

## State Sovereignty and the Protection of Internally Displaced Persons under the Kampala Convention: Lessons From Cameroon's Anglophone Conflict

Abue Ako Scott Eke<sup>[a],\*</sup>; Nji Lilian Mbou<sup>[b]</sup>

<sup>[a]</sup> PhD, Senior Lecturer, Department of English Law, Faculty of Laws and Political Science, University of Buea, Buea, Cameroon.

<sup>[b]</sup> PhD, Assistant Lecturer, Department of Political Science, Faculty of Laws and Political Science, University of Buea, Buea, Cameroon.

\*Corresponding author.

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### Abstract

This paper highlights the interplay between State sovereignty, State obligations and the sustainable protection of Internally Displaced Persons (IDPs) under the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa,<sup>1</sup> with special focus on Cameroon's ongoing anglophone conflict. It highlights how **Cameroon's use of sovereignty both as a shield and a tool has undermined its obligations** to protect IDPs, especially in conflict settings. This is done by assessing the fairness with which the state of Cameroon juggles its right of sovereignty in the face of its obligations under the Convention. The paper finds that, because of different reasons, the right of sovereignty is used either consciously or unconsciously, legally or illegally, by the state of Cameroon, adversely affecting the protection and assistance of IDPs. Consequently, the state has been unable to transparently and fully incorporate its obligations under the Convention into domestic law. The paper proposes possible solutions aimed at improving the protection of IDPs as required under the Convention.

**Key words:** Anglophone conflict; Kampala convention; State sovereignty; Internally displaced persons; Protection and assistance; Cameroon; Conflict

<sup>1</sup> Hereinafter also referred to as "the Convention" or the Kampala Convention. It was adopted by the Special Summit of the Union that held in Kampala, Uganda on the 23rd of October 2009 and entered into force on 6th December 2012.

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### 1. INTRODUCTION

For many years, Cameroon was referenced as a beacon of peace and prosperity despite being geographically situated in a region where almost all neighbouring states have experienced armed conflict since achieving independence. This perceived peace and stability have been a pull factor to major international investors and tourists. Dubbed "Africa's in miniature", the country is home to some of the most beautiful and attractive tourist destinations that can be found in any part of Africa. The peace and stability gradually transformed into steady economic growth. As a result, Cameroon obtained the status of a Lower Middle-Income country as classified by the World Bank.

However, with the declaration of war against Boko Haram in 2011, Cameroon enlisted itself as part of a long-term conflict with no end in sight. A bigger blow to this status quo occurred in November 2016, with the outbreak of the Anglophone crisis in the predominantly English-speaking regions of the country. According to a UN Office for the Coordination of Humanitarian Affairs report published in 2019, there are Internally Displaced Persons scattered across five regions of Cameroon. This is primarily because of Boko Haram incursions in the Far North and the ongoing armed conflict in the North West and South West Regions of Cameroon<sup>2</sup>. The latter conflict that started as corporate strike actions quickly spiraled in to an armed conflict that has been of a major international concern.

<sup>2</sup> Also referred to as the Anglophone Crisis.

## 2. CONCEPTUALIZING STATE SOVEREIGNTY

For any state to exercise its image or responsibility of statehood (the quality of achieving state recognition) and stateness (looking at the state as a collective identity responsible for the summation of all internal and external functions and structures in order to promote the collective interest of its citizenry and, also be able to independently control its developmental strategies both at the local and national level), the sovereignty of the state becomes significant<sup>3</sup>. The term sovereignty refers to the autonomy of the state to exercise its supreme powers within its jurisdiction without any external influence/interference. State sovereignty is indivisible, absolute, universal and permanent.<sup>4</sup> The legitimacy in the practice of sovereignty is only feasible in its relation with other states. State sovereignty must be understood through an international context, as borders provide territorial boundaries that limit a state's authority and realm of power.<sup>5</sup> Hence, every state employs a government that enjoys the legitimate authority to enforce rights and laws within those boundaries; conversely, this same government has no legitimate authority to exercise its power in other states. Because sovereignty is upheld at the nation-state level through international law, the "existence and autonomy of a state, is secured by the obligation of other states to respect its territorial integrity and the prohibition of intervening in other states' domestic affairs".<sup>6</sup>

Most often, when state sovereignty is referred to in the strictest and narrowest sense, it is that of Westphalian sovereignty. The Treaty of Westphalia in 1648 established the principle of state sovereignty, where each signatory party undertook to respect the territorial rights of the other parties and not to interfere in internal affairs. The 17<sup>th</sup> century Westphalian conceptualization of sovereignty refers to the State's unfettered rights to self-government, non-intervention, freedom from interference in its internal affairs and the right to do as it pleases.<sup>7</sup> Ntini and Mdlalose,<sup>8</sup> argue that state sovereignty allows the state to exercise power, violence, and control in specific

ways to ensure there is order, peace, and stability within the sovereign state. Accordingly, these authors contend that conceptualizations of the state and sovereignty are ingredients of violence and repression.<sup>9</sup>

Many scholars have argued that, Westphalian sovereignty is the purest meaning of sovereignty; the original, uncomplicated meaning of the concept of state sovereignty despite its being susceptible to many modern interpretations.<sup>10</sup> Westphalian sovereignty encompasses the set of principles that first define the concept of national sovereignty, and the importance of this treaty for international law is that for the first time an international act recognized the equality of states as a principle of international law.

Rifle<sup>11</sup> has concluded that: "the concept of sovereignty has been defined in countless ways, framed in different contexts by philosophers, lawyers, and the basic idea always remains the same, namely that the sovereignty of a state combines two elements, inseparable: the supremacy of power within the state and the independence of the state from other powers. Sovereignty is "the supreme authority with which the state is endowed by the people through constitutional democratic forms and, as the supreme power of the state, implies its exclusive competence over the national territory and its independence from any other external power".<sup>12</sup> For instance, Article 2(1) of the Cameroon Constitution states that, "National sovereignty shall be vested in the people of Cameroon who shall exercise same either through the President of the Republic and Members of Parliament or by way of referendum. No section of the people or any individual shall arrogate to itself or to himself the exercise thereof."

