

**Between Refuge and Rights:
Internally Displaced Persons and Inclusive Electoral Process in Nigeria**

**Okechukwu Ibeanu
Research Professor
Institute for Development Studies
University of Nigeria, Enugu Campus
Enugu**

**Lecture delivered at The Electoral Institute (TEI)
Independent National Electoral Commission (INEC)
Abuja, Nigeria, 15th December 2015**

© Okechukwu Ibeanu, 2015

Between Refuge and Rights: Internally Displaced Persons and Inclusive Electoral Process in Nigeria

There is little doubt that the worsening social security conditions in Nigeria is leading more and more people into revivalist and millenarian sects in both the Muslim and Christian religions. They are not only ultra conservative in approach but accept holy wars as divinely ordained. The future points to even more population displacement as a result of ethno-religious conflicts.¹

Introduction

The place of internally displaced persons in the electoral process raises a longstanding question of the nexus between refuge and rights, which has underlined discussions of population displacement in the last sixty years. Which is more important, refuge or rights? Who protects the rights of displaced persons? Is refuge to be treated as a right or as a humanitarian gesture? What rights should persons seeking refuge be entitled to? These are some of the questions that academia, politicians, jurists and activists have often sought to pose and answer in understanding the age-old problem of population displacement. These questions become even more complicated when displacement occurs in countries like Nigeria where state formation is yet ongoing and citizenship seems to be unraveling and recomposing at one and the same time.

One fundamental point that refuge and rights raise in the context of democracy is inclusiveness. Inclusiveness is a fundamental principle of democracy. In fact, the historical evolution of democracy has been a story of struggles for inclusivity. In deed, democracy is a biography of popular struggles to expand the political space and make it more inclusive. The struggles of citizens in Sparta against the Oligarchy to be part of decision making like their counterparts in Athens, the disagreement between King John and the English Barons, which led to the *Magna Charta*, the French, Russian and Cuban revolutions, the struggle of English women for universal suffrage which led the crown in 1918 to grant the right to vote to women over 30

¹ This was one of my conclusions in an essay I published seventeen years ago. See Okechukwu Ibeanu 'Nigeria' in Janie Hampton (ed) *Internally Displaced People: A Global Survey*, London: Earthscan Publications, 1998, p. 50.

who own property, the struggles of the world's colonized people for political participation and emancipation, the popular struggles of Eastern European, Latin American and African peoples against authoritarian rule in the 1980s and 1990s, as well as continuing struggles for electoral reforms all over the world are emblematic of democracy's history of inclusion. To be sure, expanding inclusiveness is a permanent goal of electoral reform.

Democracy is essentially a process by which substantial and increasing segments of society become included in a constitutional political community. This is usually exemplified by an expansion of the franchise, that is the right to vote. Paradoxically, this process is often accompanied by instabilities in the electoral process and democratic structures at large. It seems to me that this is so for two related reasons: the first is a decomposition process, while the second is a composition process. First, democratization entails opening up and letting in new forces into the political process. However, for this to happen, existing interests have to be first decomposed. Consequently, expanding or altering the franchise always creates tension between the forces of consent and the forces of resistance. Second, as new entrants are admitted, interests are recomposed creating new dynamics in democratic structures and processes, including the electoral process. For structures that manage these processes of decomposition and composition, there is a constant challenge of managing the instabilities inherent in the process. How they handle these instabilities and challenges constitute a core question of reform.

The Boko Haram insurgency in the North East of Nigeria has produced different challenges for different agencies of the Nigerian state. The insurgency has for long been recognized as a security challenge with far reaching collateral social consequences. The rising number deaths of innocent citizens, insurgents and security officials, estimated at close to 30,000 in the three States of Adamawa, Borno and Yobe between May 2011 and November 2015 alone², the complete

² See http://www.cfr.org/nigeria/nigeria-security-tracker/p29483?cid=ppc-Google-grant-nst-boko_haram&qclid=CIT86-uhwMkCFWITwwodMSAFSw

desolation of towns and villages, and the teeming numbers of displaced persons estimated at a point to be close to three million attest to the enormous security, human and social dimensions of the insurgency. However, perhaps the least expected of implications of the insurgency is its impact on the rights of millions of people to vote, among them up to a million internally displaced persons (IDPs). Thus, in the buildup to the 2015 elections, the question of IDP voting became a cardinal issue for the Independent National Electoral Commission (INEC). It tested the capacity of INEC to respond smartly to emerging challenges to election administration and its commitment to building a strong democratic tradition through conducting world-class elections. Consequently, the problem of IDPs created for INEC a complex convergence of change, adaptation and management of the 2015 general elections that clearly fit into what Norris *et al* call “contentious election”.³ And for the IDPs, the situation created a challenge of balancing the problems of exile with exercising the democratic right to vote. It is in the unpacking of these complexities and challenges that I locate the task of this lecture.

The lecture seeks to provide an understanding of the far-reaching changes that occurred at INEC between 2010 and 2015. Based on this understanding, it constructs a narrative on the introduction of voting for some internally displaced persons during the 2015 general elections, which was one in a series of changes introduced by INEC to advance inclusive electoral process in Nigeria.

Understanding recent reforms in INEC

Electoral reforms in Nigeria have a long history interwoven with the persistent failures of elections since independence. They have been as recurrent as elections themselves. Since the outcomes of elections determine access to power and the enormous resources controlled by the state, conduct of elections mirror in scale and intensity all the problems of state making and nation building in Nigeria. Almost invariably, general elections are immediately followed by an “inquests” into the performance of the Electoral Management Body, usually as a result of public outcry

³ Pippa Norris, Richard Frank and Farran i Coma (eds) *Contentious Elections: From Ballots to Barricades*, New York: Routledge, 2015.

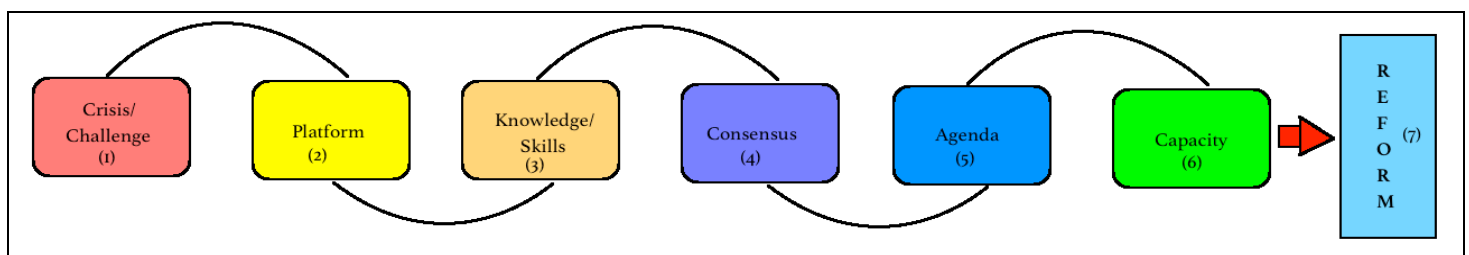
against poor management of the elections. These reviews have taken three principal forms. In the first place, there are usually several reviews by civil society organizations, domestic and international election observers and the general public, which provide the impetus for reforms. Secondly, there are reviews resulting from election litigations by the judiciary. Election cases often throw up insights into the performance of the EMB and give indications of the type of reforms that are needed. Finally, there could be established by government, Committees to inquire into the elections and suggest reforms. Thus, after the 1983 elections, the Babalakin Committee was empanelled to look into the activities of the Federal Electoral Commission (FEDECO), while the Election Reform Committee (Uwais Committee) was established following the debacle of the 2007 elections.

The reform agenda are usually set in the context of these reviews, especially the report of special Committees like the Babalakin and Uwais Committees. The reviews ostensibly lead to improvements in the election legal framework on the one hand, and in the activities of the electoral management body on the other. For instance, it was the pressure exerted by relevant actors that led to the enactment of a new Electoral Act in 2010 to replace the 2006 Act on which the widely challenged 2007 elections were held. Further pressure on the legislature led to several amendments to the 1999 Constitution and the 2010 Electoral Act to strengthen INEC as it prepared for the 2011 general elections. Thus, on funding the Commission, the constitutional amendment for the first time in the history of EMBs in Nigeria made INEC a first-line charge agency, which presumably makes the Commission financially independent from government.

