



**INTERNALLY DISPLACED PERSONS AND THE CONSTITUTIONAL RIGHT TO
VOTE AND BE VOTED FOR IN NIGERIA**

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ABSTRACT

Under any democratic dispensation, the citizenry is given the inalienable right to, through an established procedure, contest or vote for their representatives who will stir the wheel of their government, as their leaders for a prescribed period of time. This process of political participation is so germane under a democratic government, to the extent that the will and aspiration of the people can better be realized by bringing on board capable people who will handle the affairs of government and take the people as a whole to the next level in terms of positive development. However, as important as the exercise of this right may seem to be, some Nigerians are denied such right intentionally or otherwise and their fate is been left to the hands of few to decide. This paper has ex-rayed the constitutional right of franchise; the effect Internal Displacement has on the enjoyment and exercise of this right, more particularly on the people displaced by the Boko Haram insurgency in the North Eastern Nigeria; the legal regime on ground to protect this right and at the end a way out has been suggested in form of recommendation. This research will be adopting a doctrinal approach with both domestic and international laws (Instruments, conventions and protocols) as the primary data and the works of reknown authors in scholarly journals, books and conferences as secondary data.

Definition of Terms

Internally Displaced Persons

At present, there is no internationally agreed definition of who is an internally displaced person, but the United Nations (UN) working definition of IDPs is, displaced persons under international law are persons or groups of persons who have been forced or obligated to flee or to have cause to leave their homes or

place of habitual residence in particular, as a result of or in order to avoid the effect of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and they must have either remain within their own national borders (as internally displaced persons)..... (Ladan, 2006).

These are persons or group of person who due to reason of either armed conflict, development projects or natural disasters and other causes are been forced to leave their houses and communities to seek shelter elsewhere but does not cross international border.

Right

The Black's Law Dictionary, Ninth Edition, at page 1436, defines right to mean "*something that is due to a person by a just claim, legal guarantee or moral principle*". It also goes to define rights as:

"a legally enforceable claim that another will do or will not do to a given act; a recognized and protected interest the violation of which is a wrong, a breach of duty that infringes one's right".

Based on the definition above, rights are inalienable and enjoyable by the person to whom it is given. Where there is a right, it's violation becomes a wrong. For an act to be termed as a 'right', three feature must be available, thus:

1. Declaration of the right
2. Duty of protecting the right
3. And enforceability of the said right.

There must be concurrence at all times of the above features, otherwise the act cannot be said to be a right in legal parlance but at best a privilege.

Franchise

This term, can be simply defined as the right to vote and be voted for. The Black's Law Dictionary, Ninth Edition, defined franchise as "*the right to vote, also termed elective franchise*". This bunch of right is considered to be one of the most important aspects of all the bundle of rights available to human beings, especially when a consideration is placed on the important role such right plays, in shaping the lives of the people.

Right to vote and be voted for, is never absolute in any jurisdiction in the World. Certain limitations are placed as to age, academic qualifications, gender e.t.c.

Democracy is nowadays seen as the best form of government where the people are given the right to choose those that can lead them and govern the affairs of the state.

Internal Displacement in Nigeria

On the other hand, internally displaced persons (IDPs), as a result of situations of armed conflicts (or the threat thereof) and mass violations of human rights, as well as floods, earthquakes and other natural disasters, the number of people fleeing their homes has increased dramatically over recent years. There are also deep – seated factors underlying this phenomenon of mass displacement. For example, Under-development, poverty, unequal distribution of wealth, unemployment, ethnic tensions, political and economic subjugation of minorities, intolerance, absence of democratic procedures, and many other factors have been cited as causes. Where such people, in fear of persecution, seek refuge in other countries, their interests are protected by the refugee convention of 1951 and the 1967; protocol relating to the statute of refugees. If those persons are victims of armed conflict situations, they are entitled to protection under the Geneva Convention of 1949 and their additional protocols of 1977. In general, human rights law offers protection to all persons without any adverse distinction. However, where such people are displaced within their own country, specific problems as the rights and protection arise (Deng, 1994).

Under the following working definition of “Internally Displaced persons” (IDPs), which was developed by the special Rapporteur on IDPs as there is at present no specific international legislation devoted to that issue, displaced persons are deemed as: “Persons or groups of persons who have been forced to flee their homes or places of habitual residence suddenly or unexpectedly as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disasters, who have not crossed an internationally recognized state border” (OCHA, 2003; UN, 2004). In this paper, IDPs is defined as persons who have been displaced by natural disaster or conflicts from their homes and traditional support structure and have not crossed the border of their countries. They are victims of various kinds of injustices, violent confrontations perpetrated by their own government or others against them.