Lake<sup>13</sup> argues that internally -or domestically - "sovereignty defines the ultimate or highest authority within a state" that creates the hierarchical structure within a bounded territory. Today, the authoritative figure would be considered the head of state or government; citizens are members who provide this "sovereign" with the power to enforce laws and rules to which they voluntarily abide by. The constitutional source of sovereignty implies that sovereignty is the exclusive right to exercise supreme political authority (legislative, judicial, executive) over a geographical region, over a group of people, or over themselves.<sup>14</sup> External sovereignty, on the other hand, refers to the non-intervention and anarchist characteristic

<sup>3</sup> Ampong, M. (2018). "Conceptualizing State to Determine Dysfunctional State in the Idealistic Perspective" *International Research Journal of Social Sciences* Vol. 7(12),

<sup>4</sup> Ibid.

<sup>5</sup> McAlpine, L. (2017). "Conceptualizing sovereignty and its relation to the state, refugees, and international relations". A Major Research Paper presented to Ryerson University in partial fulfilment of the requirements for the degree of Master of Arts in the program of Immigrant and Settlement Studies, Ryerson University.

<sup>6</sup> Noll, G. (2003). "Securitizing sovereignty? States, refugees, and the regionalization of International law." *Refugees and Forced Displacement*.

<sup>7</sup> Ntini, E. and Mdlalose E. (2021). "Conceptualisations of State and State Sovereignty as Ingredients of State Violence and Repression" *African Renaissance* Vol. 18, (No. 4).

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Tatar, R. and Moisi, A. (2022). "The Concept of Sovereignty" *Journal of Public Administration, Finance and Law*, Issue 24.

<sup>11</sup> Rifle, V. (2007). "The concept and content of sovereignty." In: *Sovereignty and state structure in the conditions of multiethnic countries. International Conference*, Chisinau, September 22 23, 2006, Balacron.

<sup>12</sup> Ibid.

<sup>13</sup> Lake, A. (2003). International relations theory and internal conflict: insights from the Interstices. *International Studies Review*, 5(4).

<sup>14</sup> Tartar and Moisi, Op cit.

principle among states; that is, "sovereignty entails the recognition by other similarly recognized sovereign states".<sup>15</sup> There is an inherent relationship between internal and external sovereignty as one cannot exist without the other. Harrison and Boyd<sup>16</sup> hold that 'internal sovereignty' is a vital component of state sovereignty. It consists of two elements: 'legal' and 'practical' sovereignty. Legal sovereignty encapsulates the right of a state to be the only law-making body for the population inhabiting a given territory. The state has the right to construct and impose laws free of any external involvement by other states or bodies. However fundamental the concept of legal sovereignty is, one must always remember that it would remain a 'fiction' without the other element of state sovereignty: its practical ability to ensure that the laws of the state are obeyed throughout its territory. State sovereignty, therefore, is not just a legal concept. It must be closely linked to the practical power available to a state.

The different power dynamics allowing states to exercise their sovereignty unequally in the international system, has created considerable tensions among states. This therefore creates a hierarchy and also challenges the notion that states are all equal units. According to McAlpine,<sup>17</sup> different internal functions and processes, provide different degrees of power to sovereigns. This implies that when states have considerable power - derived from internal state forces - they will enjoy greater power when it must be externally exerted. States inherently possess an interest to pursue power thereby increasing their sovereignty, in doing so, they have the capacity to make other states seem inferior<sup>18</sup>. State sovereignty is therefore not a process or function, but a concept derived from an amalgamation of internal power sources.<sup>19</sup>

It is difficult to easily or directly measure sovereignty despite being a defining feature of every state in the international system. In an effort to measure state sovereignty through the internal functions and processes of four different states, McAlpine<sup>20</sup> concludes that, a state derives its internal power when it effectively delivers security, as well as social, political, and economic functions to its members; this in turn provides the state with internal sovereignty. This internal power then has the capacity to transcend domestic institutions to provide the state with a degree of external sovereignty in the international context. Moreover, internal

sovereignty provides the state with external sovereignty, both collectively provide the state with great power domestically and internationally. In other words, the degree to which states successfully or unsuccessfully deliver economic, political, social and economic resources to their members while also ensuring their security, will translate to the degree of sovereign a state may be.

UN Resolution<sup>21</sup> no. 2625 of 1970 defined the principle of sovereign equality by the following ideas: states are legally equal; each state enjoys the rights of full sovereignty; each state has the obligation to respect the personality of the other states; territorial integrity and political independence of the state are inviolable; each state has the right to freely choose and develop its political, social, economic and cultural system; each state has an obligation to respect its international commitments in full and in good faith and to live in peace with the other states.

The 21st century brings new interpretations to the notion of sovereignty, caused by the intense global transformations that have affected the role and functions of the nation state.

Harrison and Boyd<sup>22</sup> have advanced a number of challenges undermining state sovereignty in the 21<sup>st</sup> century. Legal sovereignty is undermined by the growing corpus of international treaties that restrict the right of the state to make domestic laws. The twentieth century raised deep moral questions about the consequences of allowing states under the guise of sovereign independence to have free reign over their citizens. Non-interference in the internal affairs of states is a dangerous policy to pursue today, when some states slaughter ethnic and other minorities, suppress human rights and construct appalling tyrannies.<sup>23</sup>

Practical sovereignty is challenged by the problems facing human society at the dawn of the twenty-first century, problems so great, so complex, that the sovereign state is too small a unit, the concept of sovereignty too archaic, to be of much practical use in solving them. Pollution, environmental degradation, global poverty can be effectively addressed only by new international organisations acting globally, without the intervention of state-based power politics.

Though these challenges to state sovereignty may sound convincing, they are not new. Sovereign states have always placed legal curbs on their own freedom of action by signing and acting in accordance with international treaties. Never, though, have states been bound by so many agreements as today. They accept more international interference in their internal affairs than ever before. One might consider this a matter of degree. States are obliged

<sup>15</sup> Lake, Opcit.

<sup>16</sup> Op cit.

<sup>17</sup> McAlpine, L. (2017). "Conceptualizing sovereignty and its relation to the state, refugees, and international relations". A Major Research Paper presented to Ryerson University in partial fulfilment of the requirements for the degree of Master of Arts in the program of Immigrant and Settlement Studies, Ryerson University.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> No. 2625 of 1970.

<sup>22</sup> Harrison, K. and Boyd, T. (2018). *Understanding Political Ideas and Movements*, Manchester: Manchester University Press.

