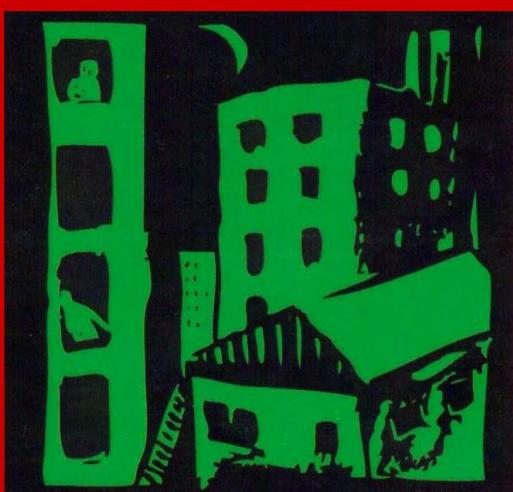


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## Forced displacement, governance by law, and transnationalism in sub-Saharan Africa

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### ABSTRACT

*Forced displacement is one of the most topical issues in contemporary development and humanitarian studies. Although the displacement of people across national borders and regional boundaries is not new, recent waves of forced displacement in sub-Saharan Africa have swelled numbers in displacement camps and exacerbated the abysmal conditions in these camps, attracting media and scholarly attention.*

*This article contributes to the literature on forced displacement by examining the topic in terms of governance and transnationalism in sub-Saharan Africa. Sub-Saharan Africa is the focus of the article due to the record numbers of forced displacements in this region; specifically, cases are drawn from Nigeria. Moreover, displacement in sub-Saharan Africa involves governments and various non-state actors in multiple countries. Data for this article were sourced from the media as well as reports by various organisations, in particular in regard to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. The article concludes by pointing out the need for a more human-centric approach and for African governments to fulfil their obligations to their people in order to prevent an escalation of the problem.*

**Keywords:** forced displacement; governance by law; displaced persons; transnationalism; sub-Saharan Africa

## 1 INTRODUCTION

Forced displacement has emerged as one of the most topical issues in contemporary development and humanitarian studies. This is due to the political dynamics that prevail between displaced communities, their countries of origin, and their host communities and countries – dynamics which have led to human tragedy.<sup>1</sup> In recent years, dramatic images have been seen of lone individuals and groups walking across deserts, swamps and forests to flee one crisis or another, risking death in the endeavour.<sup>2</sup> In addition, the media have reported news of horrific deaths in camps, of torture and rape by host communities, and of multiple abuses of displaced women, including human trafficking.<sup>3</sup> Although the displacement of people across national borders and regional boundaries is not new, recent waves of forced displacement in sub-Saharan Africa have swelled numbers in displacement camps and exacerbated already abysmal conditions in these camps, attracting media and scholarly attention.

This article enriches the discussion on forced displacement by exploring governance and transnationalism in sub-Saharan Africa, a region currently facing unprecedented levels of displacement. It highlights the roles of both governments and non-state actors across various countries. The analysis focuses on the 1999 African Union (AU) Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), which commits member states to protect individuals who are forced to flee their homes. The article critically examines the implementation of the Convention and the extent of its ratification by member states.

Reports by various organisations and media sources have informed this article, which is organised into five sections. First, it gives an overview of the concepts of forced

<sup>1</sup> George J & Adelaja A "Forced displacement and agriculture: Implications for host communities" (2021) 13(10): 5728 *Sustainability* 1.

<sup>2</sup> World Vision "The most urgent refugee crises around the world" (2023) available at <https://www.worldvision.ca/stories/refugees/refugee-crises-around-the-world> (accessed 24 April 2023).

<sup>3</sup> Fomekong ST "Why communities hosting internally displaced persons in the Sahel need stronger and more effective legal protection" (2021) 103(918) *International Review of the Red Cross* 923.

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displacement, the rule of law, and transnationalism. This is followed by a section focusing on forced displacement in sub-Saharan Africa; a section on the role of AU and the Kampala Convention in mediating transnational displacement; a discussion of transnational relations in the management of displacement; and an examination of the cases of Nigeria as well as Cameroon. The article concludes by pointing out the need for a more human-centric approach and for African governments to fulfil their obligations to their people to prevent an escalation of the problem.

## 2 CONCEPTS

### 2.1 Forced displacement

The displacement of people can be classified into two broad categories: voluntary displacement and forced displacement. Voluntary displacement occurs when people move in search of better opportunities or to escape poverty. These are sometimes known as “pull” factors. In turn, forced displacement refers to situations where people involuntarily move from their homes due to circumstances beyond their control, such as armed conflict, persecution, natural hazards, and human-induced disasters.<sup>4</sup> These are sometimes known as “push” factors. Globally, people of most ethnicities have been forced at some time or another to leave their homes and form communities of varying duration in other areas, whether in their own countries (internal displacement) or in neighbouring countries (external displacement).<sup>5</sup>

In Africa, millions fled poverty, violence, desertification, and political turmoil during the 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> centuries, settling in various parts of Africa and elsewhere.<sup>6</sup> However, the history of forced displacement of people internally and externally has not been extensively studied and understood.<sup>7</sup> Forced displacement conjures up images of persons fleeing, leaving behind their families, homes and communities, and risking danger, loss and death to seek a better life elsewhere. In many cases, even the prospect of death is no deterrent, since circumstances can be so pressing as to force the decision, sometimes made hurriedly, such that there is no time to consider alternatives. At other times there is no immediate trigger, only an ongoing situation of deprivation and hopelessness. Push factors may include violent conflict; unemployment; a lack of opportunity; political oppression; violations of basic rights and freedom; religious persecution or intolerance; discrimination based on political opinion, race or religion;

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<sup>4</sup> European Union “Forced displacement: Refugees, asylum-seekers, and internally displaced persons (IDPs)” available at [https://civil-protection-humanitarian-aid.ec.europa.eu/what/humanitarian-aid/forced-displacement\\_en](https://civil-protection-humanitarian-aid.ec.europa.eu/what/humanitarian-aid/forced-displacement_en) (accessed 26 August 2023).

<sup>5</sup> Abebe M *The emerging law of forced displacement in Africa: Development and implementation of the Kampala Convention on internal displacement* (2017) at 213.

