



Protecting The Rights Of Internally Displaced Women And Vulnerable Persons Under The Law In Nigeria

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ABSTRACT

Over fifty million people are currently internally displaced. An overwhelming majority of Internally Displaced Persons in Nigeria are women and children. According to Internal Displacement Monitoring Centre (IDMC), Nigeria's share of the scourge of internal displacement is about 4.5 million people. Internal displacement describes a situation in which individuals or groups are compelled to stay away from their homes but remain within the borders of their country. The causes of internal displacement are numerous and include violent conflicts with religious, ethnic and political undertones. Uncountable Nigerians are displaced annually as a result of natural causes including flooding in various states in Nigeria, erosion in the South East, oil spillage in the Niger Delta and development projects in various parts of the country. Incidents of violent attacks between Fulani herdsmen and local farmers contributed to the number of displaced women and vulnerable persons in Nigeria. Displacement exposes IDPs to new hazards and accrued vulnerability especially women and children. Health outcomes are dismaying. The impact of internal displacement on victims is devastating. This article examines the management of internal displacement in Nigeria using the Kampala Convention as a guide. This paper also examines the causes and challenges of internal displaced persons in Nigeria. It was discovered that the Kampala Convention has not been domesticated in Nigeria although it has been ratified. The implication of this is that the Convention will not be applicable until it has been domesticated in line with the provisions of the Nigerian Constitution. The research methodology was doctrinal approach, using expository and analytical research design. The main sources of data collection were various legal literatures, both from the physical library and the e-library. Therefore, it was recommended among others that the present administration should as a matter of urgency enact a legal frame work or law to back up the execution of the national frame work. The National Assembly should domesticate as part of Nigerian law some International and regional instruments like Kampala Document of the Africa Union, which although ratified still faces constitutional embargo and not yet part of Nigeria law for it to have any legal effect in Nigeria. The article suggests that the root causes of displacements in Nigeria should be tackled and concludes by noting that curbing internal displacements should be a collective effort on the part of the government and its agencies, nongovernmental organizations, non-state actors and individuals. Finally, this article was made to be significant to all stakeholders in human right and feminism.

Keywords: Children, Internal Displacement, vulnerability, Women.

1 INTRODUCTION

An overwhelming majority of Internally Displaced Persons in Nigeria are women and children. Even though there are varying statistics about the exact figure of internally displaced persons in Nigeria, all sources assessed indicated that, women and children constitute more than 50 percent of the Internally Displaced Camps formation. The IDP population is composed of 53 % women and 47% men. More than 56% of the total IDP populations are children of which more than half are up to 5 years old, while 42% are adults. 92% of IDPs were displaced by the insurgency. In Nigeria, the displaced persons are finding it difficult to regain pre-conflict way of living because of the poor living condition; faced with the rigors of long journeys, psychological trauma, safety challenge, harassment, frequent sexual abuse, children molestation, forced labour, poor sanitation which exposes members

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of the camps to infectious diseases, poor medical facilities which accommodate growth of infectious bacteria, fungi and virus in their bodies, poor feeding which exposes them to malnutrition, poor condition of infrastructure such as power, water, roads, lack of healthcare, security, education among other basic amenities. In all these, women and children are more vulnerable.¹The issue of the welfare, protection, assistance and promotion of the rights of internally displaced persons has of late become a national question, regional debate and international discourse. This is as a result of its negatives effects. Internal displacement arises due to some reasons or causes including and without being limited to armed conflicts rising tensions and national uprising, generalized violence, human right abuses or violations and indeed manmade and natural disasters. It is imperative to observe that in the global internal displacement index², Africa ranks highest amongst the continents hit by internal displacement. In most places internal displacement occur as a result of manmade factors and natural disasters. We have heard of building collapse, bridge collapse, we have also heard of natural disasters like earth quake, draught, flood as was witnessed in so many states in Nigeria between 2012, 2018 and recently in 2019.³ In the flood of 2012 and 2018, states like Benue, Bayelsa and Anambra states were worst hit.⁴ In all these instances, properties worth millions of naira were lost while many died in the process and others rendered homeless and displaced without trace of their family members and without hope of uniting with them. Owing to all the above , there has been regional and international response on how to promote the protection , welfare and assistance to IDPs. This has also created national consciousness among states on measures and strategies towards addressing the menace of internal displacement.⁶