To understand recent reform in INEC, we can conceptually map its occurrence by identifying the factors that accounted for it. First, the widespread controversy that surrounded the 2007 elections created a serious legitimacy crisis for the government and the electoral process, and threatened to degenerate into serious political conflict. This led the government of late President Umaru Yar'Adua to set up the Justice Lawal Uwais Election Reform Committee. Second, by early 2010, with the Report of the Committee already in the public domain, there had emerged a strong

pro-electoral reform platform bringing together opposition parties, civil society organizations, development partners and even the diplomatic community. Third, this platform was able to forge a consensus on a number of critical issues to drive the agenda for reforming Nigeria’s electoral process including fundamental changes in INEC. Fourth, part of this consensus was to ensure that a new leadership emerged at INEC namely, a leadership that is knowledgeable, experienced and courageous, capable of driving the reform. Professor Attahiru Jega, who was appointed in late June 2010 to head a new INEC, seemed to fit this profile. He was a renowned professor of Political Science, had a long pedigree of pro-democracy praxis, and was also a member of the Uwais Committee.

Figure 1: Steps in Electoral Reform



Conceptually, the following are six critical steps that defined recent reforms in INEC:

1. A crisis situation represented by the 2007 general elections and their aftermath.
2. Existence of a Platform pushing for reforms (Opposition parties, civil society, bilateral partners and development partners)
3. A critical mass of knowledge and skills to design a solution to the crisis provided by INEC, which was headed by a renowned Professor Political Science, pro-democracy activist and member of Electoral Reform Committee.
4. The reform Platform was able to build a consensus around critical issues in addressing the crisis, drawing from the Uwais Committee Report
5. Drawing on existing knowledge and skills to solve the crisis, the consensus becomes a reform agenda focusing on three main components, namely broad

issues of the electoral framework, structure and organization of INEC and actual management of elections.

6. INEC demonstrates a capacity to implement the agenda, including far reaching internal reforms.

The core issues and challenges of reform emanate from the seeming inability over the years of successive Nigerian EMBs to conduct elections that are free, fair and credible, and widely accepted to be so. These core issues and challenges are three-pronged and it is important to separate them since their critical actors, goals, pace, sequencing, continuities, discontinuities, outcomes and sustainability may not always coincide. First, there are broad issues of the electoral framework. In this regard, there are six core issues:

- a) The mode of appointment of members of the Commission;
- b) Unbundling the Commission to make it more focused on delivering good elections;
- c) Electoral adjudication particularly the issues of election-related cases and prosecution of electoral offenders;
- d) Funding of INEC to ensure its independence from government, particularly the Executive arm of government;
- e) Relationship between INEC as the federal EMB and State Independent Electoral Commissions (SIECs) as regional EMBs; and
- f) The electoral system, particularly the issue of simple plurality versus proportional representation.

Second, there are issues linked to specific institutional and structural reform of the Electoral Commission. These include:

- a) The issue of the optimal organizational structure of the Commission;
- b) Lack of clarity in job descriptions and conflicting or overlapping functions;
- c) Lack of clarity in reporting processes;
- d) Role of the Commissioners in policy making and policy implementation;
- e) Poor record keeping;
- f) Weak rules and regulations; and

g) Disciplining of staff.

Finally, there are issues related to improvements in election management. These include:

- a) Issues of planning, operations and logistics;
- b) The voters roll or register;
- c) Voting procedure;
- d) Design and handling of ballot papers;
- e) Election security;
- f) Counting, tallying and announcement of results; and
- g) Creating opportunities for all facets of society to participate.

Table 1 summarizes these three sets of issues in the context of INEC between 2010 and 2015.

Table 1: Summary of INEC Reforms (Selected Issues)		
Area of reform	Issue	Description
Broad issues of electoral reform	Mode of appointment of members of the Commission	Appointment of members of INEC as provided for in the 1999 Constitution is made by the President and there have been concerns that Presidents exercise this power to favour partisan interests. Confirmation of appointees is by the Senate, which is dominated by the ruling party. Reformers have sought to take the power away from the President and vest it in the wider public and more neutral bodies such as the National Judicial Council.
	Unbundling the Commission to make it more focused on delivering good elections;	INEC's role is seen as too extensive covering election management, delimitation of constituencies, registration and regulation of political parties and prosecution of election offenders. Reformers argue for INEC to be unbundled to focus strictly on election management. Creation of separate bodies to handle political parties, delimitation of electoral boundaries and prosecution of electoral offences is widely put forward as reform issues.
	Electoral adjudication particularly the issues of election-related court cases.	Reform here addresses the need to complete all election related cases before winners are sworn-in. There have been election cases that lasted till the end of the tenure of officials whose victories were subject of the cases.
	Funding of INEC to ensure its independence from government, particularly the Executive arm of government;	INEC's dependence on the government for funding is seen as a source of partisan influence. Reform addresses the need to make INEC financially independent of government, particularly the Presidency by making it a first charge on the consolidated revenue of the federation.
	Relationship between INEC as the federal EMB and State	Reformers argue for the abolition of SIECs and integration of their functions into INEC's work.

	Independent Electoral Commissions (SIECs) as regional EMBs; and	
	The electoral system, particularly the issue of simple plurality versus proportional representation.	The simple plurality (First-Past-the-Post) is seen to be behind the cutthroat nature of politics and the determination of politicians to win by all means, including pressuring INEC. The introduction of proportional representation is widely canvassed as a major dimension of electoral reform.
Structural and organizational reform of INEC	The issue of the optimal organizational structure of INEC	The INEC bureaucracy is widely perceived as unwieldy, which is partly blamed for malpractices. Reformers call for functions to be streamlined and Units pruned down to make INEC more efficient in election management. Reformers posit that the major challenge to achieving this is the well-organized informal groups in the bureaucracy, particularly those pushing ethnic balancing in the Commission. They argue that many people are merely concerned about loss of position and power.
	Lack of clarity in job descriptions and conflicting or overlapping functions;	Many overlapping functions are apparent in INEC. In many cases there are no clear job description for positions. The reforms aim to clarify roles and define duties and responsibilities.
	Lack of clarity in reporting processes	Part of the problem in the organizational structure of INEC is the lack of clarity in reporting lines. The relationship between the Commissioners and the Secretary in the running of the day-to-day activities of the Commission is a major issue. The reporting lines between the Commissioners, the Secretary and the staff lack clarity.
	Role of the Commissioners in policy making and policy implementation	The Commission consists of one Chairperson and 12 Commissioners. Is this an executive or a policy body? This remains a contentious issue confronting reforms.
Improved election administration (Selected)	Issues of planning, operations and logistics	A great deal of advanced planning was carried out before the 2011 elections through the Election Planning and Implementation Committee (EPIC) established by the Commission. For the 2015 elections, a comprehensive Election Project Plan (EPP) was developed, the first by the Commission. An electronic Election Management System (EMS) was created to power the EPP.
	Register of Voters and a machine readable voter's card	A new electronic Voter's Register was compiled in January 2011 containing biometric features of voters. With over 73 million entries, the register is the largest single database of information about Nigerians today. After several processes of "cleaning up" the register, permanent, chip-based voter's cards were issued for about 68 million voters.
	Voting procedure	A new voting procedure involving the completion of accreditation before voting was adopted for the 2011 and 2015 elections making it difficult for multiple voting and enabling voters to be present to witness the counting and announcement of results at the polling units.
	Election security	A new initiative on securing elections called the Interagency Consultative Committee on Election Security (ICCES) was introduced making it possible for all security agencies and INEC to develop a common plan for securing elections and to harmonize operational processes. In addition, a web-based Election Security training platform (Basic Security in Election Duties) was created, as well as an election risk management tool.
	Counting, tallying and announcement of results	Counting and tallying of elections were made more open from the polling unit to collation. Thus, the tallying of the Presidential election result was broadcast live on local and international television.
	IDP Voting	Introduction of procedures to enable an estimated half a million voters in the North East displaced by the Boko Haram insurgency to vote during the 2015 general elections.

