

CRITICAL EVALUATION OF THE HUMAN RIGHTS OF THE INTERNALLY DISPLACED PERSONS (IDPs) IN NIGERIA

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ABSTARCT

Internally displaced persons are entitled to quantum of Human rights that are peculiar to them. These rights were ambitiously reiterated under international laws and other instruments as their entitlement, as vested rights belonging to the IDPs in Nigeria. The discourse within the purview of this paper is to critique these rights as to their application or implementation in Nigeria. Thus, Human rights are solemnly declared in the 1999 constitution as non-violable rights but belonging to all human persons in Nigeria, including internally displaced persons. They are emphatically fundamental that a chapter was dedicated to it in the 1999 Constitution in Nigeria. However, the Constitution did not provide corresponding punishment where these rights were violated but emphatically declared that the provisions are fundamental. This paper is concerned with reparation rights to the IDPs which sadly the federal government failed, neglected and refused to pay. The methodology adopted herein is qualitative method as the main thrust of this paper is to interrogate the existing statutory framework and other instruments to determine the application and implementation or otherwise of these basic Human rights that are peculiar to IDP in Nigeria. The paper found that even though these basic rights were conceived within Human rights interpretation, they were not enacted in any statutes in Nigeria; and therefore, not enforceable.

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They are hollow expression with so much significance but no corresponding penalty in the event of violation. Finally, the paper will offer suggestions and recommendations.

KEYWORD: Human Rights, Internally Displaced Persons, Nigeria

Introduction

Nigeria's demographic facts sheet revealed that it is a country operating Constitutional federalism based of Jeffersonian democratic model, with an estimated population of over 216 million people.¹ Thus it consist of three tiers of government composed of thirty six state governments and seven hundred and seventy six local governments, and one Federal government as the big brother.² The Constitution³ being the supreme law over all other laws in Nigeria, have defined and allocated powers of each tier of government with their scope and limitations. This Constitutional formula strengthen the operation and function of governments with clear mandate and responsibilities.

The Constitution 1999 inspired by the United Nations Civil and Political rights ambitiously dedicated a chapter which contained all civil and pollical rights verbatim.⁴ The chapter contains sections 33 to 46 as a solemn declaration that crystalize the entitlement of all human beings to those rights as fundamental to all human persons in Nigeria.⁵ These basic Human rights is inalienable and it is the foundation of democracy it has catalogue the following rights and declare them as Human rights belonging to all they are

1. Right to Life⁶

¹ Demographic Statistics Bulletin 2022, Prince Adeyemi Adeniran Statistician General/C.E.O, National Bureau of Statistics Abuja, Nigeria December 2023, Pp, 1 - 2

² Ibid,

³ The Constitution of the Federal Republic of Nigeria 1999 (as Amended) (hereinafter called the 1999 Constitution (as Amended)

⁴ The 1999 Constitution (as Amended)

⁵ Chapter 4 1999 Constitution (as Amended)

⁶ S-33 of 1999 Constitution (as Amended)

2. Right to Dignity of Human person⁷
3. Right to Personal Liberty⁸
4. Right to Fair hearing⁹
5. Right to Private and Family Life¹⁰
6. Right to freedom of thought, conscience and religion¹¹
7. Right to freedom of expression and the press¹²
8. Right to peaceful assembly and association¹³
9. Right to freedom of movement¹⁴
10. Right to freedom from discrimination¹⁵
11. Right to acquire and owned moveable property anywhere in Nigeria¹⁶
12. Compulsory acquisition of property¹⁷
13. Restriction on and derogation from fundamental Rights¹⁸

The above-mentioned rights were solemn declaration and no matter the circumstances they cannot be violated except through the due process of law. Meanwhile about a decade or over a decade ago Nigeria has suffered tragic and terrible displacement of people due to variety of reason which ranges from insurgency, ethno-religious crises, natural tragedy of flood and others, communal conflict of farmer- herder, among others. These conflicts and natural crises cause the major displacement in Nigeria and about 20 million people are displaced and cannot return to their natural environment.¹⁹ The internal displacement monitoring centre reveals that from 2008 to 2023 there is almost 20 million displaced Nigerians.²⁰ The organization further said that figure of displacement as a result of conflict and violence is 4.9 million people in Nigeria while the figure of displacement associated with disaster is

⁷ S-34 of 1999 Constitution (as Amended)

⁸ S-35 of 1999 Constitution (as Amended)

