

HUMAN RIGHTS BASED APPROACH TO THE PROTECTION OF INTERNALLY DISPLACED PERSONS IN NORTH EASTERN NIGERIA

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ABSTRACT

Displacement is a problem that is very rampant in the North-Eastern part of Nigeria due to Natural disasters, Civil wars, and particularly due to the severe attacks and terrorism by Boko Haram insurgents. These people are forced to leave places they have come to consider as their home to places that are not conducive and are prone to ill health and malnutrition. This article will be discussing; Who internally displaced people are?, the depraved conditions in which they live , infringement of their fundamental human rights, the neglect and failure on the part of the Government to enact Statutes addressing them specifically, as well as solutions and recommendations on how their rights can be protected by the Government.

1.0 INTRODUCTION

The concept of Internally Displaced Persons (IDPs) describes situations in which individuals and groups are compelled or obliged to leave and remain away from their homes, but remain in the

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confines of, or within the borders of their own countries¹. This differentiates them from refugees who are also compulsorily evacuated but across internationally recognized state border². They become reliant on others for food, clothes and shelter, and are denied access to healthcare, education, employment, economic activities etc. Usually, people become displaced due to civil wars, natural disasters, armed conflict, terrorism and insurgency, etc.

United Nations Guiding Principles affords a working definition of IDPs as;

People or groups of people who have been forced or obliged to flee their home or place 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 right or natural or human-made disaster and who have not crossed an internationally recognized state border.³

2.0 INFRINGEMENT OF THE RIGHTS OF INTERNALLY DISPLACED PEOPLE

Internally Displaced Persons (IDPs), due to their vulnerability, are usually mal-nourished, raped, sick, and have no means of livelihood. Due to these factors, some of them are forced to go into prostitution and robbery. As a result, their rights such as the right to life, dignity of the human person, personal liberty, and freedom of movement

¹ Internal displacement in Nigeria and the case for Human Rights Protection of Displaced Persons, senior lecturer, former head of public and international law, Faculty of law, University of Calabar, Nigeria.

² *ibid*

³ Analytical Report of the Secretary-General on Internally Displaced Persons, E/CN.4/1999/23,14 February 1992 para 17

amongst others, have been infringed upon and sadly, there are no international instruments or domestic laws in the case that directly address them or protect them.

While the act of displacement on IDPs themselves may often violate the human rights of those affected, the subsequent loss of access to homes, lands, livelihood, personal documentation, family members and social media can affect the ability of IDPs to assert and enjoy a range of fundamental rights.⁴

During internal conflicts, displaced victims are confronted with a wide range of physical and psychological trauma to their persons, coupled with the loss of their homes and other life time investments. Abduction, sexual slavery, forced recruitment, and other major violations of human rights have affected thousands of women, children, and families.⁵ Boko Haram atrocities have occasioned more than enough of these violations on IDPs. Relocating them to safe places (IDP Camps) alone is far from returning them to status quo. In Nigeria, owing to multiple factors, compensating victims for loss of home and other tangible properties in particular is yet to arouse the needed attention it deserves as the Government's primary attention has continually been overwhelmed by the need to provide immediate succour.⁶

⁴ Erin Mooney, *The Concept of Internal Displacement and the case for Internally Displaced persons as a category of concern*, "Refugee Survey Quarterly 24, no 3 (2005): p.9-26

⁵ Nigeria: Protection sector, Factaheet, [www. Globalprotectioncluster.org/...](http://www.globalprotectioncluster.org/) (Last assessed 22nd Feb. 2016).

⁶ Ekpa, Shedrack, Dahlan, Nuarrual H.M., *Towards the Evolution of Right to Reparation for loss of Housing and Property of Internally Displaced Persons (IDPs) in Nigeria*; <http://www.mcseser.org/journal/index.php/mjss/article/view/628> (last assessed 22nd Feb 2016).

The activities of the deadly Islamic terrorist sect, through their bombings and kidnappings; have cost more than 4,000 lives; displaced close to two million people, destroyed hundreds of schools and government buildings, and devastated an already ravaged economy in the North-East, one of Nigeria's poorest regions.⁷

3.0 INTERNATIONAL PROVISIONS ON THE PROTECTION OF INTERNALLY DISPLACED PEOPLE (IDP)

In view of the negative effect of internal displacements on victims, the United Nations has facilitated domestic responses to internal displacement through humanitarian assistance provided by its specialized agencies and more importantly, through the identification of the rules of international law that govern the responses of all states to displacement.⁸ These principles reflect, and are consistent with, international human rights law and international humanitarian law.⁹

⁷ *Supra*

⁸ Guiding principles on internal displacements, which were presented to the UN commission on Human Rights in 1988.