<sup>6</sup> See Britannica “Butua” (2016) available at <https://www.britannica.com/place/Butua> (accessed 13 September 2016).

<sup>7</sup> World Bank “Forced displacement refugees, internally displaced and host communities” available at <https://www.worldbank.org/en/topic/forced-displacement> (accessed 24 August 2023).

military conscription; and terrorism. Moreover, in the case of externally displaced persons, pull factors such as welfare systems and career opportunities in receiving countries draw people away from less favourable circumstances.

## 2.2 Transnationalism

Transnationalism often refers to the movement of people and ideas across national borders, but it also has implications for the dynamics within a single country. In the context of internally displaced persons (IDPs), this concept highlights how various actors – including international governmental organisations (IGOs) and international non-governmental organisations (INGOs) – intervene within a nation to address issues affecting local populations. For instance, treaties such as the Kampala Convention aim to protect IDPs by binding signatory nations to uphold their rights and well-being. In sub-Saharan Africa, the weakening of state authority complicates these dynamics, particularly when local populations lack control over decisions made by external actors. IGOs and INGOs often position themselves as sources of support and funding within countries, claiming to represent the needs of affected communities. However, these organisations frequently operate without sufficient input from the very populations they aim to assist, leading to interventions that might not align with local needs and aspirations.

Consequently, while transnational interventions can bring much-needed resources, they do not always address the specific contexts and challenges faced by IDPs within a country.<sup>8</sup> This disconnect highlights the importance of ensuring that local voices are integrated in decision-making processes such that interventions genuinely reflect the needs of the communities they intend to serve. Without this focus, the effectiveness of support efforts remains compromised, leaving many IDPs vulnerable and unsupported.<sup>9</sup>

### 2.3.1 Governance by law

The concept of a transnational legal order has been developed to refer to the existence and functioning of legislation operating across national boundaries.<sup>10</sup> Ginsburg defines the transnational legal order as “a collection of formalised legal norms and associated organisations and actors that authoritatively order the understanding and practice of law across national jurisdictions”.<sup>11</sup> Governance by law in the transnational context recognises the legislation that applies in different local, national and global settings, including humanitarian and human rights laws and those concerning forced displacement in a transnational context. In other words, transnational law could be seen as a macro-level framework that regulates interventions beyond borders.

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<sup>8</sup> World Bank.

<sup>9</sup> De Haas HA “Theory of migration: The aspirations-capabilities framework” (2021) 9(8) *Comparative Migration Studies* available at <https://doi.org/10.1186/s40878-020-00210-4> (accessed 18 November 2024).

<sup>10</sup> Shaffer G “Transnational legal process and state change” (2012) 37(2) *Law & Social Inquiry* 229 at 229.

<sup>11</sup> Ginsburg T “Constitution making as a transnational legal order” (2016) 110 *Proceedings of the Annual Meeting of the American Society of International Law* 74 at 76.

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### 3 THE PROBLEMATISATION OF FORCED DISPLACEMENT

The concepts of forced displacement, transnationalism and governance by law constitute the framework for this article,<sup>12</sup> which problematises forced displacement as currently managed. Moreover, unlike migration, internal displacement has not been studied adequately and systematically, and various practices concerning internally displaced persons at different times and in different parts of the world have received far too little attention.

For example, countries in West and Southern Africa have built camps for IDPs in urban and border areas to attend to the welfare of people displaced as a result of wars, conflicts, and disasters. These camps rarely function as they should, and have become ever-swelling tent cities housing people with little hope of finding homes and permanent employment, often subject to mistreatment as a result of neglect and corruption in the government agencies tasked with managing them.

Africa has experienced increasing numbers of internally and externally displaced persons in the first 23 years of the 21<sup>st</sup> century period, making the management of forced displacement almost impossible.<sup>13</sup> At the same time, as the literature attests, patterns in displacement can be discerned, such as a steady flow of female domestic workers from West Africa to Southern Africa.

Recent topics in the literature on forced displacement include the drivers, the numbers, and the routes followed.<sup>14</sup> Reports have been produced by numerous institutions, such as the Internal Displacement Monitoring Centre (IDMC), Norwegian Refugee Council (NRC), and United Nations High Commissioner for Refugees (UNHCR).<sup>15</sup> These link insecurity in Africa to the unequal distribution of resources, as well as to disasters, institutional corruption, religious intolerance, poor flows of information, the mismanagement of institutions, and neglect of displaced persons.<sup>16</sup> Overall, the reports have contributed to an understanding of the scope of forced displacement, the

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<sup>12</sup> Hepner TR & Tecle S “New refugees, development-forced displacement, and transnational governance in Eritrea and exile” (2013) 42(3/4) *Urban Anthropology and Studies of Cultural Systems and World Economic Development* 377 at 377.

<sup>13</sup> Danish Refugee Council “Global Displacement Forecast 2023” (2023) available at [https://pro.drc.ngo/media/4c5hxa5c/230310\\_global\\_displacement\\_forecast\\_report\\_2023.pdf](https://pro.drc.ngo/media/4c5hxa5c/230310_global_displacement_forecast_report_2023.pdf) (accessed 10 March 2023).

<sup>14</sup> Internal Displacement Monitoring Centre (IDMC) “The drivers that force people to flee” (2015a) available at <https://reliefweb.int/report/world/drivers-force-people-flee> (accessed 18 November 2024); IDMC “Understanding the root causes of displacement: Towards a comprehensive approach to prevention and solutions” (2015b) available at <https://www.internal-displacement.org/publications/understanding-the-root-causes-of-displacement-towards-a-comprehensive-approach-to/> (accessed 12 December 2015).

<sup>15</sup> IDMC (2015a).

<sup>16</sup> Kamta FN, Schilling J & Scheffran J “Insecurity, resource scarcity, and migration to camps of internally displaced persons in northeast Nigeria” (2020) 12(17): 76830 *Sustainability*.

conditions of displaced persons in transit, and the nature of displacement routes and displaced persons' networks.