<sup>23</sup> Ibid.

only to carry out treaties they have signed, the signature being itself an act of state sovereignty. According to Tatar and Moisi<sup>24</sup> the state limits its sovereignty through sovereign will by committing itself through treaties and conventions, which means setting by its own decision, the limits beyond which it does not want to go. Harrison and Boyd<sup>25</sup>, therefore argue that state sovereignty, in legal terms, remains intact by advancing some of the following reasons: international organisations designed to deal with international problems are still either state-based, such as the United Nations, or, if non-governmental organisations (NGOs), they have to act through power structures created and maintained by states. State sovereignty remains the practical feature of political activity. States remain by far the greatest donors of international aid, the most important actors in international relations, and, of course, are the major military players in conflicts. The state remains the central feature of the international system.

Harrison and Boyd,<sup>26</sup> maintain that there an issue with state sovereignty especially as the practical aspect of it continues to erode with time. While legal sovereignty remains of states remains intact, practical sovereignty is challenged by a number of factors such as: the structure of international society; the impact of globalisation; the spread of weapons of mass destruction; the growth of informal ties; the rise of new international actors; and neo-colonialism.

Sovereignty is not a static concept. It, too, changes as political realities change. The concept of sovereignty has developed with states and evolution of international relations and it had to adapt to frequent challenges arising from different levels: sub-national, transnational, supranational and global. According to Prokhovnik,<sup>27</sup> “sovereignty is a slippery concept, not just because epistemology logically precedes ontology. It is a slippery, open-ended and extended concept, in the same way that the concept of ‘politics’ is.” Tartar and Moisi<sup>28</sup> argue that sovereignty receives new connotations and conceptual additions in order to respond to new social and political requirements, however, the changes are only nuanced, but the conceptual core will continue to be used efficiently. It is difficult to imagine a paradoxical perspective in which states will give up their sovereignty.

### 3. MAINSTREAMING OF STATE SOVEREIGNTY UNDER THE KAMPALA CONVENTION

As discussed above, the concept of State Sovereignty

is a very important aspect in international law and in the relationship among states. This is because States are assumed to be persons because they possess rights and have obligations as well.<sup>29</sup> Consequently, it takes centre stage in most international conventions and agreements. The reason for this action is to ensure that States, usually represented by elected governments, find it convenient and comfortable to sign and ratify these agreements and conventions without violating against their various national interests. Though there exists United Nations Guiding Principles on the protection of IDPs, the Kampala convention remains the most comprehensive and sound legal instrument currently existing on the prevention from internal displacement and protection of internally displaced persons. The convention obliges<sup>30</sup> State Parties to among others refrain from, prohibit and prevent the arbitrary displacement of populations,<sup>31</sup> prevent political, social, cultural and economic exclusion and marginalization that are likely to cause displacement of populations by virtue of social identity or religion,<sup>32</sup> respect and ensure respect of the principles of humanity and human dignity of IDPs,<sup>33</sup> respect and ensure the respect and protection of the human rights of IDPs,<sup>34</sup> ensure the accountability of non-state actors concerned including multinational companies, private military or security companies for acts of arbitrary displacements or complicity in such acts<sup>35</sup> ensure assistance to IDPs by meeting their basic needs as well as allowing and facilitating rapid and unimpeded access by humanitarian organizations<sup>36</sup> and promote self-reliance and sustainable livelihoods among internally displaced persons, provided that such measures shall not be used as a basis for neglecting the protection of and assistance to internally displaced persons, without prejudice to other means of assistance.<sup>37</sup>

Generally, a comprehensive list of obligations of State parties can be found in Article III of the convention. It is worthy of note that even though this is an African Union Convention, the African Union did not create a supranational non-state body to enforce or guarantee the enforcement of these obligations. It’s all left in the power of the State Parties. This is as a subtle recognition and acknowledgement of the fact that States Parties are sovereign and supreme. By extension, states are in

<sup>24</sup> Op cit.

<sup>25</sup> Op ciit

<sup>26</sup> Op cit.

<sup>27</sup> Prokhovnik, R. (2007). *Sovereignities: contemporary theory and practice*. New York, NY: Palgrave Macmillan.

<sup>28</sup> Op cit.

<sup>29</sup> Bartelson, J. (2015). Sovereignty and the Personality of the State. In R. Schuett & P. M. R. Stirk (Eds.), *The Concept of the State in International Relations: Philosophy, Sovereignty and Cosmopolitanism* (pp. 81-107). Edinburgh University Press. <http://www.jstor.org/stable/10.3366/j.ctt14brxt7.8>.

<sup>30</sup> In its article III.

<sup>31</sup> Article III (1) (a) of the convention.

<sup>32</sup> Article III (1) (b) of the convention.

<sup>33</sup> Article III (1) (c) of the convention.

<sup>34</sup> Article III (1) (d) of the convention.

<sup>35</sup> Article III (1) (h) of the convention.

<sup>36</sup> Article III (1) (j) of the convention.

<sup>37</sup> Article III (1) (k) of the convention.



control of everything that happens within their borders. The Kampala Convention legislator has therefore paid considerable attention to this concept and this will be further discussed by examining diverse provisions of the convention which will be analyzed in the subsequent paragraphs.

### **3.1 State sovereignty mirrored in the Institution of legal, institutional and Policy frameworks for the protection of IDPs**

The Convention requires State parties to incorporate their obligations under the convention into domestic laws.<sup>38</sup> They are required to do so by enacting or amending relevant legislation on the protection of IDPs and these should conform with their obligations under international law<sup>39</sup>. State Parties are also required by the Convention to designate a body or an authority where needed which has the responsibility to coordinate activities that are designed to protect and assist IDPs.<sup>40</sup> It further states that such body or authority should be assigned responsibilities which should include cooperation with include international organisations or agencies as well as civil society organisations.<sup>41</sup> For policy framework, the Convention requires State Parties to take appropriate measures including strategies and policies on internal displacements at national and local levels while taking into account the needs of the host communities.<sup>42</sup> Apart from putting in place legal, institutional and policy frameworks, State Parties without prejudice to receiving international support are expected to provide financial support to the extent possible necessary for protection and assistance of IDPs.