1.1 Conceptual Framework

According to the Internal Displacement Monitoring Centre (IDMC), in the world today, there exist more than fifty million people internally displaced as a result of violent conflicts, development projects, disaster, and human rights violations.⁶ It is a basic fact that the issue of internal displacement has remained a glaring humanitarian and human right challenge facing the international community.⁷ The situation of IDPs is something similar to people who have fallen into a vacuum as far as the responsibility of the state is concerned.⁸ On the other hand, they are often let down by the national authorities who are expected to protect them hence leaving them frustrated as they have no status like refugees, there is international mechanism to assist them in their plight⁹ The refugees have many international treaties and conventions established by United Nation for their protection but the IDPs do not have similar bodies and hence the case of IDPs become a complicated issue especially with regards to women, children and other vulnerable groups. It is acknowledged that there is increasing awareness at the global level on the need for international response over IDP issues especially women and children, at any rate the response is still low.¹⁰ Indeed, UN efforts to improve capacity and response to internal displacement really started in 1992 when at the request of the United Nation's Commission on Human Rights, the UN Secretary General at the time , Boutros Gali appointed a representative, Francis Deng to raise awareness of the problem and investigate ways to improve protection response. Deng observed that unlike the refugee, there was no single UN organization or body responsible for protecting and assisting the internally displaced.¹¹ Until

¹Opinion: The plight of women and children in Nigeria's IDP camps <http://ynaija.com/idp-women-children/>

² Internal displacement, Nigeria Country Profile 2009 and African Internal Displacement Report 2017

³ Ibid

⁴ Ibid

⁵ National Policy Framework by Federal Republic of Nigeria 2012

⁶IDMC Global Review "People Displaced by Conflict and Violence 2022" <http://www.internal-displacement.org> accessed on 2 June 2022.

⁷Balaji Naika, "Internal Displacement and the 2030 Agenda for Sustainable Development Issues and Challenges" Jawal Harial Nehru University, New Delhi, balu.govindnail@gmail.com accessed on 2 June 2022.

⁸ Ibid

⁹ FM Deng, "Divided Nations" The Paradox of National Responsibility, Macalester International, (200&) 79.

¹⁰ V Marc and RS Brigitte, "Caught Between Borders: Response Strategies of Internal Displaced (London, Pluto Press, 2001)

¹¹ UN Commission on Human Right Document, E/CN/4/1992, Report of UN Sec. Gen. 1992 Accessed on 2 June 2022

1991, there was no agency created by UN for the IDPs and everything regarding them was done on collaborative approach coordinated or centred on the UN Inter Agency Standing Committee (IASC).¹² The committee was chaired by the UN Emergency Relief Coordinator. It is important to note that in order to appreciate the concept of IDP, the analysis of who is an IDP and his nature is vital. In the view of Internal Displacement Monitoring Centre (IDMC), internal displaced persons are persons or group of persons who have been forced or obliged to flee or leave their homes as a result of armed conflict,¹³ the effect of armed conflict, generalized violence, violation of human rights, natural or manmade disasters and such persons who have not crossed an internationally recognized state border.

2 Causes and Impact of Internal Displacement

In Nigeria, most of the incidences of internal displacement occur because of violent conflicts with ethnic and/or political undertones.¹⁴ Many are displaced as a result of natural disasters.¹⁵ The natural disasters include flooding in the North and West, and other parts of East and Southern Nigeria. There is also the cases of erosion in most communities in the Southeast, oil spillage and development projects in the Niger Delta.¹⁶ It is also on record that some incidences of disasters occurred because of clashes between Fulani herdsmen and farmers, and between government forces and armed groups. In addition, over 400,000 Bakassi returnees were forced back to Nigeria.¹⁷ The returnees were displaced from the oil rich Bakassi Peninsula that was handed over by Nigeria to Cameroon in 2008 resulting from the 10th October ruling of the International Court of Justice. Whatever was the position of Nigeria which made the global court to cede Bakassi to Cameroon is still to many Nigeria a mirage as many are of the view that there was no justification for such and also condemned Nigeria government for obvious lack of attention or interest or focus and as a result were unexpectedly beaten below the belt in the legal battle by Cameroon and by the time they regained consciousness, it was already the end and seemingly there was no option to appeal. It has been that violence increase in Nigeria as election year draws close. The National Emergency Management Agency (NEMA) confirmed this as it relates to general elections and maintained that over 65,000 Nigerians are often displaced as a result of post-election violence and attacks¹⁸ Recent studies have shown that peoples vulnerability to internal displacement in Nigeria is not only due to natural and human made disasters, armed conflict, ethnic religious political conflict but also worsened by extreme poverty, lack of access to equal socio-economic resources and balanced development lack of unemployment among able bodied and frustrated youths as well as developmental and environmental-induced displacements.¹⁹

