism (Prevention and Prohibition) Act 2022 does not create a separate offence of forced displacement, many terrorist offences result in displacement through attacks on homes, communities, schools and public facilities. The destruction and insecurity created by armed groups force residents to leave their habitual places of residence. The Supreme Court in *Abacha v Fawehinmi* (2000) recognised that domestic legislation determines the enforceability of legal obligations in Nigeria. This reinforces the importance of applying enacted criminal laws when addressing security-related violations. The Boko Haram insurgency demonstrates the connection between terrorism offences and displacement. Attacks in north-eastern Nigeria destroyed communities and forced civilians to seek refuge in Nigeria and neighbouring states (Alobo & Obaji, 2016; Folami & Ihinmoyan, 2019)^[8, 32]. In *Federal Republic of Nigeria v Khalid Al-Barnawi* (2017)^[29], the Federal High Court convicted the accused for terrorism-related offences connected with Ansaru, an armed extremist organisation. The decision illustrates domestic prosecution of armed group activities involving kidnapping, attacks against civilians and conduct capable of causing displacement.

3. Criminal Code Act and Penal Code Act

The Criminal Code Act applicable in southern Nigeria and the Penal Code Act applicable mainly in northern Nigeria contain offences addressing conduct that contributes to forced displacement. Although neither statute criminalises displacement as an independent offence, provisions concerning murder, assault, unlawful violence, destruction of property, intimidation and public disorder apply to acts that compel communities to leave their homes. The Supreme Court in *Aoko v Fagbemi* (1961)^[13] recognised the role of criminal law in regulating conduct harmful to individuals and society. Communal conflicts, ethnic violence and attacks by armed groups frequently involve offences punishable under these criminal frameworks. Adesote and Peters (2015) identify land disputes, ethnic identity and resource competition as factors contributing to violent conflicts and displacement in Nigeria. Land-related disputes are closely connected with displacement because communities depend on land for residence and livelihood. In *Adisa v Oyinwola* (2000)^[6], the Supreme Court recognised the importance of lawful claims relating to land ownership and occupation. Violence arising from communal conflicts involve unlawful killing, destruction of property and breaches of public peace. In *State v Ogunbayo* (2007)^[65], the Court of Appeal affirmed that criminal responsibility arises where conduct falls in offences created by law. Although these statutes do not provide specific remedies for displaced persons, they criminalise several acts that produce displacement. The Supreme Court in *ITPP Ltd v UBN Plc* (2006)^[47] held that statutory provisions must be interpreted according to legislative purpose. This supports applying existing criminal offences to conduct contributing to forced displacement. In *Bello v Attorney-General of Ogun State* (2006)^[17], the Supreme Court recognised the importance of protecting fundamental interests affected by unlawful interference, including rights connected with security and property.

4. National Commission for Refugees, Migrants and Internally Displaced Persons Framework

The National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) provide institutional support for displaced populations through protection, rehabilitation, resettlement, reintegration and research activities. The Commission reflects Nigerian responsibility to establish mechanisms addressing displacement challenges. In *Attorney-General of Ondo State v Attorney-General of the Federation* (2002)^[15], the Supreme Court recognised the importance of government institutions performing statutory responsibilities directed towards public welfare. The United Nations Guiding Principles on Internal Displacement define internally displaced persons as individuals or groups forced to leave their homes because of conflict, violence, human rights violations, or disasters without crossing internationally recognised borders (UNHCR, 2005)^[68]. Protection requires assistance relating to safety, livelihood recovery, healthcare, shelter and access to justice. Nigerian displaced populations continue to face challenges involving insecurity, poverty, housing, employment and access to essential services. Opara (2026)^[54] notes concerns relating to protection of vulnerable groups, including women and children affected by terrorism. In *Fawehinmi v Abacha* (1996)^[28], the Supreme Court affirmed the importance of constitutional rights protection in Nigerian legal framework. The NCFRMI framework also reflects Nigerian obligations under the Kampala Convention, which requires prevention of arbitrary displacement, protection of displaced persons and support for durable solutions. In *SERAC v Nigeria* (2001)^[63], the African Commission recognised that state obligations include positive duties to protect communities facing serious rights violations.

