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Appraising the rights of women in internally displaced persons' camps in Nigeria

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Abstract

There are different causes of displacement from one's usual home or dwelling place in Nigeria. These causes include natural disasters such as flooding; inter-tribal conflicts or wars; and the activities of insurgents such as the attacks of Boko Haram sect in some communities in the North East. The result effect of these natural and man-made disaster is the displacement of persons from their homes and sometimes their ancestral lands. Thus, leaving persons who were once independent to become dependent on government and the benevolence of others for survival at the internally displaced person's (IDP) camps. This paper which adopted the doctrinal research methodology, appraised relevant national and international legislations on the protection of women in IDP camps. It revealed that women in such IDP camps are not adequately protected due to lack of explicit national laws on the subject matter. There is also the need for the domestication, and enforcement of all ratified international instruments on the rights of persons in IDP camps.

Keywords: Women, internally displaced persons, rights

Introduction

The role and importance of women in every society cannot be over emphasized. Women in Nigeria and in several parts of Africa face several negative experiences by virtue of their gender^[1]. Women in IDP camps face even worse experiences as they fall amongst the most vulnerable persons in the society, thus requiring protection by the law.

There are several IDP camps in Nigeria created in response to the need to shelter persons who may have been displaced from their homes or communities as a result of natural or man-made factors. Some areas in the Nigeria, especially areas located along river banks and low land areas face seasonal flooding. During the floods, some persons may suffer displacement. Man-made factors of displacement include but not limited to wars, communal clashes, attacks on communities by Boko Haram sect in the North-East and herdsmen attack on farming communities in other parts of the country. These man-made factors have resulted in the increase of number of displaced persons in Nigeria.

A large number of displaced persons are women. This is understandable as during war times, the men go to the battle field leaving their female members of the community and children at home. Similarly, during communal clashes men are mostly targeted and attacked, thereby leaving the womenfolk defenseless, helpless, hopeless and homeless.

Little wonder that women constitute the vast majority of people in IDP camps. Women are exposed to dehumanizing conditions and violations of their rights in such camps. The United Nations in recognition of the need to protect persons in IDP camps expects States to respond to internal displacement by way of humanitarian assistance and rules of international law. Thus, this paper aims at assessing and appraising national and international legislations on the protection of the rights of women in IDP camps. It explores the plights of women in these IDP camps and makes suggestions as to ways of guaranteeing and protecting of their rights. Although the paper clearly focusses on the rights of women, similar argument can be established for men and children in IDP camps. There is need to provide a working definition on some terms used in the course of the paper.

Conceptualization of terms

There is need to define and clarify some terms used in this paper. They include women, internally displaced persons, camps and human rights. These definitions will be provided in that order. Naturally and biologically, there are only two genders known to the human race, these are male and female genders.

Women are seen as the gender other than the male gender. Thus, woman is considered to be an adult female human and includes a girl, lady, mother, grand-mother, great-grand-mother, sister, daughter, and aunt et cetera. There are some biological peculiarities of the female gender. Woman refers to the specie of human with the womb and capable of procreating^[2]. Her name is derived from her “womb” which is distinct to only her specie^[3].

It is pertinent to understand who internally displaced persons are. According to the UN Guiding Principles on Internal Displacement 1998^[4], internally displaced persons are “persons or group of persons who have been forced or obliged to flee or to leave their homes or places 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 rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”^[5]. Thus, these are persons who have been forced to flee their homes and residence to another area within the geographical borders of the country, as a result of natural disasters or human-made disasters such as armed conflicts, generalized and gross violence or human rights abuse. The fact that they flee their homes for safety reasons to another area within their own country distinguishes them from refugees. IDPs flee but stay within their own country and remain under the protection of their government. It is on record that at the end of 2020, some 48 million persons were internally displaced due to armed conflict, and other grave human-made factors^[6].

These persons basically seek shelter and safety in another land, thus, requiring camps or shelters. The word camp connotes temporary accommodation such as a hut or a make shift structure. In this context, it is a safe shelter for displaced persons, where they are protected and taken care of before they eventually move back to their homes^[7].

“Human rights” is a concept that emerged from the Second World War. After the war, traditional rules in which States were believed to have sole possession of rights of individuals were eroded^[8]. Instead, “rights of individuals were brought under international law, thereby removing human rights violations from being an internal or domestic matter^[9].” The United Nations was established and birthed Universal Declaration of Human Rights 1948 to entrench human rights of all persons by virtues of their humanity. Article 2 of the Declaration states that “all persons without any discrimination, have all the rights and liberties proclaimed in the Declaration.” This has formed the basis and foundation of human rights. It has been defined as “those rights which all human beings enjoy by virtue of their humanity, whether black, yellow, malay, or red^[10].” These are rights accruing to humans, only by virtue of them being humans. Human rights are unique to humans and are not earned or negotiated for, but are imbedded in human existence. Persons in IDP Camps are mostly women, they are human. Therefore, are entitled to human rights, notwithstanding the fact that they have been internally displaced from the ancestral or residential abode. By virtue of their humanness, they are entitled to the protection of their human rights.

