



SEXUAL AND GENDER-BASED CRIME IN INTERNALLY DISPLACED PERSONS CAMP IN NIGERIA AND OTHER JURISDICTIONS: LEGAL ISSUES AND PROSPECTS.

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ABSTRACT: *Recently, the issues of sexual and gender-based crime and their perpetrators is on the front burner in Nigeria and other jurisdictions. It is a notorious fact that internal displacement may be as a result of natural disaster or conflict especially flowing from non-state armed insurgent groups as is currently the case in Nigeria and Syria. This article seeks to identify the major perpetrators as well as the Nigerian government official involved in the sexual crimes and abuse against vulnerable women and teenage girls at the Internally Displaced Persons (IDP) camps. The article calls on the government of the day to attack and nip the ugly trend on the board promptly by enforcing extant legislations on internally displacement and trafficking, while domesticating the provisions of the Kampala Convention. The article further suggests ways to curtail sexual exploitation and trafficking in I.D.P camps in Nigeria and other jurisdictions.*

KEYWORDS: Sexual and gender-based crime, IDP camps, vulnerability, legislation, natural disaster.



INTRODUCTION

No doubt, in war time conflicts leave both men and women vulnerable, though they are affected in different ways, the men usually constitute the larger part of armed force either voluntarily or through forced conscription, and genuinely risk their lives in battle. The women on the other hand, are left to bear the socio-economic aftermath of conflicts. During conflict situations, women are obviously exposed to different kinds of abuses and violence, especially sexual exploitation and slavery from both combatants and non-combatants alike.

In recent times, there has been a change in internal conflicts, leading to the deliberate vulnerability of both men and women to systematic attacks. Insurgent groups often engage, severe violence against specific civilian populations as a weapon of war to gain and have access to particular profits and advantages. They have similarly used sexual violence as a tool of terror to propagate their extremist ideas.¹ Insurgent groups has focused on women and girls as veritable tool to humiliate, demoralize or rather exterminate an entire community as was experienced in the 1990s in both Rwanda and the former Yugoslavia, similarly, also since 2014, sexual violence has been used in the northern Yardi community of Iraq, for humiliation and extermination. The strict use of sexual abuse and terror against women and girls as a weapon of war and strategy manifests in form of forced prostitution; sexual slavery, forced marriage, forced pregnancy, forced religions conversion, including systematic and multiple rape, which often times results in serious physical injuries, genital mal-handling and in many cases resulting in death of victims, HIV infection has also been adopted as a good strategy of war to exterminate an entire ethnic community (this was used during the Rwanda crisis and the conflict that occurred in the democratic Republic of Congo). Rape in Public Square and in the presence of husbands and family members have also been adopted as a weapon to humiliate and demoralise particular communities as was seen in the conflict in Abu Ghraib Iraq. Generally, speaking, more men than women are killed and injured during conflicts, but the women suffer higher risk of sexual abuse, forced labour and sexual exploitation and trafficking during conflict situations, women are the primary target of sexual violence. In some cases, it is carried out in a systematic way in line with laid down strategies with objectives to destroy, terrorize and dominate an ethnic or religious groups. In certain cases, sexual violence is used to reward soldiers for their hard work, in other cases, certain forms of violence like forced prostitution, sexual enslavement and the trafficking of women and girls, can be employed for financial gains. The Boko haram Insurgent Group in Nigeria has consistently engaged sexual violence as a means to propagate their ideas. This however has led to the displacement of thousands of persons, with its attending consequences, especially on women and children in IDP camps in the North-east of Nigeria. Different actors accounted for this at different stages of such socio-vices in human life during conflict.

¹ Lonel Zamfir (2016). "Fighting conflicts related sexual violence" *European Parliamentary Research Service*. E.U. Parliament Briefings. December.