5. Nigerian Humanitarian and Disaster Management Framework

Nigerian humanitarian response framework developed through the establishment of the National Emergency Relief Agency in 1976 and the creation of the National Emergency Management Agency (NEMA) in 1999. NEMA coordinates disaster response, emergency relief, rehabilitation and assistance to affected populations. In *Attorney-General of Ondo State v Attorney-General of the Federation* (2002)^[15], the Supreme Court recognised the importance of government institutions carrying out statutory responsibilities directed towards public welfare. The NEMA Act assigns responsibilities relating to emergency coordination, search and rescue operations, relief distribution and disaster assistance. Challenges affecting implementation include limited resources, coordination difficulties and gaps in legal protection (Nnadi *et al.*, 2020; Mashi, 2019). Alobo and Obaji (2016)^[8, 49, 51] identify insufficient legislation and policy gaps as factors affecting responses to displacement arising from conflict and terrorism.

Humanitarian protection requires respect for dignity, equality and accountability. In *Centre for Oil Pollution Watch v NNPC* (2019)^[18], the Supreme Court recognised the importance of access to justice where community rights and public interests are affected. The principle is relevant to displaced communities seeking remedies for violations affecting security, property and livelihoods. The obligations of Nigerian humanitarian institutions are reinforced by the

Kampala Convention, which requires states to provide protection and assistance to internally displaced persons and establish mechanisms for addressing displacement. In *Democratic Republic of the Congo v Uganda* (2005)^[22], the International Court of Justice recognised state responsibility for violations committed during armed conflict and the need to protect civilians affected by violence. Nigerian legal framework provides several avenues for protecting displaced persons and prosecuting conduct associated with displacement. However, the absence of a specific domestic offence of forced displacement limits accountability for organised campaigns of population removal. The interaction between constitutional rights, criminal legislation, humanitarian institutions and international obligations remains central to developing a legal response capable of addressing displacement as both a human rights concern and a potential international crime.

Challenges in Prosecuting Forced Displacement in Nigeria

1. Absence of Domestic Recognition of Crimes Against Humanity

Nigeria has not enacted specific domestic legislation criminalising crimes against humanity, including forced displacement. Although Nigeria is a State Party to the Rome Statute of the International Criminal Court and has accepted obligations concerning the protection of displaced persons, international crimes have not been fully incorporated into Nigerian criminal law. Aloba and Obaji (2016)^[8] observed that Nigerian adoption of the Kampala Convention has not produced domestic legislation specifically addressing displacement caused by terrorism, communal violence and other forms of insecurity. The absence of a domestic offence of forced displacement limits prosecutorial capacity to hold individuals accountable for organised campaigns that remove civilian populations from their homes. Existing criminal laws address related conduct such as terrorism, murder, assault and destruction of property but do not capture displacement as part of a widespread or systematic attack against civilians. This creates difficulties in establishing responsibility for persons who plan, direct, or participate in population removal campaigns.

The Nigerian Supreme Court has recognised that international obligations require domestic incorporation before they become enforceable in Nigeria. In *Abacha v Fawehinmi* (2000), the Court held that treaties do not automatically become part of Nigerian law unless incorporated through legislation in accordance with section 12 of the Constitution. This principle creates challenges for the direct application of international criminal law standards relating to crimes against humanity where implementing legislation is absent. Similarly, in *Fawehinmi v Abacha* (1996)^[28], the Supreme Court acknowledged the relevance of international human rights instruments while confirming the requirement of domestic legal procedures for enforceability. The absence of legislation incorporating Rome Statute offences also creates uncertainty regarding the application of legal requirements applicable to crimes against humanity. Article 7 of the Rome Statute requires proof that forced displacement occurred as part of a widespread or systematic attack directed against civilians and that the accused knew of the broader attack (RSICC, 1998)^[19]. International criminal jurisprudence confirms the importance of these contextual requirements. In *Prosecutor*

