

Legal Protection of IDPs with Disability Amidst Human-Induced Climate Change in Nigeria: A Case Study of Kogi State

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Abstract

In 2021, available evidence showed that about 85% of the total population in the world had already been affected by human-induced climate change. Persons with disabilities not only constituted 15% of this total population but their rights had been neglected. In Nigeria, the results of human-induced extreme hazards and disasters have affected persons including those living with disabilities because they are displaced and forced to resettle in other places for survival. This forced habitation has doubled the vulnerabilities of persons with disabilities. Thus, they experience higher rates of injury and death, increase in economic insecurity, and human rights violations. Using both quantitative and qualitative descriptive methods, this research had two key objectives. First, it investigated how human-induced climate change contributed to internal displacement. Second, the research critically analysed Nigeria's relevant legal instruments to ascertain the extent to which they address challenges relating to persons with disabilities during climate change disasters and other emergencies. Kogi State was used as a case study for this research. The findings revealed the ineffectiveness of extant laws and policies on the participatory right and achieving durable solutions for persons with disabilities during human-induced climate change disaster in Kogi State. The paper recommended implementation of Discrimination Against Persons with Disabilities (Prohibition) Act, 2018; amendment of Kogi State Environmental Law, proper implementation of the right-based approach measures identified in the National Policy on Internally Displaced Persons, 2012 and the action plan under the Climate Change Act, 2021.

1.0 Introduction

There is no doubt that all over the world, there is an increase in the number of internally displaced persons (IDPs)¹ and this has accounted for 85% of the world's population that need humanitarian assistance.² In Nigeria in particular, it was reported that there is 42% increase of IDPs as of January 2021.³ There has been escalation of 'situations of risk' coupled unpredictable situation in North Central Nigeria. The disruption has led to fluid mobility and

¹ Internally Displaced Persons according to the United Nations Secretary General means "Persons or groups of Persons who have been forced or obliged to flee their homes or place of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters and who have not crossed internationally recognised state borders." See UN Secretary General, 'Analytical Report of the Secretary-General on Internally Displaced Persons' (1992) E/CN.4/1992/1 11 United Nations. Available online at <https://www.digitalibrary.un.org/record/137260> accessed May 10, 2023.

² See Einar H. Dyvik: Global Report on Internal Displacement 2023 (GRID 2023)- ReliefWeb Available online at <https://www.relefweb.int> ; <https://www.internal-displacement.org>; <https://www.displacement.dtm.iom.int> accessed May 25, 2023.

³ International Organization for Migration (IOM) Nigeria Displacement Tracking Matrix Report, 2021. Available online at <https://www.dtm.iom.int> accessed May 28, 2023.

caused dislocation not only in the affected communities but contiguous areas such as Kogi State where displacement of persons has increased over the years. Displacement Tracking Matrix Assessment by International Organization for Migration (IOM) shows that “19,439 individuals and 3,504 households were affected by floods as at November, 2022.”⁴ The Post-Disaster Needs Assessment report by the Nigerian government has also shown that “fourteen States including Kogi have been affected by floods as at 2012.” Extant report has further shown that floods has become a regular phenomenon in Kogi State and has created massive displacement of both human and animal population. Many displaced persons, for example, have been hosted at Internally Displaced Camps because the “affected persons in Eroko/Abom of Bassa Local government Area of Kogi State representing 1,023 individuals were displaced and hosted in Ajaokuta Local government Area of Kogi State.”⁵ As of 2022, a report⁶ further showed that 277 persons with disabilities were among 13,636 internally displaced persons.⁷ In Fig. 1, the researcher’s fieldwork survey shows the period that IDPs with disabilities were displaced in Kogi State.

Fig. 1 How long have you been displaced from your home due to climate change-related factors?⁸

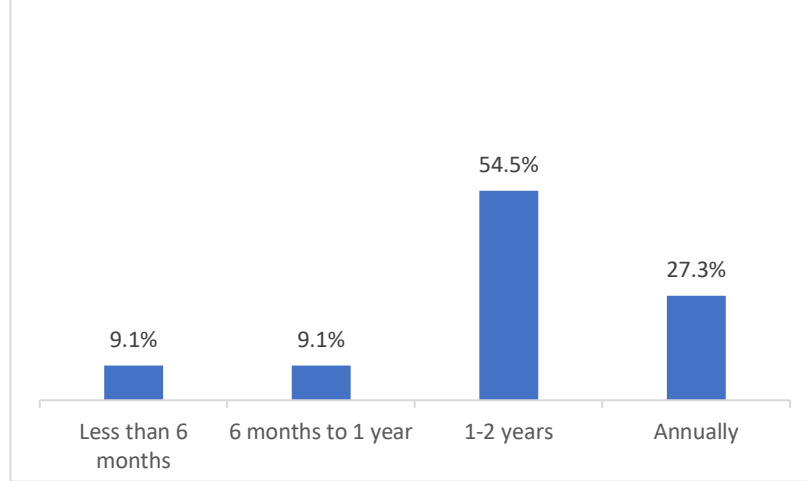
⁴See UN OCHA, Floods Response: Flash Update 2, (1 November 2022), International Organization for Migration (IOM) Nigeria Displacement Tracking Matrix Report, 2022. Available online at <https://www.dtm.iom.int> accessed May 28, 2023

⁵ Ibid

⁶ IOM Nigeria DTM Flood Report NC-Kogi State 2022. Available online at <https://www.dtm.iom.int> accessed April 20, 2023.

⁷ Disability in an umbrella term according to the Washington Group refers to “problems, such as impairment, activity limitation or participation restrictions that indicate the negative aspects of functioning.” See Washington Group on Disability Statistics Rationale for the Short Set - Statement of rationale for the Washington Group general measure on disability. Available online at http://www.cdc.gov/nchs/washington_group/wg_rationale.htm accessed March 20, 2023.

⁸ Questionnaire administered on April 25, 2023



Source: Author’s Fieldwork Survey, 2023

IDPs, including those with disabilities, have experienced threat to life, food insecurity, malnutrition, exposure to diseases and lack of educational facilities due to their vulnerabilities.⁹ IDPs with disabilities tend to be invisible in emergency registration systems and are often excluded from disaster management efforts. In addition, the social barriers faced by persons with disabilities impact negatively on their safety as “lack of inclusive awareness and disaster preparedness initiatives limit their capacity to observe safety instructions.”¹⁰

Instructively, climate change¹¹ has been identified as one of the major disasters that cause displacement and Nigeria, as a nation, suffers the effects of climate change majorly through flooding.¹² However, in most of the reported cases and literature, displacement due to human-induced climate change has not been reported especially for persons with disabilities. In Table 2, all the fifty-five (55) respondents representing 100% hold the view that they have personally experienced flooding in their neighbourhood.¹³ In another set of the questionnaire administered by the author in Table 2, fifty-two (52) of the respondents representing 94.6% said that they

⁹ International Organization for Migration (IOM) Nigeria Displacement Tracking Matrix Report, 2021. Available online at <https://www.dtm.iom.int> accessed May 28, 2023.

¹⁰ GUTNIK Alyssa; ROTH Marcie (2020): Disability and Climate Change: How climate-related hazards increase vulnerabilities among the most at risk populations and the necessary convergence of inclusive disaster risk reduction and climate change adaptation. Lyon: Humanity & Inclusion, 2018. License: Creative Commons Attribution- NonCommercial-NoDerivatives 4.0 International (CC BY-NC-ND 4.0) <https://www.preventionweb.net/publication/disability-and-climate-change-how-climate-related-hazards-increase-vulnerabilities> ; <https://www.disabilityinclusiveclimate.org/resources> accessed April 25, 2023

¹¹ By section 53 of the Climate Change Act 2021, climate change means “a change of climate which is attributed directly or indirectly to human activity or natural climate variability that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.”

¹² Meresa, H.; Murphy, C.; Fealy, R.; Golian, S. Uncertainties and Their Interaction in Flood Hazard Assessment with Climate Change. *Hydrol. Earth Syst. Sci.* **2021**, *25*, 5237–5257; Rentschler, J.; Salhab, M. *Persons in Harm’s Way: Flood Exposure and Poverty in 189 Countries*; Policy Research Working Paper, No. 9447; World Bank: Washington, DC, USA, 2020

¹³ Questionnaire administered on April 25, 2023

had been displaced before the author's fieldwork due to climate change-related disasters such as flooding.¹⁴

Human induced climate change includes industrialization, burning fossil fuel, oil spillage, effluent discharge, deforestation and killing of wildlife, dumping waste in landfill, continued flooding, increased greenhouse gas emissions agricultural practices etc. Thus, having devastating impacts of excessive flooding, loss of lives; forced human settlements; impaired drinking water; damage etc.¹⁵ Instructively, the rights and roles of persons with disabilities had been overlooked in the literature as there is a dearth of literature on the special measures to be adopted in protecting the rights of IDPs with disabilities affected by climate change and how to include them in humanitarian actions. Thus, they are at risk of exclusion from data collections, decision-making, planning and they face intersecting threat that depend on their disability with response to displacement in Nigeria, particularly in Kogi State. This is an aspect which this study explores deeply. It should be noted that this study is limited to human-induced climate change such as dumping of waste, poor drainage system and poor waste management that have devastating impacts of overflow of water or excessive flooding in some affected areas of Kogi State, Nigeria.

Interestingly, in aligning with the international best practices, Nigerian government engaged in the formulation of policies and enactment of laws to curb the occurrence of climate change disasters, unfortunately, there is an upsurge in climate change displacement of persons and socio-economic or environmental vulnerabilities which added to the existing problems and compounded existing threats to people of Kogi State. This study therefore critically investigates how human-induced climate change contributes to internal displacement and analysing disaster management-related legal instruments in Nigeria to ascertain the extent to which they address the complex challenges associated with climate change human-induced displacement of persons with disabilities in Kogi State.

To achieve its set objectives, the study centres on the following research questions:

¹⁴ Ibid

¹⁵ *NIGERIA Post-Disaster Needs Assessment 2012 Floods The Federal Government of Nigeria With Technical Support from the World Bank, EU, UN, and Other Partners*; National Emergency Management Agency (NEMA): Abuja, Nigeria, 2013. Available online: https://www.gfdr.org/sites/default/files/publication/NIGERIA_PDNA_PRINT_05_29_2013_WEB.pdf (accessed on 8 June 2020)

- (i) What is the nature and impact of human induced climate change on IDPs in Nigeria?
- (ii) How adequate are the legal instruments for the protection of IDPs against the effects of human-induced climate change in Kogi State?
- (iii) Are there separate and effective durable solutions that best address the issues of displacement of persons with disabilities in Kogi State?
- (iv) What strategies can be adopted in terms of laws and policies to cushion the effects of human-induced climate change on IDPs?

2.0 Methodology and design of the study

In answering the above research questions and achieving the set objectives of this study, quantitative and qualitative¹⁶ descriptive methods are adopted. These methods generate rich descriptive data from primary and secondary sources by using doctrinal and non-doctrinal approaches. The use of mixed methods strengthens the overall results, making it more reliable than either quantitative or qualitative research.¹⁷ Thus, the researcher had a strong conviction that these approaches are element of fit between the study and the methods used by aligning with the position of Janet House¹⁸ and Hassan who opined that “survey research involves direct contact with a population or sample that has characteristics, personality qualities or attributes which are relevant to a specific investigation.”¹⁹ While the doctrinal approach helps with identifying laws, evidence-based research and the works of various scholars relevant to climate change, internal displacement and persons with disabilities in Kogi State. The non-doctrinal approach, on the other hand, covers the collection of data from stakeholders/informants by obtaining first-hand information and lived experiences of both the victims and the personnel involved in climate change, internal displacement and persons with disabilities in Kogi State.