Examining Actors perpetrating sexual violence against women and men globally

a. State actors as a factor

Sexual and gender-based crimes are often perpetrated by state actors, usually by the state security forces such as the military, the police, and other state security agents. In most cases, such criminal acts are rarely punished by the government, not necessarily because it does not have the powers to deal with the perpetrators, but rather it is used as a systematic weapon to punish members of rebel troops, together with their families and supporters, as was the case of Sri Lanka and Syria,² where sexual crimes are perpetrated by state actors, such crimes are hardly investigated or prosecuted, thus creating room for impunity and encouraging the state security force to engage in deeper and worse sexual violence against the weak civilian population. It is important therefore for national government to establish a zero-tolerance policy towards the state's armed forces, in the perpetration of sexual violence. State must adopt a strict military code of conduct to regulate the overall conduct of its security forces as was done in the Republic of Congo).³ Sexual violent crimes are also committed against women and girls by state-controlled forces in refugee or the internally displaced-persons camps. Women and young girls are particularly vulnerable to sexual violence either by the state military forces, police, or vigilante groups. Sexual violence in camps are often perpetrated by both strangers, state security forces and women are raped by security personnel and other officials of such camps. Surprisingly, state actors that ordinarily should be concerned about the protection and overall well being of these vulnerable women and girls at the internally displaced-persons camps end up being the major perpetrators of such nature of crime. Sexual abuse and exploitation against displaced women has been extensively reported recently in Nigeria and Syria by the Human Rights Watch. Women and girls currently displaced by Boko Haram now live in Internally Displaced Persons camps. Under-age girls are married off or sold for economic profits by officials of the camps. It is important to note that sexual exploitation by state security personnel causes great injury to victims, thereby reducing the confidences that citizens have in the government and law enforcement structures.

b. The case of International Peace Keeping Troops

In 2004, sexual abuses committed by peace keepers in the United Nations mission in Democratic Republic of Congo and in Somalia, predominantly made international headlines and thus formed the major subject of the United Nations Security Council meetings and US congressional hearings.⁴ These international peace forces often misuse their position of authority, capitalizing on their non-accountability to the national or local authorities, and further using the resources that they have been entrusted with, to exploit and abuse vulnerable women and underage girls, by obtaining and extracting sexual favours from these local women in return for food and other basic needs of life.⁵ While international peace keepers are deployed into conflict and post-conflict areas to offer protection and security to the weak and vulnerable, sadly, some of them use their highly exalted position of trust to exploit and defraud those who

² In the conflict in Sri Lanka (1983-2009) the state security force accused of engaging rape systematically as an instrument of torture on members of the rebel movement both men and women

³ The examples of State cited above are derived from the Report of the Secretary-General on conflict related sexual violence UN Security Council report of April 2015

⁴ Sarah Martin. (2015). "Must Boys be Boys? Ending Sexual Exploitation & Abuse in UN Peacekeeping Missions". *Refugees International*. October.

⁵ See Report of the Secretary General on conflict-related sexual violence, UN Security Council, April 2015.



ought to be protected. Very often women and girls in search of protection and food are forced to offer their bodies to the highly advantaged international peace keepers as a means of survival.⁶ Accusations of sexual abuse brings doubt about the positive impacts of United Nations peacekeepers, as this amounts to compromise on their mission to secure the peace.

In 2021, Local NGO Rainbo Initiative Reported a rise in sexual and gender based violence cases across all five Rainbo centers in Sierra Leone, Freetown, Makeni, Komo, Kenema and Bo, with a total of 3,584 sexual and gender-based violence cases in 2020, of the cases, 86 percent involved children younger than 18 years especially .⁷

c. The Non State Actors

Different groups during times of conflict, often cease opportunity of the break-down of law and order to perpetrate sexual crimes. Some insurgent groups engage sexual abuse systematically to attain and advance military, political or ideological objectives. Rebel groups used sexual violence as a means of gaining control over communities and also used it to reward under-age fighters in places like Democratic Republic of the Congo, Liberia, and Sierra Leone. Sexual violence in recent times has taken a new dimension, such as the emergence of Islamic insurgent groups, like the ISIL/Da'esh found in Iraq and Syria, as well as bandit and the Boko Haram operating in Nigeria. These extremist groups engage sexual abuse as a means of terror, as a major ingredients to further their ideology and means of operation. The groups use sexual violence as tool for advancing their views to the international community. They engage sexual violence to hinder girls' education and to further enhance 'traditional' family values. Similarly, they use it to reward committed fighters. This nature of sexual violence seems to be very difficult to curtail because of its close connection with extremist ideologies. Where sexual abuse is perpetrated by state security agents, the international community can through pressure adopt some strict measures to address such violence. But when such violent crimes are carried out by non-state actors particularly by insurgent groups with some violent ideology, the political means to deal with it are often lacking and difficult to establish. Engaging such actors becomes an uphill task, the only way of rescuing women and girls from such groups is simply by military defeat, which has to be diplomatically pursued in order to rescue a life, the innocent and vulnerable victims.