v Kunarac, Kovač and Vuković (2002)^[58], the ICTY held that crimes against humanity require proof of an attack against a civilian population and knowledge by the accused of the circumstances forming part of that attack. Without equivalent domestic provisions, prosecution of forced displacement in Nigeria remains difficult.

2. Challenges in Establishing the Elements of Forced Displacement

Forced displacement as a crime against humanity requires proof of specific legal elements. Prosecutors must establish that civilians were compelled to leave their homes through coercive circumstances and that the displacement formed part of a widespread or systematic attack against a civilian population (Acquaviva, 2011)^[3]. This requirement presents difficulties where displacement results from multiple sources of violence involving different actors. Nigerian displacement crisis involves Boko Haram, ISWAP, communal militias, criminal organisations and other armed groups. Establishing individual responsibility requires evidence connecting specific persons to organised actions that caused population movement. Article 7 of the Rome Statute also requires proof that the attack occurred pursuant to a state or organisational policy directed against civilians (ICC, 2002)^[15]. Prosecutors must demonstrate that displacement was not merely an indirect consequence of conflict but resulted from deliberate conduct aimed at removing civilian populations.

The mental element creates further difficulties. Prosecutors must prove that perpetrators intended the displacement or understood that their conduct would cause forced movement. In *Prosecutor v Stakić* (2006)^[61], the ICTY Appeals Chamber held that deportation and forcible transfer do not require permanent removal from a territory; rather, the prosecution must establish unlawful displacement resulting from coercive circumstances. This principle is relevant to Nigeria because many affected persons remain internally displaced in the country rather than being expelled across borders. Similarly, in *Prosecutor v Krnojelac* (2002)^[57], the ICTY recognised that displacement occur through threats, intimidation, violence, or conditions that leave victims without a genuine choice except to leave. Applying this standard in Nigeria requires distinguishing displacement caused by deliberate attacks and coercive measures from civilian movement resulting from general insecurity.

3. Evidentiary and Investigative Challenges

Prosecuting forced displacement requires evidence establishing the circumstances of displacement, the identity of perpetrators and the relationship between individual acts and the wider attack against civilians. Conflict conditions in Nigeria create difficulties in collecting and preserving such evidence. Insecurity, damaged infrastructure, population movements and limited access to affected communities restrict investigative activities. International criminal jurisprudence demonstrates the importance of proving patterns of conduct rather than isolated incidents. In *Prosecutor v Tadić* (1997), the ICTY recognised that evidence relating to conflict conditions, organisational structures and repeated acts establish crimes committed as part of a broader campaign. This approach presents challenges in Nigeria because displacement frequently

results from separate attacks carried out by different armed actors.

Folami and Ihinmoyan (2019) ^[32] noted that research involving displaced populations requires careful engagement because many victims have experienced trauma, violence and loss. Investigations concerning Nigerian conflicts also face difficulties in obtaining reliable information about violations committed by different groups (Folami & Ihinmoyan, 2019) ^[32]. Adesote and Peters (2015) observed that available displacement data does not always provide complete information regarding affected populations. Weak documentation affects the ability of prosecutors to establish the scale and pattern required for crimes against humanity. In *Prosecutor v Kunarac, Kovač and Vuković* (2002) ^[58], the ICTY relied on evidence demonstrating a systematic campaign rather than isolated criminal acts. Similar evidentiary standards would require Nigerian authorities to establish connections between individual incidents and broader displacement campaigns. Victim and witness testimony remains important in proving threats, attacks, destruction of property and other circumstances causing displacement. However, fear of retaliation, trauma, poverty and unstable living conditions discourage victims from participating in investigations. Effective witness protection mechanisms and support services are required to improve access to justice.