The impact of internal displacement on IDPs in Nigeria is enormous. Not only that it forces them to leave their houses but also their properties are destroyed, looted and burnt down.²⁰ Most of the IDPs have been deprived of their homes and sometimes their lands and livelihoods which result in the lack of access to necessities of life such as food, water and shelter.²¹ While efforts are being made to address the above negative impact of displacement on IDPs, their vulnerability increases their barriers to accessing some basic items needed for life health care services, education, schools are disrupted for local host communities and children of IDPs.²² Most importantly, the IDPs lack access to justice, some of them especially the women and young girls are exploited, abused, raped, lived in overcrowded shelters and

¹² Ibid

¹³ Introduction Part, Paragraph 2 of UN Guiding Principles on Internal Displacement

¹⁴ FGN Report 'National Policy on Internally Displaced Persons IDPs in Nigeria' 2012 P 10.

¹⁵ Ibid

¹⁶ Ibid

¹⁷ United Nations Environmental Programme in Niger Delta Region online.com, Accessed on 6 June 2022.

¹⁸ Ibid

¹⁹ MT Laden, Introduction to ECOWAS Community Law and Practice Integration, Migration, Human Rights, Peace and Security in West Africa, Abu Press Zaria Nigeria.

²⁰ Ibid

²¹ Ibid

²² Ibid

camp and large number separated from their families without hope of reunion, some children, sick, old and the elderly are unaccompanied without help, special needs especially on women, children and other vulnerable groups are not attended to, there is ethnic and religious discrimination, sexual violence affecting the women and young girls are so humiliating and devastating. Their sexual rights are constantly violated and it has very long and lasting effects which may affect them psychologically, emotionally and socially throughout their life time. On the part of the state or country like Nigeria, displacement impacts on the expenditure profile or base of the government. This is because, the IDPs must be provided with their basic needs, food, shelter and other needs like health care, address overcrowding, insecurity in the camp, all forms of criminalities, all these things take and involve huge amount of money. The IDPs must be resettled and rehabilitated. All these involve money and are not a child's play.²³ Vulnerability of Internally Displaced Women and Children are so alarming and disturbing. During President Muhammadu Buhari's visit to Malkohi IDPs camp in Yola in the southern part of Adamawa State in November, 2015, the President described the condition of the IDPs as unfortunate; he said: "the children are the worst hit. The situation has caused anxieties especially when we sleep at night." Not only that, The Director General of NEMA, Mr Sani Sidi, told the President that: "at present, the camp had 80 pregnant women and 175 unaccompanied children"²⁴. In the same vein, Marama, Yusuf & Ojeme in the Vanguard Newspaper of 18th February, 2015, reported that the Boko Haram insurgent IDPs in their respective camps were experiencing "incidents of unwanted pregnancies, rape, child labour/trafficking and sexually transmitted diseases"²⁵ The Premium Times News and Guardian Newspaper reported that all the 450 death caused by malnutrition recorded in 28 Borno State IDPs camps in 2015 were children. According to Mr Sule Mele (NEMA Executive Director) these children were between age one and five and 209,577 children were screened for various illnesses, including malnutrition, malaria, diarrhea and vomiting. He said, about 6,444 severe cases of malnutrition were recorded in the camps, 25,511 have mild to moderate symptoms, while 177,622 among them were not malnourished.²⁶

3 Protected Victims under the Policy Framework for IDPs in Nigeria

Under the policy framework for IDPs in Nigeria, there are classes of victims whom are affected and are protected. The affected victims are among others the following;²⁷ Children, Displaced Women, Persons with disabilities, Persons with HIV/AIDS and Displaced elderly persons.

3.1 Children Victims

Among the victims of internal displacement in Nigeria and other countries affected all over the world are the children.²⁸ We share the view above that children are the most affected victims of displacement and their vulnerability index in most of the areas affected by displacement either caused by violence, armed conflicts or disaster has always been high. The children victims of displacement are citizens of Federal Republic of Nigeria and the national policy framework for IDPs took cognizance of their vulnerability and created opportunities for their protection like other citizens both within the provisions of the constitutions of Nigeria, Child Rights Acts and other state Child Rights laws as well as within the provisions of international instruments like the United Nations Convention of Rights of the Child, the African charter on Human and Peoples Rights, the International Convention for the Protection of Civil and Political Rights, the International Convention for the protection of Economic, Social and Cultural

²³ Ibid

²⁴ Opinion: The plight of women and children in Nigeria's IDP camps <http://ynaija.com/idp-women-children/>

²⁵ *bid*

²⁶ Ibid

²⁷ Ibid

²⁸ Nsika Edem "Flood Displaces families in Bayelsa and schools threatened" vanguardonline.com 2019.