⁹ These efforts have been strengthened since 2006 with the gradual implementation of a reform of the humanitarian system composed of three components (1) Creation of a central emergency Relief Fund (CERF); (2) improved support for UN resident and humanitarian co-ordinators; and (3) Introduction of the cluster approach by designating clusters with an agency responsible for leading the cluster at the international as well as the country levels and for acting as provider of last resort if no other organisations are available in a given situation to undertake necessary cluster activities. The clusters and designated agencies are nutrition (UNICEF), health (WHO), shelter in conflict for IDPs (UNHCR), camp co-ordination in conflict for IDPs (UNCHR), protection in conflict for IDPs (UNHCR), LOGISTICS (WFP), telecoms (OCHA/UNICEF/WFP), early recovery (UNDP) and education (UNICEF)

At the regional level, the 2006 Pact on security, stability and development in the Great Lakes region of Africa includes a protocol obliging signatory states to enact national legislation, to incorporate the guiding principles in their legal frame work. Other regional organizations including the African Union, the Organization of American States and the Council of Europe have called upon their member states to use the guiding principles and incorporate them into their domestic laws and policies.¹⁰

As regards the responsibility of states affected by the displacement, the Guiding Principles rest on two key tenets;

First, sovereignty entails not only the right of each state to conduct its own affairs but also the primary duty and responsibility to provide protection and assistance without discrimination to its population including the internally displaced, in accordance with international human right and humanitarian law.¹¹

Second, while those displaced within their own country remain entitled to the full protection of rights available to the population in general, displacement gives rise to particular vulnerabilities on the part of those affected. Therefore, in order to ensure that the displaced are not deprived of their human rights, states are obligated to provide special measures of protection and assistance to IDPs that correspond to these vulnerabilities, in order to ensure that IDPs are treated equally with respect to non-displaced citizens.¹²

¹⁰ In 1999, the commission of the organisation of African Unity (OAU), now reconstituted as the African Union (AU), formally acknowledged and expressed appreciation for the Guiding principles. The AU is presently (in 2008) in the process of drafting a binding convention on internal displacement in Africa.

¹¹ Guiding principle 3.1

¹² Guiding principle 1.1 and 4

The Guiding Principles describe in detail the guarantees available to internally displaced persons that must be provided, both in order to prevent arbitrary displacement, and to mitigate and end it when it occurs. They cover all phases of displacement, including measures of protection against being displaced, protection during displacement, and rights relevant in the post-displacement phase when return. The Guiding Principles set out standards pertaining to the delivery of humanitarian assistance and are grounded in existing human rights and humanitarian law standards. Thus, they reflect existing rules and clarify how they apply to internal displacements settings instead of creating new obligations.¹³ This approach has facilitated rapid international acceptance in the domestic order of displacement-affected countries.

4.0 THE CURRENT STATUS AND CHALLENGE OF IDPs IN NIGERIA

The North Eastern part of Nigeria, comprising States like Borno, Yobe and Adamawa, have been experiencing a lot of attacks from Boko Haram, the most dangerous terrorist group in Nigeria. Thus, a large number of the inhabitants have been internally displaced.

Over the years, the growing number of IDPs in Nigeria has been greatly alarming. Besides, Nigeria is also prone to natural disasters such as; flood occasioned by the release of water from the Lado Dam

¹³ The provision of international human rights and humanitarian law providing the normative basis of each of the principles are described in Walter Kalim, *Guiding principles on Internal Displacement: Annotation*, 2nd ed., studies in Transnational legal policy 38(American society of International law and bookings institution, 2008) (www.asil.org/pdfs/stlp.pdf)

in Cameroon, and community clashes which have spawned and continue to cause displacement all across its territory.

According to the Internal Displacement Monitoring Centre (IDMC), as at 2013, 3.3 million people were displaced in Nigeria, essentially as a result of insurgency. It has also recorded 1,538,982 IDPs in Nigeria as of April 2015. As at December 2015, the total number of IDPs identified in Adamawa, Bauchi, Gombe, Taraba and Yobe amounted to 2,152,000 people.¹⁴ The vast majority of IDPs identified in the above mentioned states have been displaced because of insurgency (91.98%), a smaller number were forced to leave their place of origin because of community clashes (7.96%) or natural disaster (0.06%).¹⁵ In Borno, 24.2% of the population was displaced in 2015 following the increase in violence in this state since the beginning of the year.

A large number of IDPs in the north east Nigeria live with relatives and friends. 87% of IDPs live with host communities and 13% live in camps or camp settings. The situation in other states is quite different, while there are no identified camps in Yobe, Bauchi, and Gombe, 12% of the IDP population in Adamawa and 18% of IDPs in Borno live in camps or camp like settings.¹⁶

Besides, women and children remain the most vulnerable to sexual and gender based violence. There have been reported instances of rape, sexual harassment, forced marriage, infant marriage, sexual

¹⁴ IDPs in Nigeria, dailytimes.ng/protecting-internally-displaced-persons/ last assessed 23rd Feb. 2016; Supra note 4.