4. Institutional and Political Challenges

Institutional limitations and political considerations affect accountability for forced displacement in Nigeria. Although constitutional and statutory mechanisms protect fundamental rights, displaced persons continue to experience difficulties obtaining effective remedies. Nigerian courts have addressed human rights violations, but prosecutions specifically concerning displacement remain limited. The decision in *SERAP v Federal Republic of Nigeria* (2010) ^[64] before the ECOWAS Community Court of Justice demonstrates challenges faced by victims seeking regional remedies. The Court recognised that individuals and organisations bring claims concerning Nigerian human rights obligations, although regional mechanisms cannot replace effective domestic accountability. Limited legal representation, financial barriers and inadequate resources restrict access to justice for displaced communities. In *Military Governor of Lagos State v Ojukwu* (1986) ^[50], the Supreme Court affirmed that government authorities must comply with the rule of law and cannot disregard constitutional protections. Translating these principles into practical remedies for displaced persons remains difficult.

Accountability concerns also arise where security personnel are accused of violations affecting displaced populations. Amnesty International (2018) ^[10] reported allegations of sexual violence involving military personnel and civilian protection groups affecting displaced women and girls. The Office of the United Nations High Commissioner for Human Rights (2019) ^[37] documented concerns regarding violations affecting displaced communities (HRC, 2019) ^[37]. Investigating allegations involving security institutions presents additional difficulties because accused persons belong to agencies responsible for maintaining public order. Displaced persons also face barriers arising from poverty, limited legal assistance and displacement conditions. The United Nations General Assembly (2005) ^[68] recognised the right of victims of serious human rights and humanitarian

law violations to effective remedies, compensation, access to information and reparations. Folami and Ihinmoyan (2019) ^[32] observed that some displaced communities support international involvement because domestic mechanisms have not provided sufficient accountability. The prosecution of forced displacement in Nigeria therefore requires domestic legal reform, stronger investigative capacity, effective victim protection and mechanisms capable of addressing displacement as a crime committed against civilian populations rather than only as a humanitarian consequence of conflict.

Conclusion

Forced displacement in Nigeria remains a serious legal challenge because persons who drive communities from their homes are rarely prosecuted for the displacement itself as an international crime. The study has shown that Nigerian laws address related offences such as terrorism, violence and property destruction but do not create a direct offence for crimes against humanity or forced displacement. The gap between international criminal law obligations and domestic enforcement limits accountability for organised attacks against civilians. Effective prosecution requires legal reforms, stronger investigation procedures, protection for victims and witnesses and improved cooperation among relevant authorities. Nigerian response to displacement must move beyond emergency assistance and address responsibility for those who cause unlawful population movements. Recognition of forced displacement as a crime against humanity provides a basis for seeking justice for affected communities and preventing future violations. The development of domestic legislation reflecting international standards remains necessary for meaningful criminal accountability.

Recommendations

Based on the study, the following recommendations were made

1. Nigeria should enact legislation incorporating crimes against humanity and forced displacement into domestic criminal law by adopting the Rome Statute standards and providing prosecutors with clear legal authority to investigate and charge persons responsible for organised displacement.
2. Nigerian investigative and prosecutorial authorities should develop specialised procedures for proving forced displacement by training personnel on international criminal law requirements, documenting patterns of attacks and collecting evidence linking perpetrators to organised campaigns against civilians.
3. The government should strengthen evidence collection and victim protection systems by creating reliable displacement databases, improving access to affected communities and establishing witness protection measures that encourage displaced persons to provide testimony without fear of retaliation.
4. Nigeria should improve accountability for displacement-related crimes by strengthening cooperation between courts, security agencies, humanitarian institutions and human rights bodies while ensuring that allegations against state and non-state actors are investigated independently and prosecuted where sufficient evidence exists.