¹⁶ Qualitative research is a procedure that produces findings not arrived at by means of statistical procedures. See Strauss A. and Cobin J., Basics of Qualitative Research: Grounded Theory Procedures and Techniques (London, California, India: Sage Publications, 1990)

¹⁷ The socio-legal research approach involves ‘the application of interdisciplinary perspectives through theoretical and empirical research in examining phenomena’. See the British Library ‘Socio-legal studies: An introduction to collections’ <http://www.bl.uk/reshelp/findhelpsubject/busmanlaw/legalstudies/soclegal/sociolegal.html> accessed April 25, and October 5, 2023; V Levičev ‘The synthesis of comparative and socio-legal research as the essential prerequisite to reveal the interaction of national legal systems’, <http://www.tf.vu.lt/en/science/researchers-conference-2015/researchers-conference-2013> accessed April 10, 2023.

¹⁸ Janet House, Nursing Research, Using and Creative Evidence (Sudbury MA: Jones and Bartlett Learning, 2011), 93

¹⁹ Hassan T. *Understanding Research in Education* (Merri Field Company, Lagos, 1995), p.10

After seeking and getting ethical approval from the Ethical Review Committee of the University of Ilorin, Nigeria, data was elicited from the informants through structured questionnaire²⁰ tool and complimented by in-depth interviews and Focus Group Sessions.²¹ Informed consent forms were provided for the informants to sign or thumbprint after explaining to them and when they understood the purpose and objectives of the study before administering the questionnaires, and engaging them with interviews and Focus Group Sessions, respectively. The emphasis was placed on freedom to withdraw from participating in the study. Total confidentiality of the respondents' information was maintained, and they were completely anonymous with respect to their responses. Rather than selecting a large number of persons, the author identified and recruited a small number of samples that provided in-depth information about the central phenomenon. Ultimately, the author secured not less than 15 key Informants²² each in Lokoja, Ajaokuta, Kogi and Omala Local Government Areas²³ of Kogi State and three Focus Group Sessions in the city of Lokoja, the State Capital²⁴ being their main head offices, (both groups comprised of 5 participants each).

Table 1 shows the socio-demographic background of the key informants drawn from the poll of experts in environmental management, operational meteorologists/weather forecasters, State Emergency Management Agency (SEMA), Head of Persons with disabilities, Civil Society, Community leaders and some select victims. These stakeholders were chosen because of their

²⁰ This method of using questionnaire has been acclaimed by Babbie to be “an excellent method for measuring the attitude and opinions of Persons within a large population.” See ER Babbie *The Practice of Social Research* [Belmont CA, Wadsworth Publishing Company 2010].

²¹ A Focus Group interview is an interview with a small group of Persons on a specified topic. Groups are typically 5 to 10 Persons with similar background who participate in the interview for one or two hours. See Patton, Michael Quinn, *Qualitative Research and Evaluation Methods* 3rd Edition (Sage Publications 2002). The interviews were conducted by the author between April 20 to October 5, 2023 with a set of team players of the ‘Network for Vulnerable Persons in Nigeria’ a non-governmental organisation recruited and trained as research assistants to join the author in administering the questionnaire and conducting the interviews.

²² Qualitative research requires a lot of labour. Hence, analyzing a very large sample can take a lot of time and often unrealistic. Thus, ‘15’ is said to be the normal acceptable sample for all qualitative research. See Mason Mark, *Sampling and Saturation in PhD Studies Using Qualitative Interviews Forum Qualitative Sozialforschung/Forum: Qualitative Social Research* 11, no.3 Art 8(2010) See also, Charmz Kathy, *Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis* (London, California, India: Sage Publications, 2006)

²³ The four Local Government Areas were targeted by the author as the most prone areas that recorded the largest internal displacement. Author’s position has been justified by existing literature and reports. See IOM Nigeria DTM Flood Report NC-Kogi State 2022. Available online at <https://www.dtm.iom.int> accessed April 20, 2023.

²⁴ The head offices of the environmental management, operational meteorologists/weather forecasters, State Emergency Management Agency and Civil Society respectively.

impacts and engagement with climate change, internal displacement, disabilities and their effects.

Table 1: Background Information of Sampled Population and Analysis of Data Collection

Participants	Unit of Analysis	Occupation and Qualifications	Location/Study area	Age	Return of Questionnaire	Percentage
Informants 1-60	Physical and Health Impairment and Behavioural Disorder/Handicap, Visual Impairment, Hearing Impairment, Speech defect	Community sanitation, SEMA officer, Civil society, Weather Forecaster, Human right activist, Farmer, Fishermen Ranging from NCE, ND, Secondary and Primary Education	Lokoja (15), Ajaokuta (15), Kogi (15), Omala(15) Total 60	20≤65	Lokoja (15), Ajaokuta (15), Kogi(13), Omala (12) Total 55	Lokoja (27.3), Ajaokuta (27.3), Kogi (23.6), Omala (21.8) Total 100
Focus Group Session '1'	Environmentalist, Kogi SEMA, Red Cross Society, Meteorologist, Head of persons with disabilities,	Officers from SEMA, Environmental, Meteorologists, Red Cross Society, Representative of Persons with disabilities	Lokoja (5), Kogi (5), Omala (5) Ajaokuta (5) Total 20	30≤65		Lokoja (25), Kogi (25), Omala (25)Ajaokuta (25) Total 100
Focus Group Session '2'	Environmentalist, Kogi SEMA, Red Cross Society, Meteorologist, Head of persons with disabilities,	Officers from SEMA, Environmental, Meteorologists, Red Cross Society, Representative of Persons with disabilities	Lokoja (5), Kogi (5), Omala (5) Ajaokuta (5) Total 20	30≤65		Lokoja (25), Kogi (25), Omala (25)Ajaokuta (25) Total 100
Focus Group Session '3'	Environmentalist, Kogi SEMA, Red Cross Society, Meteorologist, Head of persons with disabilities,	Officers from SEMA, Environmental, Meteorologists, Red Cross Society, Representative of Persons with disabilities	Lokoja (5), Kogi (5), Omala (5)Ajaokuta (5) Total 20	30≤65		Lokoja (25), Kogi (25), Omala(25)Ajaokuta (25) Total 100
IPS ²⁵ 1-6	Community Leaders, Local Government Chairmen/Secretary	Heads of the Communities, Chairmen/Secretary	Lokoja (2), Kogi (2), Omala (1)Ajaokuta (1) Total 6	35≤65		Lokoja (33.3), Kogi (33.3), Omala (16.7)Ajaokuta (16.7) Total 100

Source: Author's Fieldwork Survey, 2023

The qualitative data were analyzed using content analysis to determine the role of the stakeholders in protecting the rights of persons with disabilities during climate change disaster

²⁵ Interviewed participants is abbreviated to IPS.

and other emergencies and to ensure that the extant laws and policies were not used to jeopardise their physical security or in an arbitrary manner to their detriment. This was done in order to arrive at proximal conclusion on the findings.

Instructively, the choice of the State is because of its annual occurrence of displacement particularly because the State is sitting at the confluence of rivers. The State's demography which is a representation of major Nigerian tribes is another justification for the sample size. Specifically, out of seven categories of disabilities recognized worldwide,²⁶ the study is limited to the lived experiences of displaced Physical and Health Impairment and Behavioural Disorder/Handicap, Visual Impairment, Hearing Impairment, Speech defect persons as a result of climate change disaster. The scope and limitation of this study lies within the fact that these four classes of persons with disabilities seem to be the most challenged persons who may experience climate change impacts differently and more severely than others. Arguably, they could not rescue themselves during emergencies such as flooding. The handicaps/physically challenged are crippled with either hands or legs or both while deaf persons could not hear any sound of waves, the blind persons could not see and the mute persons could not cry or speak out for help. Similar perception of the author also resonates in the minds of Interview Participant 6 at Lokoja Local Government of Kogi State when he expressed thus:

More accessibility options for persons with disabilities must be seen in the community because how a blind person would adapt to a disaster is not the same way a person in a wheelchair or a deaf person would. For example, a person in a wheelchair can see water coming from afar and cry out for help but a deaf person would not hear while a blind person would hear and he/she would not be able to run.²⁷

The author however experienced some other limitations and delimitation challenges on finance and space as the study could have covered other Local Government Areas of Kogi State and other categories of persons with disabilities apart from the four categories and the selected areas under study. Therefore, the results of this study cannot be generalised to all the disabilities in the States especially in those Local Government Areas with similar rate of climate change disaster. The study further uses multi-stage purposive sampling and simple random sampling techniques in the administration of the survey instrument. These techniques were used

²⁶ The seven categories of Persons with disabilities are (1) Gifted and Talented, (2) Hearing Impairment; (3) Learning Disability; (4) Intellectual Disability; (5) Visual Impairment; (6) Rehabilitation Education; (7) Physical and Health Impairment and Behavioural Disorder

²⁷ Focus Group Session 2 dated September 27, 2023.

primarily because of non-availability of a sampling frame for the target population. Questionnaire was administered to sixty (60) target population and fifty-five (55) of the respondents returned the filled questionnaire as shown in Table 1 with the support of research assistants.²⁸ Simple percentage and frequency tables were used to present and analyse the data in addition to the interviews and Focus Group Sessions to determine the impact of human-induced climate change on the internally displaced persons with disabilities in Kogi State. The study joins the ongoing debate on the comprehensive system that will collect analyses and disseminates data on persons with disabilities in order to ensure timely and effective assistance to them and how they will actively participate in disaster risk reduction management and emergency preparedness.

3.0 The relationship between Human-induced Climate Change and Internally Displaced Persons with Disabilities in Nigeria: A Review of literatures

Climate change has become an increasingly important political, business and legal issues for most countries, making environmental sustainability a global concern.²⁹ Governments and regulatory agencies around the world are constantly making efforts and trying to figure out the solution for deterioration and preventive measures of environmental problems such as flooding. This is evident in the climate change conferences and summits where leaders from various countries have convened to discuss environmental sustainability. The most recent conferences were the United Nations Climate Change Conferences (COP27) (COP28) held in Egypt in 2022 and Dubai in 2023 where leaders of over 100 countries (Nigeria inclusive) committed to reducing carbon emissions, adapting and transforming agriculture and food systems to respond to climate change in achieving Sustainable Development Goals. The thematic review of literature is set forth below:

3.1 Climate Change and Environmental Sustainability

Scholarship on climate change, internally displaced persons and disabilities has proliferated recently each of them independent of one another. While climate change has been considered

²⁸ The interviews were conducted by the author between April 20 to October 5, 2023 with a set of team players of the 'Network for Vulnerable Persons in Nigeria' a non-governmental organisation recruited and trained as research assistants to join the author in administering the questionnaire and conducting the interviews. The author is grateful for assisting in the interpretation from English Language to local dialects. The author specifically thanks Madam Anthonia for her assistance in sign language with those Persons with disabilities that are deaf and dumb.

²⁹Irving, J. Sloan, J.D., *Environment and the Law* (Oceana Publications, INC, Dobbs Ferry, New York, 1971)

from various perspectives including the legal perspective, internally displaced persons with disabilities have also been subject to scholarly consideration especially from the human rights perspectives. There have been very limited academic discussions linking each of these concepts together in such a way as to understand how best to deal with IDPs with disabilities and therefore subject to double vulnerabilities.

