

TERRORISM AND PROTECTION OF THE RIGHTS OF INTERNALLY DISPLACED CHILDREN IN NIGERIA: A LEGAL APPRAISAL**

Abstract

Terrorism is the calculated use of violence or threat to inculcate fear, to coerce or to intimidate government or society in the pursuit of goals that are generally political, religious or ideological. The issue of terrorism is topical because of its negative impact on the polity. The aim of this work is to examine the effects of terrorism on internally displaced children. The work x-rayed the legal framework that provides for protection of internally displaced children in Nigeria. The study examined factors that exacerbate terrorism and made adequate recommendations for protection of displaced children. The study is analytical and comparative in scope and revealed that, rights of internally displaced children are violated in every sphere, despite numerous legal frame work made for their protection. This challenge has made Nigeria fall abysmally below international best practices when compared with other jurisdictions. Accordingly, the study advocates for review of extant laws such as, Terrorism (Prevention)(Amendment) Act 2013, Child's Right Act 2003, 1999 Constitution. Further, the study recommends that holistic measures should be taken by both the government and humanitarian partners for adequate protection of internally displaced children in Nigeria.

Keywords: Terrorism, Armed Conflict, Rights, Internally Displaced Children.

1. Introduction

Nigeria, has recorded a total number of 1.9 million people displaced from their homes in the North - East of the country. In fact, sixty percent of them are children, with one in four, under the age of five¹. Globally, an estimated 19million children were living in displacement within their own countries due to conflict and violence since 2019.²In the past years, multiple armed groups including *boko haram* and its splinter faction, the Islamic States West Africa Province (ISWAP), have used children as strategic pawns for their terror tactics in Nigeria. In fact, *boko haram* has abducted, recruited and exploited thousands of children for nefarious activities since their group began, attacks around the Lake Chad Basin continues to soar. In fact, UN verified that, 5,741 children have suffered grave violence in north-east Nigeria since 2019, while 1,385 children had been recruited and used by *boko haram*. These numbers are likely to be far higher in reality owing to access constraints in monitoring³. Some children have been forced to kill their own families to demonstrate loyalty to *boko haram*, girls have been forced to carry out roles as fighters and suicide bombers, in addition to being subjected to forced marriages and sexual violence. In fact, report from UNICEF between January 2020 and December 2021, shows that 70 children (13 boys and 57 girls) were recruited as terrorists⁴. While 212 children were killed and maimed (136 boys and 73 girls, 3 sex unknown), 63 girls were sexually violated, 287 children were abducted (142 boys and 145 girls), while 30 attacks on schools and hospitals were recorded (9) on schools and (21) on hospitals and 32 incidents of denial of humanitarian access were recorded⁵. Those that were

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¹ 19 million Children Internally Displaced by Conflict and Violence in 2019 is highest number ever, says UNICEF www.unicef.org accessed on 6/7/2022.

² *Ibid.*

³ UNODC Steps Up Efforts to Protect Child Victims and Witnesses in Terrorism- Related Proceedings in Nigeria. www.unodc.org accessed on 7/7/2022.

⁴ UNICEF, Nigeria: Decrease in Grave Violations Against Children Though Boys, Girls Continue to Suffer from Volatile Security Situation in Northeast Region reliefweb.int

⁵ *Ibid.*

normally saved from their attacks are kept in Internally Displaced Person's Camps (IDPC). While in the Camp, they are exposed to hunger, malnutrition, incessant death, sexual assault, child labor ectara⁶. In fact, the devastating impact of malnutrition is visible on both children and women in various IDP'S Camp in Nigeria.⁷ Studies show that the Government is not doing enough for the Camp to ameliorate the plight of internally displaced people. In fact, the International Red Cross Society (ICRC) that used to supply food to the Camp has stopped since last year. While the State Emergency Management Agency (SEMA), that supply food to them are no longer regular. The harsh environment they found themselves also expose them to diverse violence particularly hunger, dirty environment, sexual abuse and denial of education. These challenges prompted this study which advocates for commitment by the Nigerian Government to protect internally displaced children. Accordingly, this paper makes the following proposals: Firstly, whether there are enabling legal frame work that provides for the protection of children in IDP camps. If there are, are they enforced? Secondly, whether the factors that exacerbate violence on internally displaced children can be curtailed to the barest minimum. Thirdly, whether the government, is establishing appropriate measures to take care of internally displaced persons in Nigeria. Fourthly, whether creation of awareness is necessary for adequate protection of internally displaced children. Finally, whether, collaboration of Nigerian Government with civil society will protect the rights of children in IDP Camp.