Problem of Internally Displaced Persons (IDP)

I argue that Internally Displaced Persons represent the fourth historical moment of the global problem of population displacement (Table 2). This global problem is essentially linked to the nation state as a capitalist phenomenon, particularly the multiple layers of conflicts – class, identity, national, international – that it produces. The First Moment of this problem could be traced to the emergence of the contemporary nation state and with it, the contemporary international system. This could be located in the end of the Thirty Years War (1618 – 1648) and the Westphalia Treaty. Between 1684 and end of World War II, there was a constant drawing and redrawing of boundaries of nation states in Europe, particularly following the Treaty of Versailles at the end of World War I. The period saw the emergence of a teeming population of stateless persons and refugees from several European boundary and economic wars, culminating in the two World Wars.

The Second Moment could be dated from end of World War II to the beginning of Africa’s Decade of Independence in 1960. This period saw the challenge of dealing with millions of refugees from World War II and several colonial and state formation wars in Latin America, Asia and the Middle East. I date the Third Moment of the global problem of population displacement to between 1960 and 1990, epitomized by persons displaced in Africa’s liberation/independence struggles, several civil wars and coups d’état and the end of communism in central Europe. This period produced millions of refugees across the African continent. Finally, the Fourth Moment, which is the present moment, is the phase of IDPs. The end of the Cold War has been partly characterized by the internalization of conflicts. By this I mean that wars among States have receded and most conflicts are now internal. Millions of people are displaced within state boundaries, particularly as a result of state formation and resource conflicts. However, these internal conflicts and worsening economic conditions in the periphery of the global capitalist system has also led to new refugees, who are erroneously classified as economic migrants.

Phase	Period	Context	Framework for engagement
1st Moment	1648 - 1945	• Stateless persons arising from the emergence of	• Westphalia Treaty (1648)

		<p>contemporary nation-state system in Europe, following the Westphalia Treaty of 1648, which ended the Thirty Years War.</p> <ul style="list-style-type: none"> • Stateless persons and refugees from several European wars and the First World War and particularly the consequences of transfer of territories following the Versailles Treaty of 1919. 	<ul style="list-style-type: none"> • Versailles Treaty (1919) • Paris Treaty that established the League of Nations (1919) • League of Nations had a Commission on Refugees
2nd Moment	1945 - 1960	<ul style="list-style-type: none"> • Refugees from the Second World War • Refugees and people displaced by several regional colonial and state formation wars, particularly in Latin America, Asia and the Middle East. 	<ul style="list-style-type: none"> • Geneva Conventions (1949) and emergence of International Humanitarian Law • UN Refugee Convention (1951)
3rd Moment	1960 – 1990	<ul style="list-style-type: none"> • People displaced by Africa’s liberation and independence struggles • People displaced by Civil wars of the immediate post-independence period in Africa and a rash of military coups d’état that followed. • Persons fleeing communist regimes in Europe 	<ul style="list-style-type: none"> • Geneva Conventions • UN Refugee Convention • OAU Refugee Convention (1968)
4th Moment	1990 - 2015	<ul style="list-style-type: none"> • End of Cold War and reopening of state formation conflicts in Africa, Central Europe and Latin America. • Resource conflicts • Conflicts from democratization. • Insurgencies 	<ul style="list-style-type: none"> • UN Guiding Principles on IDPs (1998) • Kampala Convention (2009)

To respond to this changing character of the global problem of population displacement, the UN Secretary-General, Boutros Boutros-Ghali in 1992 appointed Francis Deng as the Representative of the UN Secretary-General on Internally Displaced Persons.⁴ In 1998, Deng and his team produced a set of Guiding Principles (GPs), which became the first comprehensive effort at global management of “internal population displacement”. Although the guiding principles are yet to metamorphose into a global Convention, they have over the years acquired a moral, if not legal force, particularly with the adoption of the Kampala Convention of the African Union in October 2009.⁵ It is not surprising that the UN Guiding Principles

⁴ Francis Deng ‘Flocks without shepherds: the international dilemma of internal displacement’ in W. Davies (ed) *Rights Have No Borders: Worldwide Internal Displacement*, London: Global IDP Survey/Norwegian Refugee Council, 1998, p. 2.

⁵ The *Kampala Convention*, which is also known as the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*, was adopted on 23rd October 2009 and came into force on 6th December 2012. Nigeria signed the Convention on 23rd October 2009 and ratified it on 17th April 2012. However, the Convention has not been domesticated in accordance with Section 12 (1) of the 1999 Constitution.

fundamentally informed the Kampala Convention. I have made a detailed critique of the Guiding Principles elsewhere⁶ and will only limit myself to a summary here.

The Guiding Principle generally follow the epistemology that has dominated thinking on population displacement in the past over half century, dating to the 1951 UN Convention on Refugees. To start with, it defines displacement as follows:

. . . internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, Violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁷

This definition understands the problem of internal population displacement not in terms of the process itself, but in terms of circumstances of individuals who experience it. For one thing, this approach subjectivizes and individualizes the experience of displacement. The principal concern of this approach is the selection of persons to be recognized for protection and assistance and those to be excluded. In the past, this focus has resulted in refusing persons who may be in urgent need protection with far reaching consequences. This approach puts a lot of power in the hands of bureaucrats who determine who is qualified for protection and assistance and in many cases their assessments have been wrong, exposing displaced persons to risk. This has happened to many refugees who were returned to life threatening situations just because the wrong determination was made. For another thing, the definition masks the social relations behind the immediate conditions that generate displacement. By defining displacement in terms of armed conflicts, violence and disasters, the definition conceals the class dynamics behind these phenomena. In other words, these phenomena are not class neutral. Consequently, although the immediate reasons why people leave their habitual residence may be armed conflict,

⁶ Okechukwu Ibeanu 'Exiles in their own home: conflicts and internal population displacement in Nigeria', *Journal of Refugee Studies*, Vol. 12, No. 2, 1999.

⁷ United Nations (UN) (1998) 'UN Guiding Principles on Internal Population Displacement', in Janie Hampton (ed.) *Internally Displaced People: A Global Survey*, London: Earthscan, pp. 205 - 213.

violence or disaster, the deeper or remote causes are usually class relations and class struggle.

To be sure, the definition provided by the Guiding Principles improves slightly on the definition of refugees contained in the 1951 UN Convention (United Nations, 1998): in two ways. First, it recognizes the conditions of people displaced by the so-called non-political factors like “natural disasters”. A good deal of the criticism against the 1951 Convention has focused on the distinction between people fleeing political persecution and those fleeing economic and other life threatening conditions.⁸ Secondly, the Guiding Principles goes beyond the individualization of refugee experience that underpinned the 1951 Convention by recognizing the group character of displacement, albeit in a contradictory fashion. The definition says, “internally displaced persons are persons or groups of persons . . .” By speaking of “persons”, the definition clearly set out to define individuals. At the same time, it speaks of “group of persons”. Ostensibly, this is in recognition that displacement also has a group dynamic. However, it seems to me a contradiction to define *internally displaced persons* (individuals) as groups of persons. We think that this contradiction arises from a hangover of the subjectivist and legalistic traditions of the past sixty-five years, which create a dilemma over the correct weight to accord to the individual and the group in displacement.

In defining legal persons (persons to be recognized as displaced), the Guiding Principles, like the 1951 Convention did with refugees, are clearly addressed principally to politicians, bureaucrats and lawyers. The definition also gets into a definitional antilogy in which one social category (internally displaced) is defined on the basis of characteristics of another category (refugees). In short, for the Guiding Principles, IDPs are simply refugees who have not crossed an internationally recognized border.

⁸ Allan Dowty *Closed Borders: The Contemporary Assault on Freedom of Movement*, New Haven: Yale University Press, 1987.

This definition of displacement by the Guiding Principles could also be quite problematic in the African context because State borders inherited from colonialism continue to be seriously contested. To define IDPs in terms of Africa's volatile boundaries could contribute to the growth of irredentism and "affinity intervention", that is cross-border action by one State on behalf of its ethnic "kith and kin" in other States. This would make the already unstable border relations in Africa even more precarious. Related to this, the inherent meaning in the definition's use of these contested "borders" as the singular factor for separating refugees and IDPs could lead to States "manipulating" the location of displaced persons in order to receive international support and assistance, which is usually only available to refugees. This could heighten hostilities among African States especially where borders divide ethnic groups and there is already a history of border problems.