While many studies have emerged on forced migration, the same cannot be said of forced displacement, which has not been sufficiently interrogated. Links between forced displacement, governance by law, and transnationalism in sub-Saharan Africa have not been systemically analysed,<sup>17</sup> and nor has the phenomenon been examined from the perspective of the individuals and communities who have no choice but to relocate.<sup>18</sup> The mainstream literature on politics in West and Southern Africa focuses predominantly on the way in which poverty in the region generates transnationalism, various security and anti-terrorism initiatives, and the drive for economic development led by regional and international partners. Thus, the literature ignores the perceptions of those forcibly displaced from countries such as Nigeria, Mozambique, South Sudan, Sudan and Libya owing to systemic deprivation and oppression by the state.

#### 4 THE AFRICAN UNION AND FORCED DISPLACEMENT

The AU has been at the forefront of the forced displacement crisis, having come up with controversial policies for protecting IDPs under the Kampala Convention of 2009. The latter recognises that West and Southern African countries have suffered a disproportionate number of forced displacements since the 1990s owing to conflicts and wars, especially those involving insurgency on religious grounds. The insurgency crisis led to a reinvigoration of AU policies aimed at protecting IDPs in West and Southern Africa in particular and Africa in general. These culminated in the Kampala Convention, launched at a ministerial conference in Kampala, Uganda, 2009, with the express purpose of tackling "irregular displacement".<sup>19</sup>

The Convention has been signed by 41 AU member states and ratified by 28 of them. It not only advocates the protection of IDPs but attempts to address the root causes of internal displacement by eradicating poverty and promoting sustainable development. The hallmark of the Kampala Convention is the idea of cooperation among governments to manage displacement, which has especially affected Nigeria, Mozambique, South Sudan, Sudan, and the Democratic Republic of the Congo (DRC).

The AU's approach has been somewhat controversial in that it seeks to bring about changes in the laws of specific countries so that they are compatible with the stipulations of the Kampala Convention. The intention is to build state capacity (socio-economic, political, legal, human resources, etc.) to prevent displacement and manage

<sup>17</sup> Fischer C & Vollmer R "Brief 39: Migration and displacement in sub-Saharan Africa: The security-migration nexus II" Bonn International Center for Conversion available at <https://erepository.uonbi.ac.ke/bitstream/handle/11295/43261/brief39.pdf> (accessed 23 July 2023).

<sup>18</sup> Castelli F "Drivers of migration: Why do people move?" (2018) 25(1) *Journal of Travel Medicine*.

<sup>19</sup> Adeola A "Compliance beyond anniversaries: The African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention) in domestic laws and policies" in Adeola A (ed) *Compliance with international human rights law in Africa: Essays in honour of Frans Viljoen* Oxford: Oxford Academic (2022); Ghráinne NB "The internally displaced person in international law" (2021) 33(2) *International Journal of Refugee Law* 366.

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displaced persons. The approach has been viewed by some as disrespectful of, and an interference in, the autonomy of governments, especially those in West and Southern Africa.<sup>20</sup>

The AU's Guiding Principles for Africa complements the long-standing and comprehensive partnership that AU member states enjoy.<sup>21</sup> The document espouses the following principles: to defend the sovereignty, territorial integrity, and independence of AU member states; to accelerate the political and socio-economic integration of the continent; to promote and defend common African positions on issues of interest to the continent and its peoples; and to encourage international cooperation.<sup>22</sup> The Kampala Convention is meant to strengthen these principles in terms of the protection of IDPs in AU member countries. Thus, it was formulated to 'address the root causes of instability, forced displacement, and irregular displacement and to contribute to good displacement management and to commit to humanitarian support and assistance'.<sup>23</sup>

In this regard, AU humanitarian assistance is meant to benefit a wide range of African countries where forced displacement has occurred, for example Nigeria, Mozambique, Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, and Sudan. Through the Kampala Convention, member states agree to provide humanitarian support and assistance and create a better standard of living for displaced persons, with a focus on the provision of basic amenities and vocational training and the creation of economic and employment opportunities.<sup>24</sup> The Kampala Convention hence reinforces the AU Guiding Principles, with the addition of a commitment to provide humanitarian assistance to IDPs.<sup>25</sup> To pursue its humanitarian objectives, the Executive Council of the

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<sup>20</sup> Grayson C-L "Internal displacement: Some reflections on cracking the urban challenge" *Humanitarian Law & Policy* (2018) available at <https://blogs.icrc.org/law-and-policy/2018/09/23/internal-displacement-reflections-cracking-urban-challenge-2/> (accessed 23 September 2018).

<sup>21</sup> Olsen MA "Understanding and addressing root causes of displacement" *Humanitarian Law & Policy* (2018) available at <https://www.devex.com/news/understanding-and-addressing-root-causes-of-displacement-87785> (accessed 23 July 2023).

<sup>22</sup> Williams W "Shifting borders: Africa's displacement crisis and its security implications" (Research Paper No. 8) Africa Center for Strategic Studies (2019) available at <https://africacenter.org/wp-content/uploads/2019/10/ARP08EN-Shifting-Borders-Africas-Displacement-Crisis-and-Its-Implications.pdf> (accessed 10 July 2023).

<sup>23</sup> Oputu IJ "Displacement diplomacy: Five ways to improve policy and practice on internal displacement in Africa" *Humanitarian Law & Policy* (2022) available at <https://blogs.icrc.org/law-and-policy/2022/03/24/displacement-diplomacy-five-ways-to-improve-policy-and-practice-on-internal-displacement-in-africa/> (accessed 23 July 2023).

<sup>24</sup> Adepoju A "Migration dynamics, refugees and internally displaced persons in Africa" available at <https://www.un.org/en/academic-impact/migration-dynamics-refugees-and-internally-displaced-persons-africa> (accessed 20 December 2021).

<sup>25</sup> African Union "African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)" (2009) available at <https://www.refworld.org/docid/4ae572d82.html> (accessed 19 September 2021).

AU created a budget of USD 647.3 million for 2020 at the Extraordinary Summit of the AU held in Niamey, Niger, in July 2019.<sup>26</sup>

Despite the provisions of the AU Guiding Principles in general and the Kampala Convention in particular, critics argue that the AU's efforts put displaced persons in harm's way since there is little attempt to address the root causes of displacement, such as poverty, violent conflict, and the need for better disaster prevention and management; instead, the focus is on the legal aspects of displacement, which in and of itself is treated as a given.<sup>27</sup> Critics maintain that those responsible for the AU Guiding Principles should be aware that all state parties to the Kampala Convention are responsible for the conditions that produce displaced persons in the first place.