The ordeal of the Nigerian girls and women in conflict zone: Chibok girls in retrospect

The Boko Haram Islamic group operating in the north-eastern Nigeria has in recent times pledged complete alliance to ISIL/D'ash, this Islamic sect, has been in the act of engaging sexual abuse against women as a major ingredient of its weapon of war, fear and terror. These insurgent groups in Nigeria have married women forcible to its men, compelling women and girls into forced sexual relationships, most times, forcing them to have sex with multiple partners. There have been several reports of forced pregnancy resulting in childbirth. This Islamic group has on several occasions abducted a lot of devote Christian women and young school girls. And have through coercion converted them to Islam. There is an understanding that the group is against secular western education, in particular the western education of girls.

⁶ See Sarah Martin (2005). "Ending Sexual Exploitation & Abuse in UN Peace Keeping Missions". *Refugees International*. October.

⁷ Sierra Leone 2021 Human Rights Reports available at www.state.gov access 24 November 2022.



Boko Haram in 2014 abducted over 200 school girls from their school premises in Chibok, this act however attracted huge international condemnation while some of the young girls were converted to Islam as their new religion, others were married out to young Boko Haram fighters to reward them. In October 2016, about twenty-one of the girls were set free after a very strong deal struck with Nigerian government and the Islamic sect. Their release was made possible through the mediation of the international committee of the Red Cross and the Swiss government. Also, in May 2017 about eighty-two of the Chibok girls were subsequently released by the Boko Haram insurgent group. In January 2022, Boko Haram terrorist suspected to be members of ISWAP group who invaded Kaukikari village in Chibok Local Government area in Borno State have freed four girls hitherto abducted on Friday 14th January, 2022.⁸ There have been other cases of abduction by the group though they were not given international recognition, for example, Boko Haram in the town of Damasak forcefully abducted 300 young school girls and about 100 women and under-age children, several other women have been raped and badly dehumanized after the Islamic insurgents took over their communities suddenly.

It is unfortunate and sad to state that on April 14, 2014, 276 young girls were abducted from a government school in Chibok in Borno State by the Boko Haram armed group. For more than nine years of insurgency in northern Nigeria, the activities of this armed group have been characterized by persistent human rights violations, massive abduction of women and girls and sexual abuse by the Boko Haram group. Further, the breakdown of security structures and lack of humanitarian assistance in the north-east have given rise to the displacement of the civilian population in that region. Thus, as a result of the displacement, there have been incidents of rape and child trafficking in the internally displaced persons camps across Nigeria.⁹

Women and girls have been abducted by Boko Haram in many other states of Nigeria, especially Borno State forcing them into marriages that is characterized by repeated rape. It must be noted that these marriages are often entered into by helpless women and girls in the conflict affected areas as a form of protection from rape by other members of the armed group. Abducted women have suffered serious violence and death threats. It is interesting to note that forced marriage, sexual slavery and the “sell-out” of kidnapped women and girls are cardinal to Boko Haram’s ideology and modus operandi.

During conflict, everyone is affected by violence; however, women and girls are more at risk of facing various forms of violence including but not restricted to sexual and gender-based violence due to lack of social protection and lack of safe access to basic needs.¹⁰

Sexual crimes committed by State actors or insurgent groups connected with the state remain worrisome in nations like South Sudan, Syrian Arab Republic, Nigeria and the Democratic Republic of Congo. However, non-state actors reasonably account for the majority of cases, and combating them raises serious political and operational difficulties. Sexual crimes perpetrated by non-state insurgent groups, includes groups with extremists ideologies in Iraq,

⁸ Ndahi Manama. (2022). “Boko Haram releases four Chibok girls from captivity”. *The Vanguard*. Available at www.vanguardngr.com access on 20th November.

⁹ See report of the secretary general on conflict-related sexual violence, UN Security Council April, 2015..

¹⁰ See Executive Summary, Syrian Women and Girls: Fleeing deaths, facing ongoing threats and humiliation, international rescuer committee, August 2012, available at <http://tinycur.com/IRC-Lebanon>. August 2012



Somalia, Syria, Nigeria, Mali, Libya and Yemen. Fighting and defeating these armed groups is considered substantial victory against conflict related sexual violence.