From the foregoing, one group of scholars focused on environmental perspective of the effect of climate change. In this regard, these group of scholars are seeking solutions towards environmental sustainability thereby protecting every member of the society including internally displaced persons with disabilities. Still within these group of literature, some scholars have examined the general impact of laws, policies on achieving a sustainable environment as well as durable solutions for internally displaced persons in Nigeria. Their studies are too general as basis for understanding the peculiarities of impact of climate change on the protection of persons with disabilities during climate change disasters and other emergencies. For example, the works of Ibrahim, Abdulraheem-Mustapha, Abdulkadir and Olookoba on climate change impact on human rights in Niger Delta, Nigeria³⁰, Amadi and Ogonor on Climate change, environmental security and displacement in Nigeria: experience from the Niger Delta Flood Disaster³¹; Oyedele *et al.* on understanding flood vulnerability in Local communities of Kogi State, Nigeria using an index-based approach³² and Samson, William and Alkali on an assessment of internally displaced persons' needs in flood prone areas of Kogi State³³ are on the persistence and inevitability of climate change vulnerability that has potential havoc on human existence including environmental security and displacement. These works however do not envisage the special rights of persons with disabilities in those areas of their studies in comparison to this present study which focuses on the participatory and equitable rights of persons with disabilities during displacement.

³⁰ Ibrahim, I. Abdulraheem-Mustapha, M. A., Abdulkadir, B. A. and Olookoba, S. M. (2012): Climate Change Impacts on Human Rights in Niger Delta, Nigeria: A Jurisprudential Discourse. *Proceedings 2nd University of Cape Coast and University of Ilorin Joint International Conference* I. O. Oloyede (ed.), 587-605, Published by the University of Ilorin, Ilorin, Nigeria.

³¹ Amadi, L. and Ogonor, C.U.M. (2015) Climate change, environmental security and displacement in Nigeria: experience from the Niger Delta Flood Disaster. *African Journal of Environmental Science and Technology*, 9(1) 53-64

³² Oyedele, P., Kola, E.; Olorunfemi, F. and Walz, Y. (2022) Understanding flood vulnerability in Local communities of Kogi State, Nigeria using an index-based approach. *Water* 14, 2746. www.mdpi-res.com accessed November 30, 2022.

³³ Samson I.P, William A. and Alkali D.E. (2020) An assessment of internally displaced persons' needs in flood prone areas of Kogi State. *International Journal of Advanced Multidisciplinary Research* vol.7(7). www.ijarm.com accessed December 30, 2022.

The work of Elizabeth and Olubunmi on evaluating the impact of environmental laws and policies in achieving a sustainable environment in Nigeria offers another perspective. They went further to look at practical means of achieving environmental sustainability. In this regard, this kind of study is important for understanding means of dealing with human-induced climate change environmental challenges. From their discussions, the role of local governments in leading the efforts towards sustainable environment has been brought to the fore. Basically, the work evaluated the contributions of the laws and institutions in fostering a sustainable environment and how plastic ridden water bodies, roadsides turned waste dumps and recurrent flooding due to defective drainage systems with continuance of the menace by the general public causes environmental degradation and barriers to environmental sustainability in Nigeria.³⁴ However, Elizabeth and Olubunmi's work did not address how the provisions of the law should prepare people who will be affected by environmental degradation such as persons with disabilities during disasters and other emergencies. The present study fills this gap by extending the scope of the work and analysing how and to what extent are the extant legal instruments and institutions protect the rights of persons with disabilities during human-induced climate change disasters in Nigeria and Kogi State in particular.

The works of Ukpong and Udofia, Remigios on Domestic Solid Waste Management in a Rapidly Growing Nigerian City of Uyo³⁵ and An Overview of the Management and Practice of Solid Waste Disposal Sites in African Cities and Town³⁶ show that due to inefficient waste collection and disposal system and no landfill sites and incinerators in Uyo and Kogi States in their studies, open dumps of waste become the most desirable method of waste disposal. However, their studies only interrogated the indiscriminate dumping which has negative consequences on ground water supply without extending their interrogation to the flaws in the waste disposal management system that exacerbates flooding that caused internal displacement which this present study tends to explore further.

³⁴Tijani, Elizabeth E., Evaluating the Impact of Environmental Laws and Policies in Achieving a Sustainable Environment in Nigeria (August 27, 2021). Available at SSRN: <https://ssrn.com/abstract=3970252> or <http://dx.doi.org/10.2139/ssrn.3970252> accessed April 15, 2023.

³⁵Ukpong, I.E. and Udofia, E.P. (2011): Domestic Solid Waste Management in a Rapidly Growing Nigerian City of Uyo. Department of Geography and Planning, University of Uyo, Akwa Ibom State, Nigeria. *Journal of Hum. Ecol.* 36(3): 229-235

³⁶Remigios, M.V. (2010): An Overview of the Management and Practice of Solid Waste Disposal Sites in African Cities and Town. *Geography and Environmental Studies*, Zimbabwe Open University, Zimbabwe. *Journal of Sustainable Development in Africa*, 12(7): 233- 239.

3.2 Climate Change and Displacement

Some scholars have considered the nexus between climate change and displacement, generally. However, like the previous group of scholars, their discussions on displacement have been very general without proper attention to the vulnerable people displaced by the effects of the climate change. Ujah, through the international emergency events database, argued on how persons in Nigeria were displaced by floods with adverse effect of death, injuries and exposure of persons to the risk of water-borne diseases in the affected areas. He specifically argued that the silence of the National Emergency Management Agency (NEMA) on the roles of local government in disaster management and failure to list disaster and emergency matters in the 1999 Constitution have an adverse effect on the achievement of disaster resilience for vulnerable communities.³⁷ However, Ujah did not avert his mind to the fact that persons with disabilities are more adversely affected and he did not make any special recommendation to this effect which this study intends to fill the gap.

3.3 Human Rights Protection of Displaced Persons with Disability

Seighart critically appraised the right against discrimination by maintaining the position that there should not be discrimination between different individuals in respect of their human rights. By this position, he opined that “neither functional impairment nor talent entitles any individual to any more or any fewer human rights than anyone else.”³⁸ However, this type of work did not give a clear picture on the need for inclusive³⁹ right of persons with disabilities to active participation in disaster risk reduction management and emergency preparedness which this present study intends to advocate for.

³⁷Ujah O.C (2008) Internal Displacement in Nigeria in Forced Migration Review, Marlon Couldrey& Maurice Herson (eds.), Refugee Studies Centre, Oxford Department of International Development, University of Oxford, UK. 37

³⁸Sieghart, P. (1985) The Lawful Rights of Mankind. An Introduction to the International Legal Code of Human Rights. Oxford University Press, 75.

³⁹Inclusion can be defined as the process of “respecting the full human rights of all persons, acknowledging diversity and ensuring that everyone can actively participate in development processes and activities, regardless of age, gender, disability, state of health, ethnic origin, or any other characteristics.” See Humanity and Inclusion (HI): Disability Inclusive Community Based Disaster Risk Management: A toolkit for practice in South Asia. 2012

The 2021 report by the International Organization for Migration⁴⁰ and that of the Nigeria's Adaptation Communication to the United Nations Framework Convention on Climate Change by the Federal Republic of Nigeria 2021⁴¹ show the level of dearth in literature as these recent evaluation on displacement have not in any way examined the plight of persons with disabilities during their displacement. Besides, not so much has been done on the participatory right of displaced persons with disabilities during climate change disasters and other emergencies. Sara examined the cost of climate change and she opined that it was the sole responsibility of the government to protect the fundamental human rights to life, food, shelter, and conducive environment as climate change always directly threatened these rights.⁴² In her study, there was no empirical verification on the lived experiences of persons with disabilities but this present study ventured into determining the rights of these vulnerable class of persons.

3.4 International Response to Climate Change and its influence on Nigeria's Approaches

There are published works on the protection of rights of citizenry generally but they are of little value to Nigeria's scholarship because they focused on the international legal instruments. In this category are the studies of Homer-Dixon on the Threshold: Environmental changes as causes of Acute Conflict⁴³, Campbell on the clear implications of global climate change⁴⁴ and Smith on his position on the problems and prospects on human rights under the Convention on Persons with Disabilities. This research aims to replicate similar initiatives in Nigeria because such scholarly discourse will reshape the perspectives on climate change. The most critically analytic writing of Groce, London and Stein, delivered a rather dynamic philosophical discourse on transgenerational poverty and disability. They interrogated the manner in which distributions of and access to family and household assets affect individuals with disabilities in the developing world.⁴⁵ But, this present study further extends the scope of Groce, London and

⁴⁰ International Organization for Migration (IOM) Nigeria Displacement Tracking Matrix Report, 2021

⁴¹ Nigeria's Adaptation Communication to the United Nations Framework Convention on Climate Change prepared by the Federal Ministry of Environment 2021. Available online at <https://unfccc.int/resource/docs/natc/ng...>

⁴² Sara A. (2007) "A Moral Imperatives: the Human Rights Implications of Climate Change," *Hasting International and Comparative Law Journal* Vol. 30

⁴³ Homer-Dixon T (1991). "On the Threshold: Environmental Changes as Causes of Acute Conflict" *International Security* 16(2)76-116

⁴⁴ Campbell K. Weitz R (2008). The clear implications of global climate change. In *Climatic cataclysm: The foreign policy and national security implications of climate change*, ed. Kurt M. Campbell, pp.213–223. Washington, D.C: Brookings Institution Press.

⁴⁵ Nora Ellen Groce, Jillian London and Michael Ashley Stein *Intergenerational Poverty and Disability: The implications of inheritance policy and practice on persons with disabilities in the developing world*-working paper

Stein by arguing that intergenerational poverty on persons with disabilities has been exacerbated by climate change and that disaster has undermined the fight against poverty in recent times. This aspect of poverty rate is most important because extant report has shown that “Nigeria ranks low on the United Nations Development Programme’s human development index with 40% of Nigerian living in poverty.”⁴⁶ Thus, increasing the regional inequalities with poverty growing at an alarming rate in the rural areas and only 10% of the working-age population in Nigeria is employed in formal wage labour.⁴⁷

Yasukawa *et al.* on advancing disability-inclusive action on internal displacement is another dynamic philosophical discourse on the participatory right of persons with disabilities in disaster risk reduction management.⁴⁸ The report provided a consolidated overview of lack of a comprehensive, reliable and comparable data on the number of IDPs with disabilities and their diverse experiences that amplifies their invisibility and hampers efforts to monitor their inclusion. This study appreciates some of the suggestions proffered in the report on having qualitative and quantitative data on IDPs with disabilities in order to assist in understanding the scale of the issue and identifying shortfalls in assistance. However, this study differs in extending its findings beyond the suggestions proffered in the report by making an empirical voyage to garner data that is actionable which can inform the design and implementation of the extant laws and policies in Nigeria and Kogi State in particular.

Another interesting and very relevant literature on the subject of this study is the work of Matijević *et al.* in the course of examining the Framework on Durable Solutions for Internally

series No. 17. Available online at <http://www.ucl.ac.uk/lc-ccr/centrepublishations/workingpapers> accessed April 20, 2023; Mohammed TawfiqLadan, ‘National Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria’, paper presented at a workshop for judges and kadis on refugee law, organised by National Judicial Institute, Abuja, Nigeria (20 April 2013) 18.

⁴⁶ See Federal Republic of Nigeria. (2020b). *Nigeria: Integration of the SDGs into National Development Planning. A Second Voluntary National Review* (p. 96). https://sustainabledevelopment.un.org/content/documents/26308VNR_2020_Nigeria_Report.pdf accessed April 25, 2023; United Nations Development Programme. (2020). *Human Development Report 2020*. <http://hdr.undp.org/sites/default/files/hdr2020.pdf> accessed April 25, 2023.