References

1. *Abacha & Others v Fawehinmi* (S.C. 45/1997) [2000] NGSC 2, 27 April, 2000.
2. Abonyi AU, Ezema PO. Extant legal and institutional frameworks for the protection of internally displaced persons (IDPs) in armed conflicts: Closing the implementation gap. *Anaocha Bar Journal*, 2026;2(2):43-51.
3. Acquaviva G. At the origins of crimes against humanity - Clues to a proper understanding of the nullum crimen principle in the Nuremberg Judgment. *Journal of International Criminal Justice*, 2011;9(4):881-903.
4. Adamu A, Rasheed ZH. Effects of Insecurity on the Internally Displaced Persons (IDPS) in Northern Nigeria: Prognosis and Diagnosis. *Global Journal of Human-Social Science*, 2016;16(F1):1-5.
5. Adesote SA, Peters AO. A historical analysis of violence and internal population displacement in Nigeria's Fourth Republic, 1999-2011. *International Journal of Peace and Conflict Studies*, 2015;2(3):13-22.
6. *Adisa v. Oyinwola* (2000) 10 NWLR (Pt. 674) 116; 6 SC (Pt. II) 47, 2000.
7. African Union. African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), 2009.
8. Alobe E, Obaji S. Internal displacement in Nigeria and the case of human rights protection of displaced persons. *Journal of Law, Policy and Globalization*, 2016;51:26-33.
9. *Amale v. Sokoto Local Government & Ors.* (2012) JELR 34814 (SC); 5 NWLR (Pt. 1292) 181, 2012.
10. Amnesty International. "They betrayed us": Women who survived Boko Haram raped, starved and detained in Nigeria. amnesty.org, 2018.
11. Amnesty International. Amnesty International Report 2022/23: The state of the world's human rights. Amnesty International Publications, 2023.
12. Andreu-Guzmán F. Criminal Justice and Forced Displacement: International and National Perspectives. ICTJ, 2013.
13. *Aoko v. Fagbemi* (1961) 1 All NLR 400.
14. Ashcroft B, Griffiths G, Tiffin H. Post-colonial studies: The key concepts. 3rd ed. Routledge, 2013.
15. *Attorney-General of Ondo State v. Attorney-General of the Federation & Ors.* 9 NWLR (Pt. 772) 222, 2002.
16. *Bello v. Attorney-General of Oyo State* 5 NWLR (Pt. 45) 820, 1986.
17. Betts A, Chimni BS, Cohen R, Collinson S, Crisp J, Gil-Bazo MT, et al. The State of the World's Refugees. Oxford University Press, 2006.
18. *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation* 5 NWLR (Pt. 1666) 518, 2019.
19. Cohen R, Deng FM. Masses in flight: The global crisis of internal displacement. Brookings Institution Press, 1998.
20. Constitution of the Federal Republic of Nigeria (as amended), 1999.
21. Mayer B, Dawson G, Farber S. Forcible displacement throughout the ages. *Journal of International Criminal Justice*, 2013;11(4):936-937.
22. *Democratic Republic of the Congo v. Uganda*, ICJ Reports, 2005, 168.
23. Deng FM. Guiding Principles on Internal Displacement. United Nations, 1998.
24. Dhirathiti NS. Security revisited: Enhancing human security through lifelong learning. *Journal of Population and Social Studies*, 2011;19(2):255-269.
25. *Director of State Security Service & Anor v. Agbakoba* 3 NWLR (Pt. 595) 314, 1999.
26. Ejiofor OC, Oni S, Sejoro JV. Impact of internal displacement on human security in Northern Nigeria. *Acta Universitatis Danubius*, 2017;10(1):19-42.
27. Falade OD. Internally Displaced Persons and International Human Rights Law. Doctoral thesis, University of Hull, 2024.
28. *Fawehinmi v. Abacha* 9 NWLR (Pt. 475) 710, 1996.
29. *Federal Republic of Nigeria v. Khalid Al-Barnawi & Ors*, 2017.
30. *Federal Republic of Nigeria v. Mohammed Usman*, 2016
31. Felfli MI. Forced displacement from the perspective of international humanitarian law. *Legal and Political Research*, 2025;10(2):1019-1030.
32. Folami OM, Ihinmoyan T. Internally displaced persons and prosecution of war criminals. *ICONIC Research and Engineering Journals*, 2019;2(10):384-391.
33. Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949.
34. Goldman R, Kälin W. Legal framework. In: Cohen R, Deng FM, editors. Masses in flight. Brookings Institution Press, 1998.
35. Goodwin-Gill GS. The global compacts and the future of refugee protection. *International Journal of Refugee Law*, 2018;30(4):674-687.
36. Hassan HA. Forced migration in Africa. *African Journal of Political Science and International Relations*, 2020;14(3):74-83.
37. Human Rights Council. Internal displacement report. United Nations, 2019.
38. Human Rights Watch. Nigeria: Flawed trials of Boko Haram suspect, 2018.
39. Internal Displacement Monitoring Centre. Global overview, 2008, 2009.
40. Internal Displacement Monitoring Centre. Global report 2022, 2022.
41. International Committee of the Red Cross. Commentary on the Fourth Geneva Convention, 1958.
42. International Committee of the Red Cross. Protocol II, 1977.
43. International Committee of the Red Cross. Commentary on Additional Protocols, 1987.
44. International Committee of the Red Cross. Protection of displaced persons, 2015.
45. International Criminal Court. Elements of Crimes, 2002.
46. International Criminal Tribunal for the former Yugoslavia. Annual report, 2006.
47. *ITPP Ltd v. UBN Plc* 12 NWLR (Pt. 995) 463, 2006.
48. Jaeger G. History of refugee protection. *International Review of the Red Cross*, 2001;83(843):727-737.
49. Mashi SA. Disaster risk management in Nigeria. *International Journal of Disaster Risk Reduction*, 2019;33:253-264.
50. *Military Governor of Lagos State v. Ojukwu* 1 NWLR (Pt. 18) 621, 1986.
51. Nnadi GO, Odubajo BA, Nworu OB. NEMA and IDPs in Nigeria. *IOSR Journal of Humanities and Social Science*, 2020;25(5):14-24.

