

An Appraisal of the Challenges and Legal Protection Available for Internally Displaced Persons in Nigeria

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ABSTRACT

This paper has investigated the challenges and Legal Protection available for the benefit of Internally Displaced Persons in Nigeria. The study relied on content analysis of extant literature to ascertain the level of challenges and legal protections given to them. The study found that Internally Displaced Persons in Nigeria face a myriad of challenges which include loss of home, loss of traditional livelihood and sources of generating income, break-up of families and community support networks, loss of intangible goods, and loss of documentation. A cursory look at the various causes of internal displacement in Nigeria revealed that forced migration and internal displacement in Nigeria in over a decade has been triggered by violent conflict particularly, the deadly activities Boko Haram and the militant Fulani Herdsmen. These displaced persons suffer a lot of human right violations without any significant legal protection for them. Rather, it has been identified that the existing institutional arrangement keepers, although struggling to manage the situation particularly, in the short-term, are hindered by current policy deficits and the lack of a specific framework to adequately address the situation or cover medium to longer requirements for the IDPs. It is therefore, imperative to purposively design a legal framework that will specifically address the challenges bedeviling the Internally Displaced Persons in Nigeria while other security measures are being taken to ensure their safety and wellbeing.

KEYWORDS: Internally Displaced Persons, Boko Haram, Fulani Herdsmen, Legal Protection

INTRODUCTION

Internally Displaced Persons (IDPs) have been described as individuals that are unprotected in their own countries as a result of situations created by man or natural disaster. The situations created by man include: conflict and human rights violations or abuses.

In more than 50 countries of the world there are reports of about 26 million individuals that are internally displaced in their own countries. The displacement of these individuals are attributed to conflict and human rights violations. In 2008, reports indicated that natural disaster alone caused the displacement of about 36 million people globally¹. Historically, the term has been in existence over a

¹Handbook for the Protection of Internally Displaced Persons. Global Protection Cluster Working Group.

long time but it became a global concern after the World War II and eventually became a dominant phenomena at the end of the cold war. At the end of the cold war, Africa became a beehive of conflicts that produced countless number of forced displacement of people around the globe. Nigeria seemed protected from the nightmare of the forced displacement after its experience of the protracted civil war that lasted for about 30 months and left millions of people displace².

Today, however, there have been rising incidences of forced displacement resulting from ethnic, religious, economic and boundary conflicts. Various government decisions, natural and man-made

² National Policy on Internally Displaced Persons (IDPs) in Nigeria. Federal Republic of Nigeria, August 2012.

How to cite this paper: Stephen Chuka Unachukwu "An Appraisal of the Challenges and Legal Protection Available for Internally Displaced Persons in Nigeria" Published in International Journal of Trend in Scientific Research and Development (ijtsrd), ISSN: 2456-6470, Volume-6 | Issue-3, April 2022, pp.91-96, URL: www.ijtsrd.com/papers/ijtsrd49485.pdf



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disasters, and its attendant massive destruction of lives and property in Nigeria. The recent upsurge in internal displacement that has attracted both domestic and international community's attention was orchestrated by the Boko Haram insurgency and Hausa Fulani mayhem which have also brought about thousands of displacement in Nigeria. Olanrewaju, Omotoso and Alabi posits that the endless surge in internal conflicts is particularly disturbing, knowing the enormous loss of lives, the destruction of public and private infrastructures and the extent it has made people homeless in the country³.

Available statistics shows that Nigeria has the largest figure of internally displaced persons in Africa projected at 3.3 million persons in 2014⁴. This figure also involves persons who were displaced by Boko Haram, as well as victims of flood, communal conflicts and clashes between Fulani herdsmen and farmers in the country. Nigeria is ranked behind Syria, with 6.5 million IDPs, and Colombia, with 5.7 million in the world. In the Northeast, Nigeria alone in 2020, an assessment by 'Displacement Tracking Matrix' (DTM) set up by Internal Migration Organisation (IOM) observed about 2,182,613 displaced persons which reflects the trends from the six states in Nigeria's North East Geopolitical Zone (Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe).