⁴⁷ See International Telecommunication Union. (2021). *Statistics*. <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx> accessed April 25, 2023

⁴⁸ Internally Displacement Monitoring Centre (IDMC) has led the production of the first collaborative report on internally displaced persons (IDPs) with disabilities in situations of conflict, violence and disasters. The report brings together inputs from Christian Blind Mission (CBM), the European Disability Forum, Humanity & Inclusion, the Inclusive Data Charter, IMPACT Initiatives, Ruhr University Bochum - Institute for International Law of Peace and Armed Conflict, the Stakeholder Group of Persons with Disabilities and UNHCR. See Yasukawa *et al.* (2022) Advancing disability-inclusive action on internal displacement. <https://www.internal-displacement.org/publications/advancing-disability-inclusive-action-on-internal-displacement> accessed April 20, 2023.

Displaced Persons in the scholarly literature: A Preliminary Analysis.⁴⁹ Their work revealed a concern for the number of IDPs that are caught in protracted displacement⁵⁰ due to unaddressed displacement-related vulnerabilities. The authors emphasized that internal displacement is now a complex phenomenon that has multiple and profoundly negative effects on both individual IDPs and society at large. To these authors, the 2010 Framework on Durable Solutions for IDPs which serves as a blueprint for United Nations attempt to find the solutions to displacement crisis was examined. The authors showcased and appraised the framework on the three traditional durable solutions and criteria for achieving their turn, integration and resettlement of IDPs. Their contributions have been helpful to the present study as they provided a general overview of how to achieve these durable solutions but this study extends its findings to proffer an opinion on the adequacy and effectiveness of the extant laws and policies put in place on durable solutions for IDPs especially those with disabilities in Nigeria and Kogi State in particular. The empirical analysis of the lived experiences of victims of displacement especially persons with disabilities is another gap filled by this study and it differs from the work of Matijević et al.

For example, the respondents' views in a questionnaire administered by the author reveal that their participatory rights as one of the right-based approaches has been denied. To be specific, 52 of the respondents which represent 94.6% in Table 2 hold the view that their voices and concerns as persons with disabilities are not adequately heard and addressed in disaster response efforts.⁵¹ In another interval, 52 of them representing 94.6% in Table 2 in another set of questionnaire strongly agreed and agreed that they were not given equitable representation in disaster risk reduction management.⁵²

⁴⁹Matijević, Milica V. and Ćorić, Vesna and KneževićBojović, Ana, The Framework on Durable Solutions for Internally Displaced Persons in the Scholarly Literature: A Preliminary Analysis (September 15, 2022). Proceedings from the Regional Law Review Conference held on 1-2 September 2022 in Belgrade (Serbia), Available at SSRN: <https://ssrn.com/abstract=4221206> or <http://dx.doi.org/10.2139/ssrn.4221206> accessed April 25, 2023

⁵⁰ According to Kālin and Chapuisat the term 'protracted displacement' refers to situations in which tangible progress towards durable solutions is slow or stalled for significant periods of time because IDPs are prevented from taking or are unable to take steps that allow them to progressively reduce the vulnerability, impoverishment and marginalisation they face as displaced people, in order to regain a self-sufficient and dignified life and ultimately find a durable solution. See Kālin, W. and Chapuisat, E. H. 2017. Breaking the Impasse: Reducing Protracted Internal Displacement as a Collective Outcome, UN Office for the Coordination of Humanitarian Affairs (OCHA). https://www.unocha.org/sites/unocha/files/Breaking-the-impasse_0.pdf accessed April 10, 2023.

⁵¹ Questionnaire administered on April 25, 2023

⁵² Ibid

The review of the available scholarships has uncovered certain important facts on climate change, displacement and persons with disabilities. First, scholars have not focused most of their studies on connecting the three concepts. Second, the extent of applicability of the available legal framework in the context of the three concepts has not been subjected to rigorous analytical vigour. Third, the lived experience of the victims can hardly be ascertained from a desk research by most of the scholars. Therefore, there is an urgent need to directly fill the pulse of the affected people. This current research intends to fill all these gaps.

4.0 The Nigerian Legal and Institutional Responses to Climate Change *vis-à-vis* Human Rights of Persons with Disabilities: A critical discourse

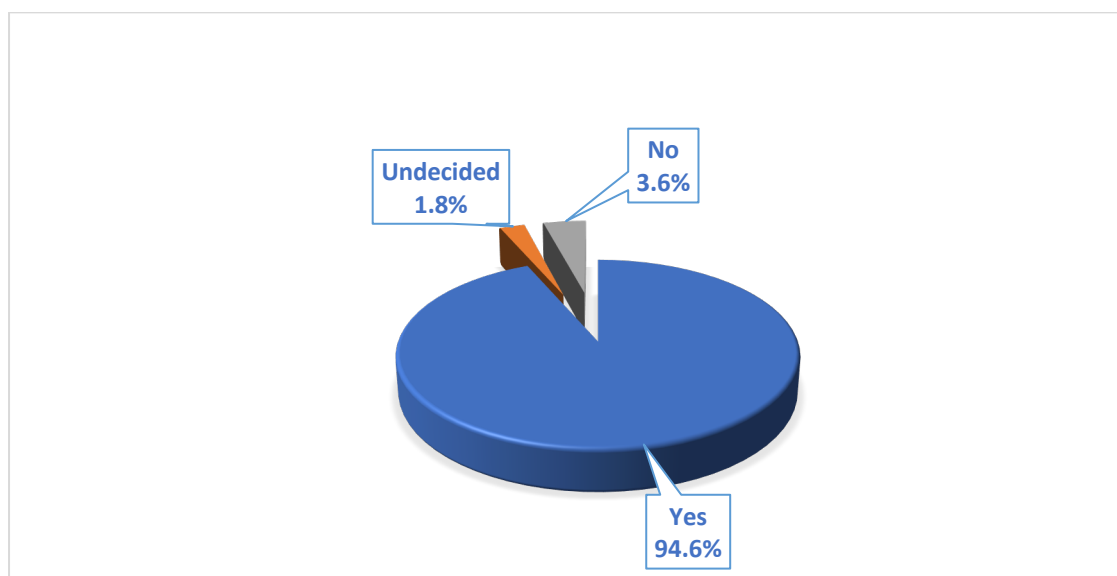
4.1 Nigeria Response to International and Regional Legal Instruments

Scholars have rightly observed that the impacts of climate change is devastating because human rights such as right to life, health, property, culture, means of subsistence and self-determination usually get threatened. Climate processes such as flooding often affect agriculture, infrastructure, services and continued habitability of affected areas because the drastic impacts of climate change are more likely to be felt by persons with disabilities due to their double vulnerabilities. Persons with disabilities have many major limitations that make them highly susceptible to unfavourable conditions. This is evident from the fieldwork survey in Fig. 2 where 52 of the respondents representing 94.6% alluded to the fact that they were displaced severally due to climate change-related disaster such as flooding.⁵³ In another interval of administering the questionnaire as shown in Table 2, 50 respondents representing 90.9% affirmed the author's position that human-induced climate change exacerbates flooding that caused their displacement.⁵⁴

⁵³ Questionnaire administered on April 25, 2023

⁵⁴ Ibid

Fig. 2: Respondents' views on their displacement due to climate change-related disaster such as flooding



Source: Field Survey, 2023

The United Nations Convention on the Rights of Persons with Disabilities (CRPD), 2006⁵⁵ which Nigeria acceded to is a multilateral agreement that addresses the rights of persons with disabilities with primary objectives of “promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities.” Precisely, Article 11 of CRPD specifically states:

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

The Nigerian government's ratification of CRPD ushered in the enactment of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018. Section 17 of the Act emphasizes the right of persons with disabilities in emergency situations when it provides:

In all situations of risk, including situations of violence, emergencies and the occurrences of natural disasters, the government shall take all necessary steps to ensure the safety and protection of persons with disabilities taking cognizance of their peculiar vulnerability.

Instructively, the CRPD and Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 align with Section 33 of the Constitution of the Federal Republic of Nigeria (CFRN)

⁵⁵ See <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

1999 (as altered) which guaranteed right to life as a fundamental right that needs to be enjoyed by Nigerian citizens irrespective of sex, age, color and other factors.

However, this right is infringed upon as the lives of persons with disabilities are risked by disasters caused by climate change which, due to their impairments, also imposed limitations on them. The case of *Jonah Gbemre v. Shell Petroleum Development Corporation of Nigeria Limited (Shell & Nigeria National Petroleum Corporation (NNPC)* ⁵⁶ is very apt in describing the right to life. The court in the above case reiterates that right to life “inevitably includes the right to clean, poison free, pollution free and healthy environment.” The Indian cases of *Maneka Ghandi v. Union of India*⁵⁷ and *Peoples Union for Civil Liberties v. Union of India*⁵⁸ also emphasises that right to life goes beyond the fundamental right to life to include “the bare necessity of life such as adequate food, nutrition, clothing and shelter”; “right to life cannot be construed as simply as to the right to an animalistic existence rather, it must be interpreted broadly to ensure the protection of the right to live in a humane and dignified manner...” Similarly, in *Arrondelle v. United Kingdom*,⁵⁹ the European Court acknowledged that “the right to a healthy environment is linked to the right to life, and that environmental damage can affect the rights to life, property, home and private life.”

Similarly, United Nations Framework Convention on Climate Change, 1992⁶⁰ in its Article 3 Principle 2 provides:

the specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.

While the United Nations Guiding Principles on Internally Displacement, 1998 enjoined persons with disabilities to be included when finding durable solutions for IDPs when it emphasised that:

the primary duty and responsibility of the State parties are to establish conditions, as well as provide the means which allow internally displaced persons to return

⁵⁶See suit no. FHC/B/CS/53/05 Federal High Court Benin Judicial Division. 14. November 2005 and (2005) AHRLR 151(Nig. HC 2005).

⁵⁷ (1978) ISCC 248 (India Supreme Court Judgment).

⁵⁸ Sarah Smith: *The Right to life in India: Is it really the Law of the Land?*

⁵⁹ DR 26

⁶⁰

voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.⁶¹

Hyogo Framework for Action (HFA), 2005⁶² specifically in its Priority calls for a strengthening of the implementation of social safety-net mechanisms to assist the poor, the elderly and the disabled, and other populations affected by disasters. Section V of the Framework on Durable Solutions for Internally Displaced Persons provides that:

Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.

This Framework which was rooted in the Guiding Principles on Internal Displacement emphasises that the primary responsibility for providing durable solutions for IDPs rested with national authorities and that the participation of IDPs including persons with disabilities is essential in the process of finding solutions. In other words, formulation of policies by the affected nations will be more effective in supporting durable solutions envisaged by the international and regional instruments. Thus, IDPs' agency and participation should be valued and incorporated from the outset as the national government's involvement seems to be the most impacted by displacement and as they are the most important actors in supporting solutions for IDPs.

The Paris Agreement, 2015, on the other hand, in its Preamble acknowledged that:

climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity;

Specifically, Article 7(5) of Paris Agreement provides:

Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of

⁶¹ United Nations, *Guiding Principles on Internal Displacement*. Principle 28(1) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf?OpenElement>

⁶² Specifically, Priority 4 of the Framework of Action calls for a strengthening of the implementation of social safety-net mechanisms to assist the poor, the elderly and the disabled, and other populations affected by disasters.

indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.

Whereas, Article 7(9)(c) deals with the assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, considering vulnerable people, places and ecosystems.

It should be noted that, Nigeria being a dualist State, international law does not supersede municipal law and its application within the legal system depends on whether the treaty has been domesticated by the National Assembly. In Nigeria, a specific law is usually required to give a ratified international treaty the force of a national law. In practical terms, the Nigerian government is expected to either change existing laws or introduce new legislation to make the treaty effective.