Rights as well as the African Union Convention for the Protection, Welfare and Assistance to Internally Displaced Persons (i.e the Kampala Document) and the United Nations Guidelines for the Protection and Assistance to Internally Displaced Persons. In the existence of all the above domestic, regional and international instruments, and with the inclusion of the principle of impartiality and Non-Discrimination in the Nigeria policy framework for IDPs, what it means is that the children will be protected by the above legal regimes irrespective of their situation as internally displaced persons. On the whole, as victims of displacement, the children deserve protection and ought to be protected and hence their inclusion in the framework for IDPs as victims with high tendency of vulnerability in Nigeria.

3.2 Displaced Women

Women and children are often regarded as the most endangered species in many respects and circumstances²⁹. Their vulnerability is often high. In situation of displacement arising from any of the causes of the menace, the women populations are always at receiving end. Women are often subjected to physical and emotional abuse and violence, they are also sexually exploited and are either raped or defiled or forced to leave the camp by deceit and promise of gainful employment and through a network are trafficked out of the IDP settlement for slavery or prostitution or bonded labour, some found themselves having to cope with unwanted and forced pregnancies by persons they do not know and persons they have no emotional feelings for but have no option in the circumstance to stop the act. This is most devastating and destabilizing and indeed deeply affected with psychological trauma which affects the victims throughout their life time the victim. Like any other victim of displacement, the women must be assisted so as to cope with the effects and shortcomings or challenges arising from the displacement. With the national regional short of this will be accepted in all treatment of women whether in the campus or settlement centers or any other place as case may be.

3.3 Persons with Disabilities (PWD)

Persons with disabilities (PWD) are human beings. They are therefore entitled to be protected irrespective of the situation they found themselves as a result of displacement. The persons with disabilities are vulnerable. Their vulnerability is twofold in the sense that apart from being challenged by the effects of displacement, they are also affected by the fact that they are disabled. Our view is that the disabled persons are citizens of their respective countries including Nigeria, they are also citizens of the larger global community and whatever rights that every other person or group enjoy is also extended to the disabled persons. For the persons displaced, the policy framework in Nigeria is designed in such a manner that the group is accorded their respect and recognition as is due for other citizens within the provisions of the existing domestic laws in the country, norms and values as well as equity and good conscience and by international law within acceptable values, standards and best practices prescribing minimum and fair treatment to all human being³⁰. In summary, the basis for the recognition and protection of PWD's who are displaced is to reassure them that they are not rejected because of their condition and will be treated fairly as is done to others who are either disabled nor displaced.

3.4 Persons with HIV/AIDS

Persons with HIV/AIDS have been diagnosed and found to live with the dreaded HIV virus. In Nigeria and in other climes the group is often stigmatized and subjected to all manner of discriminatory practices and treatments in their domain. They are rejected and dejected and are often mocked as if they are outcast. Their situation is worsened by displacement and they suffer from both sides of their life, first they have a medical problem and challenge and secondly they are displaced and move out from their place of habitual residence either due to generalized violence, armed conflict, human rights violations or as a result of natural disaster etc. In any of the two situation above, the suffering by person living with HIV/AIDS is always excruciating and this makes them highly vulnerable³¹. Their vulnerability makes their protection

²⁹ A.U Abonyi, "Trafficking in Persons and Irregular Domestic/Cross Border Migration in Nigeria" Paper Presented at Session 34, Annual General Conference, Nigeria Bar Association, Eko Hotels 28th August, 2019, Lagos

³⁰ Badmus Oldele Taiye, Analysis of the Policy and Legal Framework for IDPs in Nigeria, (Wales, Policy Review International Series, Vol 1, No 2, 2011(online.com.uk(accessed 26/1/2020.)

inevitable and absolutely necessary both with the relevant laws in Nigeria like the construction as well as other legislation and international instruments³². Those live with HIV/AIDS are with the Universal Declaration of Human Rights and the UN Charter on Human Rights entitled to unrestrained and unlimited human rights.

3.5 Displaced Elderly Persons

The elderly persons are human beings and are entitled to respect. In handling the elderly, due regards and attention must be given or made in recognition of this their peculiarity and characteristics. The elderly persons whether displaced or not deserve to be treated with sense of fairness, kindness and love and with utmost sense of humility and politeness in such a manner that they will not suffer from unnecessary tension or pressure which can easily lead to breakdown in health. In IDP campus and settlements, the elderly persons should not be stressed up or threatened or put fear of possible danger or attack, this can make the person to break down which may eventually result to death. In crowded campus, the elderly, the disabled and the children more or less should be seen as more vulnerable and as result of this they are expected to be shown kindness and most often they should be placed under guidance at most sensitive periods especially night time and a time when they are in need of attention as it concerns their medication and so on.