⁹ S-36 of 1999 Constitution (as Amended)

¹⁰ S-37 of 1999 Constitution (as Amended)

¹¹ S-38 of 1999 Constitution (as Amended)

¹² S-39 of 1999 Constitution (as Amended)

¹³ S-40 of 1999 Constitution (as Amended)

¹⁴ S-41 of 1999 Constitution (as Amended)

¹⁵ S-42 of 1999 Constitution (as Amended)

¹⁶ S-43 of 1999 Constitution (as Amended)

¹⁷ S-44 of 1999 Constitution (as Amended)

¹⁸ S-45 of 1999 Constitution (as Amended)

¹⁹ Internal displacement monitoring centre (IDMC) available at <[http://www.](http://www.Internal-displacement-monitoring.org/countries/Nigeria)

Internal – displacement – monitoring.org/countries/ Nigeria> accessed on 16/07/24

²⁰ Ibid

8.4 million people between 2008 to 2023 in Nigeria.²¹ This bleak picture explained how catastrophic human suffering in Nigeria which requires urgent attention.

Sadly, the displaced Nigerians were victim of circumstance that the only remedy available at the disposal of the government in Nigeria is IDPs camp where food and pharmaceutical are distributed to people in short supply. Plethora of research has revealed that inadequate supplies reinforce the violence perpetrated in the camps by official and all those concerned.²² The camps are not well designated but it is usually an intervention provided in schools or any public buildings. This is because there are no designated spaces for the internally displaced persons.²³ Thus, it is quiet disturbing that their rights are not taken care of as government did not have legal or institutional framework for the protection and assistance of the IDPs.²⁴ Meanwhile, it is assumed that they are entitle to reparation due to their unfortunate circumstances.

Who is an Internally Displaced Person (IDP)?

According to the UN guiding principle on internal displacement, any person or group of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as result of or in order to avoid the effect of armed conflict, situation of generalized violence, violence of human rights or natural, or human-made disaster and who have not crossed an internationally recognized border.²⁵ This definition is sufficiently clear and it has revealed the following facts that as long as a person or group of persons are escaping a situation of conflict or natural disaster within the borders of their country of residence, they are properly called internally displaced person.

The definition has also answered a leading question as to whether only citizens of the country are IDPs. The definition shows that any person or group of persons who escaped from their habitual place of residence is an IDP. Thus, even if an individual is not a citizen but it is your

²¹ Ibid

²² Shedrack Ekpa and Nuarrual Hilal MD.Dahlan, ;Legal Issues and Prospect in the Protection and Assistance of Internally Displaced Person(IDPs) in Nigeria” *Journal of Law, Policy and Globalization*, Vol,49, (2016) Pp, 108 – 116 at 112

²³ Ibid, p, 112

²⁴ Ibid , p,113

²⁵ UN doc.E/CN/41998/53 Add2 on 16/07/24

registered domicile and you escaped as a result of natural disaster or conflict or violence, he is considered an IDP. In other words, abandon his convenience and comfort to save his life including abandoning his livelihood in search of safety and security.

What Are Human Rights?

Human rights are rights which are inherent to all human being regardless of race, sex, nationality, ethnicity, language, religion or any other status. Everyone is entitled to these rights without discrimination. Human rights include among others right to life and personal liberty, freedom from slavery and torture, right to work and education, freedom of opinion and expression,²⁶ among others. Human rights imperatives were inspired by the universal declaration of Human rights which ultimately culminated in UN Charter in 1945 and 1948 respectively.²⁷ It is interesting to note that Human rights are quantum of rights that inherently belong to Human person irrespective of his status and circumstance, he is naturally entitle to it.

What Is Internal Displacement?

This is a situation that occurred as a result of involuntary or forced movement, evacuation or relocation of persons or group of persons within internally recognized borders.²⁸ Therefore, where a person or group of persons were forced to flee respective abode and livelihood to another place within the same country and they have not cross in to another country is an internal displacement. Thus, internal displacement occurs when people leave their residence either forcefully or involuntarily to seek refuge in another place within the same country. The reason must have been natural disaster or conflict or violence; and the people escape to safety and security.