The total official number of IDPs on record that Boko Haram displaced in 2020 alone was 300,000 people, who absconded from Adamawa, Yobe and Borno. Again, in Round 38, a total of 2,182,613 Internally Displaced Persons (IDPs) were identified in 444,781 households⁵. This signifies a decrease of less than 1 per cent (or 8,580 individuals) compared to Round 37 when 2,191,193 IDPs were recorded (May 2021).

When comparing the number of IDP individuals during the past year, between Round 38 and Round 33, the number of IDPs in North East Nigeria has increased by almost 3 per cent or 64,063 individuals. In 2013, 470,500 people were also made homeless in

³ E. A. Oghuvbu & U. C. Okolie (2020). *Responsibility to protect and the challenges of displaced men in Nigeria*. Journal of Danubian Studies and Research, Vol. 10(1), 359-424.

⁴ F.O. Olanrewaju; F. Omotoso & J.O Alabi (2018). *Boko Haram insurgency and the management of internally displaced women in Nigeria: A situational analysis*. *African Population Studies*, 32: 4022-4033

⁵ T. A. Oduwole & A. O. Fadeyi (2013), *Issues of Refugees and Displaced Persons in Nigeria*, Journal of Sociological Research, 4(1), 13, <http://www.macrothink.org/journal/index.php/jst/article/viewFile/3156/2690>.

some communities because of Boko Haram insurgency and other humanitarian emergencies. The assessment by 'Displacement Tracking Matrix' (DTM) set up by Internal Migration Organisation (IOM) in Round 38 in 2021 observed that a total of 2,182,613 Internally Displaced Persons (IDPs) were identified in 444,781 households.

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Internally Displaced Persons (IDPs) are part of the population of the country that are seriously at risk and the quality of response developed to take care of their needs are arguably inadequate. Forced from their homes, these people are kept in a wilderness without adequate shelter and they are prone to all forms of deprivations, attacks and violence that may include family separation, arbitrary deprivation of land, homes and other property; and displacement into inhospitable environments, where they suffer stigmas, marginalization, discrimination or harassment. They also face armed attacks from their oppressors.

There is also heightened risk of sexual and gender-based violence, particularly affecting women and children. However, extant literature posits that in the face of such risks, internally displaced women, men, girls and boys have to demonstrate a remarkable degree of resilience and strength, drawing on their own capacities to develop basic support mechanisms and seek protection⁷. In Nigeria, Internally Displaced Persons (IDPs) are not just created rather, a number of factors presented them.

Insurgency, natural disasters, developmental projects, resource struggle and ethno-religious clashes are the major causes of internal displacement in Nigeria⁸. This was corroborated by Turaki (2013) who posited that the increasing incidence of forced displacement resulting from ethnic, religious, economic and boundary conflicts, various government decisions, natural and man-made disasters, and its attendant massive destruction to lives and property have compelled the Federal Government to embark on a search for durable solutions through the drafting of a

⁶ *Ibid.*

⁷ Many of them find accommodation with families and either practice skills learnt before or learn new skills to support themselves.

⁸ E. A. Oghuvbu & U. C. Okolie, *note 3*

National Policy on Internally Displaced Persons (IDPs)⁹.

The aim of the policy was to find a lasting solution to the plight of the Internally Displaced Persons (IDPs) in Nigeria. Thus in 2012, the federal government of Nigeria, having recognized that in Nigeria and elsewhere in the world, IDPs are amongst the most vulnerable populations for obvious reasons, signed, ratified and deposited her instruments of the African Union (Kampala) Convention (which came into force on 6th December 2012) for the Protection and Assistance of IDPs in Africa. In July 2011, the First Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa organized by the Economic Community of West African States (ECOWAS) in Abuja, under the leadership of Nigeria, also underscored the importance of every African Union Member State signing, ratifying, domesticating and implementing the Kampala Convention.