### **3.2 State sovereignty imaged in the protection and assistance to IDPs**

The protection and assistance given to IDPs in conflict zones is extensively discussed in article V<sup>43</sup> of the Convention. This section makes it the primary responsibility of the State to provide protection and humanitarian assistance to IDPs within its territory and jurisdiction.<sup>44</sup> The section emphasizes that this has to be done discrimination of any kind.<sup>45</sup> It further requires States to collaborate with each other upon the request of the State party concerned so as to effectively protect and assist IDPs.<sup>46</sup> In this section, the convention clearly mainstreams the sovereignty of the State. It recognizes the authority of the State to be in control of everything

within its national borders. Even though it suggests that State parties may collaborate together to provide effective support, assistance and protection to IDPs, this can only happen upon the official request by the state party concerned. In Article V (3), the convention mandates State parties to respect the roles of the African Union, the United Nations and international humanitarian organisations in providing protection and assistance to IDPs. It is worthy of note that while a state party is expected to collaborate with these international organisations and agencies, it is not mandated to do so even against its own national interests and the convention did not fail to cover this aspect. This explains why Article VI<sup>47</sup> makes it mandatory for all foreign and international entities working within a state party to discharge their activities in conformity with international law and the laws of the state party in which they operate. To further strengthen the position of the state party over these international bodies working in the protection and assistance to IDPs, the Convention gives the state party powers, to control, monitor and evaluate the activities of these entities working within the state party in the context of protecting and assisting IDPs. In this light, State parties are required to be part of the activities (although indirectly) from start to the finish. Thus, in Article V<sup>48</sup>, the convention requires state parties to facilitate need assessment of IDPs in host communities by effectively cooperating with the international organisations or humanitarian agencies involved.

Furthermore, the convention requires State parties to take necessary steps to effectively organise relief actions that is humanitarian and impartial in nature, and guarantee security.<sup>49</sup> They are thus expected to allow rapid and unimpeded passage of all relief consignments, equipment and personnel to IDPs.<sup>50</sup> Still in respect of the State's sovereignty, the convention requires state parties to be courteous, protect and not attack or harm humanitarian personnel and resources or other materials deployed for the assistance or benefit of IDPs.<sup>51</sup> The African Union Legislator concludes article V of the Convention by reiterating their unwavering respect and support for the sovereignty of the host state by stating unequivocally that;

"Nothing in this Article shall prejudice the principles of sovereignty and territorial integrity of states".<sup>52</sup>

All through the Convention, the African Union Legislator constantly amplifies its support the principle of state sovereignty either directly or indirectly. While article V (12) stated above is a clear example of the African Union legislator directly amplifying its support for the

<sup>38</sup> Article III (2) (a) of the Convention.

<sup>39</sup> Ibid.

<sup>40</sup> Article III (2) (b) of the Convention.

<sup>41</sup> Ibid.

<sup>42</sup> Article III (2) (c) of the Convention.

<sup>43</sup> Entitled "Protection and Assistance to Internally Displaced Persons".

<sup>44</sup> Article V (1) of the Convention.

<sup>45</sup> Ibid.

<sup>46</sup> Article V (2) of the Convention.

<sup>47</sup> (1).

<sup>48</sup> (5).

<sup>49</sup> Article V (7) of the Convention.

<sup>50</sup> Ibid.

<sup>51</sup> Article V (10) of the Convention.

<sup>52</sup> Article V (12) of the Convention.

principle of state sovereignty, it is however not the only article of the convention where same has been done. In Article VII<sup>53</sup> (1), the legislator makes it clear that no provision in the article shall be in any way whatsoever be construed as affording legal status or legitimizing and recognizing armed groups and cannot be used to prevent individual criminal responsibility of members of such groups under domestic or international law. The Convention goes further to make it clear that nothing in the convention shall be invoked with the aim of contesting the sovereignty of a State or the responsibility of a government by all legitimate means to re-establish peace and defend the national unity and territorial integrity of a State.<sup>54</sup>

#### 4. THE RESPONSIBILITY OF THE STATE TOWARDS IDPS UNDER THE CONVENTION

The responsibility of the State under this subhead shall be examined in two perspectives; state responsibility to protect and state responsibility to assist.

##### 4.1 Responsibility to Protect<sup>55</sup>

The convention places the protection of IDPs under the responsibility of the State party. The rules for protection of IDPs are standard regardless of the cause of displacement.<sup>56</sup> Among others, the Kampala Convention mandates State parties protect IDPs from; discrimination against the enjoyment of any right or freedom on the grounds of their status as IDPs,<sup>57</sup> genocide, crimes against humanity or war crimes,<sup>58</sup> arbitrary killings, summary execution, arbitrary detention and abduction,<sup>59</sup> sexual and gender-based violence in all its forms<sup>60</sup> as well as starvation.<sup>61</sup> It is noteworthy that the State's responsibility to protect revolves around the protection and preservation of the human rights of IDPs, especially the rights to life and the rights of freedom of movement. These rights are inalienable to every human being regardless of your status as an IDP. Following the footsteps of the Universal Declaration of Human Rights<sup>62</sup>, and in approval of the fundamental rights therein enshrined, the African Union has emphasized and incorporated same rights in the Convention. These rights are so important and inalienable that the African Union legislator considers its breach as

a red-line that will prompt instant intervention by the African Union.<sup>63</sup>

Despite predicating the State's responsibility to protect mostly on the physical, moral and social integrity of the IDPs, the African Union legislator did extend this responsibility to the protection of the properties of IDPs and the environment in which the IDPs stay.<sup>64</sup> Hence the State party is expected to ensure IDPs are received and live in satisfactory conditions of safety and security.<sup>65</sup> The Convention further requires the State party to take necessary measures to protect individual, collective and cultural property left behind as a result of displacement as well as property in areas where IDPs are located.<sup>66</sup> Finally, as a result of climate change that is sparking environmental concerns contemporaneously, the legislator mandates the State party to take necessary measures to safeguard against environmental degradation in areas where IDPs are located within the jurisdiction of the State party or in areas under their effective control.<sup>67</sup>

##### 4.2 Responsibility to Assist<sup>68</sup>

The State party's responsibility to assist under the Convention will be examined through the lens of humanitarian assistance as well as personal documentation assistance.