2. Concept of Terrorism

The oxford English Dictionary defines terrorism as "Government by intimidation carried out by the party in power in France between 1789-1794."⁸ Certain basic attributes of terrorism include the fact, that it is driven by motives or objectives which in the long-run are political, despite the fact that the perpetrators may be guided by religious beliefs even though the lines between politics and religion may be thin at the initial stages. The targets are largely civilian or non-combatants or members of certain religious or ethnic groups, actors are predominantly non-state actors but sometimes supported by state actors with interest to protect and methodology is critically the use of violence such as shooting, suicide bombing, kidnapping and hostage taking in order to spread fear.⁹ Basically, with respect to the International Community however terrorism has no universally agreed legally binding criminal law definition. Common definition of terrorism refers only to those violent acts which are intended to create fear (terror), on the government and civil society. They are mainly perpetrated for religious, political or ideological goal and deliberately targeted on the society of non-combatant civilian.¹⁰ Terrorism is very real in Nigeria and cuts across every state in Nigeria. In fact, their nefarious activities have rendered many children homeless because they are vulnerable. The aim of this study is to spur the government to protect survivors of conflict particularly children because they are the future of Nigeria. The negative impact of terrorism can never be overemphasized because apart from destruction of lives and properties, it cripples the economy and recycles poverty. For Nigeria to develop, conscious effort should be made to reduce conflict in order to enhance the lives of victims by according them adequate protection as stipulated in extant law. This is *intan dem* with the mandate of sustainable development goal 16, which promotes peaceful societies, encourages access to justice for all and build effective, accountable and inclusive institutions at all levels. It also targets, significant reduction of all forms of violence and

⁶ *Ibid.*

⁷ N Onyedika- Ugoeze and T Awodipe , Malnutrition: When insecurity, inflation endanger the Nigerian Child, The Guardian News Paper, 25th September 2021 www.guardian.ng accessed on 14/9/2022.

⁸ A Majekodunmi; 'Terrorism and Counter-Terrorism in Contemporary Nigeria: Understanding The Emerging Trend', *Journal of Policy and Development Studies* vol.9, No. 4, August 2015.

⁹ *Ibid.*

¹⁰ MN Keans, KN Wilson, M Tamfuh. 'The impact of terrorism and Counter terrorism on Education in the far North Region Cameroon'.

related death rates everywhere. UN goals, promotes end of abuse, exploitation, trafficking and all forms of violence against children. Further, it promotes the rule of law at the national and international levels and ensures equal access to justice for all by 2030. In addition, it significantly, reduce illicit financial and arms flows, strengthens the recovery and return of stolen assets and combat all forms of organized crime. Hence, this paper advocates for the protection of internally displaced children by the Federal Government of Nigeria. This is critical because their protection is apposite for the realization of sustainable goal by 2030.

3. The Rights of Children in Armed Conflict and Internally Displaced Persons.

The rights of children during armed conflict and rights of internally displaced persons can never be over emphasized because their protection boosts the development of Nigeria in every sphere. Children faced with armed conflict have human rights because they are humans. Basically, human rights are those rights enjoyable by everybody everywhere at all times, in equal proportion by the simple reason of being human. They inhere in human beings by reason of their humanity. Human rights have been defined by Osita Eze as:

“Demands or claims, which individual or group make on society, some which are protected by law and have become part of *ex lata* (positive law) while others remain aspiration to be attained in future.¹¹

While Cranston¹² opined that human rights is something of which no one may be deprived of without great affront to justice. There are certain deed which should never be done, certain freedom which should never be invaded, some things which are supremely sacred.”