More importantly, the Conference stressed the need to strengthen good governance and the full respect of all human rights and international humanitarian law (IHL) in ECOWAS member states, with a view to preventing internal displacement, notably caused by the lack thereof, or emanating from conflict and generalized violence and mitigating its devastating effects on the region's citizens¹⁰. Despite the frantic efforts of the federal government of Nigeria in coming up with policy framework to protect the Internally Displaced Persons (IDPs) at both national and regional levels, the plight of the Internally Displaced Persons (IDPs) have been worsened in recent times on account of insurgency which accounted for about 91.98% of the Internally Displaced Persons (IDPs), followed by a smaller number of about 7.96% most of whom were forced to leave due to clashes between communities and natural disaster that accounted for 0.06%.

These displaced persons include men, women and children and they suffer different plight including break down in family structure, loss of lives, infrastructures and destruction of properties adding to the lack of income. The security condition left the displaced persons with no choice than to migrate from their place of residence¹¹. However, addressing the challenges of Internally Displaced Persons (IDPs) is

⁹ Kabiru Tanimu Turaki, SAN, FCI Arb. *Honourable Minister, Ministry of Special Duties and Inter-Governmental Affairs, August.... 2013*,

¹⁰ National Policy on Internally Displaced Persons (IDPs) in Nigeria. Federal Republic of Nigeria August, 2012

¹¹ *Ibid.*

imperative for some economic, social, environmental and legal reasons. Most importantly, if legal protection is given to the internal displaced persons, it will prevent gender and child based hostility, separation from family, exploitation, and detention with no consideration of the rule of law. Ekpa and Dahlan noted that the protection and assistance of victims of internal displacement in Nigeria who are technically called internally displaced persons has been incoherent, fragmented and on *ad-hoc* basis owing to absence of appropriate legal and institutional mechanisms geared towards betterment of this vulnerable group of persons. This therefore, created a literature and knowledge gap which this study intends to address¹².

Challenges of internal displacement in Nigeria

One significant challenge faced by internally displaced persons is human rights violations and these group of persons suffer the worst kind of human rights violations. Internally displaced persons in Nigeria suffer a lot of challenges as some take refuge with relatives and friends, others live with host communities. Many others are scattered in different IDP camps in the country while others have as a result of the displacement migrated to neighbouring countries such as Chad, Cameroon, and the Republic of Niger etcetera^{13 14}. In the process most the victims face challenges. Security challenges created by the phenomenon of IDPs include loss of home, loss of traditional livelihood and sources of generating income, break-up of families and community support networks, loss of intangible goods, and loss of documentation¹⁵. The bulk of the victims are women and children who are also the most vulnerable. Sixty-two percent of the IDP populations in most of the IDPs camp are females while thirty-eight percent are male. Half of the total numbers of persons residing in the camps are children under the age of seventeen. A good number of the women are breastfeeding mothers while others are pregnant; a good number of the children are also identified to be unaccompanied and separated.

¹² S. Ekpa & N. H. M. Dahlan (2016) *Legal Issues and Prospects in the Protection and Assistance of Internally Displaced Persons (IDPs) in Nigeria*. Journal of Law, Policy and Globalization, 49: 108-116.

¹³ *Ibid.*

¹⁴ A. T. Akujobi & U. V. Awhefeada (2021). *Migration and Displacement: Legal Constraints of Internally Displaced Persons in Nigeria*: International Journal of Law and Society, 4(3), 169-176.

¹⁵ J. O. Ezeanokwasa, U. C. Kalu & F. E. Okaphor (2018): *A Critique of the Legal Framework for Arresting the Threat of Internal Displacement of Persons to Nigeria's National Security*, NAUJILJ 9 (2), 10-21.

Most times children are worst for it as “displacement not only disrupts their education and normal development but also frequently results in their being separated from their families in the chaos of flight, left to fend for themselves and at heightened risk of abuse¹⁶. It is therefore important to protect the rights of these affected victims. Human rights are considered universalistic in nature and therefore, applicable to all human beings without distinction as to race, colour, sex, language and religion. Unfortunately, there is the inadequacy of normative protection for these persons and this accentuate the challenges they experience. At present, there is no specific law on IDP protection in Nigeria, while there have been attempts to develop law and policy responses, these have fallen through in the last decade mostly due to the absence of political will¹⁷.

