THE DISPROPORTIONATE EFFECT OF INTERNAL DISPLACEMENT ON THE NIGERIAN CHILD: A LEGAL VIEW

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Abstract

Many children have been displaced in Nigeria either by armed violence, insurgency, communal clashes, interethnic conflicts and natural disasters. There is no child more vulnerable today than a child internally displaced as they are forced to leave their homes and communities behind. As the children run for safety, they further experience discrimination while trying to survive. The effect of this can be extremely devastating and traumatizing on a growing child who may likely be displaced all through childhood with no hope of a home. This paper discusses children internally displaced in Nigeria and how it affects them disproportionately. The Paper employs doctrinal methodology with analytical approach using statutes, case laws, conventions, textbooks, journal articles, Internet sources and reports of various authors on the subject. It further employs analysis as a tool to assess the legal protection available to internally displaced children in Nigeria and the limitations to their protection. It was found that despite the vulnerability and the disproportionate negative effect of internal displacement on children, Nigeria has not taken adequate steps to combat the situation. It is recommended that all concerned institutions and relevant stakeholders be alert to their duties concerning the issue.

Keywords: Internal Displacement, Children, Disproportionate Effect, Nigeria.

1.0 Introduction

By the end of 2022, a global record of 43.3 million children lived in forced displacement, many of them for their entire childhood. Of the 43.3 million children, almost 60 percent (25.8 million) were internally displaced by conflict and violence. The Internal Displacement Monitoring Center (IDMC) records a whooping 75.9 million internally displaced people as at 2024, of which 68.3 million were displaced by conflict and violence, and 7.7 million by disasters.² In Nigeria, an estimated 3 million people (59 percent children) are internally displaced in the northeast, northwest and northcentral part.³ Over a million displaced children in Nigeria are out of school, and according to IDMC, the proportion of children in displacement camps is higher than in the national population.⁴ Children are disproportionately affected by internal displacement which is a devastating experience for them due to the specific risks they encounter. They face increased dangers during displacement, and worse still, is the fact that internally displaced children are twice as invisible in national and international data. Firstly, because internally displaced persons (IDPs) cases of all ages are frequently unaccounted for. Secondly, because it is difficult to separate data by age, especially for IDPs.⁵ These children are in dire need of protection and aid and the national authority as well as the international community should be the primary source of this aid. It is important to take into account the unique needs of children when developing policies and interventions for displacements. Infant may require immunization, dietary supplements, and educational support for school-age children and vocational

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¹UNICEF 'Number of displaced children reaches new high of 43.3 million'https://www.unicef.org/press-releases/number-displaced-children-reaches-new-high-433-million accessed 24 June 2024

²IDMC '2024 global report on internal displacement'https://www.internal-displacement.org/global-report/grid2024/accessed 20 June 2024.

³UNICEF 'Humanitarian action for children Nigeria' https://www.unicef.org/media/149926/file/2024-HAC-Nigeria.pdf accessed 20 June 2024.

⁴ZB Ibrahim 'More than a million displaced children in Nigeria are not in school' https://humanglemedia.com/more-than-a-million-displaced-children-in-nigeria-are-not-in-school/ accessed 24 June 2024

⁵IDMC 'Twice invisible: accounting for internally displaced children' https://www.internal-displaced-children/ accessed 20 June 2024.

training for young adults.⁶ The effects are often more severe for girls given that such displacement can worsen already-existing obstacles to girl's schooling and raise their risk of sexual abuse and violence.⁷

Results show that displaced children are especially vulnerable and are at high risk of exposure \before, during or after flight to adverse childhood experiences (ACEs). They are further prevented from a stable, developmentally appropriate environment during a critical stage of life by the insecurity, frequent housing changes, restricted access to healthcare, educational resources, lack of play materials and peer interaction that characterize their daily lives in refugee accommodations and camps. This work still examines the disproportionate effect of internal displacement on children in Nigeria. It assesses the legal protection available to them and the limitations to this protection. For the purposes of this work, 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 or generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border. Disproportionate effect then refers to a situation where a practice affects a particular group of people more negatively than others, and persons disproportionately affected in this work are children internally displaced. A child is a person below 18 years of age.