For emphasis, section 12 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides: 12(1) No treaty between the Federation and any other country shall have the force of law to the extent to which any such treaty has been enacted into law by the National Assembly. 12(2) The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty. 12(3) A bill for an Act of the National Assembly passed pursuant to the provisions of subsection (2) of this section shall not be presented to the President for assent and shall not be enacted unless it is ratified by a majority of all the House of Assembly in the Federation. Arguably, the implication of Section 12 of the Constitution, 1999 (as altered) provided above, is that the Constitution distilled three legislative lists for operation at the Federal, State and Local levels. This shows that any treaty signed, ratified and domesticated by the Nigerian government which falls within the “Concurrent Legislative List” as provided in “Part II of the Second Schedule” shall not be enforceable unless the same is domesticated by all the 36 States of the Federation.⁶³

At regional level, Nigerian government also acceded to the African Charter on Human and People’s Rights, 1981 and domesticated same. Article 4 of the Charter provides for right to life, Article 5 prohibits torture, cruel, inhuman and degrading treatment which can be occasioned by climate change when unabated. Article 12 provides for right to freedom of

⁶³ See generally Parts I, II and III of Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as altered).

movement while Article 13 provides for the right to work. Article 18 protects family and vulnerable groups. All these provisions are disability inclusive. For emphasis, Article 24 of the Charter specifically deals with the right to healthy environment which is in line with Section 20 of the 1999 Constitution (as altered). In other words, exacerbation of land, water, biodiversity and livelihood hazards affects the right to healthy environment. The Constitution of the Federal Republic of Nigeria being the foremost Nigerian legal provision for environmental protection in its Section 20 enjoins the State in all the federating units “to ensure that environment, water, air, land, forest, and wildlife are all protected, improved, and safeguarded.” This implies that all the thirty-six (36) States of Nigeria owe every citizen (including persons with disabilities) the proper protection of the environment through necessary means.

Interestingly, going by Section 20 of the Constitution thereof, it is the exclusive function of the State in the federation to make planning laws and regulations in promoting healthy environment. This position is reaffirmed by the Supreme Court in *Attorney General of Lagos State v. Attorney General of the Federation*,⁶⁴ the Supreme Court consider whether the National Assembly has jurisdictional competence to legislate on urban and regional planning for Nigeria by holding that each State House of Assembly has the exclusive function to make planning laws and regulations for the State under its residual power except the Federal Capital Territory, Abuja which the National Assembly can legislate upon.⁶⁵

In the same vein, Article 12 of the Protocol to the African Charter on Human and Peoples’ Rights enjoins State parties to:

- (a) take specific measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, forced displacements, humanitarian emergencies and natural disasters;
- (b) ensure that persons with disabilities are consulted and participate in all aspects of planning, implementation and monitoring of pre and post- conflict reconstruction and rehabilitation.⁶⁶

⁶⁴ (2003) LPELR-620(SC); (2003) 12 NWLR (pt. 833) 1.

⁶⁵ Another typical example is the report that revealed that the Federal government moves against the menace of deforestation to save the environment was resisted by some State governments on the ground that the trees belong to the States. See This Nigeria, ‘FG blames State Governments, Charcoal Dealers for Massive Deforestation’ <<https://thisnigeria.com/fg-blames-state-govs-charcoal-dealers-for-massive-deforestation/>> Accessed 11 April 2023.

⁶⁶ African Union (AU), Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa, 29 January 2018, Art. 12, available at: <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-persons-disabilities-africa>

Another regional legal instrument on internal displacement is the Kampala Convention, 2009 which extended the scope of the Guiding principles in its Article 11 when it spells out the obligation of States Parties to ‘seek lasting solutions’ through ‘voluntary return, local integration or relocation on a sustainable basis and in circumstances of safety and dignity,’ thus listing the three possible locations for solutions. It also highlights the obligation of States to ‘enable internally displaced persons to make a free and informed choice on whether to return, integrate locally or relocate by consulting them on these and other options and ensuring their participation in finding sustainable solutions.’⁶⁷ Aside the enjoyment of participatory right guaranteed under the United Nations Guiding Principles on Internally Displacement and the Kampala Convention, both the international and regional legal instrument enjoined persons with disabilities to be included when finding durable solutions for IDPs.

4.2 National Legal and Institutional Frameworks *vis a vis* the Rights of Internally Displaced Persons with Disabilities

The National Emergency Management Agency (Establishment, Etc) Act, 1999 establishes in its Sections 1 and 8, the “National Emergency Management Agency (NEMA) and a State Emergency Management Committee for each State in the Federation.” However, going through the provision of Section 20 of the Constitution earlier examined, it calls for the enactment of State’s Emergency Management Agency Law instead of relying on the National Emergency Management Agency (Establishment, Etc.) Act, 1999 as the planning laws and regulations in promoting healthy environment is at the exclusive competence of the State House of Assembly. Surprisingly in Kogi State, the state under study, the law has not been passed till date and what the State relied on is the Act of the National Assembly that created State Emergency Management Committee. This position is reaffirmed by Focus Group Session 2 during the author’s fieldwork when asked whether or not there was SEMA Law in Kogi State. Informant 5, an Officer of Kogi State Emergency Management Agency said:

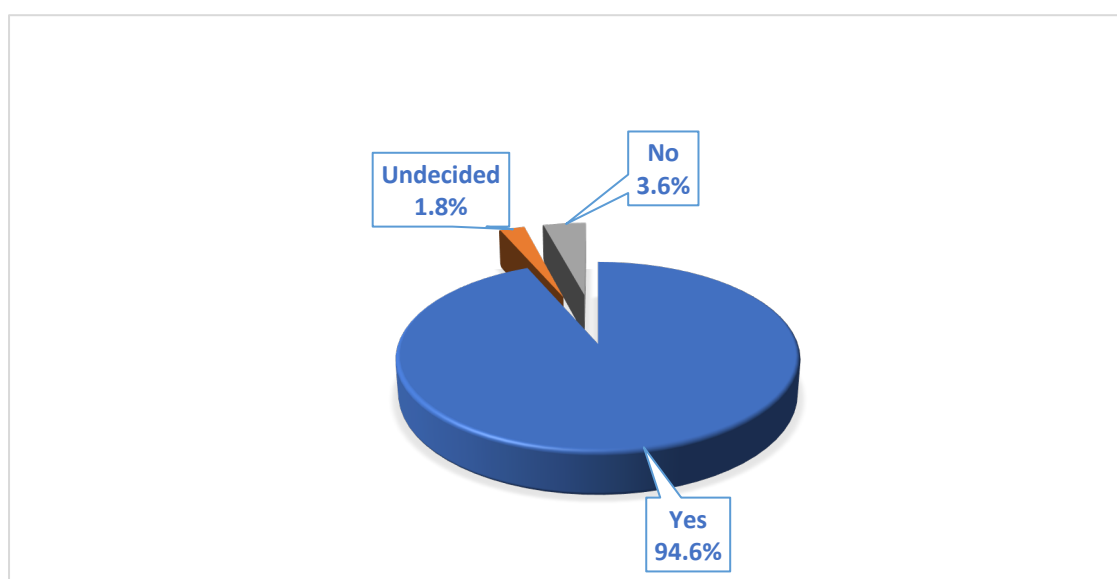
Kogi State government has set up an Emergency Management Committee although, I do not know whether the government relied on the provision of Section 8 of NEMA in setting up the Committee but up till now, there is no SEMA Law in Kogi State as the

⁶⁷African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (adopted 23 October 2009, entered into force 6 December 2012) 49 ILM 86 (hereafter Kampala Convention). Article 11. <https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa>

government only charged the Committee to come up with a draft law that will give room for effective and prompt response to emergency situations in the State.⁶⁸

No wonder, the 48 respondents representing 87.3% in an administered questionnaire at the fieldwork survey revealed that they were not aware that Kogi State Emergency Management Agency Law provided for social safety-net mechanisms to assist them in situations of risk such as flooding.⁶⁹ The views of 52 respondents representing 94.6% in Table 2 that they do not have equitable representation in disaster risk reduction management⁷⁰ is not misplaced as there was no law from State level and there was neither representation of persons with disabilities on the list of Committee set up for managing the emergency situations in Kogi State nor composition of the Council under Sections 2 and 8(2) of the National Emergency Management Agency (Establishment, Etc.) Act, 1999. This confirms the views earlier expressed by 52 respondents representing 94.6% in another interval of the questionnaire as shown in Figure 2 that their voices and concerns as persons with disability were not adequately heard and addressed in disaster response efforts.⁷¹

Fig. 3: Respondents' views that their voice and concerns as person with disability are adequately heard and addressed in disaster response efforts



Source: Author's Field Survey, 2023

⁶⁸ Interview conducted by the Author dated October 5, 2023.

⁶⁹ Questionnaire administered on April 25, 2023

⁷⁰ Ibid

⁷¹ Ibid

Another national response is the National Environmental Standards and Regulations Agency (NESREA) Act No. 25, 2007 which represents another National Assembly enactment on matters of enforcement of environmental standards, regulations, rules, policies and guidelines. This Act established the National Environmental Standards and Regulations Enforcement Agency. The Agency is charged with the responsibility of protecting and developing Nigeria's environment. Sections 2 and 7 of NESREA Act provide that "the agency shall enforce compliance with guidelines and legislations on sustainable management of the ecosystem; biodiversity conservation; and the development of Nigeria's natural resources."

Interestingly, this Act has been domesticated in Kogi State under Edict No.3 of 1995 as Kogi State Environmental Protection Agency which was repealed and re-enacted as Kogi State Environmental Protection Board in 2006 and amended in 2008. Being a replica of the National Environmental Standards and Regulations Agency, it is saddled with the responsibility of "promoting a safe and healthy environment for the persons to live in." It also "ensure sustainable development in terms of the use of the environment...." However, as a replication of the National Environmental Standards and Regulations Agency whose composition neglected the representation of persons with disabilities, the Kogi State Environmental Protection Board also denied the vulnerable class of persons to be represented in the Board as the composition of the Board with staff strength of forty-two (42) members was not disability-inclusive. In an interview granted the author by the Interview Participant who happens to be an Environmentalist at Ajaokuta Local Government Area of Kogi State on the non-representation of persons with disabilities on the Environmental Protection Board, he said:

The Edict that established the Board has not contemplated the inclusion of persons with disabilities and even if it does, the composition of the Board was drawn only from four (4) departments which comprises: (1) Administration and Finance; (2) Monitoring and Enforcement; (3) Planning and Conservation; and (4) Laboratory service. None of these departments has staff that is living with disability that can be included.⁷²

A representative of persons with disabilities in Focus Group Session 2 lamented thus:

the major problem that persons with disabilities have in Kogi State is that there is no law that we can leverage on to fight for our rights. The State is yet to domesticate the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018.

⁷² Interview conducted by the Author dated October 5, 2023.

The above expression was buttressed by an Officer of Red Cross Society during the Focus Group Session 3 when he said:

Persons with disabilities in Kogi State are marginalized in terms of employment and until the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 is domesticated, the provision of Section 28 of the Act that states that “all employers of labour in public organization shall as much as possible have persons with disabilities constituting at least 5% of their employment” will never be realized and achieved.⁷³

Another Red Cross Society official who participated in Focus Group Session 2 said:

Inclusive disaster response is good for the whole community because inclusive disaster responses are resilient systems. Persons with disabilities need physical access, programme access and effective communication access. That is to say, if the government builds emergency response systems with these needs in mind, everyone will just generally have better emergency response systems. Persons with disabilities require more physical assistance, more programme assistance and more financial assistance.

Respondents’ views representing 72.8% (40) in an interval of the questionnaire about their specific needs or concerns that they have as internally displaced persons with disabilities. Their views corroborated the above expressions when they lamented “lack of access to inclusive education; lack of inclusive job opportunity; lack of special health and medical facilities; no psychological support and no special livelihood opportunities from the government”⁷⁴ to show that they are marginalized.