Accordingly, the Court in *Ransome Kuti v Attorney General of the Federation* described human right thus:

It is a right which stands above the ordinary laws of the land, and which in fact is antecedent to political society itself. It is a primary condition to a civilized existence, and what has been done by our Constitution since independence is to have these rights enshrined in the Constitution, so that the rights could be immutable to the extent of the non-immutability of the Constitution itself.¹³

Human rights are inalienable to the extent that removal, denial or withdrawal makes the person from whom they are removed less human, sub-human, and incomplete and half man or woman. These rights are enjoyed all over the globe and they are not limited by geography, history or scientific experiment and theorems.¹⁴ Written laws such as the Constitutions and other statutes only help to make sure that these rights are declared, preserved, implemented and this clearly spells out the need for the supremacy clause of our supreme law, the Constitution to be observed cautiously, religiously and jealously.¹⁵ With respect to life, section 33(1)¹⁶ provides that

¹¹ *International Journal of Law*, Vol.6 Issue 6, 2020, pages 118-122 Osita Eze, *Human Rights in Africa. Some selected Problem, Lagos: 'The Nigerian Institute of International Affairs'*, 1984,5.

¹² Cranston, “Human Rights: Real and supposed” in political theory and The Right of Man, Bloomington Indiana University Press, 1967 (1985), 2NWLRL (Pt 200) 708

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ C Arinze- Umobi, *Domestic violence against women in Nigeria: A legal Anatomy* Folmech Printing & Pub Co. Ltd, Onitsha.

¹⁶ Constitution of the Federal Republic of Nigeria, 1999.

“Every person has a right to life and no one shall be deprived intentionally of life, save in execution of the sentence of a court in respect of a criminal offense of which he has been found guilty in Nigeria.”

While section 34(1)(a) states that

“Every individual is entitled to respect for the dignity of his person and accordingly No person shall be subjected to the torture or to inhuman or degrading treatment.

While the African Charter guarantees in its article 4 and 5, the right to life and dignity of human person respectively. The United Nation, General Assembly, opines that the word “torture” constitutes an aggravated and deliberately form of cruel, inhuman and degrading treatment or punishment. The Court in *Uzochukwu vs Ezeonu* reiterated that the word, “torture” etymologically means to put a person to some form of pain and agony. He also went on to define inhuman treatment to mean:

“A barbarous and cruel treatment which has no human feeling on the part of the person influencing the barbarity or cruelty”.

Inhuman treatment also includes treatments which deliberately causes severe suffering, mental or physical, which in particular situation is unjustified as advanced by the European Commission on Human Rights. Children that are internally displaced face inhuman treatment, torture and abuse even though their rights have been stipulated in so many legal instruments. These human rights are hinged on three cardinal principles, namely: non-discrimination, the best interest of the child and participation. With regards to the principle of non-discrimination, many internally displaced children are discriminated against by the society, particularly with respect to education many displaced children are denied education and those that have access to education are compelled to pay higher than other students. This is pure discrimination! It should be noted that education is developmental right that is pivotal for enjoyment of other rights. Hence, its denial will truncate the enjoyment of other rights such as rights to survival and participation. Survival rights includes access to good food, clean water, adequate health facilities etcetera. It is apposite to note that when children particularly girl children are denied education they are exposed to sexual violence and early marriage which leads to recycling of poverty. Accordingly, education is a veritable tool that develops their potentials which enable them make required impact in every sphere. Studies¹⁷, reveal that many children as high as 12.3 million are out of school due to internal conflict. *Boko Haram* is against western education, particularly the education of girls, this have necessitated the rape and abduction of many girls in schools. Apart from that, terrorists have consistently destroyed school facilities and this has negatively impacted the rights of the child because the right to education is fundamental to the survival, development and participation of children in taking decision that affect them. Denial of education offends, article 7 of UDHR, which provides that all are entitled without an iota of discrimination to equal protection of the law. This provision is also *in tandem* with the provision of sec 42 of the Constitution¹⁸ The basic and fundamental principles of non-discrimination portends that all individuals have the right to live in dignity and freedom without arbitrary interception by any government. Generally, the law provides that in every condition that pertains to the child that the principle of the best interest of the child must be upheld. Hence, by virtue of this principle, children that are victim of conflict should be given adequate protection by the government.

Further, another important principle is the principle of best interest of the child which provides that all measures and initiatives undertaken for the protection of children must be aimed at ensuring the

¹⁷ <https://www.researchgate.net>.