The Legal and Institutional Framework for Protection and Assistance of the IDPs In Nigeria

The only available legal framework for the protection and assistance of the internally displaced persons is the National Policy on Internally

²⁶ United Nations, Peace, dignity and equality on healthy planet, available at <<http://www.un.org/global-issues/human-rights>> accessed on 16/07/24

²⁷ Ibid, UN, Peace, dignity and equality on healthy planet

²⁸ African Union Convention for the protection and Assistance of Internally Displace Person in Africa (hereinafter called Kampala Convention, 2012)

Displaced Persons 2023.²⁹ This policy was initiated in 2003. However, it did not receive adequate support and commitment due to government reluctance as observed by many researchers.³⁰ At last, the government have publicly launched the policy in the presence of invited local and international media on 23 March 2022 at Abuja.³¹

The policy was inspired by the two international instruments the UN guiding principle on internally displaced person and the Kampala Convention. Thus, Nigeria as responsible member of the international community expressed commitment to ideals of protection and assisting the IDPs. This is pertinent to the foundation of its constitutional democracy as stated that the purpose of government is the promotion, protection and preservation of welfare and security of its citizens.³² Regardless of their unfortunate circumstances, the IDPs are citizens of Nigeria whose rights must be protected. and going by the definition what acceptable minimum is escaped from habitual place of residence.

Accordingly, Nigeria signed and ratified the Kampala Convention as one of the prominent African countries and also highest contributor to the African Union funds. However, in spite of signing and ratification, Nigeria did not integrate the Kampala Convention in to Nigeria's corpus juris. Thus, the Convention will be of persuasive consideration and cannot be enforced until it is domesticated before it becomes enforceable.³³ As things stand, Nigeria is not making efforts to domesticate Kampala Convention since the launching of the national policy even though the national policy is not adequate to hold government accountable. These international normative frameworks should guide the Nigerian state in its commitment to IDPs most especially in the sourcing and developing its own statutory framework towards the protection and assistance of the IDPs.

²⁹ National Policy on Internally Displaced Persons 2023

³⁰ Babagoni A. Bukar, Nigeria needs to take responsibility of its IDPs, *Forced Migration Review* Vol.40 (2011):Pp,44-45 available at <http://www.fmreview.org/young-and-out-of-place/bukar.html> accessed on 16/07/24

³¹ Hadiza Abdurrahman, Federal Government Launches National Policy on Internally Displaced Person in Abuja available at <http://www.radionigeria.gov.ng/2022/03/23/fg-launched-national-policy-on-idps> accessed on 16/07/24

³² S,14 (2) (b) of the 1999 constitution (as Amended)

³³ S, 12 of the 1999 Constitution

The Institutional framework for the protection and assistance of the IDPs in Nigeria is the National Commission for Refugees, Migrant and Internally Displaced Persons. This Commission was established in 1989 as a concrete response to refugee's concern expressed by United Nation.³⁴ In 2021 the then President rechristened its name to include this category of the vulnerable people that is IDPs. Nevertheless, this agency is not sufficiently positioned to address the needs of the IDPs in Nigeria due to increasing incidence of conflicts, violence and generalized violations of human rights dimensions. Some researcher expressed the opinion that without dedicated institution for IDPs and legislative framework, there will be difficulty to achieve the desired goal.³⁵ The only known agency performing creditably well in the space of internal displacement in Nigeria is National Emergency Management Agency³⁶ which gives succor to the IDPs and addresses their plight by providing emergency assistance in Nigeria.³⁷ The need for dedicated institution to address the plight of IDPs cannot be over emphasized as Nigeria must lead in this regard not Uganda as it is now.

Human Rights of Internally Displaced Persons in Nigeria

It is worthy of note that in addition to basic Human Rights which is identified as constitutional in Nigeria, the IDPs are entitled to peculiar set of Human rights that is exclusive to them. Though many of these rights are equally elaborated in the 1999 Constitution of the Federal Republic of Nigeria, they are not enforceable.³⁸ Sadly, the Constitution elaborated those rights not as citizen's entitlement but as duties of state, and it is captioned as Fundamental Objectives and Directive Principles of state Policy.