###### 4.2.1 Humanitarian assistance

The Convention requires State parties with internally displaced persons to provide such persons to fullest extent possible with adequate humanitarian assistance which includes food, water, shelter, medical care and other health services, sanitation, education and any other necessary social services and where necessary, such assistance should be extended to host and local communities.<sup>69</sup> This humanitarian assistance is expected to be offered without any delays.<sup>70</sup> The legislator has also taken cognizance of the fact some State parties may not have the economic and financial means to provide the volume of assistance required, thus the Convention mandates State parties to request for assistance from other states or international organizations<sup>71</sup> and to take appropriate steps to effectively organize humanitarian relief actions, provide rapid unimpeded passage to relief consignments, equipment and personnel to IDPs and to guarantee security.<sup>72</sup>

###### 4.2.2 Personal Documentation Assistance

In the course of displacement as a result of a conflict or a natural disaster, IDPs turn to lose many significant

<sup>53</sup> Captioned "Protection and assistance to internally displaced persons in situations of armed conflict".

<sup>54</sup> Article VII (2) of the Convention.

<sup>55</sup> Article IX (1) of the Convention.

<sup>56</sup> Ibid.

<sup>57</sup> Article IX (1) (a) of the Convention.

<sup>58</sup> Article IX (1) (b) of the Convention.

<sup>59</sup> Article IX (1) (c) of the Convention.

<sup>60</sup> Article IX (1) (d) of the Convention.

<sup>61</sup> Article IX (1) (e) of the Convention.

<sup>62</sup> 1948.

<sup>63</sup> Article VIII (1) of the Convention.

<sup>64</sup> See generally article IX (2) of the Convention.

<sup>65</sup> See generally article IX (2) (a) of the Convention.

<sup>66</sup> Article IX (2) (i) of the Convention.

<sup>67</sup> Article IX (2) (j) of the Convention.

<sup>68</sup> Article IX (2) of the Convention.

<sup>69</sup> Article IX (2) (b) of the Convention.

<sup>70</sup> Ibid.

<sup>71</sup> Article V (6) of the Convention.

<sup>72</sup> Article V (7) of the Convention.

personal documents. This may be because their documents were damaged by fire where homes were burnt down, simply buried in the rubble in the case of landslide, swept away by water in the case of flood or simply misplaced in the course of being displaced. The African Union legislator has thus mandated State parties through the Convention to first create and maintain an up-dated register of all IDPs within their jurisdiction.<sup>73</sup> They may do so by collaborating with international organizations of humanitarian agencies.<sup>74</sup> The legislator presses further to mandate State Parties to issue IDPs with relevant documents necessary for enjoyment and exercise of their rights.<sup>75</sup> These documents may include passports, personal identification documents, civil certificates, birth certificates as well as marriage certificates.<sup>76</sup> These documents are to be issued without the imposition of unreasonable conditions such as requiring return to the IDP's area of habitual residence in order to obtain same documents.<sup>77</sup> Where the State party fails to issue these documents, the enjoyment of the human rights of IDPs shall not be impaired.<sup>78</sup>

## 5. CAMEROON'S PROTECTION OF IDPS IN THE ANGLOPHONE ARMED CONFLICT IN COMPLIANCE WITH THE KAMPALA CONVENTION.

The government of Cameroon has made numerous efforts to address the challenges faced by the population that has been forcefully displaced since the outbreak of the anglophone conflict in November 2017. These measures be examined in two categories. Firstly, this paper will examine the proper measures taken by the government of Cameroon independently to attend to the needs of IDPs and secondly, the paper will examine Cameroon's collaboration with external actors to protect and assist IDPs.

### 5.1 Unilateral actions by the government of Cameroon

As stated in the previous paragraphs, the government of Cameroon has undertaken different activities in line with its obligations under the Kampala Convention. These activities and actions taken had goals to provide assistance and protection to IDPs. They are carried out in line with Cameroon's obligations as listed in Article IX of the Convention.<sup>79</sup>

<sup>73</sup> Article XIII (1) of the Convention.

<sup>74</sup> Ibid.

<sup>75</sup> Article XIII (2) of the Convention.

<sup>76</sup> Ibid.

<sup>77</sup> Article XIII (3) of the Convention.

<sup>78</sup> Ibid.

<sup>79</sup> Entitled "Obligations of States Parties Relating to Protection and Assistance During Internal Displacement".

#### 5.1.1 Legal and administrative assistance

Cameroon focuses a lot of attention on the protection of the human rights of IDPs. These rights are legally protected and enshrined in the preamble of the Cameroonian Constitution.<sup>80</sup> Among many rights recognized and enforced, the Constitution guarantees every Cameroonian (IDPs inclusive), the right to settle in any place and to move about freely, subject to the statutory provisions concerning public law and order, security and tranquility.<sup>81</sup> The state of Cameroon have seen to it that IDPs enjoy this right fully. Administrative authorities in different localities have played an important part in welcoming IDPs that come to settle under their jurisdiction of administrative control and making them to feel at home. They facilitate the procedure for their integration and coordinate the distribution of humanitarian palliatives to these IDPs. The authorities also play active role in resolving disputes that arise between the IDPs and the residents of the host communities.

Other IDP human rights protected by the Cameroonian Constitution includes the right to fair hearing and trial, development, freedom and security, privacy and inviolability of the home, right to life, to physical and moral integrity and freedom from torture, inhumane or degrading treatment. The violation of each of these rights is criminalized by the Cameroon Penal Code.<sup>82</sup>

#### 5.1.2 Livelihood and healthcare assistance

In 2018,<sup>83</sup> the President of Cameroon rolled out a 12.7 billion CFAF Emergency Humanitarian Assistance Plan<sup>84</sup> for the North West and South West Regions.<sup>85 & 86</sup> The objectives of this EHAP relief fund as clearly stated on the official website of the Presidency of Cameroon<sup>87</sup> was to protect some 74,966 officially registered IDPs, facilitate the resumption of economic and agricultural activities and promoting togetherness. This was to be

<sup>80</sup> Law No. 96-6 of 18 January 1996 to amend the Constitution of 2 June, 1972

<sup>81</sup> Ibid.

<sup>82</sup> Law N°2019/020 of 24 December 2019 to amend and supplement some provisions of law N° 2016/7 of 12 July 2016 relating to the penal code.

<sup>83</sup> This plan was launched on Wednesday, 20<sup>th</sup> of June, 2018 by the Cameroonian Prime Minister and Head of Government.

<sup>84</sup> Hereinafter referred to as EHAP.