Climate Change Act, 2021 is another crucial legal framework on climate change and displacement of persons with disabilities in Nigeria. Although, this enactment is in respect of the Nigerian government’s response to many international and regional treaties such as the United Nations Framework Convention on Climate Change; 1992, Hyogo Framework for Action (HFA) in 2005; Paris Agreement, 2015 and African Charter on Human and People's Rights 1981 examined earlier in this study.

Interestingly, the Climate Change Act also squares up to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa. Climate Change Act now protects and promotes the rights of persons with disabilities in emergency situations. The Act now has a unique provision on inclusivity and has integrated all laws and

⁷³ Focus Group Session 3 dated September 28, 2023.

⁷⁴ Questionnaire administered on April 25, 2023

policies on the subject matter. The law is the first stand-alone comprehensive climate change legislation in West Africa.⁷⁵

Precisely, Section 3 of the Act establishes the Council which under Section 5(1)(s)(iii) includes a representative of persons with disabilities as member. This Act seems as an attempt to safeguard the interest of persons with disabilities as the innovations corresponds with the majority of the views of 52 respondents representing 94.6% in an administered questionnaire where they strongly agreed and agreed that “involvement of people with disabilities in various policy-making and leadership platforms on the climate change will yield remarkable results on achieving disaster resilience.”⁷⁶

However, it remains unclear whether the enactment of the Climate Change Act would be able to offer a panacea to the problems associated with climate change and displacement of persons with disabilities as there had been no policy formulated since the enactment of the Act in 2021 to enable the implementation of the Act to meet the special needs of persons with disabilities in emergency situation and how they could achieve disaster resilience. The respondents’ views in the author’s fieldwork survey is in tandem with this assertion on achieving the set objectives of disaster risk reduction plan enunciated in the Act when 52 respondents representing 94.6% under study as shown in Table 2 expressed that “their voice and concerns as person with disabilities were not adequately heard and addressed in disaster response efforts.

It is therefore argued that inability to implement disaster risk reduction plan that is all inclusive violated Section 42 of the Constitution of the Federal Republic of Nigeria, 1999 as the right to voice and impart concerns, opinions, and information, amongst other rights, should not be withheld or deprived of persons with disabilities. Based on the provisions of the Nigerian Constitution on environmental protection, freedom of expression, and freedom from discrimination, persons with disabilities are entitled to be included in climate change actions without any form of restriction. The view of one of the participants during Focus Group Session 1 at Kogi Local Government Area of Kogi State on whether the Local Government has legal responsibility and regular or systematic budget allocation for disaster risk reduction was “No”.⁷⁷ Another participant from Local government area at Lokoja also responded “No” when

⁷⁵ Mohammed TawfiqLadan, ‘A Review of Nigeria's 2021 Climate Change Act: Potential for Increased Climate Litigation’ <<https://www.iucn.org/news/commission-environmental-economic-and-social-policy/202203/a-review-nigerias-2021-climate-change-act-potential-increased-climate-litigation>> accessed April 1st, 2023.

⁷⁶ Questionnaire administered on April 25, 2023.

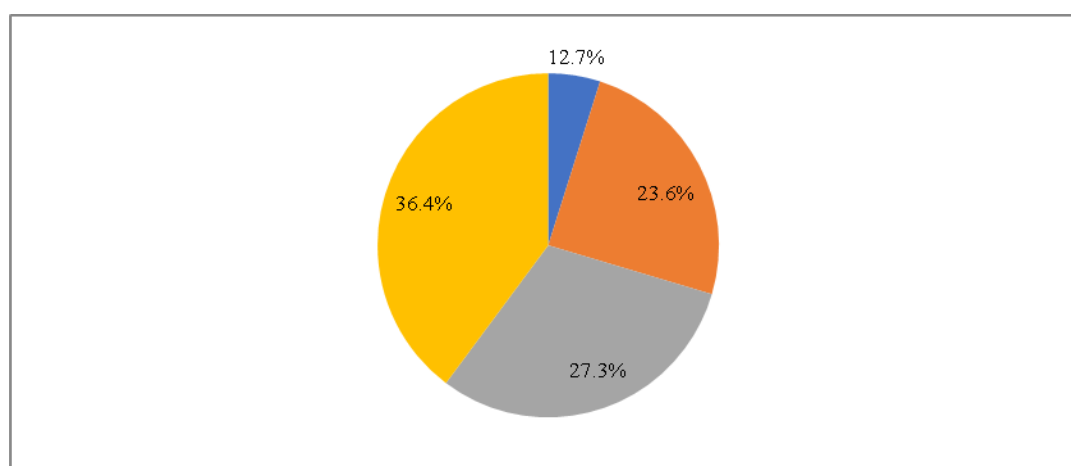
⁷⁷ Focus Group Session 1 dated September 26, 2023.

asked during the Focus Group Session 2 whether there was a specific legislation for local government with a mandate for disaster risk reduction.⁷⁸

Similarly, movement in response to environmental and climate change is a normal human adaptation strategy because it could be seen as a means of escaping danger and increasing resilience. This is a right enshrined in Section 41 of the Constitution but it is curtailed whenever climate change occurs because persons with disabilities are unable to enjoy maximum right to movement. For instance, the fieldwork survey shown in Figure3 reveals that 20 respondents representing 36.4% suffer mobility/physical impairment; 15 respondents representing 27.3% are blind/visual impaired while 13 respondents representing 23.6% are deaf or having hearing impairment; and 07 respondents representing 12.7% are having speech defects.⁷⁹ To buttress the above is a view of an Informant at the interval of administering the questionnaire when he was asked to comment on his lived experience on climate change disaster. Below is his narration:

My family and I had a very bad experience on this issue of flooding. As you can see, I am blind and my wife is also physically challenged. We were not alerted about the urgent climate change threat in my community. On that sad day, water gushed into my house at an alarming rate, we could not sleep because it was very tough to move around and my property was destroyed by water.⁸⁰

Fig. 4: Categories of persons with disability under study



Source: Author's Fieldwork Survey 2023

⁷⁸ Focus Group Session 2 dated September 27, 2023.

⁷⁹ Questionnaire administered on April 25, 2023.

⁸⁰ Interview conducted on April 25, 2023

The above narration by the Informant was also alluded to during the Focus Group Session 1 where a Participant lamented how these classes of persons suffer more during flooding and displacement by saying:

As those with physical impairment with wheelchairs were unable to cross flooded areas, climb stairs to escape rising water, or access shelters and those with speech defects, hearing impairments and visual impairments also suffered as shelter space was inaccessible to them because messages about locations were not normally communicated in sign language or Braille.⁸¹

A Respondent who has hearing impairment complemented the questionnaire administered to him when he granted an interview by the author “I was unable to hear disaster warning sirens and I did not have access information on evacuations during flood disaster that led to my displacement.”⁸²

Another participant in Focus Group Session 3 in another phase of the interview on climate change disaster and persons with disability corroborated the view expressed in Group Session 1 above when he said:

Many persons with disabilities fall into more than one of disability categories and access to the resources required to meet their specific needs is never distributed evenly.⁸³

Interview Participant 5 who happens to be a Community Leader cried out in his expression when he said:

when disaster strikes, things get really hard with persons with disabilities because they are flooded and their personal care attendants are also flooded so it becomes survival of the fittest, the personal care attendant will also be struggling to survive and he/she cannot be struggling to survive and remember the person he/she cares for at the same time. During disaster period, yes, many persons volunteer and send aids including government and civil societies, but rebuilding disability systems takes months and years with recovery continuing long after public attention fades.⁸⁴

The expressions of the respondents to the effect that their rights to life was threatened due to climate change in the fieldwork survey affirm this assertion in Table 2 when 52 respondents representing 94.6% said that “the evacuation and relief facilities during the flooding were not

⁸¹ Focus Group Session 1 dated September 26, 2023

⁸² Interview conducted on April 25, 2023

⁸³ Focus Group Session 3 dated September 28, 2023

⁸⁴ Interview conducted by the Author dated September 29, 2023

accessible to their specific needs as a person with disability.”⁸⁵Table 2 also reveals that 49 respondents representing 89.2% in another interval of the questionnaire said expressed that their rights to life was at stake as the consequences of displacement affected their shelter, food and clean water, health and medical care, education, separation from family and loss of possessions.⁸⁶ As such, 50 respondents representing 90.9% in another phase of the questionnaire as shown in Table 2 were of the view that they were not satisfied with the level of support and assistance received since their displacement and the 50 respondents representing 90.9% in Table 2 revealed that their specific medical or assistive device needs were not being addressed during displacement.⁸⁷

In aligning with Section 41 of the Constitution, the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 also provided a similar provision in Section 20(2) when it states that “government shall actively promote an environment in which persons with disabilities can effectively and fully participate in.” However, in a practical sense, achieving this right has been a mirage due to non-implementation of Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 in Kogi State. Interestingly, the Kogi State government enacted the Sanitation and Environmental Health Law, 2022 making its board at both the State Headquarter and Local Government Areas to be responsible for the collection, transportation, disposal of waste and cleaning primary and secondary drains.

However, this is a 2022 law that is yet to be implemented as 52 respondents representing 94.6% as against 02 representing 3.6% strongly agreed and agreed in Table 2 lamented that “poor drainage systems in their area contributed to flooding events.” In addition, Fig. 3 shows 48 respondents representing 87.3% as against 05 representing 9.1% who agreed and 02 representing 3.6% who were Undecided in another phase of the questionnaire that they were not aware of any local government effort to address drainage and waste disposal management in order to prevent flooding in their communities.⁸⁸As such 94.6% of the Respondents in Table 2 lamented that government was not doing enough to manage the existing human-induced climate change disaster. 52 respondents representing 94.6% placed their views on inadequate budget allocation for emergencies by the government as a contributory factor for annual internal displacement on human-induced climate change disaster

⁸⁵ Questionnaire administered on April 25, 2023

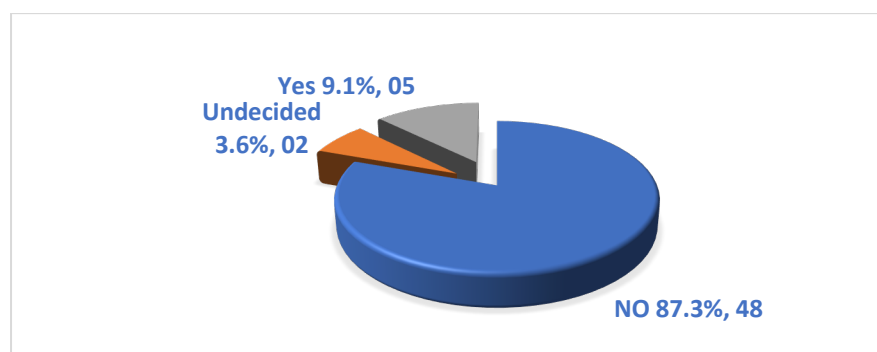
⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Ibid

in their communities.⁸⁹ Furthermore, while 02 respondents representing 3.6% said No and only 01 representing 1.8% was undecided, 52 Respondents representing 94.6% reaffirm the above expression⁹⁰ in another phase of administering the questionnaire.