Furthermore, critics maintain that initiatives like the Kampala Convention are disadvantageous for IDPs, whose lives depend on mobility strategies that take them outside of their home areas.<sup>28</sup> Moreover, while the Convention seeks to address the root causes of forced displacement and protect victims, it does not provide a mechanism to demand change in the political systems of the countries concerned, or ensure the safety of those who are forced to return from IDP camps to their home countries.

## 5 RETHINKING TRANSNATIONALISM IN WEST AND SOUTHERN AFRICA

The involvement of extra-regional actors in West and Southern Africa is not new. Religious, ethnic and political conflicts in the region, which include fundamentalist insurgencies, have often led to transnational cooperation between states and institutions seeking to resolve them. Initially, the retreat of the superpowers and colonialism was accompanied by a disintegration of regimes in the regions, and international support for the promotion of human rights, democracy and the AU has remained unclear. Nevertheless, dispensations about development, security and partnership in West and Southern Africa have long been a shared preoccupation of extra-regional actors, including IGOs and the Intergovernmental Authority on Development (IGAD), which have also dealt with the issue of forced displacement.<sup>29</sup>

Moreover, there have been mechanisms for promoting security and stability in the southern region since 1996, which theoretically fulfils article 18(a) of the Kampala Convention – the latter states that there is a need for 'effective collective measures to eliminate threats to regional cooperation, peace, and stability'.<sup>30</sup> These mechanisms

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<sup>26</sup> African Union "African Union sustainable funding strategy gains momentum" available at <https://au.int/ar/node/37145> (accessed 24 August 2023).

<sup>27</sup> Williams (2019).

<sup>28</sup> Kampala Convention.

<sup>29</sup> IGAD "IGAD conducts a Djibouti national dialogue on forced displacement" (2023) available at <https://igad.int/igad-conducts-a-djibouti-national-dialogue-on-forced-displacement/> (accessed 24 August 2023).

<sup>30</sup> Baraza LW "The role of regional organizations in peacemaking in Africa: A case study of the Intergovernmental Authority on Development (IGAD), in Somalia" (master's thesis, Institute of Diplomacy and International Studies, University of Nairobi, Kenya, 2015) available at <http://erepository.uonbi.ac.ke/handle/11295/93096> (accessed 24 August 2023).

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comprise a patchwork of strategies, policies and institutions reliant on the capacities of individual AU member states. Many of the mechanisms fall under the ambit of the IGAD Security Strategy Programme (SSP) and the African Peace and Security Architecture (APPSA), with the latter term used to describe various AU mechanisms for peace, security and stability in Africa.<sup>31</sup>

Various Western governments and donors support African countries through bodies such as IGAD, a collection of African states seeking to implement region-wide strategies to promote development and prevent displacement. However, IGAD remains silent about the Kampala Convention, and has failed to comment on either the forcible displacement of people in West and Southern Africa, or the political and service delivery protests by millions of young people in the Southern African region. While IGAD has received support and aid from Western countries, it has always been the last to publicly air its concerns about African people fleeing and dying as a result of displacement or about the humiliating conditions in which such people are forced to live in host communities.<sup>32</sup> The AU has urged member states to ratify the treaty on human displacement, thereby supporting the APPSA. The APPSA facilitates joint operations and information flows between African states, thus encouraging cooperation in terms of legislation on forced displacement. Initiatives that fall under the APPSA include the joint training of law enforcement agencies on displacement regulations, the establishment of IDP camps, and the skills training of IDP camp officers.<sup>33</sup>

The AU's policies have far-reaching implications for member states in that they seek to induce them to subscribe to a standardised, mainstream approach to displacement and to co-opt national institutions to support this goal. Through regulation and welfare measures, the AU seeks to limit displacement and encourage the development of national displacement policies. Moreover, it encourages regional institutions to develop regulations for the control and management of displacement, and to run public awareness campaigns that will prevent displacement.<sup>34</sup> The AU also acts as chair of the Regulation Enforcement Task Force, which deals with priority displacement cases for member states' governments, and is engaged in research, monitoring and evaluation. Through the Kampala Convention, the AU is tasked with disseminating information

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<sup>31</sup> Baraza (2015).

<sup>32</sup> African Union Pan-African Parliament "Recommendation on the African Union theme for the year 2019: The year of refugees, returnees and internally displaced persons", AU PAP.5/PLN/RES/07/May.19 available at <https://africanlii.org/akn/aa-au/statement/recommendation/pap/2019/5-2-3/eng@2019-05-17>(accessed 17 May 2019).

<sup>33</sup> Cantor D & Maple N "Contemporary perspectives on internal displacement in Africa: An introduction to the Refugee Survey Quarterly Special Collection" (2021) 402(2) *Refugee Survey Quarterly* 139.

<sup>34</sup> Dieng A "Protecting internally displaced: The value of the Kampala Convention as a regional example" (2017) 99(904) *International Review of the Red Cross* 263.

concerning the methods and modalities of displacement networks operating in Africa and in member states' territories.<sup>35</sup>

The AU seeks not only to influence member states' policies, but to promote extra-regional support for countries in West, South, East and North Africa.<sup>36</sup> The body has established guiding principles for the management and care of displaced persons in member states' territories, along with a number of initiatives to create awareness of the hazards of forced displacement and life in IDP camps. Policies for the prevention of displacement are boosted not only by the activities of the AU and sub-regional organisations, but also the United States and some Middle Eastern countries sympathetic to the issues of forced displacements in Africa.<sup>37</sup>

Certain governments tend to prioritise their interests in a region, often at the expense of the people living there. This is expressed through various policies that prevent people from escaping dangerous areas to seek refuge elsewhere and discourage people from following others who have done so. Individuals violating these laws frequently face severe consequences, including interception, detention, and repatriation. Additionally, intergovernmental institutions and regional development agencies tend to focus more on the management of forced displacement and IDPs than on addressing the broader context of displacement as a whole. While some issues, such as conditions in camps, may overlap between IDPs, it is essential to distinguish between these categories to ensure that appropriate laws, policies, and actions are applied effectively. The work of intergovernmental institutions and regional development agencies in effect promotes the idea of a permanent class of beneficiaries, which is advantageous for the development industry and assists in fundraising. It does little, however, to solve the problem of the ongoing mass forced displacement of people across Africa.