2.0 The Effect of Displacement on Children

Internal displacement severely disrupts the lives of those affected. Occasionally, it offers new opportunities, but most often jeopardizes their welfare and wellbeing; as displaced persons are uprooted from their homes and cut off from their assets, livelihoods and networks. Internally displaced children suffer from adverse childhood experiences (ACEs): an intense and frequently occurring source of stress that children may suffer early in life, such as abuse, neglect, violence, household dysfunction, peer, community or collective violence. Report has shown that when adapting different experiences internally displaced children encounter, it ranges from constant acts of violence, either experiencing any type of war or armed conflict; witnessing or experiencing the death or injury of a parent or relative, or being separated from family members; threat of violence either by witnessing or experiencing violence while in transit; exposure to harmful conditions. ACE exposure can affect the development of the neurological, immunological and hormonal systems of a child. As a result, children who have experienced more ACEs are more prone to engage in unhealthy and antisocial behaviours including drinking, smoking and drug abuse. In addition, they have a higher propensity for engaging in violent and other antisocial behaviour, and for doing poorly academically. Individuals with poor health and behavioural issues are likely to develop diabetes,

⁶IDMC 'Internally displaced children, youth and education' https://www.internal-displacement.org/focus-areas/children-youth-education/ accessed 10 July 2024

⁷ Ibid

⁸ K Bernhardt *et al. 'Young children's development after forced displacement: a systematic review'* Child Adolescent Psychiatry Ment Health 18, 28. (2024) https://capmh.biomedcentral.com/articles/10.1186/s13034-024-00711-5#citeas accessed 10 July 2024.

⁹IDMC 'Children and youth in internal displacement' https://api.internal-displacement.org/sites/default/files/publications/documents/IDMC GRID 2022 LR.pdf accessed 10 July 2024.

¹⁰WHO 'Adverse childhood experiences international questionnaire (ACE-IQ)'https://www.who.int/publications/m/item/adverse-childhood-experiences-international-questionnaire-(ace-iq) accessed 10 July 2024.

¹¹ K Bernhardt et al. 'Young children's development after forced displacement: a systematic review'Op cit.

cancer, heart diseases and mental illness amongst others. ¹² In Nigeria, internal displacement has the following adverse effect on children:

Out of School: Internally displaced children are denied their fundamental right to education. A new analysis shows that more than a million Nigerian children who are of school age and have been internally displaced lack access to high-quality education, which significantly limits their prospects for the future.¹³ As a result of conflict, schools which have been damaged or intentionally destroyed are unavailable to displaced children. In addition to depriving displaced children quality education, displacement itself can interfere with non-displaced children's access to education in host communities. This is because displaced persons who do not have access to camps or similar environments take refuge instead in school buildings.

Child labour: There will inevitably be child labour among IDPs as a result of their parents'/guardians' terrible financial situation and inability to support their family. Fearing starvation and destitution, affected families may turn to sending their children to hawk, work or beg alms in order to survive.

Malnutrition, Diseases and Death: It has been reported that 450 children died of malnutrition in 28 IDP camps in Borno in 2015.¹⁴ These victims were aged between 1-5 years. It is also reported that among 209,577 children screened for various illnesses including malnutrition, diarrhea and vomiting, 6,444 were malnourished severely and 25,551 had mild to moderate symptoms. Thus, malnutrition is as a result of lack of access to highly nutritious foods in camps, poor feeding practices such as inadequate breastfeeding.¹⁵ Malnutrition could also lead to distorted growth in children.