<sup>85</sup> These regions were formerly called Southern Cameroons, then subsequently, West Cameroon. They constitute the territories that were colonized by Britain. Its population is English Speaking and constitute 20% of the total population of present-day Republic of Cameroon. In 1961, the people of the then Southern Cameroons voted to achieve independence by joining East Cameroon. The later was colonized by the French and had earlier gained independence from France in 1960. The population speaks French and forms 80% of the population of present-day Cameroon. So, Cameroon as we know today is made up a French speaking majority and an English-speaking minority who came together to form one state.

<sup>86</sup> <https://www.prc.cm/en/news/2914-12-7-billion-cfaf-emergency-humanitarian-assistance-plan-for-the-north-west-and-south-west-regions>. Accessed 23 July, 2023.

<sup>87</sup> Ibid.

achieved through the provision of food and basic needs - healthcare, education, housing and reconstitution of individual administrative documents.<sup>88</sup> The decision of the state to “promote togetherness” through the EHAP relief fund could be interpreted and given several meanings but two interpretations emerge for their importance. Firstly, the intention of the state would be in the context of protection IDPs to facilitate the reception and resettlement of the latter in new host communities across the national territory. This is to avoid stigmatization, hate and rejection of these IDPs especially in French-speaking communities where there’s huge cultural and linguistic differences. The second interpretation would be the state’s desire to promote unity and social cohesion among the various peoples of Cameroon who are largely polarized and have completely different opinions on different issues of concerning national life. While this has been in large part promoted by tribalism and corruption especially when pushed by the elites and ruling class, the effects cannot be overlooked. There has been an increase in hate speech in Cameroon in recent years between people of different ethnic and linguistic groups. Running up to the 2018 presidential elections, hate speech was at its peak especially between the clans that form the Central Region and the Bamilekes of the West Region. Prof Maurice Kamto from the latter region was the key contestant of the incumbent President who hails from the former region. The hate speech grew into hatred and some Bamilekes living and doing business in the Centre Region were chased with machetes by indigenes of those villages with their shops looted and burned. Also, there was an increase in hate speech directed against the English-speaking population especially as the anglophone conflict raged on and many soldiers from the French-speaking regions fell on the battlefield. Consequently, most IDPs who sought for refuge in these French-speaking regions were stigmatized and most often their dwellings were constantly raided by forces of law and order who suspected they could be cooperating and collaborating with separatist fighters. Hence the need to promote togetherness through the EHAP relief fund by the government.

The government of Cameroon has also taken several different actions to bring about sustainable protection of IDPs affected by the anglophone conflict. These actions hover around reaching an agreement to bring about an end to the conflict that has been ongoing since 2017. As early as 2016 when the situation was still at crisis level, the government created two ad hoc committees to handle dialogue with the teachers’ and lawyers trade unions.<sup>89</sup> This was in a bid to address the grievances raised by lawyers and teachers that birthed the conflict. Following

these meetings, the government followed up by putting in place measures that addressed these grievances. The Ministry of Justice proceeded to translate all legislation and texts that did not have English versions. A Common Law Division was created at the Supreme Court and a three-year plan to recruit and train Common Law magistrates of the English-speaking extraction was approved and launched. These magistrates were to be trained at ENAM and deployed to replace magistrates with civil law background working in common law courts of north west and south west regions. Concerning grievances raised by teachers, the government launched the recruitment of 1000 bilingual teachers who were to be deployed to the English-speaking regions to replace teachers who had no mastery of English language. Finally, the government went further to the National Commission for the Promotion of Bilingualism and Multiculturalism. This Commission has as main objective to enhance the equal usage of English and French as the national official languages of Cameroon.<sup>90</sup> While these measures have been largely applauded by some national and international stakeholders and partners of Cameroon, many have described Cameroon government’s action as a smoke screen to avoid international pressure and shy away from addressing the root causes of the crisis that has spiraled in to a conflict. One of the key demands by the trade unions was the return of the state of Cameroon to the two-state Federal System that existed in Cameroon from 1961-1972. The trade unionists claim that this is the best way to protect and guarantee a long-term protection of their demands. The state in asserting its rights of sovereignty, has made it clear that the form of the state is non-negotiable.

## **5.2 Collective actions by the state of Cameroon and partners**

Owing to its obligations under the Kampala convention to do everything within its power to give IDPs maximum protection and assistance with the least possible delay,<sup>91</sup> the state of Cameroon has engaged swiftly with international organizations, international humanitarian agencies as well as local Non-Governmental Organizations to enhance full protection and assistance to IDPs. The main international NGOs collaborating with the state of Cameroon are the UN specialized agencies which include amongst others UNHCR, UNDP, UN WOMEN, WHO, IOM, UNESCO, UNICEF, WFP with their activities coordinated by UN OCHA. A host of international organizations are also working in the conflict affected zones like Danish Refugee Council, Norwegian Refugee Council, Doctors Without Border, Jesuit Refugee Society, International Rescue Committee, PLAN International, INTERSOS,

<sup>88</sup> Ibid.

<sup>89</sup> <https://www.prc.cm/en/news/2914-12-7-billion-cfaf-emergency-humanitarian-assistance-plan-for-the-north-west-and-south-west-regions>. Accessed 23 July, 2023.

<sup>90</sup> <https://www.prc.cm/en/news/2914-12-7-billion-cfaf-emergency-humanitarian-assistance-plan-for-the-north-west-and-south-west-regions>. Accessed 23 July, 2023.

<sup>91</sup> Article IX (2) (b).



Action Against Hunger etc. some local NGOs actively partnering with the government include New Dawn Foundation, Organization for Gender, Civic Education and Youth Development (OGCEYOD), Girls Excel, Local Youth Corner, Center for Human Rights and Democracy in Africa, Reach Out and a host of others. As reported by Cameroon Tribune<sup>92</sup>, Mathias Naab, the UN Humanitarian Coordinator who also doubles as the Resident Coordinator of UN Systems in Cameroon issued a press release<sup>93</sup> commending Cameroon's efforts in providing protection and assistance to IDPs, while expressing the willingness of the UN to continue partnering with Cameroon to afford better protection and assistance to IDPs. According to an OCHA report published on reliefweb<sup>94</sup> the Cameroon government and the humanitarian community jointly launched the 2023 Humanitarian Respond Plan (HRP) to address the immediate needs of some 2.7 million people in need of Humanitarian assistance across Cameroon and this includes IDPs of the Anglophone conflict. While, the government does not provide the funding in these partnerships with international organizations and humanitarian NGOs, it plays a pivotal role in facilitating their activities especially need assessment and enhancing a successful outcome. As a result, Organizations like the World Food Program have partnered with local NGO, CARITAS Kumba and other NGOs, to consistently supply food to IDPs and other people affected by the conflict for more than four years now through Cash transfer, Voucher and food distribution. The UNHCR on its part has partnered with the Center for Human Rights and Democracy in Africa (CHRD) and INTERSOS to provide civil documentation to thousands of IDPs within the context of the Anglophone crisis. Cameroon's efforts in providing protection and assistance in line with its obligations under the Kampala Convention have gone a long way to ameliorate the conditions of IDPs within the context of anglophone conflict.