Experience has shown that the regional development agenda in sub-Saharan Africa has been unable to prevent violent conflict in the region. Ongoing conflicts have had a devastating effect on the youth, forcing entire communities to abandon their homes in places such as Nigeria and South Sudan and effectively relegating a generation of children to permanent instability and broken, if any, education. Those who remain fare no better, and in fact are worse off. The AU should be diligent in supporting efforts to prevent displacement, thereby ensuring that people are not left in untenable situations. The AU is grappling with both the immediate management of individuals in camps and the long-term implications of forced displacement. In this context, potential exploiters – such as political actors or entities with vested interests – may seek to prevent the establishment of camps or influence their management. This could undermine effective responses to displacement and complicate both short- and long-term solutions.

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<sup>35</sup> Internal Displacement Monitoring Centre *Global report on internal displacement 2021* (2021) available at <https://www.internal-displacement.org/global-report/grid2021/> (accessed 20 December 2021).

<sup>36</sup> Giustiniani ZF "New hopes and challenges for the protection of IDPs in Africa: The Kampala Convention for the protection and assistance of internally displaced persons in Africa" (2011) 39(2) *Denver Journal of International Law and Policy* 347.

<sup>37</sup> Giustiniani (2011) 347.

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Ultimately, the AU must balance its humanitarian efforts with its commitment to preventing any form of manipulation or exploitation.

When it comes to transnational actors – such as INGOs, the UN, or other international bodies – their response has been to ignore the systemic deprivations and repressive domestic politics of member states' governments.<sup>38</sup> Deprivation and repression have become the norm, and as a result African or international bodies have exerted little effort to address these issues. In addition, this rationale is considered the basis for these actors' engagement with member states.<sup>39</sup>

The logical outcome of years of involvement by international bodies in Africa has been a shift in the relationship between populations and state authorities in charge of displaced people. This shift has led to the neglect of critical issues affecting the population, such as access to basic services, security concerns, and opportunities for livelihood and integration.<sup>40</sup> A lack of attention to the needs and concerns of the population has led to a situation in which significant tension prevails between the general public and government authorities,<sup>41</sup> a situation caused by years of neglect and indifference to pressing issues that are important to the people. In many African countries, governments are effectively at loggerheads with their own populations.<sup>42</sup> The rhetoric of democracy and human rights promotion is often framed in terms of the quest for dignity, freedom and governance by laws. However, in some cases, rhetoric may not be sufficient to achieve these goals. In such cases, action is required in order to ensure that the quest for dignity, freedom and fair governance is properly valued and respected. Such action could include strengthening the rule of law, increasing access to education, and ensuring equal access to resources and opportunities for all individuals, regardless of background or identity.<sup>43</sup> Ultimately, the goal of such actions is to ensure the full realisation of the underlying values of democracy and human rights.<sup>44</sup>

By ignoring human rights violations, political repression and the financial deprivation suffered by populations throughout Africa, the ruling elite, foreign patrons and

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<sup>38</sup> United Nations "Root causes of conflicts in Africa must be addressed beyond traditional response, special adviser tells Security Council debate on silencing guns: Speakers highlight link between durable peace, inclusive development policies, SC/15249" (30 March 2023) available at <https://press.un.org/en/2023/sc15249.doc.htm> (accessed 24 August 2023).

<sup>39</sup> African Union "The sixth forum of the African Union Commission on International Law on the theme: The legal, political and socio-economic consequences of migration, situation of refugees and internally displaced persons in Africa" Malabo, Equatorial Guinea (4–5 December 2017).

<sup>40</sup> African Union (2017).

<sup>41</sup> African Union (2017).

<sup>42</sup> African Union (2017).

<sup>43</sup> African Union (2017).

<sup>44</sup> African Union (2009).

intermediaries can maintain and even expand their power and wealth.<sup>45</sup> This is achieved by creating an environment of aggrandisement of the few and self-perpetuating problems for the majority, problems which demand constant attention and financial inflows from outside agencies – from which those in power benefit. Concentrating power and resources in the hands of a few serves to maintain the status quo and keep most of the population in a state of poverty and subjugation.<sup>46</sup> Therefore, it is essential to acknowledge these issues and take steps to address them to bring about positive change. “Displacement” and “development” are terms commonly used in the dynamics of transnational actors, such as leaders and their dependent class of beneficiaries in Africa, along with global patrons and regional and national non-government organisations.<sup>47</sup>

These actors are involved in various activities, such as:

- managing migration and displacement that arise from economic, political and environmental factors, often leading to poverty and inequality;
- developing infrastructure, such as roads, rail, ports, power plants and telecommunications networks to aid economic growth and reduce poverty;
- investing in social services, such as health, education and housing, to reduce poverty and improve living standards; and
- promoting good governance, democracy and human rights to ensure a sustainable and equitable society.<sup>48</sup>

The goal of these actors is to create a more equitable and prosperous world by reducing poverty and increasing economic development.<sup>49</sup> By creating opportunities for people to move and live in more secure and prosperous environments, they can help create a better future for all. True development requires the provision of accurate and reliable information to the young population affected by displacement so that they may understand decisions being made on their behalf and have a say in their future. To ensure that money is not wasted, state functionaries and intergovernmental institutions must ensure that there is proper accountability and transparency in the allocation and use of humanitarian funds.

Furthermore, socio-economic disparities and political instability in many countries have led to displacement and a range of development issues, with initiatives often failing to take a person-centred approach.<sup>50</sup> In some cases, the weaknesses of development

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<sup>45</sup> Abegaz ST “Displacement from land as a limit to the realisation of the right to development in Ethiopia” (2020) 45(1) *Journal for Juridical Science* 51 at 51.

<sup>46</sup> Abegaz (2020) 51 at 51.

<sup>47</sup> Abegaz (2020) 51 at 51.

<sup>48</sup> Abegaz (2020) 51 at 51.

<sup>49</sup> Abegaz (2020) 51 at 51.

<sup>50</sup> Navone A “How to address Africa’s ‘staggering’ displacement crisis” (2019) available at <https://www.usip.org/publications/2019/05/how-address-africas-staggering-displacement-crisis> (accessed 20 December 2021).