¹⁵ IDMC-Nigeria IDP Figures Analysis, [http:// www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis](http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis) (last assessed 4th Match 2016).

¹⁶ Ibid

diseases and uncontrolled birth occasioning high infant mortality in make-shift IDP camps in Nigeria.¹⁷ The needs of children are highly disregarded in armed conflict situations and this is the case in Nigeria. Children are being exposed to enhanced risk of abuse, forceful conscription by insurgents as child soldiers, suicide bombers, sex slaves and abrupt discontinuation with their education. Some IDPs have access to food distribution everyday while others receive irregular food distribution. On the other hand, some IDPs never have food distribution. Malnutrition in the conflict area continues to rise as there is limited access to food in this situation.¹⁸ This is mainly because no comprehensive statistics of IDPs exist in Nigeria as not all displaced persons are accounted for.

4.1 The need for Nigeria to have a legal and institutional framework to protect the IDPs from exploitation

The protection of IDPs rights demands the same measures as are necessary to protect the rights of all citizens regardless of whether or not they are displaced. The enactment of certain legislations will serve as a holistic means of implementing the right of liberty and security of person. It will set out the protections against precarious situations affecting a vulnerable group such as IDPs. Nigeria presently has no legislation that deals explicitly with IDPs and there is no specific institution equipped to handle matters relating to IDPs.

¹⁷ IDP Protection strategy 2015, www.humanitarianresponse.info/en/operations/Nigeria/document/idp-protection-in-strategy-2015-0 (last assessed 22nd Feb.2016).

¹⁸ Nigeria: Displacement, www.start-network.org/.../150408-ACAP. (Last assessed 22nd Feb.2016).

Due to the unavailability of any legal and institutional framework for tackling the depraving conditions of the IDPs, a momentary remedy was attempted to provide a solution to the menace. The Government set up a committee to draft a national policy on IDPs, to assist in the registration and issuance of identity cards, prevention or reduction in instances of internal displacement and allocation of responsibilities to agencies and organs of government, non-government and civil society.

The National Policy on Internally Displaced Persons was prepared and presented to the government in 2011, but it is yet to be adopted till today. This policy is based on the United Nations Guiding Principles on Internal Displacement of 1998 and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.¹⁹

The policy aims to guide the different branches of government, donors and humanitarian agencies in preventing displacement and providing protection and assistance to those displaced. It begins by reaffirming the fundamental human rights of all its citizens under the 1999 constitution and recognizes the vulnerabilities of women and children, and accords them special guarantees. It then includes measures to protect against being displaced and sets out standards pertaining to the delivery of humanitarian assistance by national and international humanitarian agencies.

5.0 CONCLUSION AND RECOMMENDATION

¹⁹The Kampala convention of 2009 which entered into force on the 20th of December 2012.

It is very saddening that there is no international binding treaty protecting the rights of the IDPs, however, in 1998, the UN General Assembly and the UN Commission on Human Rights took note of the Guiding Principles on Internal Displacement. While these Guiding Principles do not constitute a binding instrument, they have received large support from the international community.

More recently, in 2009, the African Union adopted the Kampala Convention on Internally Displaced Persons. In Nigeria, it is only when a legal order has been created that the Internally Displaced People will be protected. Despite Nigeria's ratification of the Kampala convention, it is yet to be domesticated; this important instrument will go a long way to address the dreadful situations of IDPs in Nigeria. Recently, the Speaker of the Nigerian House of Representatives, Hon. Yakubu Dogara stated that efforts by the legislature were on top gear by the relevant communities in the house to ensure a legal system for protection of the rights of IDPs and also to ensure that Nigeria domesticates the Kampala convention.²⁰

However, with the recent conquer of the Boko Haram insurgents by the Nigerian Army and the statement of Hon. Yakubu Dogara on the intention to domesticate the Kampala Convention; there is hope that very soon, their rights will be protected.

Also, nations like Azerbaijan, Bosnia & Herzegovina, Columbia, Croatia, Georgia, and the Russian Federation have enacted certain Laws protecting IDPs with measures to prevent displacement. They

²⁰ Internally Displaced Persons in Nigeria, www.news24.com.ng/National/News/Laws-to-protect-rights-of-idps-will-soon-be-enacted-dogara-20160223 (last assessed 23rd Feb 2016).

include; the registration of those entitled to the status, provision of beneficiaries with social, economic and legal assistance to safeguard rights endangered by displacement, and supporting the implementation of durable solutions.²¹ Nigeria should likewise strive to enact laws protecting IDPs in the North Eastern part of Nigeria.

²¹ Supra note 19