Perhaps most importantly, the *Guiding Principles* assign the main task of assisting and protecting IDPs to states. On that, the *Guiding Principles* are questionable on two grounds. First, they imply that states can and/or are willing to provide such assistance and protection. This contrasts markedly from refugees for whom the international community has a principal responsibility. The consequences of millions of displaced people consciously heading for an internationally recognized border in order to receive assistance and protection would be catastrophic indeed. Secondly, it is paradoxical that the state, which is highly implicated in the internal displacement of people, is given the responsibility of protecting its own victims. This paradox is deeply rooted in the notion of non-interference and sovereign equality of states, which fails to recognize that the process of state making is still very much in progress in many societies experiencing a high incidence of displacement. While the people address the problem as a dynamic one that is integrally linked to state making and the transformation of the state, the international community, as exemplified by the Guiding Principles, tends to address it statically within existing political structures.

IDPs in Nigeria: a problem of state making

I think that in Nigeria, as elsewhere in the underdeveloped world, population displacement is principally a problem of state making. Consequently, any study of displacement in Nigeria must include a proper problematisation of the role of the state in population displacement. This is not simply a process of showing how the state contributes to population displacement, as has been the dominant trend in the literature. To do this is to address only secondary manifestations. Rather, what is needed is to demonstrate a theoretical connection among the character of the state, the processes of building the state and population displacement. **In other words, it is not enough to show that the problem of displacement is of the state's making, but more fundamentally that it is a problem of state making.**

Drawing from Ake's apt analysis, I argue that state making in Africa, including Nigeria, involves both *vertical and horizontal relations*.⁹ The first set of relations has to do with the imposition of domination over independent social formations by bringing them together into one polity dominated by a centralizing colonial power. These relations include:

1. Imposition of a chain of command;
2. Extraction of political allegiance and social surplus;
3. Making and enforcement of laws;
4. Transformation of the subordinated social formations into a coherent economy and polity; and
5. Elimination of the resistance of the subject formations to the hegemonic-centralizing power.

I categorize these aspects of vertical state making as the domination dimension. There is however, a second dimension of these vertical relations that Ake analysis does not articulate, namely what I call the aggregation dimension. By this I mean the aggregation, organization and reorganization of the colonized formations and peoples by the colonialists for optimum domination and exploitation. This finds expression in all or some of the following:

⁹ Claude Ake *Why Humanitarian Emergencies Occur*, The United Nations University WIDER, Research for Action No. 31, 1987.

1. Creation of a new system of social stratification;
2. Creation or maintenance of some existing social groupings, creation of new ones and annihilation of others;
3. Creation of segregated areas, homelands or enclaves for different groups among the colonized. This usually creates the necessary social distance for the colonial policy of divide and rule.
4. Creation of new authority structures among colonized peoples;
5. Preservation of some and destruction of other cultural practices of the colonized peoples; and
6. Assimilation of some and exclusion of other segments of the colonized society.

On the other hand, horizontal relations have to do with struggles for domination and subordination among constituent social forces in the emergent state. These find expression in:

1. Renewal of primordial identities and solidarities;
2. Communal competition among subject communities for access to central power, especially among communities that were antagonistic prior to their common subjugation to the centralizing power;
3. Strategies for evading the state's demands and coercion;
4. Alliances and projects for local empowerment;
5. Cultivation by groups of new exclusivist identities and solidarities; and
6. Manoeuvres for forms of exclusivity by which the elite of particular groups and communities attempt to disable potential competitors.

We can also add a seventh to Ake's list namely, strategies of power sharing among the elites of particular groups and communities of the colonized after independence.

The outcome of this pattern of state making is to entrench the trinity on which colonialism is built namely, racial segregation, economic exploitation and political domination. It is not surprising that in the post-colonial period, a lasting feature of the yet evolving process of state making in countries like Nigeria is the persistence

of communalism and primary solidarities, which have a tendency to be exclusive and totalizing. Primary solidarities invariably define people as “in-group” and “out-group”, and lay claim to the total control of the lives of members of the “in-group”. This has been made worse by the authoritarian character of the state that emerged from colonialism.

In line with its tripod of racial segregation, economic exploitation and political domination, the colonial state was constituted principally as an instrument for holding down a conquered people. Mamdani has characterized the colonial state as racist and despotic. It set different standards for treating white colons and indigenous people. Only the white-settler population initially, and much later a few indigenous urban dwellers, were part of civil society and therefore subject to *the rule of law*. The vast majority of the indigenous peoples of the colony remained outside of “civil society” and subject to *the rule of force*. This gave the colonial state a dual character. One part, a smaller part, was for the citizen and functioned according to the rule of law. The larger part was organized under the rubric of Native Authority, existed for the colonial subjects, who were organized into communal groups, and functioned principally to conquer and keep down the native-subject.¹⁰ In this part of the colonial state, violence, which took the forms of repression, exploitation and denial of rights, reigned supreme. The despotism and exclusion practiced by the colonial state drove people increasingly into the embrace of the primary community – kin groups, racial groups, ethnic groups and clans. At independence, it was the Native Authority part of the colonial state that survived in the main. Thus, despotism, exclusion and dominance of primary groups have persisted, deepening the distrust of these groups for one another and for the state as the guarantor of their collective security. The African elite who inherited the powers of this colonial state at independence has further deepened its Native Administration character by privileging communal identities over citizenship. Through legal and policy constructions, people are first of all treated by the state as natives before they are treated as citizens, as for instance exemplified by the concept of an indigene, which

¹⁰ Mahmood Mamdani *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, Kampala: Fountain Publishers, 1996.

is akin to a native, in the Nigerian constitution. Paradoxically, this same elite who rejected their pejorative categorization as native by the colonizers because the word has a ring of incivility, backwardness and servitude about it, and who waged struggles to become citizens, now gleefully call themselves natives and indigenes. This privileging of the native over the citizen is quite contrary to the model of bourgeois state making in Europe, which aimed at destroying primordial identities and making all available for market relations with a single, equalizing political identity of citizenship. As such, the citizen is the political equivalent of the commodity bearer in exchange relations. In all, the constitution and functioning of the postcolonial state remain widely contested and prone to conflict, because of the persistence of that state in keeping people separate based on communal identities and in most cases treating them differently. There in lie the roots of violent conflicts and population displacement.

My deduction is therefore that essentially, conflicts and insecurity characterized by state violence constitute a principal causal factor in population displacement in Nigeria. To be sure conflicts and insecurity are two side of the same coin, for conflicts always arise in contexts in which groups and states perceive their security to be under threat. Here, security should not be seen exclusively in the realist tradition solely in terms of the state and military power. Instead, social security should also be stressed. In this regard, security from poverty, hunger, disease, ignorance, arbitrary power, fear and want, both for groups and individuals, constitute cardinal elements of security. In fact, there is an organic link between the security of the state and social security. African governments usually overlook this point as they privilege state security over social security. But without social security, conflicts become highly probable, thereby threatening the security of the state. This is a major risk that countries like Nigeria, where human development has been declining precipitously, constantly face. It is not surprising that such countries experience high levels of violent conflicts as well as population displacement.

It is a principal responsibility of the state to guarantee social security for all groups through the management of their contradictory claims to resources and conflicting

perceptions of conditions necessary for their security. But an examination of the state in countries like Nigeria shows that it has been unable effectively to rise above these contradictions in order to mediate and manage them by non-violent means. Instead, the state itself has become immersed in them, becoming an instrument used in the name of regional ethnic, religious, class, and other special interests. As a result, it has become deeply embroiled in social struggles as a partisan force, supporting some groups against others. This state also tends to be authoritarian in character, partly because groups that control it resist demands to broaden the base of its power and participation in it. The partisanship and authoritarianism of the state variously impact on conflicts. In the first place, social relations are particularly violent when a privatized state brings to bear its massive instruments of coercion in support or against groups in conflicts. Second, state violence becomes a principle component of social conflicts. The repression unleashed by the state against targeted groups has become a major factor in conflicts. Third, since the state has become essentially a repository of violence against specific groups, the violence that it vents in conflict is devastating in terms of social cost. And finally, the partisan involvement of the state in conflicts makes conflicts intractable because the state loses its legitimacy as a mediator of social struggles. The sum of total of these conditions is patently conducive to acute population displacement.

The irony then is that the same state with a principal legal responsibility of solving the problem of internal population displacement and protecting the rights of IDPs is often the main creator of the conditions that displace people. One major challenge of IDPs in a democracy is therefore how to get the agencies of this state to reconcile refuge and rights. In other words, how to get a partisan state to protect the democratic rights of displaced persons even in exile. It is in this context that the introduction of IDP voting by INEC during the 2015 general elections is to be understood.