## 6. THE ASSERTION OF SOVEREIGNTY BY THE STATE OF CAMEROON AND ITS IMPACT ON THE PROTECTION OF IDPS

Cameroon has made commendable efforts to meet up with its obligations under the Kampala Convention as regarding the protection and assistance of IDPs in the ongoing anglophone conflict. The government has been very prompt in taking actions against acts that it interprets as tampering with the unity and territorial integrity of the State. This radical stance by Cameroon government

could be best understood by looking in to the nature of the anglophone conflict. The anglophone secessionist armed groups<sup>95</sup> are fighting to create an independent state made up of the two major English-speaking regions of Cameroon which forms the North West and South West regions. As prescribed by the preamble of the Cameroonian Constitution, the President guarantees the territorial integrity of the state. Thus, the President of the Republic takes all necessary measures to sanction acts that can be judged as giving support to separatist fighters in the conflict against the State especially from international humanitarian agencies. In such situations, the state asserts its right of sovereignty as provided in the Convention and discussed below.

### 6.1 Right of control and regulation of protection and assistance activities by humanitarian NGOs

The Kampala Convention obliges all international organizations and humanitarian agencies working within state-parties to discharge their obligations in conformity with international law and the laws of the countries in which they operate.<sup>96</sup> The Convention further requires these entities to make sure their activities are bound and guided by the principles of humanity, neutrality, impartiality and independence<sup>97</sup> while empowering the state-party to ensure that these entities abide by these principles.<sup>98</sup> Article V (7) of the Convention further empowers the State party to effectively organize relief action that is humanitarian and impartial in character, allow rapid and unimpeded passage of all relief consignments, equipment and personnel to IDPs. Finally, this article empowers the state parties to fix the technical arrangements under which passage is permitted.

The government of Cameroon applies this provision fully to ensure that humanitarian activities are closely monitored from cradle to the grave. Humanitarian assistance projects are expected to be clearly presented to the government for approval before they are executed on the field. Teams headed to the field are expected to present a mission order daily explaining their location of work while clearly identifying the team members headed to the field. Their cars are routinely checked and searched by law enforcement officers working on highways to ensure weapons or separatist fighters are not transported under cover. There is a periodic review of the collaboration framework<sup>99</sup> signed with the government and this collaboration is only extended when the activities of the organization are satisfactory to the government. The government reserves the right to deny permission for the execution of specific projects how they deem necessary.

<sup>92</sup> <https://www.cameroon-tribune.cm/article.html/50518/fr.html/humanitarian-assistance-cameroons-efforts-appreciated>. Retrieved on June 15, 2023.

<sup>93</sup> On August 19, 2023.

<sup>94</sup> <https://reliefweb.int/report/cameroon/cameroon-situation-report-11-may-2023>. Retrieved 10 July, 2023.

<sup>95</sup> Generally known as the Ambazonia Defense Forces.

<sup>96</sup> Article VI (1) of the Convention.

<sup>97</sup> Article VI (3) of the Convention.

<sup>98</sup> Article V (8) of the Convention.

<sup>99</sup> <https://www.msf.org/doctors-without-borders-forced-withdraw-medical-teams-north-west-cameroon>. Retrieved July 15, 2023.

## 6.2 Right to sanction “rogue” NGOs

Although the Kampala Convention falls short of clearly empowering state parties to sanction rogue NGOs, it can be interred from the wordings of Article VII (2) that the state is actually empowered to sanction international entities which they deem not to be abiding by the rules fixed by the state for their operations. Summarily, this article makes it clear that nothing in the Convention shall be invoked for the purpose of affecting a State’s sovereignty by preventing a state from using legitimate means to re-establish law and order or to defend its national unity and territorial integrity. The state of Cameroon has used this right to sanction international Humanitarian organizations who are thought to be acting beyond the scope of the permission granted them. Organizations like Doctors Without Borders and International Crisis Group have felt the impact of this sanctions.

## 6.3 Controversial assertion of the right of sovereignty

While it is the role of the government to regulate the activities of international organizations, humanitarian agencies and civil society as well as set the rules of their functioning through national laws, the Kampala convention falls short of defining what actions by these entities can be sanctioned by the state party. As a result, it is left within the whims and caprices of the state to decide which action is sanctioned. Also, the interpretation of the humanitarian principles which the state party is empowered to make sure are respected has been done problematically and these has substantially affected the activities of some humanitarian NGOs and the effective protection and assistance of IDPs. These challenges are illustrated by the two cases discussed below.

### 6.3.1 The Case of Doctors Without Borders<sup>100</sup>

Doctors Without Borders started working in Cameroon as far back as 1984.<sup>101</sup> They started providing much needed humanitarian medical assistance in the North West and South West region where the anglophone conflict is ongoing in 2018.<sup>102</sup> They provide emergency care and ambulance services in these regions. In December, 2020, their activities were suspended by the Cameroon government in the North West Region. The governor of the region alleged that DWB, was providing support to the non-State armed groups fighting in the region. Before this suspension, DWB had treated 180 survivors of sexual violence,<sup>103</sup> provided 1,725 mental health consultations,<sup>104</sup> performed 3,272 surgeries,<sup>105</sup> transported

4,407 patience by ambulance of which more than 1000 were women about to give birth<sup>106</sup> and they also provided 42,578 consultations for different diseases like malaria, diarrhea and respiratory tract infections.<sup>107</sup> According to a report published on the Voice of America website,<sup>108</sup> the governor accused DWB of being “too close” to the separatist fighters.<sup>109</sup> DWB, subsequently suspended its activities in the South West Region of Cameroon after accusing the government of arresting and prosecuting four of its workers for aiding separatist fighters. These accusations put in question the respect of the principle of neutrality by DWB. The latter has categorically rejected all accusations of wrong doing and emphasized that they carry out their activities strictly respecting international humanitarian law.<sup>110</sup> The main question that is raised here is; how should the principle of neutrality be interpreted for a medical humanitarian organization? Meanwhile the government interprets neutrality to mean they have to provide no form of medical support to fighters of non-State armed groups and restrict their activities only to civilians in need of medical assistance, this view may not be universally acceptable. For medical interventions, the principle of impartiality should not be mistaken for lack of neutrality. A medical humanitarian entity, under international humanitarian law has the right treat everyone in need of medical attention during conflicts regardless if the person is a soldier, a civilian or the member of a non-State armed group.