Sexual Exploitation: Child protection laws applicable in Nigeria guarantee the fundamental right to dignity of persons and as such, no one should be subjected to torture, inhuman or degrading treatment. Children internally displaced face all kinds of sexual violence in their plight to safety and survival and this can cause debilitating psychological harm on the child. Victims/survivors may experience stigmatization and rejection from families and societies, long-lasting depression, post-traumatic stress disorder, isolation and even suicide.

Poor Socialization: Socialization takes place at the primary, secondary and adult stages. The primary stage involves socialization of young children in the family, secondary stage involves school and the last stage takes place in adulthood. ¹⁶ Displacement destroys the family structure which is the agent of primary socialization of children. Again, the avenue for children to learn their cultures and traditions of the society is destroyed. As a result, children are likely to engage in deviant behaviour or find it difficult to integrate within their communities when they return. In addition to missing out on education during their formative years, displaced children experience unimaginable trauma and psychological hardship.

¹² UNICEF 'Adverse childhood experiences (ACE) study: research on adverse childhood experiences in Serbia'https://www.unicef.org/serbia/media/10726/file/Adverse%20Childhood%20Experiences%20(ACE)%20Study.p df accessed 10 July 2024

¹³ ZB Ibrahim; 'More than a million displaced children in Nigeria are not in school'Op cit.

Vanguard News '450 children died of malnutrition in 28 IDP camps in Borno' (2016) https://www.vanguardngr.com/2016/02/450-children-died-of-malnutrition-in-28-idp-camps-in-borno/ accessed 10 July 2024

¹⁵Ibid

¹⁶ PM Okoro; *'The impact of internal displacement on women and children in Nigeria'* International Journal of Innovative Research and Advanced Studies (IJIRAS) Vol. 3, Iss 8 (2016)

3.0 The Disproportionate Effect of Internal Displacement on Children.

Children are especially vulnerable to the destructive effects of displacement because of their developmental stage as well as the potential for socioeconomic deprivation that comes with it. The Office of the Special Representative of the Secretary- General for Children and Armed Conflict recognizes that displacement is particularly a destabilizing and traumatic experience for children as it uproots and exposes them to risks at a time in their lives when they most need protection and stability. Children especially displaced due to armed conflict are at high risks of recruitment as soldiers and are often sexually abused or subjected to other forms by unprincipled adults, including peacekeepers or humanitarian workers. They are trafficked as sex workers or forced labourers, pushed into prostitution, or made to work as slaves in coltan or diamond mines all for their personal or material gain. They suffer in IDP camps without access to clean water, food or education, or they blend in large cities when they need food and a safe place to sleep. Amidst wars and escape, children internally displaced sometimes find themselves abandoned on the streets, subject to the worst kinds of abuse, or sent to orphanages devoid of supplies and, it seems, hope.

4.0 Legal Protection of |Internally Displaced Children in Nigeria

4.1 The Constitution of the Federal Republic of Nigeria: The Constitution²⁰ is the supreme law and has a binding force on all authorities throughout Nigeria. In general, it protects all Nigerians including internally displaced children from violations of their fundamental human rights as well as guaranteed freedoms. Chapter IV of the Constitution guarantees the fundamental human rights of all persons. These rights include the right to life; right to personal liberty; right to dignity of human person; right to fair hearing; right to private and family life; right to freedom of thought, conscience and religion; right to freedom of expression and the press; right to peaceful assembly and association; right to freedom of movement; prohibition of discrimination on ground of sex, religion, political opinion, ethnic group or place of origin. Chapter 2 provides for the fundamental objectives and directive principles of the state towards the protection and promotion of children's interest in Nigeria. It requires the Nigerian government to provide free compulsory and universal primary education, free secondary education, free university education and free adult literacy programme.²¹

Section 13 of the Constitution imposes the fundamental obligation on all tiers and arms of government to observe the objectives relating to the socio-economic, political, educational and cultural matters. Section 17 obligates state to direct its policy towards ensuring that there are adequate medical and health facilities for all persons; children, young persons and aged are protected against any exploitation whatsoever, and against moral and material neglect. However, the above provisions are non-justiciable and are merely directive principles of state policy and no action can be brought against the government to enforce these provisions.