3. Cases of abuse in other conflict jurisdiction of the world.

Let us examine other jurisdictions such as: Iraq, Sudan (Darfur), Syrian Arab Republic and Yemen.

a. Iraq

Iraq conflict and instability are among gender base violence, reporting sexual violence is a stigma. For every woman who comes forward to report sexual violence in the midst of a conflict, it is estimated that a further 10 to 20 cases go undocumented and unaddressed. That means that, as a conservative estimate for the 3,293 UN-verified cases of conflict related sexual violence in 2021, an increase of 800 from the previous year, an addition 32,930 to 65,860 went unreported. It has 3.6 million persons as Internally Displaced Persons as at 3rd May 2021.¹¹

Sexual violence has been well engaged as part of ISIL strategy of propagating their ideology throughout. They use sexual abuses as a way of spreading terror, persecuting ethnic and religious minorities and subsequently intimidate communities that oppose and refuse their ideology. The ISISL thus instituted a clear pattern of sexual slavery, abduction and trafficking of women and girls.¹² Thousands of women who have escaped from the ISIL areas of control have painfully reported serious physical and sexual abuses, including forced marriage and sexual slavery. Younger women and girls are being sold-out in open markets while some are given to ISIL armed fighters as gifts for their dedication to duty. Reports from the internally displaced person's camp in Iraq, clearly buttress the fact that systematic sexual violence are being used especially against the Yezidi women and girls, while a promise of sexual access to women and young girls has been adopted by ISIL as part of their recruitment strategy.

b. Sudan (Dafur)

Sexual crimes, including rape, abduction and trafficking for the aim of sexual exploitation, sexual humiliation and killing following rape remains a common characteristics feature of the conflict in Sudan. The summary report on lessons learned from the experience on the African Union/United Nations Hybrid Operation in Darfur (s/2021/1099) En/AR originally published on 29th December 2021 stated too many incidences of sexual violence against women and girls.

In Sudan, Mary (not her real name), a medical clinic employee in the Gumbosherikat neighbourhood of Juba, provided psychosocial support and medical assistance to the community and supported patient who had been gang raped by six men and consequently passed away. Shortly after seeing these patients an armed man climbed through Mary's thatched roof and sexually assaulted her at gunpoint. Determined to show other survivors that justice was possible, Mary reported her case to the police.

¹¹ Ibid

¹² In February 2015, the Yezidi spiritual leader called for his people's total support and not to ostracize women and girls who have been abducted and released by ISIL



“I had to do it. I had to stop this. If more women know that you can take this case to court and get a sentence, and other remedies such as compensation may be more will come forward,” She said.

Through the newly established gender-based violence court, the perpetrator was sentenced to prison for 14 years. The court were established with the help of UNDP’s access to justice, security and human rights programme which strengthens the criminal justices system’s capacity to provide inclusive effective and equitable services. However, the perpetrators of these wicked crimes being members of the Sudanese national armed forces. It was also reported by the UNAMID that these crimes of sexual violence were exacerbated by poverty, internal displacement and the breakdown of law and order in conflict affected areas. It was further reported that most of the cases of sexual abuses happened while women and young girls were busy carrying out important livelihood activities like farming and collection of firewood in lonely areas. Many others have been raped and attacked in their homes and the premises of camps for internally displaced persons.

In fighting impunity and seeking legal reparation, un-reporting of sexual crime case due to lack of access to law enforcement and creditable judicial institutions have been a major problem.¹³ In the few cases that have been reported, the authorities fail to take steps to prosecute and subsequently bring perpetrators to justice simply because in almost all cases, perpetrators are a part of the authorities that be. On the 3rd of May 2022 it has been established that 2.2 million persons are Internally Displaced persons in Sudan.¹⁴

c. Syrian Arab Republic

There has been continuous increase in the number of documented cases of sexual violence carried out by terrorist armed groups in Syria. It must be noted that from its inception, sexual abuses against women, girls and men has been a major feature of the conflict in Syria. Women have been raped in the process of house searchers, hostage-taking and at several check points. The Islamic State of Iraq and Levent (ISIL) have abducted so many women and sold them in open markets for subsequent use as sex slaves. Women and young girls have been forcefully married by the ISIL armed fighters. There has been clear report that most of the sexual atrocities occur in internally displaced persons camps. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-women) reported that there has been increased cases of sexual abuses and commercial sex in and around the IDP camps in Syria. Lesbians, gays, bisexual transgender and inter sex individuals have severally been subjected to sexual abuse at the areas manned by armed groups.

Breakdown of traditional protection networks has terribly increased the chances of sexual and gender based crimes against women and men in Syria. Reports also shows that Syrian displaced girls are marrying earlier just to be free from economic insecurity and assurance of protection from sexual assault. This however cut short their educational pursuit, young girls who are eventually abandoned or divorced by their fighting lovers, end up living in shame and stigma. Research has shown that early marriage fuels and increases chances to vulnerability to sexual violence and abuse. Early marriage in the Syrian region have exposed young girls and women to sexually transmitted diseases, forced/unwanted pregnancy, unsafe abortion, impairment or

¹³ See report of the Secretary General to the United Nations Security Council, March 23 2015