¹⁸ The Constitution of the Federal Republic of Nigeria 1999.

physical, mental and social well-being of the child, hence appropriate measures shall be taken by the Federal Government to provide for total well-being of children in IDP camp. Such rights like rights to enjoy good environment, access to clean water and food should not be compromised. Equally, rights to be protected from bodily harm like sexual abuse, right to good health facilities and protection from terrorists should be promoted. It has been observed that the IDP camp, is not really a safe haven for children because many children that are domiciled in IDP camps are made more vulnerable due to harsh conditions of the environment which expose them to gruesome violence. In fact, many women and children exchange sex for food¹⁹. It is quite unfortunate, that camp officers that are supposed to protect them exploit them sexually due to hunger. Gender based violence that is prevalent in the camp have turned many children into mothers²⁰ and authorities have refused to stop the menace.

Another violated right is the right to participation: This right portends that children should be engaged and empowered as right holders with entitlement, including the rights to have a say and to be heard in the decision affecting their lives but many norms and factors make their rights unrealizable. In fact, denial of survival rights such as rights to health and developmental rights like education will truncate participatory rights of children in IDP camps. This study, is a wakeup call to the Government to arise and protect the rights of people in IDP camp particularly children.

3. Legal Instruments for the Protection of Internally Displaced Children.

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Forces.

This legislation condemns the targeting of children in situations of armed conflict and direct attack on objects protected under international law, including places that generally have a significant presence of children such as schools and hospital. Further, it condemns the recruitment, training and use within and across national borders of children in hostilities by armed groups, distinct from the armed forces of a State and recognizing the responsibility of those who recruit, train and use children in this regard. However, in practice many children are not protected during armed conflict in Nigeria. In fact, many children have been recruited as terrorist, while many have been sexually abused and those that are in IDP camps are sexually harassed. In fact, children have become the major targets of terrorists in Nigeria, this has propelled them to attack schools and kidnap school children, thereby destroying the educational system.

Further, this law takes into consideration the economic, social and political factors as root causes of the involvement of children in armed conflict. Convinced of the need to strengthen international cooperation in the implementation of the present protocol as well as the physical and psychological rehabilitation and social reintegration of children, who are victims of armed conflict.²¹ Article 1 provides that state parties shall take all feasible measures to ensure that members of armed forces who have not attained the age of 18 years do not take a direct part in hostilities. Armed groups that are distinct from the armed forces of a state should not, under any circumstances recruit or use hostility in persons under the age of 18 years.²² Furthermore, each state party shall take all necessary legal administration and other measures to ensure the effective implementation and enforcement of the provisions of the present protocol within the jurisdiction.²³ State parties are also encouraged to take necessary measures for the

¹⁹ J Ugwa, 'Sexual Abuse Thrives in Nigeria's IDP Camps with No Recourse for Victims', reliefweb.int accessed on 10th, April 2023.

²⁰ *Ibid*.

²¹ *Ibid*, Article I.

²² *Ibid*, Article 4.

²³ *Ibid*, Article 6.

implementation of the present protocol including the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including thorough technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the State parties concerned and the relevant international organizations.²⁴ State parties are further mandated to submit report of their implementation to the Committee on the rights of the child, in accordance with article 44 of the Convention any further information with respect to the implementation of the Protocol.²⁵ Other State parties to the Protocol shall submit a report every five years. The Committee on the rights of the child may request from State Parties, further information relevant to the implementation of the present protocol.²⁶ After Nigeria and submitted their report to the Committee and noted that, an oil -rich State like Nigeria should have a clear vision of it is budget allocation for the protection and promotion of children’s right. The Committee noted the severe economic situation in Nigeria and called for change. However, despite United Nation’s recommendation of allocating 15 to 20 percent of their budget to education. Nigeria has blatantly refused to adhere to that recommendation, however allocates only about 6.1 percent of annual budget to education against 15 to 20 percent that was suggested by the United Nations. In fact, based on the data acquired by Dataphyte, the percentage of the budget allocated to education sector in 2022, is lower than both 2020 and 2021 respectively²⁷. This anomaly is the bane of Nigerian economy because a nation that does not improve her human resources will wallow in abject poverty and will slow down its development in every sphere.