Internally Displaced persons also known as IDP's are mostly victims of the inhumanity of man against man. They are victims of various kind of injustices or violence confrontations, perpetrated by either their own government against

them or by others, such as, communal clashes, terrorism, riots, religious conflicts, natural disasters and so on. It is on record that, the expectation of the global population, resulting from the abrupt liquidation of the cold war consequent on the collapse of the soviet union towards the tail end of 1980's were dashed. Many people across the world that thought that the new world order would bring a desired peace to the entire world, enabling acculturation of development attitude to the world through the magical framework of integration and mutual aspiration of world state-actors soon realized that, the new world order is not circled around the pursuit of peace and development, but the continuation of hostility in another dimension (Hamzat, 2016). Contrary to the expectation of the world population, the new world order has been characterized by more unstable and turbulent conflict situation, unhealthy power politics, destructive ethnic insurgencies, national rivalries, religious bigotry, government hypocrisy and endemic poverty, manufactured by globalization. Terrorism on the other hand, has assumed a new dimension with its characteristic innovative contradictions, which has posed a greater threat to the world peace and security. What a new world disorder.

The IDPs are physically, psychologically and socially displaced as they have to relocate to refugees' camp. Statistics on IDPs in Nigeria revealed that an overwhelming majority of women and children constitute the IDPs. The population is composed of 53% women and 47% men (DTM 2016). Women and children remain the most vulnerable to sexual and gender based violence. There have been reported cases of rape, sexual harassment, forced marriage, infant marriage, sexual diseases and uncontrolled birth occasioning high infant and maternal mortality. Furthermore, because some of the IDPs integrate with other family members in various locations, data about them is not easy to get. All these factors make it nearly impossible to obtain an accurate number of displaced persons in Nigeria. IDPs are caused by several factors, according to a strategic conflict assessment carried out by the Institute for Peace and Conflict Resolution in 2002, the return to democracy and the competition for the new political opportunities had led to increased violence. Local competition for resources has often been aggravated by "Inter-elite" rivalries over privileges such as political and public service appointments, oversight of projects and admission into schools (IPCR 2002). In addition, the interplay between the tripod ethnic structure and communal patterns of inequalities, closely linked to this is the issue of natural disasters such as flooding or soil erosion. Other causative factors identified in literature

include: religious violence and displacement due to communal conflicts over land and borders and militancy in North East and in the Southern Nigeria. In North eastern Nigerian States of Borno, Yobe, Adamawa, Taraba, Gombe and Bauchi, the activities of Boko Haram Insurgents was devastating, particularly in Borno and Yobe State. This particular trend was so ugly in Nigeria around 2014/2015 where some local governments around 17 were hijacked by the insurgents which led to the death of thousands, displacement of thousand more especially women and children. As at today, it is reported that despite the seeming success of the President Muhammadu Buhari administration, some local governments in Borno Stat are still under the control of the insurgents.

The Consequences of Internal Displacement on the Exercise of Franchise in Nigeria

The consequence of this internal displacement is the massive and unprecedented displacement of people receiving shelter and care at various IDP Camps in Borno, Yobe, Adamawa and some parts of Taraba, Gombe, Bauchi and FCT Abuja and in other parts of the country. While some other thousands have crossed the international border to see refuge in other countries like Cameroun, Chad and Niger.

These IDPs consequently, fled their units, wards, local government and state to seek shelter elsewhere. The IDPs may not have the opportunity of returning to their homes to participate in the election of their representatives. Conducting election in some other parts of the country has become practically impossible due to insecurity. The electoral umpire in Nigeria (Independent National Electoral Commission) cannot be able to access the insurgency prone areas and even when they can, the people living that area has already fled the area in fear of imminent attacks.

In Nigerian, online voting is unknown to our electoral laws and even if its allowed, majority of the IDPs does not have access to internet services.

Conclusion

The Constitution of the Federal Republic of Nigeria 1999 (As Amended) 2011 under Chapter 4, has provided for the inalienable right of Nigerians to vote and be vote for in a periodic election into various offices subject to some qualifications. The activities of the insurgents and other causes in Nigeria have led thousands of people to fled their homes and seek shelter elsewhere either within the territory of the Nigerian state or in other countries. As a result of this

forced migration, the IDPs find it generally impossible to exercise their right of franchise.

Recommendation

1. The government should intensify more efforts in the fights against insurgency with the view of bringing the menace to an end.
2. IDPs from liberated areas and towns and where there is general improvement of security, should be taken back to their towns after the 3Rs (Reconciliation, Rehabilitation and Resettlement).
3. There should be an amendment in the Nigerian electoral laws to accommodate online voting.
4. A data base should be created of IDPs residing in each state which shall capture their delineation, units, wards, local government and states, to enable INEC provide an arrangement for the IDPs to exercise their franchise.

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