Commitment to an inclusive electoral process

As part of the reform of INEC, the Commission under Chairman Jega consistently promised to create a level and inclusive electoral process for all candidates and

voters. The Commission was particularly committed to creating a level playing field for political parties, ensuring gender equity and participation of young people, as well as facilitating the participation of Persons Living With Disabilities. Several meetings were held with young people and persons living with disabilities, and the Commission also established a gender policy. However, by mid-2014 the Boko Haram insurgency in the North East seemed to be rising at tremendous rate, displacing in its wake hundreds of thousands of eligible voters. There were repeated questions put to Chairman Jega by stakeholders, particularly development partners, regarding INEC's plans for IDP voting. Professor Jega's position was consistently that INEC was committed to an inclusive electoral process and therefore would do everything it could to provide opportunities for every qualified Nigerian to vote. In essence, INEC was committed to IDP voting but the realities of organizing the complex processes it would entail will determine if it would be done in 2015 or later.

The Governorship by-election in Adamawa State scheduled for October 11th 2014, which arose from the sudden impeachment of Governor Nyako, brought the full magnitude of the IDP challenge in the electoral process to the attention of the Commission for the first time. This is because it was the first time a statewide election would take place in any of the three main insurgency States. Chairman Jega, Commissioners and other officials of INEC had gone to Yola on 8th October 2014 for what had become a customary meeting with stakeholders prior to every Governorship election. During the visit, the Chairman met briefly with some IDPs in one of their camps and there were repeated requests to make it possible for them to vote. The large numbers of IDPs in the holding camps and stories of many others spontaneously settled with families and friends convinced INEC of the need to urgently respond to the situation. Although the Adamawa by-election was later cancelled, following a court ruling removing the Acting State Governor, Umar Fintiri and reinstating the Deputy Governor, Bala Ngilari, who was initially said to have resigned after Nyako's impeachment, the Chairman of INEC and his team were convinced that the Commission would have to respond to requests for IDP voting sooner than later.

Responding to the challenge of IDP voting

In the weeks that followed the visit to Adamawa, the Chairman and his staff set out a process of responding to widespread calls by stakeholders that IDPs should not disenfranchised. The process was in three parts. First, the Chairman’s Office with support from IFES organized a one-day stakeholder conference on IDP voting in Abuja. Second, there was a technical brainstorming by the Chairman’s Office. Third, based on the outcome of the Workshop and the technical brainstorming, the Commission established a Task Force on IDP voting.

Stakeholder Workshop on IDP Voting

Soon after the Adamawa visit, Chairman Jega requested IFES to support a stakeholder workshop to discuss the possibilities of IDP voting in the 2015 general elections. The workshop brought together INEC, security agencies, humanitarian agencies, academics and development partners to discuss the issue. The purpose was to explore the technical issues and build a consensus on the way forward. Table 3 presents a summary of the final recommendations of the workshop. The workshop recognized the role of three principal agencies namely, INEC, government and civil society, and suggested specific action points for each of them. INEC took the recommendations of the workshop very seriously and they informed further action by the Commission that ultimately led to IDP voting in the 2015 general elections.

Table 3: Outcome of Abuja Stakeholder Workshop on IDP Voting

Agency	Action Points
INEC	<ul style="list-style-type: none"> • Map the IDPs to determine their location, number and needs in terms of CVR and voting • INEC could establish special Polling Units to enable IDPs vote • INEC should use the Interagency Consultative Committee on Election Security (ICCES) to determine the special security needs of IDPs in these states under emergency with respect to pre-voting activities such as CVR and Election Day security needs. • Work with NASS to seek amendment to Electoral Act 2010 (as amended) to enable IDPs vote in 2015 elections. • Communicate with IDPs through adverts on television, radio and other media. • INEC should consult with stakeholders on what it wants to do including on interpretation of the law to adopt. RECs should be encouraged to engage critical stakeholders on the issues. • Establish an interagency platform to ensure the success of whatever approach adopted
Government	<ul style="list-style-type: none"> • Should increase its efforts to end the insurgency • Provide for IDPs humanitarian needs • Create an enabling environment for them to vote including meeting their special security

	<p>needs</p> <ul style="list-style-type: none"> • Provide the required legislation to enable IDPs participation in elections (doctrine of necessity)
Civic Groups & Citizens	<ul style="list-style-type: none"> • Advocacy to pressure the government to create the right environment for civic activities such as elections to take place • Advocate on the rights of IDPs to vote • Engage with the IDPs providing them with civic and voter education • Citizens should be encouraged to accommodate IDPs and not discriminate against them

Chairman's Technical Advisory Group

A grant from the Ford Foundation enabled the Office of the Chairman of INEC to conduct a technical brainstorming on the situation in the North East, focusing on its impact on the elections, particularly the right of IDPs to vote. The Technical Advisory Group (TAG) was a group of about 15 experts comprising some external persons and the personal technical team of the Chairman. TAG had worked with the Chairman from 2010 providing background technical support when required. The technical brainstorming identified several challenges confronting the Commission on IDP voting, which need to be addressed including:

1. Residency requirement: The Electoral Act ties voting to where people normally reside, and to pre-assigned polling units located in a constituency.
2. Problem of documentation: When IDPs leave their homes, the least thing on their minds is to take their voter's cards. The Electoral Act requires the presentation of a voter's card before a person is allowed to vote.
3. Insecurity: IDPs are still located in areas experiencing insecurity. They would need to be assured of security if they are to participate in the elections. The security of INEC staff and materials should also be considered.
4. Lack of access/information: IDPs need to be able to access electoral services, especially voter education to be able to participate in the elections. The dispersed location of IDPs outside camps also poses a peculiar problem.
5. Legal and political dimensions: Although Section 78 of 1999 Constitution (as amended) guarantees the right of every Nigerian to vote and several sections of the Electoral Act 2010 (as amended) give INEC the discretion to manage registration of voters, assignment of Polling Units and determination of election procedures, the lack of explicit provisions in the existing electoral legal

framework on the right of IDPs to vote creates a challenge. On the political side, because there are persons displaced internally all over the country, for instance those displaced by communal conflicts and environmental disasters, limiting IDP voting only to the North East could lead to accusations of political interest against the Commission.

6. Counting the votes of IDPs: After voting, managing the votes of IDPs could pose a challenge. For instance, where IDPs are located outside their Local Government Areas, will their votes be counted as cast in their home LGA or their current location? This is important for instance in calculating the spread of votes in Governorship elections.
7. Actual number of IDPs: Establishing the actual numbers of IDPs for planning is also a major challenge. The figures from different sources at the time ranged from 750,000 to 3.5 million.

The technical brainstorming then made the following recommendations to the Chairman of INEC:

- All possible ideas should be explored to ensure that IDPs are not disenfranchised in the 2015 General Elections.
- The Commission should actively pursue, in the spirit of Section 78 of the Constitution, the formulation of regulations to ensure the voting rights of IDPs
- One immediate solution is for the Commission to facilitate the mass transfers of the registration of identified IDPs to their new locations. The procedure could be simplified to facilitate this.
- Although the current demand for IDP voting arose in the context of the insurgency in the North East, any solution to be implemented by the Commission should consider as many IDPs in the country as possible. This is to avoid future legal and political wrangling.
- The Commission should immediately establish a Task Force to consider mechanisms for implementing IDP voting. The Task Force should be chaired by a National Commissioner and include some Resident Electoral Commissioners, Legal Services Department, Operations Department, INEC Legal Consortium and the Chairman's technical staff. The Task Force should

among other things examine and suggest procedures for IDP voting, legal implications of not holding elections in certain parts of the country, as well as suggest general regulations on how to address the IDP problem by the Commission based on international best practice.

- The Commission should consider staggering the elections in the insurgency prone areas of Adamawa, Borno and Yobe States. It was suggested that elections in those areas should take place a week before the other elections of the 14th and 28th.

INEC Task Force on IDPs and the 2015 General Elections

On 18th December 2014, Chairman Jega established a Task Force on IDPs and the 2015 general elections to advise the Commission on the inclusion of IDPs in the conduct of the 2015 general elections. National Commissioner Thelma Iremiren, who was also the Commissioner in charge of legal services, chaired the Task Force. Other members were the Resident Electoral Commissioners of the three main insurgency States of Adamawa, Borno and Yobe, the Directors of Operations, Planning and Monitoring, Legal Services and Voter Registry, as well as the Special Adviser and Chief Technical Adviser to Chairman Jega.