Fig. 5: Respondents' views on whether they are aware of on any local government efforts to address drainage and waste disposal management issues to prevent flooding⁹¹



Source: Author's Fieldwork Survey 2023

35 respondents representing 63.6% in another interval of the questionnaire in Table 2 admitted that they rarely observed that “poor waste management and improper waste disposal contributed to clogged drains and flooding.”⁹² In this regard, 52 respondents representing 94.6% in another phase of the questionnaire strongly agreed and agreed that “residents should be more responsible for maintaining drainage management and waste disposal in their communities.”⁹³ To 30 respondents representing 54.5% in Table 2, improving drainage systems, strict waste disposal regulations and public awareness campaigns should be top priorities for local authorities in reducing flooding⁹⁴ as 50 respondents representing 90.9% in Table 2 also reaffirmed that lack of awareness and enlightenment of persons with disabilities about the laws, policies and regulation on environmental management exacerbated human-induced climate change.⁹⁵ The expression of a meteorologist during a Focus Group Session 1 conducted by the author corroborated the above views when he said:

The ignorance of the public on the consequences of their actions, the harder it is to regulate their environmentally harmful habits, simply because they do not understand the greater damage caused. An example is with the average Nigerian who continues to

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ibid

⁹² Ibid

⁹³ Ibid

⁹⁴ Ibid

⁹⁵ Ibid

throw dirt into drainage channels because he/she does not know that his/her littering habit is a major cause of flooding, which comes back to haunt him/her during the rainy season.⁹⁶

To this end, 25 respondents representing 45.5% in another interval of the questionnaire and 21 respondents representing 38.2% in another phase were definite and liked participating in their communities' clean-up efforts in order to reduce the risk of flooding caused by waste accumulation.⁹⁷ The above willingness of the respondents to participate in climate change disaster risk reduction gained credence with the adoption of the international and regional instruments by the Nigerian government.

4.3 Nigerian Policy Framework on Climate Change *vis a vis* Internally Displaced Persons with Disabilities

In response to the international and regional legal instruments on participatory and searching for durable solutions on IDPs is the formulation of the National Policy on Internally Displaced Persons, 2012 by the Nigerian government. It seeks to address the needs of all groups of internally displaced persons, including those with special needs and vulnerabilities. "The adoption of a national policy or strategy on internal displacement is a distinct but complimentary measure to the enactment or amendment of the national legislation"⁹⁸ policies, programmes and action plans such as the Revised National Climate Change Policy, 2021; National Climate Change Programmes, 2021; the 2050 Long-Term Low Emission Vision, 2021; the First Nationally Determined Contribution, 2021; The National Climate Change Policy Response and Strategy⁹⁹; Climate Change Gender Action Policy, 2020¹⁰⁰; the Environmental Impact Assessment; Climate Change Adaptation (CCA) Policy; Disaster Risk Reduction Action Plan; National Contingency Plan; and Erosion Control Law among others.

⁹⁶ Focus Group Session 1 dated September 26, 2023

⁹⁷ Questionnaire administered on April 25, 2023

⁹⁸ Erin Mooney, 'Developing National Law, Policy and Strategies around the African Union Convention for the Protection and Assistance of Internally Displaced persons in Africa', Statement delivered at *the African Union Civil Society Organizations Pre-Summit on Internally Displaced Persons in Africa*, Kampala, Uganda (13-15 October 2009).

⁹⁹ The National Climate Change Policy Response and Strategy (NCCPRS) aims to build a Nigeria equipped for quick and maintainable socio-economic growth. The policy does not, however, pay due recourse to the specific effects of climate change on persons with disabilities; it instead focuses on the general economic and financial impacts of climate change.

¹⁰⁰ The key objective of the gender action scheme is to make sure that climate change efforts in the country are all-inclusive. This is to ensure that women, children, and other vulnerable groups can access, engage in, contribute to, and collectively enjoy climate change policies, initiatives, programmes, and funds. The plan includes the expansion of knowledge-base on climate change through the use of information dissemination and evidence analysis in all sectors of the economy.

Specifically, Section 3.1.6 of the National Policy on Internally Displaced Persons, 2012 stated that “all wounded, infirm, and IDPs with disability shall receive medical care to the extent practicable which shall include psychological and social services whenever necessary.” To achieve these services, the Policy enjoins persons with disabilities to have “access to mobility aids, information in a format which they understand and accessibility of physical environment.” The Policy further enjoins persons with disabilities under Section 3.1.6 to access their rights by providing them with:

modified physical environment, assistive/mobility devices; trained personnel & specialized medical care; access to information, children with disabilities to be enrolled in nearby special schools that meet their specific needs and prioritizing persons with disability in service delivery.

Section 5.2 of the Policy provides an overriding aspiration in achieving durable solutions¹⁰¹ for internally displaced persons including those with disabilities. It enjoins all government agencies with responsibility for protecting and assisting internally displaced persons and other local and international humanitarian actors will therefore put in place measures to ensure that all internally displaced persons achieve a durable solution and can enjoy without discrimination. Below are the measures that needed to be put in place by the stakeholders: -

- a) Long-term safety, security and freedom of movement;
- b) An adequate standard of living, including at a minimum, access to adequate food, water, housing, health care and basic education;
- c) Access to employment and livelihoods;
- d) Access to effective mechanisms that restore their housing, land and property or provide them with adequate compensation.
- e) Access to and replacement of personal and other documentation lost during displacement;
- f) Voluntary reunification with family members separated during displacement;
- g) Participation in public affairs at all levels on an equal basis with the resident population; and
- h) Effective remedies for displacement-related violations, including access to justice, reparations and information about the causes of violations.

Despite the above, the implementation of the internally displaced persons with disabilities’ rights still remains a challenge. Arguably the implementation of the policy has not been

¹⁰¹According to the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons, a durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement

satisfactory. This is due, in part, to lack of a comprehensive information, pointing to a limited capacity and inadequate methodologies on the part of government agencies responsible for collecting and collating reliable data on those affected by affected climate change disasters such as flooding. Many of Nigeria's IDPs, including children, who have been displaced for years, continue to suffer several human rights violations including the right to an adequate standard of living. These adverse conditions prolong their situation of hardship, rendering them unable to access durable solutions following their displacement, and thus, regaining the full enjoyment of their rights as many are then forced to turn to begging, along with their children. This is evident in author's fieldwork which earlier revealed that 50 respondents representing 90.9% noted that their specific medical or assistive device needs had not been addressed during the displacement.¹⁰² And 52 Respondents representing 94.6% earlier revealed showed that evacuation and relief facilities during flooding were not accessible to their specific needs as persons with disabilities.¹⁰³

It is therefore argued that not making adequate provisions to meet the needs of persons with disabilities despite the formulation of the Policy is a form of structural discrimination against them. Durable solutions in form of permanent structures or arrangements ought to be provided for those willing to settle within their (new) host communities rather than endlessly being confined to temporary camps.

Although 52 Respondents representing 94.6% in an administered questionnaire by the author were not willing to resettle outside their communities¹⁰⁴ and Section 5.2 (d)(e) and (f) of the Policy which stated that persons with disabilities should have "access to effective mechanisms that restore their housing, land and property or provided them with adequate compensation, access to and replacement of personal and other documentation lost during displacement; and voluntary reunification with family members separated during displacement must be complied with to meet up with the principles as aspirations of the United Nations Guiding Principles on Internally Displacement, 1998 and the Kampala Convention, 2009 which Nigerian government signed and ratified. Interview Participant 4 who happened to be a community leader clarified the position of the above respondents when he expressed thus:

Those persons displaced in my community always returned home because they cannot resettle in the host communities of camps as their homes are ancestral homes that cannot

¹⁰² Questionnaire administered on April 25, 2023

¹⁰³ Ibid

¹⁰⁴ Ibid

be abandoned. More so, the places referred to as camps are not conducive for their living as our women cannot cohabit with men who are not their husbands. We supposed to be carried along in the government decisions on the assistance that need to be rendered to my people during disasters otherwise, building structures as camps can be regarded as waste of resources.¹⁰⁵

Another participant's response caused the author to become daunted regarding the question of compliance of Kogi State government on durable solutions. The Participant expressed thus:

all the displaced persons including those with disabilities were given fifty thousand Naira (#50,000) each as unconditional money to cushion the effect of their displacements and Kogi government only built camp structure at Lokoja, the Kogi State Capital. He also said the camps in other places were temporary sites like schools and open spaces.¹⁰⁶

Insufficient funds to cater for internally displaced persons including those with disabilities and low budgeting for emergencies constitutes serious challenges. Thus, where sufficient funds are lacking, standard facilities would be unavailable and the agencies would be inefficient. Internally displaced persons-related challenges in Nigeria are generally addressed as short-term humanitarian issues, with minimal resources dedicated to them, particularly in relation to displaced persons with disabilities. Thus, rather than planning durable solutions, activities tend to be irregular, on an *ad-hoc* basis, and hampered by bureaucratic delays.¹⁰⁷ This position was confirmed in earlier expressions by 52 respondents representing 94.6% at two different intervals of the questionnaire administered by the author. The respondents noted that "government is not doing enough to manage the existing human-induced climate change disasters"¹⁰⁸ and "inadequate budget allocation for emergencies is a contributory factor for annual internal displacement on human-induced climate change disaster."¹⁰⁹

During the Focus Group Session 2, a Participant who is a representative of Red Cross Society lamented:

Scarcity of resources for distribution is a major hindrance to internally displaced persons coupled with tensions between them and the host communities that expected similar assistance/support as the internally displaced persons receive, due to varying levels of poverty. Majority of the host communities seek to share from the items/commodities donated to the internally displaced persons thereby shortening their

¹⁰⁵ Interview conducted by the Author dated October 5, 2023.

¹⁰⁶ Focus Group Session 1 dated September 26, 2023

¹⁰⁷ Zachary A. Lomo, 'The Struggle for Protection of the Rights of Refugees and Internally Displaced Persons in Africa: Making the Existing International Legal Regime Work' (2000) 18(2) *Berkeley Journal of International Law* 1.

¹⁰⁸ Questionnaire administered on April 25, 2023

¹⁰⁹ Ibid

ration. More importantly is the issue of corruption manifested by the diversion of funds and displaced persons' relief materials to personal use by corrupt office holders in government and internally displaced person management agencies as well as their camp officials and leaders. In some cases, there is an uneven distribution of available funds and resources among the internally displaced persons camps. The overlapping and confusion in legislation and the mandate of some agencies tasked with dealing with internally displaced persons also hinder their effective protection.¹¹⁰

Instructively, the above expression is unconnected with the establishment of the National Commission for Refugees in 1989 to cater for refugees in Nigeria and not internally displaced persons but its mandate was extended in 2002 to include the responsibilities of NEMA/SEMA. Eventually, the institution nominally metamorphosed into the National Commission for Refugees, Migrants and Internally Displaced Persons, thereby making its responsibilities analogous to those of NEMA/SEMA.¹¹¹ Arguably, the result of this duplication of responsibilities is conflicting in the jurisdiction of both institutions, with adverse consequences such as inefficiency and delays in the process of working for the protection of internally displaced persons, particularly persons with disabilities.¹¹²

Table 2: Perceptions of the Respondents on the Impacts of Climate Change Human-induced Internal Displacement with People with Disabilities in Kogi State, Nigeria

Perception of the Respondents	Frequency	%	Perception of the Respondents	Frequency	%
Do you personally experience flooding in your neighbourhood?			Are you aware of any local government efforts to address drainage and waste disposal management issues to prevent flooding?		
Yes	55	100	Yes	05	9.1
No	0	0	No	48	87.3
Undecided	0	0	Undecided	02	3.6
Total	55	100	Total	55	100
Do you believe that poor drainage systems in your area contribute to flooding events?			Would you be willing to participate in community clean-up efforts to reduce the risk of flooding caused by waste accumulation?		
Strongly Agree	40	72.8	Definitely	25	45.5
Agree	12	21.8	Likely	21	38.2
Undecided	01	1.8	Not Sure	05	9.1
Disagree	01	1.8	Unlikely	03	5.4
Strongly Disagree	01	1.8	Definitely Not	01	1.8
Total	55	100			

¹¹⁰ Focus Group Session 2 dated September 27, 2023.

¹¹¹ Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement* (Brookings Institution Press, 1998).