3.2 UN Convention on the Rights of the Child (CRC) of 1989

Significantly, the CRC is the most widely ratified international human rights instrument that provides for protection of children in every sphere. Many of the provisions of the CRC also form part of customary law, meaning they apply irrespective of whether a particular state has ratified the CRC. Moreover, the CRC does not allow for any derogation in times of emergency, the full range of rights it articulates, apply in all circumstances. It provides particularly that in all actions concerning children, whether undertaken by public or private, social welfare, institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.²⁸ State parties should recognize that every child has the right to life, survival and development.²⁹ Also State Parties should undertake to respect the right of the child to preserve his or her identity including nationality, name and family relations as recognized by law without unlawful interference.³⁰ A child temporarily or permanently denied of his or her family environment or in whose own best interest cannot be allowed to remain in that environment shall be entitled to special protection and assistance provided by the state. State parties shall in accordance with their national laws ensure alternative care for children³¹ and take all appropriate legislative, administrative, social and educational measure to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment. However, despite these lucid provisions, many children are still violated and tortured in IDP Camp by camp administrators that are supposed to protect them. These deplorable conditions,

²⁴ *Ibid*, Article 7.

²⁵ Article 8(2).

²⁶ Article 8(3).

²⁷ K Taiwo, With N4.68 Trillion Budget Allocation in Six Years, Nigerian Education Sector struggles to Improve. Dataphyte, www.dataphyete.com, accessed 20/2/23.

²⁸ Article 6 (1) (2).

²⁹ Article 8.

³⁰ Article 20 (1) (2).

³¹ *Ibid*.

undermine their health and at times lead to death. The paper suggests for urgent intervention by the Government to save the future of Nigeria.

3.3 The Universal Declaration of Human Rights (UDHR) of 1948

This instrument provides the major civil, political, economic, social and cultural rights to which all persons are entitled. Although not a binding legal instrument in itself, many of its principles constitute customary law and/or have been incorporated into treaty law and consequently have gained building force. Building upon the UDHR and incorporated its principles into legally binding laws are two Covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) both of 1966. These documents make comprehensive protection on children. While, the international Covenant on Civil and Political Rights are enshrined in the chapter (iv) of 1999 Constitution. The International Covenant on Economic, Social and Cultural Rights are enshrined in Chapter (ii) of the Constitution. Both, rights must work in synergy for adequate protection of the child because human rights are inter related. It must be noted that non justiciability of chapter (ii) of the 1999 Constitution is a major drawback to the rights of children in Nigeria because it contains the socioeconomic rights that protect the developmental, survival and participatory rights of children in every sphere. This is critical because the civil and political rights of children cannot be enjoyed without the enjoyment of socioeconomic and cultural rights. The study therefore calls on the Federal Government to effectively protect the rights of children by making chapter (ii) justiciable.

3.4 Optional Protocol on the Involvement of Children in Armed Conflict of 2000

Provides, that state parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.³² State Parties shall take all feasible measures to prevent such recruitment and include the adoption of legal measures necessary to prohibit and criminalize such practices.³³ State parties shall take all necessary legal administrative and other measures to ensure the effective implementation and enforcement of the provision to the present protocol within the jurisdiction.³⁴ Each State party shall take all necessary legal and administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present protocol within its jurisdiction.³⁵ State parties, undertake to make the principles and provisions of the present protocol widely known and promoted by appropriate means to adults and children alike.³⁶ The Government shall take all feasible measures to ensure that persons within their jurisdiction recruited used hostilities contrary to the present protocol are demobilized or otherwise released from services.³⁷ Hence, state parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.³⁸

3.5 The African Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

³² Optional Protocol on the Involvement of Children in Armed Conflict 2000.

Article 1.

³³ *Ibid*, Article 4 (2).

³⁴ Article 6 (1).

³⁵ Article 6(1).

³⁶ Article 6 (2).

³⁷ *Ibid*.

³⁸ *Ibid*.

This adopted in October, 2007, reaffirms the commitment of state to implement international humanitarian law and includes specific provisions in reaffirming the rights of internally displaced persons to personal documentation to education for children to be protected against recruitment and any other participation in hostilities against kidnapping, abduction, sexual slavery and trafficking and for protection that addresses the special needs of separated and unaccompanied minors as well as youths. This Convention plays a critical role for protection of children because they are susceptible to all manner of violence during armed conflict.