4 Rights of Internally Displaced Persons under the Policy Framework

There are many rights enjoyed by internally displaced women, children and other vulnerable persons in Nigeria These rights are right to protection from displacement and right to protection of different classes of people under the policy framework: Children, Women, Persons with HIV/AIDS, Persons with disabilities and elderly persons.

4.1 Right to Protection from Displacement:

Generally, under IDP national policy framework by Nigeria Government, every person or citizen has a right not to be arbitrarily displaced from him/her home or from their habitual place of residence. This right of persons can easily be referred to under section 1.2 of the policy framework and specifically prohibited some aspects and situation other than during emergencies and violent phases of armed conflict, generalized violence and disasters³³. From the provision of the national framework which is in place since the time of President Good luck Ebele Jonathan but yet to be adopted, all the persons likely to be affected or are already affected are entitled to rights and guarantees which include apart from their physical security and integrity, basic necessities, civil and political violence and disaster³⁴. Specifically and Precisely, during displacement, the IDPs are entitled to right to life,³⁵ right to dignity of human person,³⁶right to personal liberty and security³⁷.

Right to Life

Their right to life shall is guaranteed by law. IDPs shall be protected in particular against genocide, ethnic cleansing, summary or arbitrary executions, enforced disappearance or even threat to commit the above acts are discouraged. Starvation is not permitted to be used as method of combat as was the case during the Nigeria Biafra war where all sources of food supply to Biafra were blocked using international allies by Nigeria. This occasioned serious suffering on the Biafra side not only to the combatants but to the civilian population of Ibo origin, this led to malnutrition leading to several deaths among children, women and men alike.³⁸

³¹ Ibid

³² Ibid

³³ Ibid

³⁴ Akporbare Ekon Jona "Memories of the Biafra massacre, the politics of food scarcity in 1967" Biafranonlinerecord.com.uk memories of 1967 htm(access 30/1/2020)

³⁵ Constitution of Federal Republic of Nigeria 1999 (As amended) s 33

³⁶ Ibid s 34

³⁷ Ibid s 35

Right to life is sacrosanct and must be enjoyed by all³⁹. Our strong view is that the displaced persons are not exempted from enjoying this right of life within the purview of the 1999 constitution of the Federal Republic of Nigeria. Section 33(1) of the constitution is not restricted to a particular citizen or group of citizen rather it extend to all and sundry including the vulnerable internally displaced persons in all parts of Nigeria. Moreover, Right to dignity, physical and mental integrity of all human beings is also guaranteed by the policy framework for IDPs. IDPs are human beings and they are not less than other citizens because of their situation of displacement. Thus, whether or not their liberty is restricted, they must be protected against rape, sexual harassment, mutilation, torture, inhuman and degrading treatment or punishment, forced prostitution, gender violence, indecent assault, forced labour among children and women, trafficking for sexual exploitation and any type of physical or mental abuse capable of spreading and creating terror and tension among the IDPs. The constitution and other legal instruments protect their rights-including Convention of All Forms of Discrimination Against Women (CEDAW), the convention against torture, the convention prohibiting crimes against humanity so on as well convention for protection of civil and political rights.

Right to Liberty and Security

The IDPs are also entitled during displacement, right and security and cannot be arrested arbitrarily, right of displaced children not to be recruited for child soldering freedom of movement in and out of camps and settlements is guaranteed. IDPs also have the right to know about their missing relations and opportunities for reuniting with them, respect for their family and life, and proper accommodation. Members of some family should not be separated where already displaced and found at a particular center or camp. IDPs also have right to adequate standard of living. They have the right of being recognized before the law and government must lease with all her institutions to ensure that where necessary IDPs are issued relevant documents as done to other citizens. None of the IDPs shall be unnecessarily deprived of their property or possession under any disguise or pretence and their right to education cannot be compromised especially women and the girls. In essence, the IDPs like other citizens are and should enjoy all the rights guaranteed under the constitution of Nigeria and other existing laws in the land and cannot be prohibited from enjoying the rights that flow from regional and international instruments to which Nigeria has acceded to and possibly domesticated by the National Assembly of Nigeria like the Africa Charter and so on. Other relevant instruments are the UN Guidelines for Protection and Assistance to IDPs and the popular Kampala Document; African Union Convention for the Protection and Promotion of Assistance and Welfare to Internally Displaced Persons in Africa.

