INTERNATIONAL LAW AS A MECHANISM TO ADVANCE THE RIGHTS OF THE DISPLACED IN AFRICA: EXAMINING THE ROLE OF THE AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF THE INTERNALLY DISPLACED PERSONS IN AFRICA

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1. Introduction

The history of migration is as old as the history of mankind itself. Historically the movement of people has been caused by various factors but chiefly among them have been; humanitarian reasons, natural disasters, human rights violations perpetrated both by the governments against their own people and armed opposition groups, and just a simple desire to seek better economic opportunities beyond national frontiers. International refugee protection is not only about the rules governing the relation between states, but also how states treat those in search of asylum or who cannot avail themselves protection of their home governments. It is because of the recognition and the reality that refugees movement from one country to another can only be addressed collectively among nations that the

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international community has progressively developed international legal framework to regulate and protect the rights of this vulnerable and marginalized group of people. Despite this recognition, and the need to develop international rules to protect those running away from their national borders, it was not until the end of the Second World War that the international community established a specialized institution for refugees, namely the International Refugee Organization (IRO). This organization was specifically established to regularize the status of refugees resulting from the WWII in Europe and find solutions for their repatriation and resettlement. However, this organization was short lived and was succeeded by the Office of the UN High Commissioner for Refugees whose mandate entailed addressing refugee challenges which was becoming intractable in Europe. Specifically the General Assembly asked the newly created Office of the High Commissioner to provide international protection and seek permanent solution to this growing problem of refugees.

Historically the core criterion of defining refugees and affording them international protection has been a movement from one sovereign territory to another. The reason was that the existing international refugee legal regime was, for decades, the result of refugees having crossed their national borders. However, the reality of displacement has profoundly evolved over the years. It is no longer only those who have crossed national frontiers that cannot avail themselves national protection, in addition there is a growing number of people within their own countries unable to secure government protection. Indeed the latter category of displacement has surpassed the number of conventional refugees recognized under international law as the legitimate group meriting international protection. It is this

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3 *Idem*, p. 244.

4 *Ibid*.


6 UNHCR World Refugees Survey 2009.