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projects have been exacerbated by external forces and an oppressive environment that has been created by religious, ethnic and political tensions, along with economic inequality and social injustice.<sup>51</sup> As a result, many people have been denied their rights, treated as second-class citizens, and subjected to violence, human rights violations, and exploitation. To address these issues, governments and international organisations must ensure that policies and interventions prioritise the needs of those affected by displacement, while also promoting solidarity and respect for all individuals.

### 6 CASE STUDY: NIGERIA

Forced displacement from northeastern Nigeria to other parts of the country and beyond is mostly occasioned by the activities of fundamentalist insurgent groups such as Boko Haram. Before 2009, people in the northeast were displaced to neighbouring countries such as Cameroon, Chad, the Republic of Niger, and Mali for a number of reasons, not all of them to do with insurgency.<sup>52</sup> Informed Nigerians have long been at loggerheads with the government for both religious reasons and because of government corruption.<sup>53</sup> From 2009 to the present, insurgency (by the Boko Haram group), arising from a combination of extremist views, chronic poverty and ongoing government neglect, has destabilised life in northeastern Nigeria.<sup>54</sup> Uprisings resulted in government crackdowns on those accused of supporting the insurgency, with many dying at the hands of the military or the insurgents. Thousands of people have been forced to flee their homes, leading to the emergence of the first large-scale population of IDPs in West Africa.<sup>55</sup>

The violence has also exacerbated existing tensions between different ethnic and religious groups in the region, leading to further displacement and displacement-related human rights abuses. Before 2020, when restrictions were placed on displacement to neighbouring countries, many people fled to Cameroon, Chad, Mali and Nigeria.<sup>56</sup> The political landscape of Nigeria was turbulent, to say the least.<sup>57</sup> The government of

<sup>51</sup> Kidane W "Managing forced displacement by law in Africa: The role of the new African Union IDPs Convention" (2011) 44(1) *Vanderbilt Journal of Transnational Law* 1 at 1.

<sup>52</sup> Bamidele S "Understanding insurgency in Nigeria: Interrogating religious categories of analysis" (2018a) 22(2) *Jadavpur Journal of International Relations* 189.

<sup>53</sup> Bamidele S "Simultaneous geography, divided communities: Paving the way to silencing the ethno-religious insurgencies in Nigeria" (2018b) 40(1) *Ufahamu: A Journal of African Studies* 175.

<sup>54</sup> Bamidele S "Creating the deserved protection: Reflections on Civilian Joint Task Force (CJTF) counter-insurgency operations in the north-eastern region of Nigeria" (2017) 4(1) *Journal of Law, Society & Development* 1 at 1.

<sup>55</sup> Bamidele S & Pikirayi I "The travail and feasibility of returning home of Gwoza women in New Kuchingoro Internally Displaced Persons camp, Nigeria" (2023) 58(8) *Journal of Asian and African Studies*.

<sup>56</sup> Bamidele S "Which way is Nigeria heading? The post-colonial political system and developmental issues" (2018c) 4(3) *PEOPLE: International Journal of Social Sciences* 405 at 405.

<sup>57</sup> Bamidele (2018c) 405 at 405.

Muhamadu Buhari at the time faced the pressing challenge of trying to curb the exodus by combatting rising banditry, insurgency, and militancy. Its attempts to curb displacement created the impression of a democratising and human rights-friendly administration, which was echoed by the country's national partners. However, it soon became apparent that despite Buhari's promises and the expectations these created, the government was unable to provide the necessary stability and security to its citizens.<sup>58</sup> This led to increased dissatisfaction with the government, and the situation seemed to worsen with each passing day.

To address the problem, the government took several steps. These included introducing an improved security policy that incorporated communities into counterinsurgency efforts, provided better aid and support to displaced populations, and created a more conducive environment for economic development. This was to be achieved by giving soft loans to displaced people for farming in other areas, including skills acquisition training. In addition, the government tried to increase transparency in the political system and ensure greater accountability by those in power.

The efforts are laudable, but have been inadequate in resolving the many underlying issues that gave rise to the crisis in the first place. The country continues to face the consequences of political upheaval that began in late 1999<sup>59</sup> and to take a hard-line stance against all opposition. The current government does not tolerate criticism of its policies and, to suppress dissenting views, labels those who express disagreement as 'anti-development forces'. It uses hostile rhetoric against them, creating an atmosphere of tension and conflict between the state and religious insurgency groups, as well as between individual members of society.<sup>60</sup> The state's reaction to any criticism, real or perceived, is usually swift and decisive, making it clear that it will not tolerate any opposition to its policies and objectives.

Over the past few decades, religious and social groups in the country have been subjected to significant marginalisation and suppression by the ruling administration.<sup>61</sup> They are labelled enemies of the state and treated as insurgents, although many are not members of any insurgency group. Harsh practices such as blackmail and intimidation are common.<sup>62</sup> As a result of this oppressive environment, members of these minority groups have been unable to participate in religious, political, social and economic development. This has resulted in a sense of powerlessness among the marginalised population, who have been unable to make their voices heard or push for meaningful

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<sup>58</sup> Bamidele S & Pikirayi I "Assessment of government and non-governmental organization in assisting the internally displaced women in New Kuchingoro camp, Abuja, Nigeria" (2021) 41(4) *Development Policy Review*.

<sup>59</sup> Bamidele S (2018c) 405 at 405.

<sup>60</sup> Bamidele S (2018a) 189.

<sup>61</sup> Bamidele S "Surviving the tides, the bumps and the jolts in democracy: Building a solid anti-corruption framework to create a 'useful' Nigeria" (2018d) 45(2) *JEBAT: Malaysian Journal of History, Politics & Strategic Studies* 1.

<sup>62</sup> Bamidele (2018d) 1.