4.2 Child's Right Act: The Child's Right Act (CRA)²² is a domestication of the UN Convention on the Rights of the Child and the African Union Charter on the Rights and Welfare of the Child, in Nigeria. It addresses the rights, responsibilities, protection and welfare of children, institutions for children, duties and responsibilities of government as well as other miscellaneous matters. In all matters concerning a child, the best interest of the child is considered. The CRA stipulates that Article

¹⁷ E Mooney and D Paul; 'The rights and guarantees of internally displaced children in armed conflict' Office of the Special Representative of the Secretary- General for Children and Armed Conflict, working paper no. 2, (2010) at 11. Available at https://childrenandarmedconflict.un.org/publications/WorkingPaper-2-Rights-GuaranteesIDP-Children.pdf accessed 10 July 2024.

¹⁸*Ibid* p. 5

¹⁹*Ibid* p 5.

²⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended)

²¹ Section 18 Ibid

²² Child Rights Act 2003

IV of the Constitution which details the fundamental rights, freedoms and responsibilities of children should be seen as being part of the Act. It provides specific rights for children including the right to survival and development; right to a name; right to family and private life; freedom of association and peaceful assembly; freedom of thought, conscience and religion; freedom of movement; right to be free from non- discrimination; right to dignity of the child, right to leisure, recreation and cultural activities, right to health services, right to parental care, protection and maintenance; and right to free compulsory and universal primary education. The CRA prohibits child marriage; child betrothal; infliction of tattoos and skin marks; exposure, use, production and trafficking of drugs and psychotropic substances; the use of children in any criminal activity; abduction and unlawful removal and transfer of a child from lawful custody; forced, exploitative or hazardous child labour; buying, selling, hiring or dealing in children for the purpose of hawking, begging of alms, prostitution, unlawful sexual intercourse, and other forms of sexual abuse prejudicial to the welfare of the child. It prohibits recruitment of children into armed forces.

The CRA considers a child in need if he/she is disabled, internally displaced, a refugee, or if his/her health and development are likely to be significantly impaired without assistance. The state is obligated to safeguard and promote the welfare and upbringing of these children by providing services appropriate to their needs. Every state government shall take reasonable steps to identify the extent to which there are children in need within their area and publish information about services they provide as well as services provided by their organisations.²³

Despite the beneficial provisions of the CRA, only 25 out of 36 states in Nigeria have adopted it and made it their state laws. It is trite that partially domesticated laws emanating from international Treaties must be adopted by states before it becomes binding on such states. Again, issues concerning children in Nigeria are neither in the exclusive or concurrent list but in the residual list. The implication of this is that laws concerning children particularly the CRA is not legally binding on states until they adopt it, and its adoption is at the discretion of states that choose to. Currently, 11 states all in the northern part of Nigeria are yet to domesticate it, and there are no records of discussion about the Act in these state legislatures. This makes it difficult for Nigerian children to be uniformly protected.

4.3National Policy on Internally Displaced Persons in Nigeria: The National Policy²⁴ document guarantees the rights and obligations of IDPs contained in the Nigerian Constitution, domesticated regional, sub-regional and international human rights and humanitarian instruments guaranteed to all citizens. The policy protects the general and specific rights of IDPs, their rights to protection from displacement, rights to protection and assistance during displacement, protects the rights to internally displaced children, women, persons with disabilities, persons living with HIV, elderly persons, rights of IDPs during return, resettlement and re-integration. It is important to state that this is a mere policy which has no binding effect.