¹¹² Ibid

			Total	55	100
Do you observe that poor waste management and improper waste disposal contribute to clogged drains and flooding?			In your opinion, what should be the top priorities for your local authorities in reducing flooding due to human activities?		
Frequently	05	9.1	Improved drainage systems	10	18.2
Occasionally	05	9.1	Strict waste disposal regulations	08	14.6
Rarely	35	63.6	Public awareness campaigns	07	12.7
Never	10	18.2	All of the above	30	54.5
Total	55	100	Total	55	100
Do you think poor drainage exacerbated human-induced climate change that cause flooding and displacement in your area?			Are you satisfied with the level of support and assistance you have received since your displacement?		
Yes	50	90.9	Yes	04	7.3
No	04	7.3	No	50	90.9
Undecided	01	1.8	Undecided	01	1.8
Total	55	100	Total	55	100
Have you ever been displaced before now due to climate change-related disasters such as flooding?			Were your specific medical or assistive device needs being addressed during the displacement?		
Yes	52	94.6	Yes	04	7.3
No	02	3.6	No	50	90.9
Undecided	01	1.8	Undecided	01	1.8
Total	55	100	Total	55	100
Do you think human-induced climate change is exacerbating flooding that caused displacement to you?			Do you feel that your voice and concerns as person with disability are adequately heard and addressed in disaster response efforts?		
Yes	50	90.9	Yes	02	3.6
No	04	7.3	No	52	94.6
Undecided	01	1.8	Undecided	01	1.8
Total	55	100	Total	55	100
How long have you been displaced from your home due to climate change-related factors?			Do you think government is doing enough to manage the existing human-induced climate change disaster?		
Less than 6 months	05	9.1	Yes	02	3.6
6 months to 1 year	05	9.1	No	52	94.6
1-2 years	30	54.5	Undecided	01	1.8
Annually	15	27.3	Total	55	100
Total	55	100			
Would you be willing to resettle outside your community?			Inadequate budget allocation for emergencies is a contributory factor for annual internal displacement on human-induced climate change disaster?		
Yes	02	3.6	Yes	52	94.6
No	52	94.6	No	02	3.6
Undecided	01	1.8	Undecided	01	1.8
Total	55	100	Total	55	100
What type of disability do you have?			Do you think better management of human-induced climate change such		
Mobility/Physical impairment	20	36.4			

Blind/Visual impairment	15	27.3	as flooding will reduce internal displacement?		
Deaf/Hearing impairment	13	23.6	Strongly Agree	40	72.8
Speech defect	07	12.7	Agree	12	21.8
Total	55	100	Undecided	01	1.8
			Disagree	01	1.8
			Strongly Disagree	01	1.8
			Total	55	100
Were the evacuation and relief facilities during the flooding accessible to your specific needs as a person with disability?			Are you aware that Kogi State Emergency Management Agency Law provides for social safety-net mechanisms to assist you in situations of risk such as flooding?		
Yes	02	3.6	Yes	05	9.1
No	52	94.6	No	48	87.3
Undecided	01	1.8	Undecided	02	3.6
Total	55	100	Total	55	100
How do the consequences of this displacement affect you?			Do you think that involvement of people with disabilities in various policy-making and leadership platforms on the climate change will yield remarkable results on achieving disaster resilience?		
Lack of shelter	01	1.8	Strongly Agree	40	72.8
Food and clean water	01	1.8	Agree	12	21.8
Health and medical care	01	1.8	Undecided	01	1.8
Education	01	1.8	Disagree	01	1.8
Separation from family	01	1.8	Strongly Disagree	01	1.8
Loss of possessions	01	1.8	Total	55	100
All of the above	49	89.2			
Total	55	100			
What specific needs or concerns do you have as an Internally displaced living with disability?			Lack of awareness and enlightenment of persons with disabilities about the laws, policies and regulation on environmental management exacerbates climate change human-inducement?		
Access to inclusive education	03	5.5	Yes	50	90.9
Inclusive job opportunity	05	9.1	No	04	7.3
Special health and medical services	02	3.6	Undecided	01	1.8
Inclusive shelter and facilities	02	3.6	Total	55	100
Psychological support	01	1.8			
Special livelihood opportunities	02	3.6			
All of the above	40	72.8			
Total	55	100			
Do you think residents should be more responsible for maintaining drainage management and waste disposal in their communities?			Do you think that people with disabilities should be given equitable representation in disaster risk reduction management?		
Strongly Agree	40	72.8	Strongly Agree	40	72.8
Agree	12	21.8	Agree	12	21.8
Undecided	01	1.8	Undecided	01	1.8
Disagree	01	1.8	Disagree	01	1.8
Strongly Disagree	01	1.8	Strongly Disagree	01	1.8
Total	55	100	Total	55	100

Source: Author's Fieldwork Survey 2023

5.0 Discussion of Findings

The findings in this study reveal the displacement of persons with disabilities due to climate change disasters such as flooding. The study provides evidence through literature review; views of the informants/participants from the questionnaire administered; and Focus Group Sessions with interviews conducted by the author. On the basis of human-induced climate change investigation conducted in Lokoja, Omala, Ajaokuta and Kogi Local Government Areas of Kogi State from April 20 to October 5, 2023, there is a general documentation from the findings that poor drainage system; poor waste management; and improper waste disposal are some of the contributory factors to climate change. Majority of the Respondents held the view that the above identified problems contributed to clogging drains and flooding in the communities under study as shown in Table 2. The view expressed by a participant in Focus Group Session 1 is aptly captures this point that throwing of dirt into drainage channels by the average Nigerian eventually blocks the pathway of effluent water. This is a major cause of flooding. The findings reveal that all the respondents have personally experienced flooding.

The above findings correspond with previous researches on climate change in Nigeria carried out by Oyedele *et al.* and Samson, William and Alkali on persistence and inevitability of climate change vulnerability that showed the existence of human-induced climate change disasters especially in Kogi State. The stand taken by 52 Respondents representing 94.6% in Table 2 show that the residents should be more responsible in maintaining drainage management and waste disposal in their communities. The findings also reveal 25 respondents representing 45.5% of them in another interval of the questionnaire that they will definitely participate in community clean-up to reduce the risk of flooding that can be caused by waste accumulation. 52 Respondents representing 94.6% in another phase of the questionnaire complemented the above expression when they said that better management of human-induced climate change such as flooding will reduce internal displacement.

The available literature and the findings in the field work revealed that the consequences of displacement were devastating as the respondents lacked shelter, food and clean water; health and medical care; education; separation from family; and loss of possessions. These findings further revealed that the rights to life of displaced persons with disabilities were threatened.

Findings from the study equally revealed some of the categories of persons with disabilities had been displaced several times (ranging from six to twelve months) in their communities and they were those with mobility/physical impairment; blind/visual impairment; deaf/hearing impairment; and speech defect. The findings reveal that these classes of persons lamented over the unsatisfactory treatments by government. During Focus Group Session 1 a participant stated that persons with hearing and visual impairments along with those that had speech defects suffer as shelter-space is inaccessible to them because messages about locations are not normally communicated in sign language or Braille. Their views aligned with the work of Sara who opined that it is the sole responsibility of the government to protect the fundamental human rights to life, food, shelter, and conducive environment as climate change always directly threatened these rights.

The reviewed literature like the work of Matijević *et al.* confirmed this position by adducing reasons why IDPs were caught in protracted displacement due to unaddressed displacement-related vulnerabilities. From the findings of the study, it is clear that the evacuation and relief facilities during flooding were not accessible to persons with disabilities' specific needs. Interview participants in Focus Group Session 3 stated that many persons with disabilities fall into more than one of disability categories and access to the resources required to meet their specific needs were never distributed evenly

However, findings reveal the views of some interviewed participants during the Focus Group Sessions who acknowledged the scarcity of resources for distribution and tension between the displaced persons and their host communities who expected similar support like that of the displaced persons due to poverty. Remarkably, the work of Groce, London and Stein reviewed in the course of this study confirmed this position by interrogating the manner in which distribution of and access to family and household assets affected individuals with disabilities in a developing world like Nigeria.

The findings of the study that reveal lack of awareness and enlightenment about laws, policies and regulation on environmental management were advanced to expose the flaws in the laws and policies and demonstrate their inadequacy and ineffectiveness in protecting the participatory rights of persons with disabilities during climate change disaster risk reduction management. These standpoints were canvassed by participants in all the Focus Group Sessions

and interviews conducted by the author. The findings also revealed non-implementation of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 by the Kogi State government.

The findings also revealed that the Nigerian Government had made several efforts to acknowledging the adverse effects of climate change. In doing so, the study revealed the enactments of laws and formulation of policies that protect the participatory rights of persons with disabilities especially the recent Climate Change Act, 2021. However, the findings revealed the non-implementation of this Act and those extant laws in Kogi State examined in this study by Kogi State government are not disability-inclusive.

The findings of this study further revealed the ratifications and domestications of international and regional legal instruments on durable solutions by the Nigerian government with the formulation of the National Policy on Internally Displaced Persons in 2012. Despite this formulation, findings of the study revealed ineffectiveness in the implementation as respondents said that they were not aware of any social-net mechanisms put in place by Kogi State government to assist them in situations of risk such as flooding. The findings further revealed that persons with disabilities were not involved in policy-making and were not included in the leadership platforms on climate change in order to achieve disaster resilience provided in the above National Policy.

The findings have enumerated measures in which human-induced climate change can be reduced. Among the suggested measures revealed in this study include improved drainage systems; strict waste disposal regulations; and public awareness campaigns. The views that had been expressed during empirical engagement in this study showed the need for massive support of all the stakeholders to bring the efficacy of the extant laws and policies into operation. The findings also revealed that the respondents were not willing to integrate in their places of displacement but wanted to return home and reunite with their families. This option is in line with Section V of the Framework and Principle 28 of the UN Guiding Principles which National Policy on Internally Displaced Persons 2012 had incorporated in its Section 5.2(f) thereof.

However, it has been revealed from the findings that the eight right-based approach measures under Section 5.2 of the above National Policy have not been implemented as the findings show that persons with disabilities have not got specific assistance and protection needs that were linked to their displacement and they did not enjoy their full human rights without

discrimination due to their displacement. To this end, the findings reveal 72.8% of the respondents who were of the view that to achieve the eight right-based approach measures on durable solutions, they must have access to inclusive education; inclusive job opportunity; special health and medical services; inclusive shelter and facilities; psychological support; and special livelihood opportunities among others. To 94.6% of the respondents, the findings revealed that they needed equitable representation in disaster risk reduction management and with this, their participatory right would be guaranteed. It had been revealed, in this study, that activities on displacement in Kogi State were irregular and, on an *ad-hoc* basis with lack of planning for durable solutions.

6.0 Conclusion and Recommendations

The objectives had been answered from the findings of this study. The author analyzed how human-induced climate contributed to displacement and the extent to which the legal instruments on climate change, displacement and disabilities addressed the complex challenges faced by persons with disabilities during emergency situations in Kogi State.

The study proffered recommendations by aligning to the responses adduced by the informants and interview participants.

Suggestions as to:

- (i) participation in community clean-up efforts to reduce the risk of flooding caused by waste accumulation;
- (ii) better management of human-induced climate change;
- (iii) improved drainage systems;
- (iv) Strict waste disposal regulations;
- (v) public awareness campaigns; and
- (vi) adequate budgetary allocation for emergencies by Kogi State government

Overall, the study recommended implementation of Discrimination Against Persons with Disabilities (Prohibition) Act, 2018; amendment of Kogi State Environmental Law and proper implementation of the right-based approach measures identified in the National Policy on Internally Displaced Persons, 2012 and the action plan under the Climate Change Act, 2021. The study further recommended that the National Assembly should carry out its constitutional mandate on oversight function to do post scrutiny of Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 which had not been seen to be effective in Nigeria.