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change. The Boko Haram movement, which makes religious demands, has been met with resistance and even violence by state actors.<sup>63</sup> Lack of economic and political freedom in the northeastern states has resulted in a stand-off between the government, represented by the military, and the people. Continued insurgency by radical groups such as Boko Haram adds to the social fragmentation of the region, which is compounded by regional disparities, since access to resources and services is unequally distributed, leaving some states with a greater sense of insecurity and exclusion than others.<sup>64</sup>

Other factors such as a lack of unified policy-making and limited access to education exacerbate the problem of fragmentation.<sup>65</sup> This lack of solidarity has meant that citizens have little access to social capital and opportunities, making it difficult for them to advance economically and advocate for their rights. Economic and political instability disrupts social service delivery, keeping the majority in a state of poverty and inequality.<sup>66</sup> Worse still, disenfranchised families and communities are often powerless to stop forced conscriptions and unable to demand a better education and gainful employment for their children. Without the ability to challenge the status quo, these communities have no way of improving their living conditions and are condemned to a life of poverty and oppression.

### 7 FORCED DISPLACEMENT IN NIGERIA

In Nigeria, a combination of political turmoil and economic hardship has led to an increase in the displacement of people.<sup>67</sup> Political turmoil has included civil unrest, armed conflict and government repression, while economic hardship has been largely attributed to an unequal distribution of resources and a lack of access to basic services. This has been compounded by environmental degradation and climate change, leading to reduced agricultural productivity and a decrease in job opportunities.<sup>68</sup> These factors have caused many to flee their homes in search of safety and security, and to seek better opportunities outside of their country.

The consequences have been severe. Forced displacement strips people of their support and protection networks, removes them from basic services such as clean water and health care, and causes physical and psychological trauma.<sup>69</sup> Voluntary displacement, while sometimes a necessary option, can also lead to a range of problems, such as

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<sup>63</sup> Bamidele (2018a) 189.

<sup>64</sup> Bamidele (2018a) 189.

<sup>65</sup> Bamidele (2018a) 189.

<sup>66</sup> Bamidele (2018a) 189.

<sup>67</sup> Laurent K, Mitra P, Okou C & Unsal DF “How Africa can escape chronic food insecurity amid climate change” (14 September 2022) available at <https://www.imf.org/en/Blogs/Articles/2022/09/14/how-africa-can-escape-chronic-food-insecurity-amid-climate-change> (accessed 26 August 2023).

<sup>68</sup> Laurent K et al. (2022).

<sup>69</sup> Laurent K et al. (2022).

exploitation and vulnerability to human trafficking. Moreover, the displacement of people from their communities can lead to isolation and alienation in the new location, as well as an inability to access services and resources.<sup>70</sup> Therefore, it is important for governments and other stakeholders to provide support and protection for displaced people and to work towards creating safe and secure environments for them to return to.

The Boko Haram insurgency intensified displacement in Nigeria between 2009 and 2021, propelling the AU and other organisations to act. Unfortunately, their efforts did not prevent further displacement, with reports showing an increase in annual numbers of IDPs during this period.<sup>71</sup> Ongoing insurgency continues to force Nigerians to seek refuge in nearby countries, with many Nigerians even fleeing to Cameroon. Displacement at the scale it has now reached demands a global solution, as the problem affects entire countries, including many in Europe. The IDMC reports that more than 100,000 Nigerians arrived in IDP camps between January 2010 and December 2021.<sup>72</sup> In total, 200,000 people were displaced from their homes in Nigeria from 2010 to 2021.<sup>73</sup>

Nigeria has received a significant number of displaced people and has consequently implemented stricter border controls to manage the influx from neighbouring countries, including Niger and Chad.<sup>74</sup> The neighbouring countries have been criticised for their treatment of Nigerian IDPs, with reports having been made of mistreatment of those believed to be of Nigerian origin.<sup>75</sup> This has raised questions about the legitimacy of neighbouring countries' protection of their borders and why they are repatriating Nigerian IDPs and barring those from Niger and Chad. The situation along the Nigerian border is complex, and there is a need for more understanding and dialogue between Nigeria and its neighbours to ensure the safety and protection of all displaced people.

Displacement creates a precarious situation for those who flee and for the countries in which they seek refuge. Host countries have had to cope with the influx of displaced people, which has created a burden on already-limited resources. The situation is dire, and people's relocation to IDPs camps perpetuates the hopelessness of their situation. They are not under immediate threat of death, but face ongoing mistreatment, poverty and exploitation by locals when they leave in search of work. The IDMC-GRID report estimates that between 14,750 and 16,850 IDPs were living in camps in the sub-Saharan African region from 2000 to 2021.<sup>76</sup> By 2021, this number had reached 16,850, with the majority of camps located in Nigeria, Mali, Libya, Ethiopia, and Somalia. Additionally,

<sup>70</sup> Laurent K et al. (2022).

<sup>71</sup> IDMC (2021).

<sup>72</sup> IDMC (2023).

<sup>73</sup> IDMC (2023).

<sup>74</sup> Bamidele S "Sweat is invisible in the rain": Civilian Joint Task Force and counter-insurgency in Borno State, Nigeria" (2020) 31(4) *Security & Defence Quarterly* 171 at 171.

<sup>75</sup> Bamidele (2020) 171 at 171.

<sup>76</sup> Bamidele (2020) 171 at 171.

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significant numbers of IDPs have been reported in the DRC, Kenya, Tanzania, Mozambique, and Zimbabwe, where they have sought refuge and support within their host communities.<sup>77</sup>

The Nigerian government has proposed a policy that would require all displaced people to be confined to secure camps and in terms of which only those who find homes in host communities would be allowed to integrate in society. Nevertheless, in the camps they should be afforded all necessary protection and assistance, including food and medical care. This is in line with the Kampala Convention, which states that all displaced persons should be provided with protection and assistance regardless of their status. However, the national policy offers little hope of change for those who are confined to camps.<sup>78</sup>

IDP camps keep people alive but do little to solve the long-term problem of displacement. The policy is inadequate, and there is an urgent need to develop and enforce stronger protections for those who are compelled to live more or less permanently in such camps.<sup>79</sup> Displacement is a complex issue that transcends individual circumstances and cannot simply be attributed to the choices of displaced persons. In Nigeria, for instance, the ongoing conflicts, particularly in the northeast, have created an environment rife with violence, deprivation, and oppression. The root causes of displacement often stem from systemic issues such as inadequate governance, lack of security, and socio-economic instability, which collectively contribute to the plight of IDPs.<sup>80</sup> Understanding these factors is crucial for addressing the broader context of displacement.