The vulnerability of the IDPs is better imagine due to magnitude of the trauma and pain they experienced as a result of displacement. Once displacement occurs, it will bring about a set of circumstances that renders those affected highly vulnerable. Most obviously it, forces

³⁴ Established pursuant to Decree 52 of 1989 subsequently transformed to an Act of the National Assembly vide Cap 21 Laws of the Federation of Nigeria, 2004

³⁵ Jude O. Ezeanokwasa, Nwadike C. Kalu and Frances E. Okaphor, A Critique of the Legal Framework for Arresting the threat of Internal Displacement of Persons to Nigeria's National Security, Nnamdi Azikiwe Journal of International Law and Jurisprudence, NAUJILJ, Vol, 9, No. 2 (2018) Pp, 10 – 21 at 16

³⁶ Agency of federal Government Established since 2009 pursuant to NEMA Act

³⁷ Ibid, Shedrack Ekpa and Nuarrual Hilal MD.Dahlan

³⁸ Chapter II of the 1999 Constitution (as amended)

people from their homes depriving them of shelter and basic protection it can provide. Cut off from their land, traditional livelihood and means of generating income, and are compelled to abandon all but a few possessions behind, IDPs suddenly find themselves stripped off their means of survival; and at the same time, it breaks up families and community support network.³⁹ This underscores the need for the protection and assistance of the IDPs and informed the need for a peculiar set of Human rights for the IDPs.

Although the UN guiding principle on internal displacement is the first at the time, the Kampala Convention reflected on it verbatim; and therefore, reference will be made to the later. The following are some of the Human rights of the IDPs⁴⁰ among many others;

1. Right not to be discriminated on ground of his displacement;
2. Right to be protected against genocide, violence or war crimes;
3. Right to be protected from sexual and gender-based violence;
4. Right to adequate humanitarian assistance which shall include Food, Water, Health and Education;
5. Right to protection and assistance to persons with special needs which include expectant mothers, unaccompanied children, elderly and physically challenged;
6. Right to participate in decision making;
7. Right to citizenship and enjoy civic duties which include contesting election and vote;
8. Right to protect environmental degradation;

Right to Reparation and Compensation

The central theme of this paper is to appraise the right of reparation and compensation as a result of internal displacement. This is a Human right particular to the IDPs. It was elaborated in the following words in the Kampala Convention: that internally displaced person shall be provided with effective remedies. That through a legal framework they are entitled to just and fair compensation and other forms of reparations for damages incurred as result of displacement in accordance to international standards. Finally, it provides that when internal

³⁹ Ibid, Jude O. Ezeanokwasa, Nwadike C. Kalu and Frances E. Okaphor, p15

⁴⁰ Art 9 the Kampala Convention

displacement is as a result of natural disaster government shall provide reparation to the IDPs affected.⁴¹

Thus, this right to compensation and reparation has never been domesticated in Nigeria. Indeed, IDPs were not sufficiently attended to by the government for the absence of legislative framework, and no dedicated institution for the IDPs in Nigeria. Therefore, Nigeria has failed in its international obligation having signed and ratified these two conventions and equally undertake to promulgate domestic legislation for the protection and assistance of the IDPs in Nigeria.⁴² The only effort government exhibited regarding the protection and assistance of the IDPs is to allow them occupy government building in search of shelter and refuge, and promulgation of the National Policy for IDPs in Nigeria which is no more than executive order which cannot be enforced. Neither the domestication of any of the two treaties is in sight, even though, there was this commitment on behalf of Federal government during the Launching of National policy on IDPs by the Minister humanitarian affairs and disaster management.⁴³

Nevertheless, it is worth pointing out that the underlining philosophy of compensation is well entrenched in Nigerian law even though should be as a result of Government development plan or through legal and legitimate confiscation of property.⁴⁴ It is interesting to note that the government is unaware of circumstances of compensation why not extend such to the IDPs to ameliorate their plight. The vulnerability of the IDPs includes their loss of identity and livelihood and it is culminated in to humanitarian crises which government is responsible. Thus, all the above-mentioned rights are formulated as duties of state parties, Nigerian governments therefore is obligated to cause of the IDPs toward their protection and assistance.

It is argued that in the absence of legislative framework and institutional framework, the only available remedy or strategy is to enlarge the paradigm and scope of the rights to align with Human rights interpretation. This will give the IDPs or anybody on their behalf to seek for enforcement of this rights, most especially the right to

⁴¹ ART 12 (1,2,3) of the Kampala Convention

⁴² ART 4 of the Kampala Convention

⁴³ *UN guiding principle on IDPs and the Kampala Convention*

⁴⁴ Ibid, S,44 (1) (a) &(b) of the 1999 Constitution (as Amended) & S,39 (a) & (b) of the Land Use Act, Cap L,1 Laws of the Federation of Nigeria, 2004

compensation and reparation. Relying on principle No.28 – 30 of the UN guiding principle on internal displacement, the UN special rapporteur on internally displaced persons opined that when restitution is not possible compensation or reparation is necessary as Human rights of the IDPs.⁴⁵ Thus, to complement the United Nations, these quantum of rights contained in the two prominent treaties are properly called the Human Rights of the IDPs; and be that as it may, the government is under obligation to enforce Human Rights in all situation.