Legal and policy framework for the protection of the rights of internally displaced persons

In recent times, reports of an upsurge in the number of Internally Displaced Persons (IDPs) have been on the increase in Nigeria mainly because of the rising insurgencies in Nigeria which was orchestrated by the deadly activities Boko Haram and the militant Fulani Herdsmen. Oghuvbu and Okolie¹⁸ stated that the total official number of IDPs on record that Boko Haram displaced in 2013 alone was 300,000 people, who absconded from Adamawa, Yobe and Borno. Again, in 2013, 470,500 people were also made homeless in some communities because of Boko Haram insurgency and other humanitarian emergencies. However, statistics that are available show that Nigeria has the largest figure of internally displaced persons in Africa projected at 3.3 million persons in 2014.

This figure also involves persons who were displaced by Boko Haram, as well as victims of flood, communal conflicts and clashes between Fulani herdsmen and farmers in the country. Nigeria is ranked behind Syria, with 6.5 million IDPs, and Colombia, with 5.7 million in the world. In 2015, an assessment by ‘Displacement Tracking Matrix’ (DTM) set up by Internal Migration Organisation (IOM) observed that about 1.5 million displaced persons in Borno, Gombe, Taraba, Adamawa, Bauchi, and Yobe with ninety-four percent of the cases caused by Boko Haram while six percent by inter-communal clashes. NEMA recorded additional figures of about

fifty thousand in Plateau, Kaduna, Abuja, Federal Capital Territory (FCT), and Nasarawa in February, 2015¹⁹. Available statistics have shown that millions of people are on the list of internally displaced persons that suffer varying degrees of human rights violation²⁰.

Unfortunately, there is little or no legal protection given to them. Although in 2003 the Federal Government of Nigeria set up a committee to draft a National Policy on IDPs to assist in 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-governmental and civil society organisations. The committee’s work culminated in a National Policy on Internally Displaced Persons which was prepared and presented to government in 2011 but it is yet to be officially adopted. The draft Policy is based on the Guiding Principles on Internal Displacement and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the ‘Kampala Convention’) of 2009²¹.

Legislative and institutional framework in the absence of a legal framework or institution, provision of assistance, protection, reintegration and resettlement for IDPS is mostly undertaken by agencies of government on an ad-hoc and reactive basis. The draft National Policy aims to guide the different branches of government, donors and humanitarian agencies in preventing displacement and in providing protection and assistance to those displaced.

It also allocates responsibilities to the appropriate government bodies for different aspects of the short, medium- and long-term response to internal displacement, with the existing National Commission for Refugees (NCFR) as the governmental focal point with responsibility for coordinating the activities of all agencies, including international humanitarian agencies. Furthermore, it empowers the National Emergency Management Agency, the Human Rights Commission and the Institute of Peace and Conflict Resolution to partner with the NCFR to support the activities of the states and local governments in

¹⁹ A. Itumo & N. Nwefuru (2016). *Nigerian State and Responses to Plights of Persons Internally Displaced by Boko Haram Insurgents: Implications for Socio-Economic and Political Development*. Research on Humanities and Social Sciences, Vol. 6, pp. 24-38.

²⁰ T. Oduwole & A. Fadeyi (2013). *Issues of Refugees and Displaced Persons in Nigeria*. Journal of Sociological Research, Vol. 4, pp. 1-18.

²¹ Internal Displacement Monitoring Centre, December 2011 <http://tinyurl.com/Nigeria-IDPs2011>

¹⁶ *Ibid.*

¹⁷ Romola Adeola (undated). *The legal protection of internally displaced persons in Nigeria: Challenges, imperatives and comparative lessons*. Chapter 15, 222-230.

¹⁸ E. A. Oghuvbu & U. C. Okolie (2020), note 3

implementing the Policy within their respective spheres of activities when it is officially launched²².