¹⁴ UNDP observes International day for the Elimination of Sexual violence in conflict on 19 June 2021, available at www.undp.org



longer-term disability and untimely death. In a recent report, 7.6 million persons are recorded as internally displaced persons in Syria in 2022.¹⁵

f. Yemen

Since the start of Yemen's war in 2015, violence against women and girls has increased by 63 percent. In 2021, supported by the government of Japan, UNDP launched a mobile application that maps protection and aids services for gender based violence survivors. The application can be refined by geographic area and divides services into several categories including livelihood, education, psycho-social supports, legal services, food and healthcare. This programme provides survivors with essential services and encourages the advancement of gender equality.¹⁶

The unabated armed crisis, political and economic instability and the breakdown of law and social structures in Yemen have given rise to the internal displacement of thousands of individuals in the country in the past few years. A large number of persons displaced were women and children, who as it were continues to be vulnerable to various forms of sexual and gender-based abuses. Women and girls have been seriously abused sexually in crisis affected regions. The most manifest forms of sexual violence had been rape, sexual slavery and early marriage. Armed groups in conflict-ridden areas have engaged sexual exploitation as a weapon of war against selected ethnic groups. So many of the girls who became pregnant were abandoned together with their children belonging to the rapists. Presently, lack of clear codification in the Yemen legal system serves as a shield to perpetrators to the disadvantage of surviving victims.

Sexual violence and exploitation in internally displaced persons camp in Nigeria

It is sad and disgraceful to note that officials and persons who should protect the interest of vulnerable women and girls at the Nigerian Internally Displaced Persons camps are the ones attacking and sexually abusing them. In July 2016, the Human Rights Watch an International non-governmental organization founded in the United States reported that government officials and authorities in some Internally Displaced Persons camps in Nigeria have raped and sexually abused women and girls who are displaced by the conflict with Boko Haram. Human Rights watch documented cases of sexual violation, including rape and other forms of sexual exploitation of 43 women and girls in several internally displaced persons camp in Maiduguri, Borno State Capital.¹⁷ Some of the victims reported to Human Rights Watch that they were forcefully raped. 37 of the victims related how they were coerced into sex through false promises of marriage as well as promises of financial and material assistance.¹⁸ Many of the victims who were forced into sexual intercourse said they were neglected and abandoned when they got pregnant, stating that their children have seriously suffered stigmatization, discrimination and series of abuse from other camp residents. Some of the victims found in

¹⁵ UNDP observes International day for the Elimination of Sexual violence in conflict on 19 June 2021, available at www.undp.org

¹⁶ Ibid

¹⁷ Tobi Soniyi and Ejiofor Alike, "Buhari orders probe of sexual abuse at IDP Camps. This Day Newspaper, 1st, Nov. 2016 at <http://www.thisdaylive.com/index.php/2016/>. Accessed November 24, 2022.

¹⁸ See Tobi and Ejiofor, *supra*



Internally Displaced Persons camps were previously abducted by Boko Haram group who forced them into marriage before they manage to escape Maiduguri the Borno State Capital.

It was also reported by the Human Rights Watch that a very large percentage of displaced women and girls in Adamawa and Yobe States were sexually abused and exploited by camp officials.¹⁹ Women and young girls have been raped and sexually abused in Internally Displaced Persons camps across Nigeria by members of the security forces and vigilante groups, policemen and civil defence groups working with government team in fighting Boko haram. Most of the women sexually abused at the IDP camps told Human Rights Watch that after their abuse, they usually have fear of subsequent retaliatory abuse from the officials if they report the abuse, many others also fear to report abuse against them for fear of not being given food and getting other basic assistance in the camp.

It must be noted that the plights of persons at the Internally Displaced Persons camps have been further compounded by lack of regular supply of food, cloth, medicine and other basic essentials of life together with the restricted movement in the camps, all these put together have increased sexual exploitation by camp officials, soldiers, police, member of the vigilante groups and other mindless resident around the Internally Displaced Persons camps. The writer submits that the restricted movement in camps by camp officials is seriously against *Principle 14.2 of the United Nations Guiding Principle on Internal Displacement* which clearly provides that internally displaced persons have “the complete right to move freely in and out of camps and other settlements”. Officials and camp workers regularly used their power and position of authority and the presentation of material gift items to have sex with needy and hungry camp women and girls.²⁰ One of the victims in the camp said residents get only one meal a day. She said she accepted the proposal of a soldier who asked her for marriage because she was in need of help in feeding her four children. She said the soldier man subsequently absconded few months after she told him she was pregnant for him.²¹ Desperation and the quest for a means of protection and economic sustenance often push women and girls in internally Displaced Persons camps into the arms of exploitative camp officials and traffickers who promise better economic chances, which also lead most women and young girls in the Internally Displaced Persons Camps to take to “survival sex”, this happens when sex is traded for food, shelter and protection. It has been noted that prostitution is most times one of the means engaged by refugee and internally displaced women and girls for survival.²² Many women and children in internally displaced persons camp in Nigeria and in other refugee camps around the world are lured and deceived out of the camps by mindless officials and traffickers promising some good domestic or petty jobs in the end they are forced into sexual slavery, and exploitation.