Kampala Conventions

The major aim of this Convention is to promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement as well as provide durable solutions; to establish a legal framework for preventing internal displacement and assisting internally displaced persons in Africa; to promote for the respective obligations, responsibilities and roles of armed groups, non-state actors, including civil society organizations, with respect to the prevention of internal displacement and protection of and assistance to internally displaced persons.³⁹ It provides in general, obligation of State Parties in the protection of internally displaced persons, hence Nigerian Government should refrain from, prohibit and prevent arbitrary displacement of population.⁴⁰ Equally, the Government should prevent political, social, cultural and economic exclusion and marginalization that are likely to cause displacement of population or persons by virtue of their social identity, religion or political opinion.

Accordingly, this paper advocates for respect for international humanitarian law regarding the protection of internally displaced persons.⁴¹ The Government should ensure accountability of non-state actors concerned including multinational companies and private military or security companies for acts of arbitrary displacement⁴² State parties should ensure the accountability of non-state actors involved in the exploration and exploitation of economic and natural resources leading to displacement.⁴³ Ensure assistance to internally displaced persons by meeting their basic needs as well as allowing and facilitating rapid and unimpeded access by humanitarian organization and personnel.⁴⁴ State parties shall provide sufficient protection and assistance to internally displaced persons and where available resources are inadequate to enable them to do so, they shall encourage the assistance of international organization and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all in need.⁴⁵ State parties shall take necessary steps to effectively organize newer action that is humanitarian and impartial in character and guarantee security. State parties shall allow rapid and unimpeded passage of all newer consignments, equipment and personnel to internally displaced persons. State Parties shall have the right to prescribe the technical arrangements under which such passage is permitted.⁴⁶ In providing protection and assistance to internally displaced persons, international organization and humanitarian agency shall respect the rights of such person in accordance with international law.⁴⁷ Internally displaced persons shall not be denied the right to live in satisfactory conditions of dignity, security, sanitation, food, water and health and

³⁹ Adopted in October 23, 2000 and signed on March 01/2020 and entered into force on December 06/2012.

⁴⁰ Article 2 (a) (b) (c).

Article 3 (1) (b).

⁴¹ Article 3 (e), Ibid.

⁴² Article 3 (h).

⁴³ Article 3 (i).

⁴⁴ Article 3(j).

⁴⁵ Article 5 (6).

⁴⁶ Ibid, Article 7.

⁴⁷ Ibid, Article 6.

shelter and separating members of the same family.⁴⁸ They should not be restricted the freedom of movement within and outside their areas of residence.⁴⁹ Furthermore, recruiting children or permitting them to take part in hostility under any circumstances is forbidden.⁵⁰ Also forcibly recruiting persons, kidnapping, abduction or hostage taking, engaging in sexual slavery and trafficking in person especially women and children is strongly prohibited.⁵¹ Attacking or otherwise harming humanitarian personnel and resources or other materials deployed for the assistance or benefit of internally displaced persons. Attacking or otherwise harming humanitarian personnel and resources or other is also prohibited.

3.6 African Charter on the Rights and Welfare of the Child (1990)⁵² also forbids sexual violence against many other international convention such as the convention against torture (1984).The Convention for the suppression of trafficking in persons and of the exploitation of the prostitution of others⁵³ and the Vienna Declaration of the World Conference of Human Rights⁵⁴ also prohibit sexual abuse and exploitation of Women and Children.

3.7 The Guiding Principles on Internal Displacement (GPID)

The Guiding Principles on internal displaced persons developed by the United Nations Commission on Human Rights (Guiding Principles) are the first international standards specifically tailored to the needs of IDPs. The Guiding principles are consistent with international humanitarian law and to a large extent covers all their rights. Particularly, Principle 3(1) provides that national authorities have the primary duty and responsibilities to provide protection and assistance to IDPs within their jurisdiction⁵⁵. This principle further stipulates that IDPs are entitled to enjoy full protection of their rights and freedom like other persons in the country and shall not be discriminated against because of their displacement. Principle 18 relates to the right to an adequate standard of living including ensuring safe access to essential food, potable water, basic shelter and housing as well as appropriate clothing and essential medical service and sanitation. The third section also states in Principles 19(3) that special attention should be given to the prevention of contagious and infectious diseases including HIV, among IDPs. The fourth section deals with the issue of humanitarian assistance and specifies that when governmental authorities are unable or unwilling to provide assistance to the displaced, international organizations have the right to offer their services and that consent for them to do so shall not be arbitrarily withheld.⁵⁶ The final section of the Guiding Principle emphasizes the importance of providing IDPs with long-term option namely, voluntary return in safety and dignity or resettlement in another part of the country. It also emphasizes the importance of ensuring durable solutions, including the need to provide IDPs with reintegration assistance whether they return or resettle, and to ensure they have equal access to public services.