National and International legislations for the protection of the rights of women in IDP camps

It is noteworthy that there exist legislations for the protection of all, including women in IDP camps both

internationally and within the national scene. However, while the international legislations are specific to persons or women in IDP camps, such rights may be deduced from existing legal framework on human rights protection. The Constitution of the Federal Republic of Nigeria 1999, Violence against Persons (Prohibition) Act, 2015 and the African Charter on Human and Peoples’ Rights will be examined to sieve out the provisions for the protection of women in IDP camps.

The Constitution of the Federal Republic of Nigeria 1999 provides for the protection of all citizens. Chapter IV of the Constitution provides for several fundamental rights which are inalienable to all including women irrespective of their status. Section 33 (1) provides that everyone has the right to life and that no one should intentionally and unlawfully be deprived of his life. This right applies to all irrespective of gender or status of being internally displaced or not. Thus, women in IDP camps are entitled to the right to life even in those camps.

Section 34 (1) provides for the right to dignity of the human person. It expressly states that no person shall be subjected to torture or to inhuman, cruel, inhuman or degrading treatment, or held in slavery or servitude nor required to perform forced or compulsory labour. This right is both inherent and alienable in nature. This provision presupposes that every person should be accorded value and be treated with respect. The right to dignity of the human person is akin to the freedom from torture or cruel, inhuman or degrading treatment or punishment. It is important to note that the provision is for every person, women in IDP camps inclusive. This presupposes that they are entitled to the respect of their human dignity and not be subjected to cruel or inhuman treatment.

Section 41 of the Constitution guarantees freedom of movement, which consists of the right to move about freely and choose one’s place of residence without hindrance or discrimination. Closely related to that is the right to personal liberty^[11]. These right covers everything regarding an individual’s personal freedom. It presupposes freedom to do or act as one wills except for legal restrictions. This implies that women in IDP camps are entitled as of right to seek safety in other parts of the country. Their right to movement guarantees them the right to temporarily relocate for safety and security reasons. They also have a right to move and socially interact within and outside their camps.

The Violence against Persons (Prohibition) Act 2015 also provides some legal provisions necessary for the protection of women in IDP camps. The Act deals with sexual and gender-based violence and aims at eliminating violence in private and public life. It prohibits all forms of violence including physical, sexual, domestic, psychological and harmful traditional practices. It further provides remedies for victims of violence by way of compensation and stipulates punishment for offenders and perpetrators of violence. Section 10 VAPP Act 2015 prohibits the deprivation of a person’s right to liberty, and prescribes two years imprisonment or an option of fine, or both for perpetrators upon conviction. Deprivation of the liberty of a person is also a criminal offence under the Criminal Code^[12]. The confinement of or detention of a person in any place against his will amounts to deprivation and a criminal offence^[13]. Thus, confining women in IDPs within the camps longer than necessary amounts to deprivation, which is a violation of their right and is punishable by the law.

The VAPP Act also deals extensively on rape, assault and domestic violence. It provides stiffer punishment for offenders. It especially expanded the definition of rape to include the use of objects to the genitals or anus of an individual and jettisoned the old prerequisite of penetration. However, the only setback of this legislation is that it grants only the High Court of Abuja the jurisdiction to hear matters under the Act. This means that victims have to travel from their locations to Abuja in search of justice. That is most discouraging. However, where State Houses of Assemblies adopt and enact similar legislations, it would become applicable in such States.

The African Charter on Human and Peoples' Right 1981 is a regional legislation that establishes a mechanism for the promotion and protection of human rights in Africa. The treaty seeks to promote human rights inclusive of civil and political, socio-economic and cultural, as well as individual and collective rights of all Africans. The rights provided by the African Charter include the right to enjoyment of rights without distinction of any kind^[14], right to life^[15], equality of all people^[16], the right to satisfactory and clean environment^[17], the right to existence and self-determination^[18], et cetera. These rights apply to all peoples in Africa "without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national or social origin, fortune, birth or other status^[19]." Thus, women in IDP camps are entitled the rights canvassed in the African Charter. It is heart-warming to note that the African Charter has been domesticated in Nigeria. It is known as the African Charter (Ratification and Enforcement) Act^[20]. In *Sani Abacha v. Gani Fawehinmi*^[21], the Supreme Court confirmed that the Charter is part of Nigerian Law and the courts must enforce it. Thus, the Charter was relied upon to promote socio-economic rights in the case of *Ahamefula v. Imperial Medical Centre & Molokwu*^[22], wherein a Lagos State High Court held that the termination of employment of a nurse on the basis of her HIV status was unlawful. The court further held that the denial of the medical care to the plaintiff is a violation of provisions of the African Charter (Ratification and Enforcement) Act. Furthermore, the Court in *Mojekwu v. Ejikeme*, the Court relied on the provisions of the African Charter and the Constitution of the Federal Republic of Nigeria 1999 to nullify customary practice that prevented daughters of a deceased man from inheriting his property. The decision was affirmed also affirmed at the Supreme Court. Thus, it is settled that the African Charter is a part of Nigerian law and is applicable throughout Nigeria.