The Human Right Watch International have reported that victims of rape and sexual abuse in Internally Displaced Persons camps in Nigeria are not seeking medical assistance such as psychological and counseling, because of the shame of stigmatization. A medical health worker interviewed by the Human Rights Watch in a camp in a Maiduguri camp which housed about 10,000 residents declared that the number of displaced persons needing medical treatment for

¹⁹ Human Rights Watch. (2016). “Officials Abusing Displaced Women, Girls” October 31. Available at <https://www.hrw.org/print295994> accessed November 26 2022

²⁰ See Human Rights Watch. Supra p. 3

²¹ Human Rights Watch. Supra p. 4

²² Brigitte Rohwerder. (2016). “Women and Girls in forced and protracted displacement”. *Helpdesk Research Report*. 9 May. Page 8. Available at <https://www.gsdre.org> accessed November 26 2022.



HIV and other sexually transmitted diseases has increased between 2016 and 2018 when the camp hospital was opened originally in 2014. The health worker further added that she believed more women and children may be infected but dying silently for shame of approaching the clinic for treatment.²³

International aid workers have seriously noted that since early 2016 internally displaced women and girls have been forced to exchange sex for food and other essential necessities²⁴ and that perpetrators of these crimes are members of the security forces deployed to the north east Nigeria, subjecting women in camps to various degrees of sexual and gender based crimes. Thus, a repaid protection assessment report made public in 30th April 2022 by Borno State protection working group stated that the conflict between the government of Nigeria (GON) and Non-State Armed groups (NSAGs) in North East Nigeria enters its 12th year, the people in the states of Borno, Adamawa and Yobe (referred to as the BAY States) continue to face widespread insecurity and ongoing military operations, damaged infrastructure, tattered local economies, loss of livelihoods and gross violations of their human rights by all parties to the conflicts.²⁵ The Covid-19 pandemic and ever deteriorating global food security have exacerbated already precarious conditions, leaving a projected 8.4 million people across the BAY States in need of humanitarian assistance and protection in 2022. Among them, 4.2 million people live in Borno State alone with around 1.6 million Internally Displaced Persons (IDPs) out of the 2.2 million persons displaced across the three north-eastern BAY states.

Insecurity and resultant restrictions imposed by the Borno State government (BSG) on movements make humanitarian operations both dangerous and difficult. Humanitarian actors cannot reach an estimated 1.1 million humanitarian operations mostly focus on the state capital, Maiduguri and garrison towns in local government areas (LGAs). As displaced, returning and host communities are all experiencing critical needs across all sectors, the inaccessible areas in northern Borno where food security levels are likely to have reached famine levels, are of highest concern.

This protection analysis update (PAU) focuses on Borno State as it hosts the majority of conflict-affected and displaced persons across the BAY States and remains the hotspot of the crisis in north-east Nigeria. It sheds light on three concerning development and their protection implications for the civilian population in Borno. These include: Camp closers in Maiduguri metropolitan centre (MMC) and Jere LGAs with enforced revocations and returns to various areas across Borno. Denial of impediments to resources, opportunities, services resulting in high levels of food insecurity has created unimaginable hard life for the people in Internally Displaced Person's camp in the North-east of Nigeria.²⁶

²³ Human Rights Watch, officials abusing displacement women, girls, October 31, 2016 available at <https://www.hrw.org/print/295494> accessed November 26 2022.

²⁴ Human Right Watch. Supra p. 10

²⁵ Protection Cluster UNHCR: Borno State North-east Nigeria Protection Analysis. Update April 2022

²⁶ Ibid



Legal Issues in legislations for internally displaced persons in Nigeria

The absence of appropriate legal frameworks on IDPs in Nigeria has made it difficult in protecting and catering for the needs of the internally displaced persons. In 1998, the United Nations Commission on Human Rights commenced the process which led to the emergencies of the guiding principles on Internal Displacement²⁷ as an international standard setting norm on IDPs. Part of the thoughts stipulated in the guiding principle is the call on states to implement the principles contained in the Guideline into their national laws and policies on internal displacement.