I subdivide the work of the Task Force into four parts: (a) Review of international standards on IDP voting; (b) Evaluation of existing domestic legal framework as it affects IDP voting; (c) Examination of the actual situation in the three main insurgency States; and (d) Recommendations on IDP voting.

A. International Standards

The Task Force reviewed existing international standards. It found that there are essentially two comprehensive frameworks namely, the *United Nations Guiding Principles on Internal Displacement* (1998) and the *Kampala Convention*, which is also known as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009), that have shaped current international standards on IDPs, particularly in Africa. The Kampala Convention was adopted on 23rd October 2009 and came into force on 6th December 2012. Nigeria signed the

Convention on 23rd October 2009 and ratified it on 17th April 2012. However, the Convention has not been domesticated in accordance with Section 12 (1) of the 1999 Constitution. This raises the question of the extent to which it can be implemented or enforced by courts of law. However, since Nigeria has signed and ratified the Convention, it is largely bound by it.

There are five main standards embodied in the Guiding Principles and Kampala Convention that are particularly relevant in defining the limits of INEC responsibilities regarding IDP voting. The first is that IDPs must enjoy the same rights and freedoms as other persons in their country. This may be called the non-discrimination principle. It is embodied in Principle 1 of the UN Guiding Principles and Article 9 (1)(a) of the Kampala Convention.

(i) Principle 1 of the UN Guiding Principles states that: "Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced."

(ii) Article 9 (1)(a) of the Kampala Convention states that: "States Parties shall protect the rights of internally displaced persons regardless of the cause of displacement by refraining from, and preventing, the following acts, among others: Discrimination against such persons in the enjoyment of any rights or freedoms on the grounds that they are internally displaced persons". This provision is underscored by Article 9 (2)(a), which states that "States Parties shall: Take necessary measures to ensure that internally displaced persons are received, without discrimination of any kind and live in satisfactory conditions of safety, dignity and security".

The second standard may be called the sanctity of existing rights granted by law. Principle 2 (2) of the UN Guiding Principles provides that "These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any

international human rights or international humanitarian law instrument or rights granted to persons under domestic law". This standard is extended by Article 3 (2)(a) of the Kampala Convention, which requests States Parties to "incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of, and assistance to, internally displaced persons in conformity with their obligations under international law". This obligation provides a sound basis for INEC to request a fast-tracked amendment of the Electoral Act to enable IDP voting in 2015, since I am not aware that the Kampala Convention has been domesticated by Nigeria in line with Section 12 (1) of the 1999 Constitution.

The third standard that should be of interest to INEC has to do with protection from loss of individual legal identity. This is very important because liberal democracy itself is built on the idea of the autonomous legal person, who is a bearer of rights, including the right to vote. The most visible expressions of this legal person are several identity documents issued by States, such as birth certificates, passports, voter's cards, etc. Consequently, Principle 20 (2) of the UN Guiding Principles affirms the right of every human being to recognition as a person before the law.

The Principle further states that:

To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.

In like manner, Article 13 (2) and (3) of the Kampala Convention charges States Parties to "ensure that internally displaced persons shall be issued with relevant documents necessary for the enjoyment and exercise of their rights, such as passports, personal identification documents, civil certificates, birth certificates and marriage certificates". Also, "States Parties shall facilitate the issuance of new

documents or the replacement of documents lost or destroyed in the course of displacement, without imposing unreasonable conditions, such as requiring return to one's area of habitual residence in order to obtain these or other required documents. The failure to issue internally displaced persons with such documents shall not in any way impair the exercise or enjoyment of their human rights."

The fourth standard addresses the right of IDPs to vote. This is a corollary to the principle of non-discrimination. Principle 22 of the UN Guiding Principles provides that IDPs, whether living in camps or spontaneously settled shall not be discriminated against in the enjoyment of "the right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right". Concomitantly, Article 9 (2)(l) of the Kampala Convention requires States Parties to "take necessary measures to ensure that internally displaced persons who are citizens in their country of nationality can enjoy their civic and political rights, particularly public participation, the right to vote and to be elected to public office"

The fifth and final international standard of relevance to INEC's establishment of IDP voting in 2015 relates to the principle of the right of internally displaced persons to voluntary return to their former homes. International standards provide that IDPs cannot be forcibly sent back, even if it is assumed that the situation has improved. Therefore, they may choose to permanently resettle in their new areas of residence. Consequently, Article 11 (2) of the Kampala Convention provides that "States Parties shall 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. These provisions draw directly from Principle 28 of the UN Guiding Principles.

We can make a number of inferences from these global standards regarding what INEC can do and not do on IDP voting.

- (a) IDPs are entitled to the same rights enjoyed by other Nigerians who are not displaced, including the right to vote. Therefore, both the Nigerian

government and INEC, which is the authority responsible for managing elections in Nigeria, have a responsibility under both the UN Guiding Principles and the Kampala Convention to ensure that IDPs are not disenfranchised.

- (b) However, this responsibility does not necessarily entail preferences for IDPs that are not available to other voters, except to the extent that such preferences enable them to actualize rights enjoyed by other voters.
- (c) Based on existing international standards, INEC could relax or alter its Guidelines and Regulations to ensure that IDPs are able to vote. For example, INEC could alter guidelines for distribution of permanent voters cards and continuous voter registration to facilitate IDP registration and voting. However, insofar as the Kampala Convention has not been domesticated, INEC cannot make Guidelines and/or Regulations to implement the provisions of the Kampala Convention, if such provisions contradict the Electoral Act.
- (d) Based on Principle 20 (2) of the UN Guidelines and Article 13 (2) and (3) of the Kampala Convention, which deal with issuance of documents to IDPs, INEC could issue new voters cards to IDPs without requiring a formal application or that the application must be 30 days to an election, as provided in Section 18 of the Electoral Act.
- (e) INEC can also conduct mass transfers of voters without strict adherence to Section 13 (2) of the Electoral Act which provides that for an application to be put on the "transferred voters list" for a constituency it "shall be accompanied by the applicant's voters' card and shall be made not less than 30 days before the date of an election in the constituency where the applicant is resident".
- (f) In thinking about solutions, INEC should bear in mind that based on international standards, IDPs can choose to remain in their place of displacement or return home voluntarily, should the situation permit. Consequently, it must be recognized that any present solution is in a sense temporary, as IDPs could return home quickly. This therefore calls for direct and sustained engagement with IDPs themselves in finding solutions to the

situation.

- (g) One of the common demands is for the votes of IDPs to be transferred to their "home" constituency for counting. For one thing, such a preference is not available to other voters. To make this preference available to IDPs could open demands from other voters. For instance, a voter in Lagos could prefer that his/her votes count in electing a Senator and Governor in Ekiti State. In our circumstance, this would be a recipe for confusion. For another thing, voting in Nigeria is based on residency and there is no provision for transfer of votes in our laws. Even if the National Assembly amended the law to provide for this, it will be very controversial because it will be a provision specific to IDPs only and it does not intrinsically contribute to the actualization of the rights of IDPs to vote, but rather deals with where the votes are counted, which is not necessarily embodied in the right to vote.

B. Domestic Legal Framework

First, Sections 77 (2) and 117 (2) of the 1999 Nigerian Constitution grants every Nigerian who has attained the age of 18 years the right to register as a voter and to vote in elections. This is a fundamental right that cannot be denuded by displacement. INEC therefore has a duty to ensure that all registered voters including IDPs are enabled to exercise this right.

Second, the Commission is empowered by the Electoral Act 2010 to create, relocate or replicate polling units, including creating and locating such polling units in IDP camps to enable all displaced persons to vote. However, the Commission must provide adequate information to stakeholders concerning the location of polling units and time of poll. Section 42 of the Electoral Act provides that the Commission shall establish sufficient number of Polling Units in each Registration Area and shall allot voters to such Polling Units. Under Section 46 of the Act, the Commission shall, not later than 14 days before the day of the election, publish in any manner it deems fit notice specifying the day and hours of poll, persons entitled to vote and the location of Polling Units.