## 7. CONCLUSION

The Kampala Convention is truly a landmark for human rights in Africa. The AU Legislator did a fantastic work in penning down this legislation especially when different dimensions of the legislation are examined. The legislator made sure the convention is not used as a ‘Trojan-horse’ to destabilize state parties in any shape or form. Hence, it empowers state parties with wide reaching procedural and substantive powers regarding the protection and assistance of IDPs especially in conflict settings. While these wide-reaching powers are important in enticing states to sign and ratify the convention, it becomes problematic when the state party is a fragile democracy. This means that where there’s an absence or ineffectiveness of checks and balances among the various arms of state power, such legislation can be used as a tool by hybrid regimes to frustrate the very purpose of the legislation under the guise of sovereignty.

<sup>100</sup> Hereinafter also referred to as DWB.

<sup>101</sup> <https://www.msf.org/doctors-without-borders-forced-withdraw-medical-teams-north-west-cameroon>. Retrieved on July 15, 2023.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> <https://www.voanews.com/a/msf-suspends-work-in-cameroon-s-southwestregion/6517531.html#:~:text=Last%20June%2C%20Cameroon's%20government%20banned,western%20regions%20need%20humanitarian%20support>. Retrieved July 16, 2023.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

Cameroon has a fragile democracy and efforts to grow the democracy into maturity are underway. This explains why there have been many instances where the state has asserted its powers arbitrarily to the detriment of the persons displaced by the conflict. The case against DWB is a clear example. The decision to suspend DWB's activities was taken without any clear-cut legal path followed. Evidence is yet to be presented to the public concerning the accusations made against DWB, yet her activities remain suspended in the region. Even though this act appears to be clearly malicious and against humanitarian practice, DWB has no legal pathway to follow to get justice apart from engaging high-level dialogue with the state officials and hope for a reversal of this suspension. In this instance, the IDPs are left to suffer greatly from such decisions. This brings to light the need to build working and accountable democracies that project transparency and the respect of human rights.

The effective protection and assistance of IDPs in the on-going conflict is further strained by Cameroon's failure to incorporate her obligations under the Convention into domestic law or amend relevant legislation on the protection of, and assistance to, IDPs in conformity with their obligations under international law.<sup>111</sup> This failure brings about a long list of consequences that have direct incidence on the protection and assistance afforded IDPs of the anglophone conflict. There's the absence of local legislation that provides rules which all stakeholders must follow to guarantee effective protection of IDPs within Cameroon. While international humanitarian law, guiding principles on protection of IDPs, international human rights law and the Kampala convention may apply, it is worthy of note that these legislation are not context-specific. A national legislation would undoubtedly address sensitive issues within the Cameroonian context and lay down a pathway through which these issues can be approached by all stakeholders involved in protecting and assisting IDPs. Furthermore, the absence of a national legislation exacerbates the challenges faced by IDPs as perpetrators of crimes against IDPs are criminalized and punished using standard procedures set by prior laws like the Penal Code. The problem that abounds here is that these preexisting legislation do not pay specific attention to IDPs, they are of a general nature and apply to every Cameroonian equally. However, the situation of IDPs of the anglophone conflict is precarious and deserves some form of special recognition or special status. A special legislation would amplify this precariousness and raise consciousness on the need to protect and assist IDPs. Also, a national legislation on this subject would help the state of Cameroon set up investigation channels

to ensure accountability of all stakeholders<sup>112</sup> for acts committed against IDPs. It will also enable the state to lay down rules and set up institutions that will facilitate dispute resolution when such disputes arise in the course of protecting and assisting IDPs.

Finally, the Convention requires state-parties to seek lasting solutions to the problem of displacement.<sup>113</sup> They are required to do so by promoting and creating satisfactory conditions for voluntary return and local integration on a sustainable basis.<sup>114</sup> For the state of Cameroon to effectively achieve this in the context of the anglophone conflict, there's a need to bring this conflict to an end by seeking lasting solutions to the root causes of the conflict. This will bring an end to displacement of people as a result of the conflict and create an atmosphere for which the government can undertake her obligations under Article XI (1) of the Convention.

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## CONCLUSION

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The African Union Convention for the protection of Internally Displaced Persons shifts the paradigm from discretionary state benevolence to codified protection for internally displaced persons and remains a remarkable achievement in international humanitarian law. Nonetheless, its application to and implementation within the context of Cameroon's anglophone conflict exposes the muddy terrain that exists between state sovereignty and legal obligations. This paper reveals that, while Cameroon has made appreciable strides in the protection of IDPs, including humanitarian assistance program and external partnerships, much remains to be desired. Its selective interpretation and application of sovereignty sometimes undermines the very principles the Kampala Convention seeks to uphold. This has caused an ambiguous balance between protecting national integrity and enabling effective humanitarian assistance. The ensuing consequences are a constrained civil society, delay in relief and heightened IDP vulnerability. The persistent gap between ratification and implementation is highlighted by the absence of domestic legal incorporation and lack of independent oversight structures. There's therefore a need to reimagine sovereignty not as a barrier but as a tool to enhance human security. To achieve this, there's an urgent need to incorporate the Convention into domestic legislation and a renewed commitment to dialogue with humanitarian partners. Legitimacy will not be acquired only through territorial control but also by safeguarding the dignity and rights of all citizens, especially those displaced within the context of the anglophone conflict.

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<sup>111</sup> Article III (2) (a) of the Convention mandates state parties to incorporate their obligations into national laws.

<sup>112</sup> Article III (2) (g) (h) (i).

<sup>113</sup> Article XI (1).

<sup>114</sup> Ibid.

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