4.4 African Charter on the Rights and Welfare of the Child 1999 (ACRWC): The Summit of the Heads of State of the Organisation of African Unity adopted the ACRWC in 1990, and it came into force in 1999.²⁵ The ACRWC notes with concern that the situation of most African children is critical due to their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's immaturity, he/she needs safeguards and care. Article 22(3) obligates state parties to protect and care for children who are affected by armed conflict, internal armed conflicts, tensions and strife. Article 23 obligates

²³ Ibid, Part 1, schedule 7

²⁴ National Policy on Internally Displaced Persons 2012

²⁵ T Kaime 'The Foundation of rights in the African Charter on the Rights and Welfare of the Child: A historical and philosophical account' 3 African Journal of Legal Studies, 120, 124 (2009).

state parties to ensure that internally displaced children either through natural disasters, internal armed conflicts, civil strife, breakdown of economic and social order receive appropriate protection and humanitarian assistance in the enjoyment of their rights.

4.5 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) In 2009, the African Union adopted the Kampala Convention. It is the first regional, legally binding instrument imposing clear duties on states with regard to the protection and assistance of IDPs. The Kampala Convention requires states to prevent arbitrary displacement by respecting their obligation under international law. It obligates states to bear the primary duty and responsibility for protecting and providing humanitarian assistance to internally displaced persons without discrimination of any kind. It therefore obligates states to access the needs and vulnerabilities of internally displaced persons and host communities, and to provide adequate humanitarian assistance to internally displaced persons in all phases of displacement. Nigeria ratified the Kampala Convention on April 17, 2012, but has failed to domesticate it into its national laws.

4.6 United Nations Guiding Principles on Internal Displacement, 1998: The UN guiding principle is made up of 30 principles which spells out the rights of internally displaced persons, and the responsibilities of states and actors with regard to internally displaced persons. Though this is not a binding document, it reflects existing binding standards of international humanitarian law and human rights. It affirms the enjoyment of rights by internally displaced persons without discrimination on the ground of being displaced. In situations of armed conflict, civilians are protected from arbitral displacement unless for security or military reasons.³⁰ In the event of such displacement, it shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.³¹

The UN Guiding Principle pays special attention to internally displaced children. Internally displaced children especially unaccompanied minors, expecting mothers and mothers with young children are entitled to protection and assistance required by their condition, and to treatment which takes into account their special needs.³²Again, principle 11 prohibits any contemporary form of slavery such as sale into marriage, sexual exploitation, or forced labour of children, and internally displaced children shall not be recruited or permitted to take part in hostilities.³³ They reserve the right of families to remain together and to be rapidly reunified. Internally displaced children reserve the right to education at primary level which should respect their cultural identity, language and religion.³⁴ Special efforts should be taken to include girls in such educational programs.

5.0 Limitations to Effective Protection of Internally Displaced Children

5.1 Insufficient Legal Protection: The legal framework protecting internally displaced children in Nigeria is insufficient. There is no special legal framework for internally displaced children except for general provisions stipulated in the Constitution and the CRA. Though the Kampala Convention

²⁶ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). 2009 (entered into force Dec. 6, 2012)

²⁷ Art 5(1)

²⁸ Art. 5(5)

²⁹ Art 9(2)(b)

³⁰ UN Guiding Principles on Internal Displacement 1998. Principle 6(2)(b)

³¹*Ibid* principle 8.

³²Ibid. principle 4(2)

³³Ibid. principle 13(2)

³⁴*Ibid*. principle 23

has been ratified in Nigeria, there has been no effort by the government to enforce it.³⁵ It is trite that no treaty shall be made enforceable unless domesticated. Section 12(1) of the Constitution gives light to this, and it has been reaffirmed by the supreme court of Nigeria in *General Sanni Abacha v. Chief Gani Fawehinmi*.³⁶ Thus, it is only where a Convention has been enacted into Law by the National Assembly that such a treaty becomes effective and binding.