Again, the African Union Convention for the protection of internally displaced persons which is similar to the international guidance provided in the guiding principle mandates states parties to domesticate the provisions of this African Human Right's treaty into domestic law, thus strengthening protection and assistance for IDPs within their region.²⁸

Nigeria government in 2003 set up a committee to draft a national policy on IDPs as a way of addressing the gaps in the protection of IDPs. The committee in 2011 presented a 51 page draft policy to the government despite the severity of internal conflict in the country with its attending human loss and displacement, this draft policy is yet to become operational²⁹ despite the fact that the draft national IDP policy contains all the rights, privileges and freedoms recognized and captured by the guiding Principles, Kampala Convention and the Nigeria Constitution. The unnecessary delay in adopting and implementing of this policy by government means that there cannot be enforcement of rights contained therein by displaced individuals before domestic courts in Nigeria.³⁰

The obvious absence of laws and policies regulating IDPs protection and assistance in Nigeria has as it were; placed heavy burden on the National Emergency Management Agency, which as at today is the only body with the responsibility of responding to emergency situation in the country.³¹ Although NEMA has a unit in it dedicated for IDP related matters, its major challenge is that being responsible for all emergency situations in the country, its reliance on the little funds that accrue to it from the national revenue would hinder its effective service delivery.

Nigeria ranks as the 3rd country as at 2021 on the continental map of high internally displaced population in Africa³² In 2009, the African Union heads of States and government adopted the

²⁷ In 1992, Francis Deng, A former Sudanese Diplomat was appointed by the commission on Human Right as the United Nations Secretary-General's Representative on Internal Displaced Persons with a mandate to develop a normative framework on IDPs. The Draft was adopted in 1998 and remains up to date the only international binding norm on international displacement.

²⁸ See Article 3(2)(a)-(e) of the Kampala Convention

²⁹ Bogoni Alhaji Bukar. (2011). "Nigeria Needs to take Responsibility for its IDPs". *Forced Migration Review*. Vol. 4. 44-45. Available at <http://www.fmreview.org/young-and-out-of-place/bukar-html> accessed November 26 2022.

³⁰ It must be noted that these standards especially the Kampala Convention can only become binding and enforceable only when they are ratified and domesticated.

³¹ By section 8(1) of the NEMA Act, there is a State Emergency management committee in each of the 36 States of Nigeria to complement the activities of the states and local governments level. See also Emmanuellar Imasuen, "Insurgency and Humanitarian Crises in Northern Nigeria: The case of Boko Haram *African Journal of Political Science and International Relations*, vol. 9(7), July (2015):page 284-296.

³² African countries with the largest number of Internally displaced persons (IDPs) as at 2021 available at www.statista.com access November 21 2022



convention for protection and assistance of internally displaced person at special summit of refugees, returnees and IDPs held in Kampala, Uganda. This instrument (is known as the Kampala Convention). The instrument was developed with the primary objective of providing sustainable solutions in the issue of internal displacement in Africa. Basically, the Kampala convention was to serve as a normative framework for countries in Africa in the protection of internally displaced persons and in providing humanitarian assistance for them.³³

It is important to note that Nigeria was among the first set of 17 countries to sign the Kampala Convention alongside with Burundi, Central African Republic, Congo, Equatorial Guinea, Ethiopia etc, not much has really been done by state parties in aligning their national legal framework with the provision of the Kampala Convention as stipulated in Article 3(2) of the Convention. On April 17, 2012, Nigeria ratified the Kampala convention since then, it has remained as a draft policy. Since its ratification, the Kampala convention has not been domesticated, thus making the legal application of the provisions within the national legal system difficult, since it has not complied with section 12 of the 1999 Constitution as amended which provides that international treaties only becomes a part of Nigeria law upon the act of domestication by the National Assembly as stressed by the Supreme Court in the case of *Abacha v. Fawehinmi*.

However, the minister of Humanitarian affairs, disaster management and social development, Sadiya Umar Farouq, on Thursday, 25th August 2022 unveiled plans for the domestication of the Kampala Convention on internally displaced persons (IDPs) in Africa through stand-alone legislation.

The minister who disclosed this while declaring open the two-day management retreat, 2022 (Maiden edition), with the theme: ‘Strengthening social inclusion for improved living standard of Nigeria’s’, affirmed that about 7.1 million people are in need of humanitarian assistance in the North east region alone while a total of about 1.8 million people are internally displaced as a result of disasters, conflicts, insurgencies and terrorism.³⁴ Therefore, the absence of legal frame work for Internally Displaced Persons in Nigeria has really affected the right of persons in Internally Displaced Persons camp which calls for urgent attention by the present government.