There are some international legislations aimed at protecting internally displaced persons generally. In such legislations, special attention to women was given considering their vulnerability. One of such is the United Nation Guiding Principle on Internal Displacement, 1998^[23]. This legislation contains 30 principles aimed at protecting the rights of internally displaced persons. Principle 1 provides that IDPs are entitled to the equal enjoyment of the rights and freedoms of all international and national laws which other citizens are entitled to, despite their being displaced. It frowns at their discrimination in the enjoyment of their rights by virtue of their status as IDPs. Principle 18 provides that all IDPs, including women are entitled to basic or essential needs without any form of discrimination. Such essentials include food, portable water, basic shelter,

appropriate clothing, sanitation and essential medical service^[24].

Principle 22 frowns at the discrimination of IDPs whether living in the camps or not, by reason of their displacement, and provides that they enjoy their rights as a citizen of the nation as well as their right to communicate in a language they understand. It insists that they shall not be discriminated in their right to enjoy "freedom of thought, conscience, religion or belief, opinion and expression; right to seek freely opportunities for employments and to participate in economic activities^[25]," as well as their right to vote or participate in governance or public affairs. This implies that women in IDP camps ought not to be discriminated against, rather are entitled to freedom of thought, religion, expression and opinion within or outside the camps. They are also entitled to freely seek employment within and outside the settlement and participate in economic activities. This is particularly important as this guarantees one way they can survive after fleeing their home land for safety and security reasons. The need to survive and not merely depend on aid will push many into seeking for employment, guaranteeing their right against discrimination from employment will afford these women with the opportunity to begin again and to fend for themselves and their families.

The UN Guiding Principle also provides for the right to movement within and outside the camp as well as the right to choose his or her settlement^[26]. Thus, women in IDP camps have a right to move within the camps and outside the camps in the expression of other rights for example right to employment or religion within or outside the camps. Principle 11 specifically provides that IDPs shall be specifically protected from "rape, mutilation, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault, ... sale into marriage, sexual exploitation..." This is particularly important for the protection of women IDPs as they are most vulnerable to rape, gender-specific violence, forced prostitution, sale into marriage and sexual exploitation.

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) 2012 is a regional convention aimed at lending its voice towards the protection and aid of internally displaced persons in Africa. The Convention is aimed at promoting and strengthening "measures to promote or mitigate, prohibit and eliminate root causes of internal displacement as well as provide for durable solutions"^[27]. It places an obligation on States to refrain from and prevent the arbitrary displacement of populations and endure the respect for the principles of humanity and human dignity of internally displaced persons^[28]. It imposes a duty on the States to ensure the protection of the rights of IDPs including their right to "humane treatment, non-discrimination, equality and equal protection of law^[29]." It also ensures "assistance to internally displaced persons by meeting the basic needs as well as allowing and facilitating rapid and unimpeded access by humanitarian organizations and personnel^[30]." Thus, it emphasis that the States have an obligation to ensure assistance gets to IDPs unimpeded. This is important as the Convention does not merely provide a right to basic needs, but obligates States to provide them and

ensure that assistance from humanitarian organizations is supplied and delivered without hinderance.

While the UN Guideline for Internal Displacement recognized the right of IDPs to employment and participation in economic activities, the AU Convention has gone further to impose an obligation on the State to promote self-reliance and sustainable livelihoods amongst IDPs^[31]. This is particularly important because employment within and outside the camps may have several challenges to actualize. However, training IDPs on skills can increase their chances of employability and afford them a platform from which they can participate in economic activities. It should be pointed out that although Nigeria is a signatory to the Convention and has taken steps to ratify it, however, it has not been domesticated in Nigeria. Therefore, it is not enforceable in Nigeria.

Another international legislation wherein women in IDP camps may deprive protection is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)^[32]. This Convention is also known as the International Bill of Right for Women as it formed the foundation for the protection of women's right. Its provisions are unique as it provides specifically for the promotion and protection of vulnerable women including those in IDP camps. It focusses on the principle of equality with an objective of completely eradicating discriminatory acts against women. The Convention defines discrimination against women as:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field^[33].