Government Obligation to Human Rights

Nigeria has signed and ratified almost all international and regional human rights instruments.⁴⁶ Therefore, she is obliged to observe and enforce all its provisions. Thus, interestingly in addition to its commitment to observing its obligations, it is also saddled with the responsibility of upholding the 1999 constitution when it is contravened or is likely to be contravene.⁴⁷ Most especially this obligation extends to the Human rights of the IDPs as contained in Chapter 4 of the 1999 Constitution. However, having regard to the argument above, those peculiar rights of the IDPs are considerably covered.

However, it is clear that the Kampala Convention have imposed on Nigeria the obligation of observing and ensuring the observance of all its obligation under international law, international humanitarian law and the Human Rights need of the IDPs.⁴⁸ Certainly, Nigeria has demonstrated commitment to the preservation and promotion of Human Rights by encarnalizing civil and political rights in its 1999 constitution and establishing an agency of government with the mandate of policing human rights in all its ramification.⁴⁹ This commission was establishment of law and is making wonderful efforts

⁴⁵ UN Special Rapporteur on Human Rights of internally Displaced Persons, available at <http://www.uhchr.org/en/special-procedure/sr-internally-displaced-person/about-idps> accessed on 16/07/24

⁴⁶ UN Charter, 1945, UN Convention on Civil and Political Rights, 1966, UN Convention on Social, Economic and Cultural Rights, 1966, African Union Convention on Human and Peoples Rights and their respective protocol, among others

⁴⁷ S,5 (1) (b) of the 1999 Constitution

⁴⁸ ART 4 of the Kampala Convention

⁴⁹ Established National Human Rights Commission

in the protection of the IDP through collaboration with UNHCR captioned IDPs Human rights protection project in the worse hit states of Adamawa, Borno and Yobe States.⁵⁰ Certainly a commendable effort even though it is too little as it has not accommodate other pressing Human rights concern of the IDP which right of compensation or reparation.

Conclusion

The IDPs are the most vulnerable people due to the unfortunate circumstance they found themselves. IDPs are forced to abandon their lives and flee seeking refuge from insecurity and dangerous conditions. The consequence of their action is abandoning their lives and livelihood, including property and other belongings, the damages include loss of identity and culture. In some instances, families are separated, the elderly, children, expectant mothers are the most affected.

The vulnerability of the IDPs open up peculiar sets of right which they should enjoy. These are global acceptable minimum requirement for the treatment of IDPs by the United Nations system and the African Union through international and regional treaties. Although those rights were equally referred to as Human Rights of the IDPs and Nigeria has duly signed them, it has not been domesticated in Nigeria. Most importantly, the causes of internal displacement should be addressed with all commitment it deserves and the IDPs should be compensated for loss and damages they suffered as consequence of displacement.

Recommendations

The following recommendations are portent strategy towards effective and efficient IDPs protection and assistance, they are;

1. Nigeria should domesticate these two international and regional treaties for the protection and assistance of the IDPs. These are

⁵⁰ National Human Rights Commission, Refugees, Internally displaced Persons, Migrant and Asylum seekers, available at <<http://www.nhrc2.aicee.net/index.php/focus-areas/refugees-internally-displaced-persons-migrant-asylum-seekers>> accessed on 16/07/24

the UN guiding principle on internal displacement and the Kampala Convention.

2. Nigeria should promulgate specific legislative framework for the protection and assistance of the IDPs.
3. Nigeria should establish an agency of government dedicated to the protection and assistance of the IDPs. The enlarged mandate of National Commission for Refugees, Internally Displaced, Migrant and Asylum seekers is a clumsy and untidy approach.
4. Respective State governments should complement the Federal government in establishing an agency for the protection and assistance of the IDPs.
5. Government should ensure the promotion and preservation of the Human rights of the IDPs and those rights peculiar to IDPs.
6. Government should ensure that IDPs have received appropriate financial compensation and reparation for the lost they suffered.

Government should note and acknowledge that the IDPs right are Human rights.