Third, although there are strong inferential grounds in the existing legal framework for IDP voting, two practical bottlenecks are evident based on the extant legal framework. One bottleneck is that of documentation. Considering the circumstances in which displacement occurs, IDPs are not likely to have identity documents and voter's cards. But section 49(1) of the Electoral Act provides that any person intending to vote must appear before a Presiding Officer in person at his/her allotted Polling Unit. The intending voter must also present a voter's card to be examined by the Presiding Officer. It is only after the Presiding officer is satisfied that the person is on the register that he/she is allowed to vote. Another bottleneck is the position of the existing legal framework on the import of the location of IDPs vis-à-vis the use of their votes to make returns for specific elections. For instance, for IDPs who have relocated to a new State are their votes to be used to make returns for Governorship elections in the home State or in the State of refuge? Can IDPs vote in Polling Units outside the ones to which they were originally allocated? If they do, can their votes be used to make returns in their home constituencies? Section 58 of the Electoral Act provides that no person shall be permitted to vote at any polling unit other than the one to which he/she is allotted. However, Section 72 of the 1999 Constitution provides, among other things, that no Senatorial District or Federal Constituency shall fall within more than one State. The implication of this is that while INEC can relocate Polling Units and Wards (Registration Areas) to make it possible for IDPs to vote, they must be consistent with constituency boundaries. This will guarantee that returns are made in respect of candidates in their respective constituencies for the election.

C. Situation in Adamawa, Borno and Yobe States

To be able to achieve IDP voting in the States most affected by the insurgency, the Commission had to have a sense of the actual situation on the ground. This was one major preoccupation of the Task Force. As at December 2014, the total number of registered voters in the areas most severely affected by the insurgency in the three States of Adamawa, Borno and Yobe was 1,034,420, distributed in 18 Local Government Areas. Table 4 shows that Borno State was most affected with 31% of

all the registered voters potentially displaced. In fact, 11 out of the 27 LGAs in the State are were the under the control of the Boko Haram insurgents by December 2014. The highest number of registered voters affected by the insurgency in Borno State was for Bama, with 21% of potentially displaced voters, followed by Gwoza (17.6%) and Ngala (9%). For Adamawa, the total number voters in the LGAs controlled by insurgents were 356,650 with over half of them located in Mubi North (29%) and Michika (23%). Although only two LGAs in Yobe State namely Gujba and Gulani, were under the insurgents in December 2014, the 115,771 registered voters there represented 12% of all the registered voters in the State. To further show the extent of the impact of the insurgency on the electoral process in the three States, we found that over 2,000 Polling Units or 1.6% of all the Polling Units in Nigeria, were affected by the insurgency and were therefore unsafe for elections.

Table 4: Areas Most Affected by Insurgency and Registered Voters

State (A)	Affected LGAs (B)	Registered Voters (C)	C as % of D	All Registered Voters in Affected LGAs (D)	All Registered Voters in State (E)	D as % of E
Adamawa	Madagali	66,054	18.52	356,650	1,518,129	23.49
	Michika	82,291	23.07			
	Mubi North	103,038	28.89			
	Mubi South	58,049	16.27			
	Maiha	47,218	13.24			
Borno	Abadam	33,479	5.96	561,999	1,799,669	31.23
	Bama	118,961	21.17			
	Dikwa	38,689	6.88			
	Gwoza	99,047	17.62			
	Kala Balge	31,482	5.60			
	Chibok	37,798	6.73			
	Kukawa	40,289	7.17			
	Mafa	40,248	7.16			
	Marte	40,013	7.12			
	Mobbar	31,661	5.63			
Ngala	50,332	8.96				
Yobe	Gujba	61,941	49.25	115,771	1,077,942	11.67
	Gulani	53,830	42.80			
Total		1,034,420	-	1,034,420	4,395,740	23.53

Tables 5 and 6 show that there were close to 127,000 IDPs in 27 camps in Adamawa and Borno States, with 17 IDP camps in Adamawa State and 10 in Borno State by December 2014. These figures mean that there were on the average 4,700 voters in every IDP camp in the two States. However, for Yobe State, there were no IDP camps at the time according to records submitted by the Resident Electoral Commissioner at the time.

Table 5: IDPs in Camps in Adamawa State (December 2014)

S/N	Name of Camp	Location	Population
1	Girei	Girei LGA	3,000
2	NYSC Camp	Damare Area, Gerei LGA	5,382
3	Malkoli Camp	Malkoli Ward, Yola South LGA	892
4	St. Theresa Catholic Church	Luggere Ward, Yola North LGA	5,034
5	State Polytechnic	Karewa Ward, Yola North LGA	468
6	Cocin Church	Kofare Area, Yola North LGA	97
7	Daware	Fufore LGA	1,540
8	Makoli Village	Malkohi Ward, Yola South LGA	319
9	Bekaji A&B	Karewa Ward Yola North LGA	387
10	Karewa	Karewa Ward, Yola North	1,564
11	Nyako Housing Estate	Wuro Jebbe Area, Yola South LGA	1,232
12	Girei I (Transit Camp)	Girei LGA	1,074
13	Low Level Water Board	Jimeta, Yola North LGA	600
14	Yola Central Mosque	Yola North LGA	4,253
15	Izala Mosque Jam Block	Jimeta, Yola North	1,230
16	GSS Numan	Numan LGA	1,432
17	Ganye	Ganye LGA	315
	TOTAL		28,819

Table 6: IDPs and their locations in Borno State (December 2014)

S/N	Camp Location	LGA of Origin	Estimated Population
1	Yerwa GGSS	Bama and Damboa	8,567
2	NYSC Camp	Bama and Damboa	10,234
3	Government College Maiduguri	Gwoza	17,689
4	Arabic Teachers College	Askira/Uba and Gwoza	8,176
5	Government Girl's College, Maiduguri	Bama	6,532
6	Women's Teachers College, Maiduguri	Bama	4,289
7	Sanda Kyarimi Day Secondary School	Ngala and Dikwa	10,451

8	CBDA Headquarters	Marte, Ngala and Dikwa	10,975
9	Teachers Village	Ngala, Mobbar and Gubio	10,342
10	E.Y.N. Church	Gwoza	10,349
TOTAL			97,604

D. Proposals on IDP Voting

The Task Force made far-reaching recommendations on IDP voting for the 2015 general elections and beyond. It is important to note that the Task Force was clear that although the recommendations focused on IDPs in the three States of the North East severely affected by the insurgency, the recommendations, in future, should be applied to all other displaced populations in the country. The second important thing to note about the recommendations of the Task Force was the recommendation for urgent amendments of the Electoral Act that will further ensure that in future citizens facing situations of displacement are not disenfranchised. This featured in further discussions between Professor Jega and the National Assembly culminating in the recommendation from the Chairman for the amendment of Section 25 of the Electoral Act being accepted by the National Assembly.¹¹ The recommended amendment sought to do two things. One, it sought to create an adequate basis in the Electoral Act for INEC to conduct IDP voting, considering that a lacuna in this regard was widely identified in our consultations with stakeholders. Two, it sought to make the law flexible enough not to box INEC into a corner. Thus, the phrase that INEC should “as far as possible, ensure that persons displaced by the emergency are not disenfranchised” provides the flexibility.

Other important recommendations of the Task Force include:

- 1) Review of INEC Guidelines and Manuals to accommodate voting, collation, announcement and transmission of results from IDP Camps/ Centres.
- 2) Conduct of some sort of enumeration to separate IDPs with PVCs and those without. Only the former should be allowed to vote.

¹¹ The Office of the Chairman of INEC recommended the following text, which was accepted by the National Assembly and used for the final amendment of the Electoral Act: “In the event of an emergency affecting an election, INEC shall ensure, as far as possible, that persons displaced as a result of the emergency are not disenfranchised”.