The CRA which is the primary child protection law in Nigeria makes reference to internally displaced children, but this is not enough because it does not highlight their protection at all stages of displacement. This is true even when internally displaced children experience assaults and sexual abuse in addition to not having access to proper education, healthcare, food and a healthy diet.³⁷ Some states have not adopted the CRA while the states that have adopted it make little efforts to implement same. The National Policy stipulates the rights of IDPs, internally displaced children and the obligations of government towards them. However, the policy has no legal backing and is therefore incapable of enforcement either by the government or the delegated actors.³⁸

- **5.2 Political Will:** It is trite that the security and welfare of the people shall be the primary purpose of the government.³⁹ Sadly, the Nigerian government lacks the political will to carry out its obligation to safeguard the welfare of internally displaced children. Many Nigerian politicians vie for positions based on their own self-interest rather than the necessity to improve the lot of the country's less privileged and vulnerable citizens. The government's inability to adequately safeguard the rights of internally displaced children has resulted in unfavourable conditions in IDP camps, including inadequate medical care and food scarcity, all of which have an adverse effect on the health and development of children.
- **5.3 No Financial Resources**: Nigeria is not an exception when it comes to states' inability to defend the rights of internally displaced children due to lack of resources. It is difficult to protect the right to healthcare services due to inadequate resources. This could either be as a result of shortage of medication, medical personnel or proper facilities putting Children at the risk of health hazards, untreated illnesses that endanger their lives. They are also at risks to suffer from malnutrition as a result of food scarcity.
- **5.4 Improper Data Collection**: International and national studies show that internally displaced children are twice as invisible as other internally displaced persons. There are often unaccounted for cases of IDPs of all ages, and it is challenging to separate data according to age, particularly when it comes to IDPs.⁴⁰

6.0 Conclusion

It is indisputable that internally displaced children, despite their vulnerability, continue to suffer greatly the adverse effect of internal displacement. Day in, day out, they are abused, exploited and violated. Despite this, Nigeria has not done enough to address the issue of internally displaced children. In the light of the above conclusion, the researcher has recommended as follows: Domestication of the International Treaties bordering on internally displaced people especially as

³⁵ OO Olusegun and A Ogunfolu; 'Protecting internally displaced children in armed conflicts: Nigeria in focus' Notre Dame Journal of International and Comparative law. (2019) Vol.9, Iss. 2, Article 4. Available at https://scholarship.law.nd.edu/ndjicl/vol9/iss2/4/

³⁶ (2000) S.C 45/1997

³⁷ OO Olusegun and A. Ogunfolu*Op. cit.*

³⁸ IA Kanu, MB Bazza, IO Omojola'*Review of the National Policy on Internally Displaced Persons in Nigeria*'Nnadiebube Journal of Social Science Vol. 1 No. 1 (2021)

³⁹ Section 14(2)(b) Constitution

⁴⁰ IDMC 'Twice invisible: accounting for internally displaced children' Op cit.

they relate to children and minors as well nursing and pregnant mothers should be undertaken. The UN principles on internally displaced children should also be incorporated into the CRA. Additionally, the CRA should be adopted and implemented by all of Nigeria's states. The Nigerian government should demonstrate a genuine desire and commitment to protect internally displaced children by carrying out its obligations and duties under international human rights instrument. Government should ensure that IDP camps are conducive for children, provide sufficient medication for children so as to avoid the risks of health hazards, provision of sufficient food for internally displaced children, guarantee access to education, and generally, to provide every necessity needed to achieve a better life for internally displaced children. Funding is of the essence to enhance the social, educational and health welfare of internally displaced children. In addition to providing proper psycho-social support for victims of sexual abuse and other associated crimes, government should take proactive steps to safeguard the reproductive and sexual health of internally displaced children. Proper and adequate data collection of internally displaced persons including and especially for children is vital to aid in the proper planning. Government should adopt the US. Special Supplemental Nutrition Programme for Women, Infants and Children (WIC), for healthcare and nutrition to enable proper supplementary feeding for children in IDP Camps. 41

⁴¹Sule Mele; NEMA Executive Director. Vanguard News '450 children died of malnutrition in 28 IDP camps in Borno' *Op cit*.