The Policy starts by re-affirming the fundamental rights of all citizens under the 1999 Constitution but also acknowledges the particular vulnerabilities of women and children, according 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. To this end, the Policy envisages the application of various laws and institutions to the protection of IDPs under what it terms a 'humanitarian framework of cooperation' of all relevant ministries, states, local governments, departments and agencies as well as international organisations and charitable institutions.

The Policy also identifies some circumstances under which a person ceases to be an IDP. It goes on to outline in general terms national and international legal principles applicable to IDPs. These principles are reflections of fundamental rights of individuals as guaranteed under the Constitution and under international instruments, including freedom from discrimination, freedom of movement, freedom of association, and the rights to dignity and family life.

While the Policy guarantees the protection of the above mentioned rights, it at the same time prohibits acts that are capable of causing internal displacement such as ethnic cleansing or large-scale development projects not justified by public interest. Currently there are monumental challenges relating to prevention of displacement, assistance, return and relocation of IDPs. The National Policy has come at a time when the country actually requires a strong legal and institutional framework – rather than a mere policy – and effective implementing institutions²³.

Conclusion

In the final analysis, a number of studies and available statistics have shown that the number of Internally Displaced Persons (IDPs) are on the rise in Nigeria. A number of factors have been identified as being responsible for such forced migration which include natural disasters and environmental degradation, inter-communal/ inter-ethnic clashes, disputes over land, boundary conflicts between indigenous people and settlers, communal and ethno religious clashes, as well as electoral violence. However, a cursory look at the various causes revealed that forced migration and internal displacement in and into Nigeria in over a decade in

²² B.A. Bukar. *Nigeria Needs to Take Responsibility for its Internally Displaced Persons*. FMR 40

²³ *Ibid*.

Nigeria has been triggered by violent conflict particularly the activities Boko Haram and the militant Fulani Herdsmen.

These displaced persons suffer a lot of human right violations without any significant legal and institutional framework to protect for them. The existing institutional arrangement keepers, although struggling to manage the situation particularly, in the short-term, are hindered by current policy deficits and the lack of a specific framework to adequately address the situation or cover medium to long time requirements for IDPs²⁴. It is therefore imperative to purposively design a legal framework that will specifically address the challenges bedeviling the Internally Displaced Persons in Nigeria while other security measures are taken to ensure their safety. It seems that presently the issue of security of the internally displaced persons beg for attention.

It should be noted that being places of concentration of human persons where large groups are found, the tendency of attracting frequent visitations from the criminal elements in society exist, there are news of molestation of females, resulting in unwanted pregnancies and venereal diseases. The bandit whose activities led to displacement in the first place, have gained entry to IDPs camps for the purpose of further criminal activities. In all these, it is becoming evident that the security arrangements in the country is totally overstretched and fatigued. The trend of failure of adequate security at the IDP camps would again present a novel challenge which would threaten the very existence of the camps and make the situation of the IDPs.

Recommendations

It is recommended that while the State is doing everything possible to reduce or eliminate the conflicts that give rise to these multiplicity of conflicts, it should as a matter of importance beef up security within the IDP camps to protect lives and properties as well as enforce the rule of law within the camps and obviate the numerous reports of rape, extortions and other human rights violations prevalent in the camps. Where the Nigerian State is being overwhelmed, it can call for assistance from other friendly countries and international institutions to which Nigeria belongs as a member.

²⁴ Fatima Kyari Mohammed (2017). *The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges*, Working Paper. Division Global Issues Stiftung Wissenschaft und Politik German Institute for International and Security Affairs, April 2017, SWP Berlin.

Since it has become certain that the factors causing internal displacement of persons would not abate so soon, the State actor (executive and legislature) should take immediate steps to spell out the protections available to Internally Displaced Persons

and the procedures outlined to secure the enforcement of those protections so as to stem the tide of rolling from one misery of deprivation to another which is presently the lot of the displace persons, leading to situation of despair among the IDPs.