52. *Nwankwo v. State* 6 SC 216, 1985.
53. Onu SI. Natural hazard governance in Nigeria. Oxford University Press, 2019.
54. Opara MC. Terrorism and Human Rights in Nigeria. *EIRAJALES*,2026;1(2):11-20.
55. *Osho v. Foreign Finance Corporation* 4 NWLR (Pt. 184) 157, 1991.
56. Philip T. Climate change displacement. *Melbourne Journal of International Law*,2018;19(2):639.
57. *Prosecutor v. Krnojelac*, 2002.
58. *Prosecutor v. Kunarac et al*, 2002.
59. *Prosecutor v. Milošević*, 1999.
60. *Prosecutor v. Popović et al*, 2010.
61. *Prosecutor v. Stakić*, 2006.
62. Rome Statute of the International Criminal Court, 1998.
63. *SERAC v. Nigeria*, 2001.
64. *SERAP v. Federal Republic of Nigeria*, 2010.
65. *State v. Ogunbayo*, 2007.
66. UN Security Council. Resolution 1503, 2003.
67. United Nations Human Rights. Internally displaced persons, 2021.
68. United Nations Human Rights Committee. Guiding Principles on Internal Displacement, 2005.
69. United Nations Human Rights Committee. General Comment No. 27, 1999.
70. *United States v. Hermann Göring*, 1946.
71. *Uzoukwu v. Ezeonu II*,1991.
72. Zolberg AR, Suhrke A, Aguayo S. Escape from violence. Oxford University Press, 1989.