Although, no specific mention was made about IDP camps, the above definition could be stretched to include women in IDP camps. Thus, the Convention prohibits distinction, exclusion or restriction of the recognition or enjoyment of the rights and freedoms of IDPs within and outside their camps on the basis of gender.

Plights of women in IDP camps

Many IDP camps in Nigeria are characterized by makeshift structures which are usually overstretched and inadequate for the number of users. They are usually overcrowded with very limited access to basic hygiene and health services. The nature of challenges faced by women in IDP camps include hunger caused by shortage in the supply of food; sexual exploitation; rape; molestation; restricted movement; and poor sanitation caused by inadequate toilet and waste disposal facilities^[34].

It has been observed that "sexual exploitation goes on daily on the camps as displaced persons have to be married or attached sexually to camp officials in order to get the best supply of aids^[35]." Some of the women get involved in sexual relationships with these camp officials believing they are married, only to later discover that the "camp officials" are not prepared for any serious commitment whatsoever, only for sexploitation. Therefore, they face the risk of getting pregnant for the enemy soldiers or soldiers placed in charge of their safety and security within the IDP camp. Women also get raped by these camp officials. They are lured by gifts of necessities and when they are

unsuspecting, they are drugged and raped. They also have less access to reproductive health care, thereby exposing them to unsafe abortions and high mortality rate due to the lack of maternal care.

These women also suffer hunger and restricted movement. In spite of the shortage of food and other essential items, many women are not allowed out of the camps so they can search for means of survival. This forces them to beg and seek favours from the camp officials, who in turn take advantage of these vulnerable women. Thus, they are not allowed to seek employment except such is traded for sex. There is also the issue of greed and corruption by the camp officials. They hoard, divert and steal aids meant for IDPs. This creates shortage for the IDPs and increases their desperation to provide for themselves and their families. Thereby exposing them to sexual exploitation and sexual violence.

There is also the issue of poor sanitary condition in the camps. There are very few or no proper toilets. Where such exist, there is inadequate water supply to make such facilities fit for human use. Therefore, women are forced to bath in the cover of darkness. This further exposes them to sexual abuse and sexual violence as they could be targeted at their most vulnerable point.

Furthermore, most of these women come into the camps traumatized as a result of the attacks or circumstances leading to their displacement. Unfortunately, attention is hardly paid to mental health issues in Nigeria generally. Thus, these women live with this trauma without even realizing that they need help.

Way forward

The two main international laws that specifically provide for the rights of internally displaced persons in general and internally displaced women specifically are the United Nations Guiding Principles on Internally Displaced Persons 1998 and the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa 2012. There is need for the domestication of these international legislations in Nigeria. This will afford internally displaced persons in Nigeria the privilege of benefitting from the rights and freedoms provided in these Conventions.

Better still, the National Assembly could legislate on IDP camp activities in Nigeria. Given that the number of IDPs and IDP camps are on the increase, there is need for legislation to regulate and protect the rights of these vulnerable persons. Such legislations could adopt relevant provisions from the international legislations having respect to our peculiar situation. It could also criminalize the sexploitation of women by camp officials.

Again, there is the need for orientation and education of members of the armed forces on their roles in the protection of women in IDP camps. They should be trained to protect these vulnerable women and not sexually exploit and violate them. Such officers should be trained on the management of mental health issues. So that these women can receive psychological and mental help.

It is also suggested that female soldiers trained in providing care and management of mental health issues, be included as camp officials. Such female officers should be placed both as head of the camp, while a few others should serve as camp officials. The presence of such female camp officials will to an extent provide internally displaced women the

opportunity of opening up to a fellow woman and reduce the risk of further exploitation as a result of their vulnerability. It will reduce the chances of sexual advances being made by some male soldiers and reduce the incidents of trading sex for favours within the camps.

Furthermore, it is suggested that the IDP camps be better organized. There is the need for the construction of more camps to meet the needs and challenges of existing ones, as such camps are mostly overcrowded. There is also the need for the provision of adequate sanitary facilities to reduce the risk of these women to health issues associated with poor sanitary conditions as well as to indecent exposure.

Finally, internally displaced women must be allowed to work especially outside their camps, so they can earn a decent living to augment whatever supplies they get from government or humanitarian organizations. They should be trained in skills that can enhance their economic participation in the society. This will also make them more independent and refuse sexploitation where they can.

Conclusion

Women in IDP camps are very vulnerable people because of their gender and their status. They at risk of violence, sexual exploitation, sexual abuse, rape and forced marriage because of their vulnerability. There are several laws wherein their rights can be deduced and protected. The Constitution of the Federal Republic of Nigeria provides a basis for the protection of their rights. There are several international and regional legislations that provides for their rights. Interestingly, Nigeria is a signatory to them, but is yet to domesticate them. It is believed that the domestication of these legislations will enhance the rights women in IDP camps in Nigeria.

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