CONCLUSION

Sexual Violence against IDP remains a global problem. Internally displaced people are human being who they are only unfortunate to suffer displacement. They are subjects of rights and privileges. National governments must ensure that there is adequate protection of their codified rights. The internally displaced persons ought to attract the care, love, assistance and support of every right thinking person. To have men in position of authority using the office and privilege to exploit and abuse these vulnerable set of people must be considered by all as an act of wickedness that should attract stiff punishment. The Nigerian government should thoroughly investigate the allegations of sexual abuse and child trafficking taking place at the

³³ Romola Adeola. (2016). “Kampala Convention and Protection of IDPs in Nigeria”. The *Punch Newspaper* April. Available at punchng.com/kampala-convention-protection-idps-nigeria Accessed on 28 November, 2022.

³⁴ Kehinde Akintola (2022). “FG moves to domesticate Kampala Convention on IDPs Nigeria” *Tribune*. 25 August Available at <https://www.tribuneonlineng.com>



IDP camp across the country and immediately prosecute such mindless perpetrators. Freedom of movement should also be guaranteed in the IDP camps in line with the United Nations guidelines for internally displaced people. The need for the government to strictly ensure that its officials and agent whether in the military, police, civil defence, legally appointed camp administrators must desist from sexually abusing and exploiting vulnerable women and young girls at the IDP camps cannot be over emphasized.

The National Assembly needs to urgently take steps to domesticate the provisions of the Kampala Convention in line with section 12 of the 1999 Constitution to enable the internally displaced persons in the country press for vital rights and privileges that would in the end lead to their maximum protection, while Nigerians await the stand-alone legislation as the legal frame work for Internally Displaced Persons camps in Nigeria.

RECOMMENDATIONS

The following recommendations are hereby proffered in resolving the legal issues of sexual exploitation in the internally displaced persons' camps in Nigeria.

1. National governments must understand that sexual violence against internally displaced persons constitutes a violation of their basic human rights. A situation where officials of government who ought to use their position of authority to protect and provide care for the internally displaced people use their authority and privilege to exploit the vulnerable, is seen as acts of irresponsibility. Thus upon the slightest allegations national government must immediately take steps to first and foremost relief such officer his duties which would serve as deterrence to others and so reduce the incidences of sexual abuses in the camps.
2. Many of the internally displaced persons camps around the world, especially in Nigeria have been reported as not registered, and thus are not under the control and management of national governments. It is learnt that in Nigeria, many IDPs are unregistered thus operating nearby officially designated ones, just to confuse people. Therefore government must identify and eliminate such illegal camps which serves as fertile ground for sexual exploitation and child trafficking, while the national governments must strengthen security in and around all the registered IDP camps within the country.
3. National governments must ensure adequate provisions and supply of food and other basic necessities, as lack of it could lead the camp officials to sexually exploit the internally displaced especially the women and girls, while consistent enlightenment campaign needs to be carried out by the government for care-giving groups in the camps, specifically giving them training by professionals on how to identify or detect rape victims, perpetrator, or child traffickers, so that if it occurs. Rape victims and survivors should be bold enough to report cases of exploitation and abuse against them to the appropriate authorities, as this is the only way that perpetrators could be investigated prosecuted and rightly brought to justice and properly punished.
4. The authorities should ensure freedom of movement for internally displaced persons as restriction of movements is contrary to principle 14.2 of the United Nations Guiding principles on internal displacement, which provides that internally displaced people have



“the right to move freely in and out of the camps and other settlements”, while government should ensure that surroundings of legal and officially registered camps are properly lighted to avoid the perpetration of sexual crimes in the dark.

5. Sanitary facilities in so many camps are sited in one building, with one side for men and the other side for women. The lack of separation of these facilities increases the chances of sexual violence and abuse of IDPs camps. National governments especially in Africa should immediately emulate Liberia that now has separate facilities in their camps for internally displaced persons. In same vein, food for victims has continually been a source of frustration and anxiety. Many internally displaced persons hardly find food to eat. Thus, a lot of children in the camps in Nigeria today are suffering from malnutrition. Hunger is also the reason so many women girls in the camp are compelled by camp officials to exchange sex for food. Governments, organizations, churches and mosques should be pleaded with to respond to the food plight of victims displaced by internal conflicts, while good schools should as a matter of necessity be provided by the government in all camps for the IDP to ensure that their education is not hindered.

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