4.2 Right of Categories of Internally Displaced Persons

Women and children are the most vulnerable. The victims of internal displacement are entitled to these rights in their different categories.

4.2.1 Rights of Internally displaced children:

Rights of Internally displaced children globally shall be entitled to their rights under the state constitution, statues and domesticated regional and international human right and humanitarian instruments⁴⁰. Nigeria children similarly shall enjoy under the policy framework for IDPs be entitled to the above rights without limitations as citizens of Nigeria. Reference has to be made to the UN Convention on Rights of the Child, the Nigeria Child Rights Act and similar enactments by the states and local government in Nigeria. The Child Rights Act provides the right to freedom from discrimination on the basis of sex.⁴¹ More often than not, in the face of all the crisis and disaster leading her/his true identities, and her status may or can only be decided by her/his present or new family, in such situation, the policy framework assents:

³⁸ A.U Abonyi "Our Rights Under the "Law. First Published in 2006, reprinted in 2011 (Nnewi, Psolite Printing Technology Resources LTD, Anambra State.

³⁹ UN Human Rights and Humanitarian Law documents online.uk.org(accessed 30/1/2020)

⁴⁰ UN Human Rights and Humanitarian Law documents online.uk.org(accessed 30/1/2020)

⁴¹ Child Rights Act 2003 s10

1. The every child has a name and must be identified with the community of his/her birth where possible
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b. That every effort must be made to ensure the proper upbringing of the child, an internally displaced child who is orphaned could be adopted by a family either from his/her ethnic group or otherwise which means that his/her status could be decided by her/his new family.

However, the process of her/his adoption must comply with relevant state and federal legislation or enactment on adoption at the material time.

In such situation or case.

- i. The new parents must give him/her full educational development as if she/was their biological children
- ii. That the child shall not be subjected to child abuse physically, emotionally or mentally
- iii. That the child shall get and given traditional titles where he/she merit same and shall not in any manner be discriminated against simply because he is a displaced child.
- iv. The child shall be fully integrated into the family where he/she is adopted and treated equally like other biological children
- v. Under no circumstance shall he/she be reminded that she was adopted from the internally displaced camp by the family that adopted the child
- vi. That the adoption is perpetual, non reversible and non-renounceable

c. In the alternative to adoption, the child can be fostered and the fostered parents must give him/her all his educational development needs and inheritance as may be accorded biological children under customary law or Shania law as case may be.

d. The child under the policy is free to communicate in his/her mother tongue or native language or any other language of their choice and the fact of their displacement shall not deprive them their own traditional language of their choice.

e. The internally displaced children under the national policy for IDPs shall not be subjected to any caste system such as "Osu, Abiku or Ogbanje, they shall have good medical care, legal right to exploit redress for their judicial guarantees, immunization against disease, where they were out of school when displaced, state authorities must lease with one another especially those in the educational sector to return them back to school even while in the IDP camps, where formal options shall be exploited like skill acquisition and training on practical trades and vocations while they are still in the camps. Also the human rights lead sector under the policy frame work must drive other agencies to ensure safety and realization of rights of the displaced children such that none of their right is violated without redress and agencies like the National Human Rights Commission and Civil Society groups and NGOs have a role to play in this connection and their efforts are appreciated. Finally the child must not be trafficked or sexually exploited or forced into prostitution or slavery or labour while in camp.

4.2.2 Rights of Internally Displaced Women

Bearing in mind that women are the next most vulnerable after the children in situations of difficulty like displacement, the designers of the national policy for IDPs in Nigeria view that some of them have been victims of indignity and abuse and hence the government in Nigeria without prejudice to the national gender policy provides of the woman as follows;⁴³

- a. The sanctity of Nigeria womanhood shall not in any way be violated. This is whether is normal situation or in cases of displacement.
- b. Every woman in any IDP camp in Nigeria must have right of privacy
- c. No woman while in camp or even outside it shall be subjected to sexual slavery and exploitation for whatever reason without her consent

⁴² Federal Government of Nigeria Report on IDPs 2012 p30 para 2.1.4(a).

⁴³ National Report on Policy Framework for IDPs in Nigeria, 2012, pg

d. They shall not be subjected to forced marriage but shall be allowed to determine and choose their partners and should not be forced into marriage without her decision to do so at the time she wants it.

e. Men and women should not be lumped together in one room in the camp unless they are husband and wife or are from the same family.

f. The women in the camp shall be allowed to hold any office or authority in the camp and shall not be stopped because of her gender; they shall take up any lawful economic activity of her choice and own property without restriction and is entitled to self and personal development.