In relation to children, principle 13(2)⁵⁷ adds that under no circumstances are children to be recruited or to be required or permitted to take part in hostilities. Importantly, the Guardian's Principle are being

⁴⁸ Ibid, Article 7(c).

⁴⁹ Ibid, Article (d).

⁵⁰ Ibid, Article (e).

⁵¹ Ibid, Article (f).

⁵² Right and Welfare of the Child (1990) Article.
Convention against Torture (1984).

⁵³ The Convention for the Suppression of Trafficking in Persons and of the Exploitation of the Prostitution of others (1949).

⁵⁴ The Vienna Declaration of the World Conference of Human Rights 1993.

⁵⁵ *Ibid* Principle 19(3).

⁵⁶ www.vanguard.com by Charles Adeogun Philips.

⁵⁷ *Ibid* principle 13(2).

used at the national level in country affected by internal displacement particularly noteworthy is the development of national laws and policies based on the principles.

However, in reality many children are violated during armed conflict, some are recruited to take part in hostilities while others are trafficked, raped, maimed and killed. Even those that are kept for safety in IDP's are not spared even after conflict many are still subjected to suffering and unwarranted discrimination, hence the question that comes to fore is whether the displaced have rights during conflict and after conflict.

4(a) The Right to an Adequate Standard of Living both During and After Conflict

Internally displaced persons face numerous challenges such as deprivation of shelter, hunger, lack of means of livelihood, medical care etcetera. Many internally displaced children go hungry and fall seriously ill due to a lack of access to humanitarian assistance and overcrowded unsanitary conditions in the camp or settlement.

In Nigeria, children account for about 60% of the internally displaced persons in Nigeria. Many of them live in camps and one in four are under the age of five. These children are vulnerable to abuse, violence and manipulation.⁵⁸ They also lack access to education, health and nutrition, protection from violence and child labor.

4(b) The Right to Protection from All Forms of Sexual and Gender Based Violence

Children that are displaced are exposed to diverse form of sexual violence; in fact both boys and girls are raped by security men that ought to protect them. Such violence have serious health implications such as depression, post-trauma stress disorder, suicide, some survivors may experience stigmatization, rejection by their families. While others may suffer serious physical consequences which include early pregnancy, fistula and sexually transmitted diseases that cause disability or death.⁵⁹ This position is stipulated in the numerous legal frameworks on the protection of children from violence. The Convention on the Rights of the Child and Optional Protocol on sex trafficking affirm unequivocally that children must enjoy protection from torture, cruel and inhuman and degrading treatment widely accepted as encompassing rape and other acts of violence.⁶⁰

5. Factors that Exacerbate Terrorism and Poor Conditions of IDP'S.

- (1) Lack of Education: The number of children that are out of school due to terrorism is alarming. Apart from terrorism, the economic situation in the country has exacerbated the number of children that are out of school in Nigeria. The name *Boko Haram* can be roughly translated as "western education is sinful. This title says everything about the groups position on formal education. They have destroyed educational system in the Northern part of Nigeria, turning most of them to become terrorists and suicide bombers. They have destroyed many facilities and human resources. UNICEF, estimates that 1.8 million Borno State children remained out of school in 2016, mainly due to the presence of *Boko Haram*.⁶¹ This crisis has made the achievement of sustainable development goal unattainable. Hence, high poverty level is a structural obstacle to Nigeria's progress towards achieving the UN Sustainable Development Goals (SDGS).

⁵⁸ O Adelakun, internally displaced children in Nigeria need more protection from State.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ O Olanrewaju, 'Number of Poor Persons in Nigeria to Rise to 95.1 Million in 2022'. www.dataphyte.com accessed on 14/10/2022.