According to its mandate as outlined in various charters and protocols, the AU is responsible for protecting and assisting vulnerable populations, including IDPs. However, in the case of Nigeria, the AU's response has fallen short of these commitments. Despite formal declarations such as the Kampala Convention and other AU commitments to support IDP rights, the AU has encountered significant challenges in translating these policies into effective action on the ground. For example, while the AU has acknowledged the challenges faced by IDPs in Nigeria, its initiatives have often fallen short of providing meaningful support or addressing the underlying causes of displacement. This lack of decisive action underscores a significant gap in the AU's role as a regional leader in humanitarian response.

Moreover, the failure to adequately assist IDPs in Nigeria reflects a broader trend within the AU's approach to displacement. Instead of prioritising sustainable solutions that

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<sup>77</sup> Bamidele (2020) 171 at 171.

<sup>78</sup> Nigeria: National Policy on Internally Displaced Persons | Refworld <https://faolex.fao.org/docs/pdf/nig229292.pdf> (accessed 23 July 2024).

<sup>79</sup> World Bank "Forcibly displaced: Toward a development approach supporting refugees, the internally displaced, and their hosts" (2017) available at <https://shorturl.at/l0PVG> (accessed 18 November 2024).

<sup>80</sup> IDMC (2023).

empower displaced populations, the focus has often been on short-term measures that do not tackle the root causes of their suffering. As a result, many IDPs remain trapped in cycles of poverty and vulnerability, with limited access to essential services and opportunities for reintegration. A stronger, more coordinated effort from the AU is essential to address these challenges and fulfil its responsibility to support displaced persons in Nigeria and beyond.

## 8 CONCLUSION

The displacement of people from sub-Saharan Africa caused by violent conflicts prompted a humanitarian response from the AU. This response was formalised in 2009 when the AU agenda on displacement was approved in the form of the Kampala Convention. The primary aim of the Convention and the subsequent handling of displacement in Africa is to prevent further displacement, ensure the security and stability of the region, and protect the displaced. This has entailed co-opting a range of institutions in AU member states and using them as a bulwark against transnational and trans-regional insurgency. These actions have been criticised as motivated purely by security goals, with little regard given to the humanitarian aspects of displacement. Displacement has been discouraged, but little has been done to ease lot of those who continue to be displaced by a combination of inadequate policies, government corruption and neglect, and ongoing violence.

Driven by a combination of “push” and “pull” factors, displacement is a complex issue that has been forced on people for centuries. In Africa, it cannot be denied that most of the drivers are “push” factors: individuals and groups are fleeing oppressive conditions. In sub-Saharan Africa, the AU and other international actors have been silent on some of these push factors, including the conditions that give rise to insurgency in Nigeria. The greatest response so far has simply been for the AU and other actors to urge member states to change their displacement policies.

The underlying causes of displacement and the hardships endured by those who are displaced are thus largely overlooked. Governments, intergovernmental institutions and INGOs must understand the long-term implications of displacement and the need to assist those affected. Attention must be paid to the causes of displacement, as well as to possible solutions that will reduce the number of people forced to flee their homes. Continuous waves of displacement do not foster conditions conducive to economic growth.

Despite the efforts of trans-regional and transnational actors to promote peace, stability and development, the current circumstances of the region suggest that people will continue to be forced to flee their countries in search of a better life, often with dire consequences. The lack of commitment to democracy, transparency in government, political freedoms, and economic development for all, not just the few, means that many individuals have no choice but to flee their circumstances, and will continue to face numerous hardships in attempting to create bearable lives for themselves and their children. To bring an end to this displacement crisis, governments, organisations and

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individuals must work together to promote social, economic and political development in the region.

Regional regulations and policies require states to uphold the rights of all individuals, irrespective of race, religion, nationality, social group membership, or political opinion. The Kampala Convention, particularly article 33, underscores these obligations for displaced persons by prohibiting states from returning individuals to places where their lives or freedom would be at risk due to their identity. This protection mechanism is fundamental to the Kampala Convention's vision of a law-abiding, accountable state. However, the extent to which the AU has effectively supported member states in implementing these protections remains uncertain. A stronger alignment between AU support and state compliance with the Convention's standards could reinforce the Convention's goals, ensuring regional accountability and adherence to international human rights standards.

The displacement discussed in this article is an important issue which is complicated by the clientelist interests of powerful, uncaring African government or actors. Many African governments are legitimising practices that take away people's autonomy and capacity to control their own affairs, a situation which goes against long-standing regional principles, regulations and norms on displacement. This highlights the importance of strong state governments and respect for the dignity, freedom, justice and rights of all individuals. It also highlights the need for African governments to practise good governance for the sake of their own people and the continent in general.

It is difficult to reflect accurately on the complexities of displacement, transnationalism and governance by law without taking a case-by-case approach. Questions need to be identified that are rooted in the real context of displacement, and appropriate methodologies need to be applied to gain a better understanding of the issue. Doing so would provide greater insight into the clientelist forms of involvement of extra-regional actors in sub-Saharan Africa and highlight the need of African people to uphold the principles of human dignity, freedom and governance by law.

Moreover, it is important to note that while mainstream forms of reporting on displacement may provide a good starting-point, they are often limited in their scope and do not provide a comprehensive overview. Studies are needed that examine the issue closely in specific countries and map the findings geographically and historically. It is possible to nurture ethically and academically sound perspectives on displacement, transnationalism, and governance by law.

Displacement from sub-Saharan African countries has significantly affected the region and its people. Academics can contribute to greater understanding by identifying the factors that have been found to prevent displacement and reduce its damaging effects where it does take place. Although the phenomenon may never subside entirely, it is possible that it could be reduced and managed correctly. Greater political will and cross-border cooperation could promote human dignity and end the scourge of vast IDP

camps that offer little but a subsistence existence for IDPs. It is necessary to investigate and question the role of both state and non-state actors in displacement to understand the root causes and find effective solutions. Ultimately, such an approach can help to bring about more positive outcomes in the region and ensure a better future for its people.

## AUTHORS' CONTRIBUTIONS

The first author contributed to the conceptualisation of this article and the drafting of the manuscript and editing; the second author was responsible for drafting of the abstract; and both authors were responsible for final revisions.

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