4.2.3 Right of Persons with Disabilities

Persons with disabilities are endangered all the time because of their peculiar feature of being disabled. Disability however is not a curse; they undergo psychological, physical and mental difficulties and should be protected. They need attention medically or otherwise and are also entitled to legal redress for wrongs done against them. Their needs must be given to them especially modifying the environment in the camps to suite their convenience and situation, they have to be assisted in terms of mobility devices to help their movement and independence and trained personal and medical care has to be extended to them to address their challenges, they should have access to information, where the disabled are children, they have to be enrolled in nearby school around the camp and they have to be given priority in distribution of facilities like water, electricity, food and accommodation etc.

4.2.4 Rights of Internally Displaced Persons Living with HIV/AIDS (PLHIV)

The policy recognizes that displacement increases the rate of spread of contagious and infectious Diseases⁴⁴. Among such diseases that can easily spread in IDP camps is "HIV", this is because owing to large population displaced and gathered in a camp, there is often cases of unlawful sexual practices and crimes ranging from rape, defilement, forced pregnancy, in other cases the circumstances and the environment may also create room for mingling by male and female IDPs and in the process they consent to having sex among themselves, the situation may not allow opportunity for any of them to suggest that they first check their status before sexual intercourse, others may not even have access to condom or even when they have may be reluctant to use them and owing to all these, those who are already HIV positive before the displacement and settlement in the camp may no doubt due to this uncontrolled sexual behaviour spread the diseases to her inmates in the camp. Usually, those affected are usually stigmatized and discriminated against. This is notwithstanding that they are citizens of Nigeria entitled to all the rights enjoyed by other citizens. The lead agencies in the health sector must collaborate to protect the displaced victims of HIV/AIDS and at all levels in the country the National Action Committee on Aid (NACA), State Action Committee on Aid (SACA) and Local Government Action Committee on Aids (LGACA), these agencies work with international humanitarian bodies and NGOs to protect the displaced IDPs living with HIV just like is done to other citizens. Under the policy, displaced persons living with HIV/AIDS shall have access to good purified water and hygienic food and sanity environment to avoid contaminations which could lead to infections; they shall also have access to adequate care which will give them psycho and social support, access to condoms and information on positive prevention of the disease and infected mothers shall have access to medical care and give basic education on prevention of HIV. They also shall have access to free treatment and confidentiality over their HIV status.

4.2.5 Rights of Displaced Elderly Persons

Displacement cause devastating injury and harm to elderly persons. Not only that their rights are violated, sometimes because of emergencies and conditions at the time of displacement. Family members may decide to leave the elderly behind as they see them as "a whole burden and liability"⁴⁵. They are left to their fate either to die or to survive at the mercy of nature under excruciating state or condition⁴⁶. The decision by families to leave the elderly behind in situation of emergency during several violence and other incidents of displacement is usually a very painful choice but they have no option so as to save the children and young people among the displaced population. Most humanitarian efforts rarely take the

⁴⁴ Ibid

⁴⁵ Federal Government of Nigeria Report on Policy Framework for IDPs, 2012, page 35

⁴⁶ Ibid

elderly into consideration and their needs are not mostly provided as they are accommodated in the collective shelters and re-settlement camps. It is also observed that most time the elderly persons volunteer to be left behind to oversee family assets and belongings. Nonetheless, older persons are vulnerable too under displacement and hence they are shown and given protection by the national, international humanitarian agencies, civil society groups and non-governmental organization.

The national policy on IDPs in order to protect the elderly aims to ensure the following:

1. The elderly persons left behind are accessed and evacuated
2. Relevant identification and documentation is obtained for older persons in displacement
3. Their housing and land rights are protected
4. Their basic needs shall be made available by government and other aid agencies like nutrition, shelter, clothing, sanitary materials, mattress, blankets, warm clothing, tent, raincoats and specialized health care may be provided.
5. The elder shall also be provided with psycho-social support and palliative/preventive medical care that take care which will make them alive to the responses of their different body organs and disorders
6. The old people must have access to mobility facilities to ease transportation. Access to official communication, access to safe camp facilities like rails and non-slippery floors. Displaced elderly women should be protected against physical and sexual abuse which brings about delusion and psychological collapse and eventually heart failure. All in all, for the above victims of displacement whose rights have been highlighted, they also have unrestrained right of voluntary return to their original homes, local integration and relocation as case may be⁴⁷

4.3 Protection and Enforcement of Rights of IDPs in the Policy Framework without a Legal Framework

No citizen can be protected in a vacuum. Protection must flow from a legal instrument and without such instrument, protection of those contemplated in the policy is a mere imagination.