- (2) **Increase of Violence:** Terrorism is a veritable platform for violence. Apart from wanton destruction of lives and properties, many children are abducted, raped, maimed and killed by the terrorist. Sadly, even when they take refuge in IDP Camp, they are subjected to violence, such as hunger, early marriage and exposed to all manner of vices such as illicit use of drugs and narcotics.
- (3) **Lack of Implementation of Extant Laws:** Lack of implementation of extant laws has impeded the rights of children to be protected during armed conflict and when they are taken to IDP'S. The Child's Right Act that was made since 2003 has not been implemented by many states in Nigeria. Also, the 1999 Constitution in its Chapter (ii) has made all the lucid provisions therein, unenforceable by virtue of section 6(6) (c) which barred the courts from enforcing the rights that are enshrined in Chapter (ii). As if, that was not enough, Section 12(1), provides that no treaty or international law shall be implemented without ratification by the National Assembly.⁶² These challenges have made the rights of children a mirage and it is a clog on the rights of children.
- (4) **Poverty:** The economic hardship inherent in Nigeria has exposed many youths to insurgency. Apart, from that, poverty has also accelerated the rate of hunger in the IDP Camps due to food insecurity. Many children have died as a result of food insecurity in the Camp.
- (5) **Lack of Facilities:** The deplorable condition in IDP Camps can be attributed to paucity of facilities like poor toilet facilities, educational, health and sleeping facilities. This situation exposes children to more violence, therefore this study suggests that adequate facilities such as toilet, spaces, class rooms, health clinics are provided for adequate protection.

6. Conclusion and Recommendations

The work reveals that despite laudable laws on the protection of children in armed conflict and children in IDP Camp, that the rights of children are still violated with impunity. The work reveals further that nothing violates the rights of children like terrorism. Armed conflict exposes children to vices such as rape, human and organ trafficking, child labor. While, those that take refuge in IDP Camps are subjected to hunger and violence. Many children have been sexually assaulted by security agents that are supposed to take care of them. The work recommends that the Federal Government should do the needful, by removing lapses inherent in our legal framework, implement extant laws and eradicate poverty by making food accessible to IDP camps.

- (1) **Review and Ratification of Relevant Laws:** Nigerian Government should incorporate their obligation under numerous Conventions on the Protection of internally displaced person into domestic law by enhancing or amending relevant legislation on the protection of, and assistance to internally displaced persons in conformity with their obligations under international law. Additionally, responsibility should be assigned to appropriate organs for protection, assistance and collaboration with relevant international organizations, agency and civil society for adequate protection of persons in IDP centers. Hence, this study calls for urgent review of 1999 Constitution, Child's Right etcetera.
- (2) **Strategic Measures:** Government should take strategic measures to protect and provide for the reproductive and sexual health of internally displaced women and children as well as appropriate psycho-social support for victims of sexual and other related abuses. Also, they should take necessary measures which aims at establishment of specialized mechanism to trace and reunify families separated during displacement and otherwise facilitate the re-establishment of family ties.
- (4) **Encourage Participation:** Government shall consult internally displaced persons and allow them to participate in decisions relating to their protection and assistance. It further provides for

⁶² 1999 Constitution.

registered and personal documentation of displaced persons within their jurisdiction. Hence, State parties shall ensure that internally displaced persons shall be issued with relevant documents necessary for the enjoyment and exercise of their rights such as passports, personal identification documents, civil certificate, birth certificate and marriage certificate. This is critical in enabling the child to participate fully in decisions that affect them.

- (4) **Provision of Adequate Facilities and infrastructures:** Terrorism has destroyed a lot of facilities such as schools, hospitals and farm lands etcetera, making life difficult and unbearable for many, even those that live in IDP Camps do not have access to basic facilities like toilets and bed spaces. Hence, it is advocated that Government should come to their aid by building adequate structures like schools will help to revamp education which is critical to human development.
- (5) **Eradication of Poverty:** The Government should make policies that will enhance economic growth and development in every sphere. Poverty alleviation will salvage the system from decay and help to protect children during armed conflict and children in IDP Camp.
- (6) **Reduction of Violence:** Nothing exacerbate violence like terrorism hence Government should cushion the negative effects of terrorism by providing conducive environment for protection of children in IDP camp. In fact, they have a responsibility to prevent factors that will promote conflict or anarchy.
- (7) **Creation of Awareness:** The government shall create awareness through public pronouncement about the problem of terrorism and help to build national consensus and promote solidarity with the displaced persons.
- (8) **Data Collection and Training:** Government must endeavor to keep accurate data of the number, location and condition of IDPs in order to design effective policies that will enhance their protection. Training, programs for government officials, including camp administrators, that work in internal displacement camp is essential for effective protection of internally displaced persons.