- 3) The IDPs shall be assembled in camps that shall be classified by Constituencies of origin. This is important to ensure that returns are made for all constituencies and that candidates in the affected areas do not lose out when collation takes place and results announced. Resident Electoral Commissioners should map out the camps in this regard.
- 4) IDPs should further be sub divided by their LGAs, RAs, and PUs to ease the process of voting and collation, just as in all normal situations. However any relocation of PUs across Constituencies will require new legislation.
- 5) The same Register of Voters as certified by the Commission should be used at the IDP voting Centres in the affected States. Related to this, the actual Register of Voters configured for Card Readers and meant for their original places of abode shall be used to avoid abuse.
- 6) Outstanding PVCs for the IDPs should be distributed in camps.
- 7) The Commission working with the Interagency Consultative Committee on Election Security (ICCES) should ensure that a secure environment is created for both IDPs in camps and those outside to vote.
- 8) There should be an intensive programme of voter education and publicity on the INEC Guidelines for IDP voting targeting IDPs, electoral stakeholders and the general public.
- 9) A broad spectrum of stakeholders should be engaged at the national and state levels and their endorsement and ownership of this initiative should be sought.
- 10) The existing Commission administrative/logistic structure for the deployment of men and materials should be adapted for implementation at the IDP voting Centres.
- 11) The existing Constitutional and Statutory frameworks, as well as INEC Guidelines and Regulations should be strictly adhered to in IDP voting.

Final Reflections

Some people expressed concerns about the introduction of IDP voting. Among their concerns was the possibility of abuse, if not in 2015, in the future. This is especially plausible if you do not have the right type of institutional checks. A second concern raised was whether what was introduced was really inclusive considering that it was limited to three states and hundreds of IDPs are scattered across the country. These are legitimate concerns, but we had to start somewhere. Not starting at all would have been a terrible travesty considering for instance that the total number of IDPs, who potentially could have been disenfranchised in Borno State, was 561,999. If you also consider that the total number of voters who were credited for the Presidential and National Assembly elections on 28th March in Borno State was 544,759¹², then you see the magnitude of potential disenfranchisement. The challenge however remains to continue to expand the walls of inclusiveness by ensuring that other IDPs and indeed other excluded groups are given the opportunity to exercise their fundamental democratic rights.

This lecture has also sought to demonstrate that making the electoral process more inclusive, which was the *raison d'être* of IDP voting, is also a function of institutional reforms. Some recent literature on institutional reforms in countries like Nigeria propose what they call “pockets of effectiveness”, which in part suggests that rather than a system-wide approach to evaluating a country’s performance on reforms, a more sectorial approach may be more productive.¹³ This makes it possible to find specific success stories (“pockets of effectiveness”), learn from them and try to replicate their experiences. Has INEC’s recent reforms, which made it possible for IDP voting to take place in the 2015 general elections, created a “pocket of effectiveness”? I think that the idea of “pockets of effectiveness” is useful for at least two reasons. For one reason, it captures the fact that the quality of governance

¹² See Independent National Electoral Commission 2015 *General Elections Report*, Abuja: INEC, 2015, p. 118.

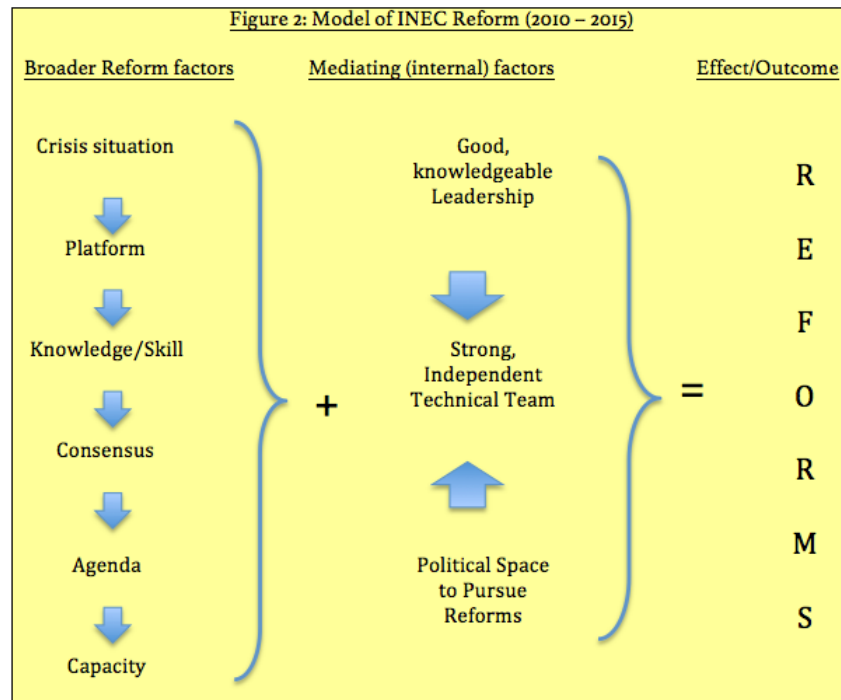
¹³ See for instance David K. Leonard ‘Where Are “Pockets” of Effective Agencies Likely in Weak Governance States and Why? A Propositional Inventory’ *IDS Working Paper* No. 306, Institute of Development Studies, University of Sussex, June 2008 and Michael Roll ‘Pockets of Effectiveness: Why do strong public institutions exist in weak states?’, Paper delivered at the Annual Meeting of the American Political Science Association, Chicago, August 29 – September 1, 2013, [www.http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2299284](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2299284).

could differ markedly across sectors and across institutions in Nigeria. This is contrary to “failed state” thinking, which tars the entire governance of countries like Nigeria with a grand brush of failure. For a second reason, it enables us to think around possibilities for expanding and extending these so-called “pockets of effectiveness”.

However, there is need for caution. First, we need to still better understand why isolated institutions appear to do well from a deeper socio-economic angle rather than the “rational actor” attribution prevalent in “pockets of effectiveness” literature. While it is true that individual leaders in these organizations make substantial contributions to their effectiveness, to attribute institutional change essentially to the agency of individuals is too voluntaristic to be fundamental. Thus we need to know, for instance, under what socio-economic conditions such leaders emerge. What are the internal dynamics of the institutions that make them effective beyond the leadership? What social forces sustain change and what social forces contradict them?

Still, in addition to these fundamental explanations, the secondary explanation of the immediate factors that drive reforms in specific institutions is also necessary. My final reflection on this regarding INEC, again drawing from the conceptual scheme I set out earlier in this lecture, is a three-dimensional perspective on reforms. The first dimension has to do with what for better terms I call broad reform factors namely, that crisis in the electoral process, the emergence of a pro-electoral reform platform, availability of the necessary knowledge and skills for reforms, forging a consensus on the critical elements of reform and, through that, developing a reform agenda and capacity to deliver the agenda are the initial critical elements in the reform process. However, these broad reform factors needed to be mediated by what happened within INEC between 2010 and 2015 and there are three aspects to this namely, the appointment of a good knowledgeable leadership, the political space to carry out reforms created partly by the broader reform factors, as well as a strong, independent technical team. These two sets of factors then came together

to create the widely acknowledged improvements in the electoral process (Fig. 2 below).



Second, there is an intrinsic assumption that the existence of “pockets of effectiveness” driven by individual leadership is necessarily good or positive for institution building. But there could actually be some negative implications about it. Since “individual reformers”, who are perceived as “good” persons almost always drive the “pockets of effectiveness”, there is a strong possibility that they would act outside existing rules. This is a form of deinstitutionalization. It is a trend that is widely observable in these reforms. These good individuals, who come with their own dedicated teams, supported by development partners, find it auspicious to sideline the regular bureaucracy. Granted that things get done, but sustainability in the post-reform period remains a challenge, and years of acting outside the regular rules could have a lasting negative effect on the institution. This was a pitfall that INEC under Professor Jega understood very well and so the Chairman did everything to ensure that everybody acted within established rules and where none existed, institute them. This has been clear in the several policies that were established, including a gender policy and a communication policy.

Third, consequent on the above threat, it is important to also think about how to re-institutionalize in the post-reform period where de-institutionalization occurs as part of creating a “pocket of effectiveness”. Perhaps, the solution lies in stakeholders insisting that reform be accompanied by respect for rules and, where necessary, the formalization of new rules, procedures and policies.

Finally, one other underlying assumption in the “pockets of effectiveness” framework is that the “pockets” could become the nodes for extended reproduction of reforms in a country. While this may be correct, it should not be taken for granted. Thus, we need a theory by which this can happen. This is important because it is not unimaginable that the “pockets of effectiveness” could atrophy once the reformers depart. This theory should also address how to protect the “pockets of effectiveness” from a possible backlash against reforms.

The present Commission therefore has its work cut out namely, to preserve the gains of the reforms of the last five years and to improve on them, including IDP voting. In so doing, I am sure that the Commission will find that Nigerians fully support it. But I am as well sure that the Commission would also soon find that this support is hardly ever a blank cheque.