In Nigeria, the position is that even though the policy framework to support it. So as it is now, the protection of IDPs does not go beyond protection afforded to other citizens of Nigeria as citizens within the constitution and other extant laws in Nigeria. The IDPs are protected under chapter IV OF 1999 CFRN and are entitled to the fundamental rights guaranteed therein from section 33(1) up to section 45 of the same constitution enforceable under section 46(1) and with the procedure laid under the fundamental Rights Enforcement Procedure Rules 2009.

Under the constitution and the Rules, any citizen including IDPs in any part of Nigeria who believes his/her right above has or have been tampered violated or is likely or threatened to be violated can seek redress in the high court of the state where the incident occurred Rules 2009 are instructive.

Apart from enforcing the rights as stated above within the provision of the domestic enactments above, such applicant can still recourse to procedure and mechanism laid in regional and international instruments especially the ones domesticated as part of Nigerian law by the National Assembly like the Africa Charter on Human and Peoples Rights (the Banjul Charter). There are regional convention like the AU Convention for the protection, welfare and Assistance of Internally Displaced persons in Africa (the Kampala Document) though Nigeria is a leading member of Africa Union, Nigeria is yet to domestic this convention which is a present the most viable and laudable effort and instrument promoting assistant to IDPs the world over and has influenced the trend in protection of IDPs in other continents and indeed globally. The United Nations Guidelines for Protection and Assistance to IDPs only lay principles for protection and assistance to IDPs but has no mandatory obligation imposed on members states towards protecting IDPs nor does it have a mechanism through which victims of displacement can seek remedy or relief for the hardship and violations of their rights arising from the displacement. Though there are international instruments like the International Convention for Civil and Political Rights, the International Convention on Economic, Cultural and Social Rights, the same problem exists as the state parties are

⁴⁷Ibid

enjoined and urged or persuade not compelled to take steps capable AND LIKELY possible to promote the rights of their citizens including the IDPs. Thus, the issue of enforcing the rights of the IDPs without a legal framework remains an enigma and indeed one that will for a long time in the future continue to challenge the assistance and protection of IDPs in Nigeria and Globally

5 CONCLUSION

Women and children are the most vulnerable persons among the IDPs. They are sexually violated. Their situation is unbearable. IDPs situation is challenging and tasking and there is no instrument for the protection of their protection in Nigeria. Much reliance for now is based on the protection afforded them as citizens on the basis of constitutional guarantees, outside this, the only area of consideration is protection afforded by regional and international treaties like the Kampala Convention of the Africa Union and the UN Guideline and principles for protection of IDPs. Regrettably, the Kampala Document is yet to be domesticated by Nigeria, the UN Guideline and Principles has no binding effect and hence merely influences states willing and prepared to protect IDPs to enact domestic and national laws protecting IDPs. It is imperative that the drives of displacement in Nigeria are many including violence, armed conflict and natural disasters to mention but a few. There is tendency that other drives of displacements may increase the number of IDPs like human rights violations, bad and harsh policies of the present administration, ethnic politics and increasing insensitivity of leader on the plight of the masses. It is evident that the government of Nigeria is helpless and have made the situation of the IDPs in the country hopeless and excruciating.

RECOMMENDATIONS

The following recommendations become inevitable:

1. The government of Nigeria must without delay adopt the draft copy of the national policy framework which was almost completed by the Goodluck Jonathan Administration in 2015.
2. Adopting the policy framework without a legal framework for IDPs in Nigeria will be a wasted effort, thus, the federal government must as a matter of urgency forward a bill for the protection and promotion of the rights, welfare and assistance of IDPs and related matters to the National Assembly and follow the bill up till it is passed and become our law.
3. The government must also as a matter of urgency establish a commission to specifically oversee the issues concerning the IDPs in Nigeria.
4. There should be sensitization, National workshops, summits and seminars deliberately for and awareness on prevention of flooding and other natural disasters and there has to be dialogue and peace building for reducing insurgency and communal clashes which trigger displacement.
5. The National Assembly should domesticate the Kampala Convention into the Nigeria legal system to have adequate provision, capable of protecting and promoting the assistance and welfare of IDPs, The UN Guidelines though not binding of mandatory contains good provisions for protecting of IDPs, The Nigeria government should not close its eyes as the country work towards having a legal framework for IDPs.
6. The sexual and reproductive rights of women and girls should be protected.