

Policy Brief

Protecting internally displaced women and girls from sexual gender based violence in Nigeria

*Cynthia Adaugo MBAJUNWA**

This policy brief forms part of research of the Global Engagement on Internal Displacement in Africa (GENIDA) (EP/T003227/1) projects supported by the UK Research and Innovation (UKRI) Global Challenges Research Fund (GCRF).

Summary

Over the last decade, Sexual Gender Based Violence (SGBV) has been the ‘collateral damage’ of violent clashes, and its prevalence in Nigeria is often seen as a by-product of internal conflicts involving irregular forces, which frequently result in disproportionate civilian casualties. Consequently, internally displaced women and girls battling deprivation, uncertainty and SGBV are a very vulnerable population. This brief examines the measures taken to protect internally displaced women and girls from SGBV in Nigeria.

1 Introduction

The security situation in North-East Nigeria remains volatile due to incessant attacks by Non-State Armed Groups and counter-insurgency operations by the Nigerian Armed Forces. In this context, several reports of SGBV have emerged. However, there is a prevalent culture of silence. While the silence is sometimes culturally induced, it mostly

derives from the fear of social isolation. There have been several reports of family rejections and societal stigma against survivors of SGBV. The stigma and rejection from families and communities are greater for those who are perceived to have been associated with Boko Haram. These women and girls, often referred to by their communities as "Boko Haram Wives" or "Sambisa Women", are shunned within societies. In some communities, they are viewed as direct threats, particularly in situations where community members fear that they have might been brainwashed or indoctrinated into the Boko Haram sect and are acting as spies for their "spouses". However, such conclusions are often misplaced.

2 Legal measures

At the national level, some legal measures are in place to address SGBV. Although there is no specific law on internal displacement, these measures are by extension applicable to internally displaced women and girls. These measures include:

- **Criminal Code Act 1990:** The Criminal Code Act is the principal substantive criminal legislation in Southern Nigeria. Chapter 30 of Code contain general provisions on the protection of women and girls from SGBV acts including rape, assault and abduction.¹
- **Penal Code Act 1990:** The Penal Code applies to the northern states of Nigeria. Section 282 (1) of the Code defines rape.² Section 282(2) however qualifies the definition of rape by providing that sexual intercourse between a man and his own wife is not rape, if she has attained to puberty. Contextually, this has been used in armed conflict to perpetrate sham marriages between the girl IDPs and their abusers, as majority of the armed conflicts occur in Northern Nigeria.³

¹ The Criminal Code defines rape as when any person has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, with forcefully or fraudulently obtained among others. Section 6 to the Criminal Code defines carnal knowledge as complete upon penetration.

² Section 281(1) of the Penal Code provides that: "A man is said to commit rape who... has sexual intercourse with a woman in any of the following circumstances - (a) against her will; (b) without her consent; (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt; (d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married; (e) with or without her consent, when she is under fourteen years of age or of unsound mind." The adoption of Shari'a Criminal laws across the various northern states further reinforces this position.

³ Other notable legislation in Northern Nigeria include the Shari'a Penal Code Law of Zamfara state and Kaduna State Penal Code (Amendment) Law 2020. The Kaduna state law provides stiff penalties upon conviction for the rape of a child, including surgical castration for male convicts and bilateral salpingectomy for female convicts.

- **Child’s Rights Act 2003:** The Child’s Rights Act (CRA) domesticates the Convention on the Rights of the Child 1989 (CRC) and the African Charter on the Rights and Welfare of the Child (ACERWC) 1990. Sections 31 and 32 of the CRA generally protect children from acts of sexual violence and exploitation. Section 31 criminalizes sex with children, with life imprisonment upon conviction while Section 32 makes a person who sexually abuses or exploits children in a manner not already contained in the Act, liable on conviction to imprisonment for a term of fourteen years.
- **Violence against Persons (Prohibition) Act 2015:** The Act criminalizes several acts, which are harmful and discriminatory against women, and broadens the narrow definition of rape as contained in Criminal and Penal codes.⁴ While the Act is the most commendable legislation on SGBV in Nigeria because of its broad definitions of SGBV acts, it has no specific provisions on SGBV against IDP women and girls.⁵

Although these legislations provide important protection, they are not applicable in most northern states where the Boko Haram crisis is prevalent. This is because states in this region have not incorporated these national legislations into their sub-national legislations for these laws to take effect.⁶ Hence, implementation, particularly with respect to addressing SGBV against internally displaced women and girls remains to be seen.

3 Institutional interventions

There are several institutions with mandates that are relevant to addressing SGBV in Nigeria. This part will consider some of the key institutions and their notable interventions.

⁴ Section 1(1) VAPP Act defines rape as when a person intentionally penetrates the anus, vagina, mouth of another person with any part of the body or anything else, without the consent of the other person or with consent obtained by force, threat, intimidation or fraudulent representation.

⁵ As at June 2020, only 14 states have domesticated the VAPP Act since its enactment, five years ago. They are Kaduna, Plateau, FCT, Benue, Oyo, Osun, Ekiti, Ogun, Lagos, Edo, Anambra, Enugu, Ebonyi, and Cross River. The remaining 23 states are yet to domesticate the Act, and 15 of the 23 states are in Northern Nigeria. They are Sokoto, Katsina, Jigawa, Yobe, Borno, Zamfara, Kano, Bauchi, Gombe, Adamawa, Kebbi, Niger, Nassarawa and Taraba.

⁶ Children and related matters fall within the residual legislative list and the Nigerian National Assembly can only pass laws on them, pursuant to its plenary powers to legislate for the Federal Capital Territory, Abuja. Therefore, it is within the legislative preserve of states in Nigeria in accordance with Sections 12(2) and (3) of the 1999 Constitution. Consequently, domestic legislation on matters such as children (and other matters not on the exclusive legislative list) requires the consent of the majority of Houses of Assembly of the states of the Nigerian Federation.

- The Federal Ministry of Women’s Affairs and Social Development is the lead department, charged with promoting the general welfare of women and children in Nigeria. The Ministry has no policy directed specifically at SGBV against women and girls IDPs. It has developed the National Strategic Action Plan 2016-2021 to End Child Marriage and the draft national gender policy, pending validation.⁷
- The Office of the National Security Adviser coordinates the work related to countering terrorism and violent extremism. The Office’s efforts have culminated in the publication of the revised version of the National Counter Terrorism Strategy (NACTEST) in 2016 and the Policy Framework and National Action Plan for Preventing and Countering Violent Extremism (PCVE) in 2017.
- The National Emergency Management Agency (NEMA) coordinates humanitarian relief interventions and the rehabilitation of vulnerable groups affected by emergencies. NEMA also works to ensure accurate, uniform and acceptable IDP data collection, including statistics on SGBV, for the Displacement Tracking Matrix, in collaboration with the International Organization for Migration.
- The National Human Rights Commission (NHRC) protects and promotes human rights of IDPs with both national, international agencies and Civil Society Organizations. The NHRC and the Nigerian Police Force (NPF) have set modalities in place to strengthen their collaboration in dealing with SGBV against IDPs in a professional and efficient manner. The NHRC also works to protect and promote the human rights of IDPs with both national, international agencies and Civil Society Organizations. The NHRC also collaborates with the United Nations High Commissioner for Refugees (UNHCR) to implement an IDP protection monitoring Project in Adamawa, Borno and Yobe states.⁸
- The National Commission for Refugees Migrants and Internally Displaced Persons has been working to develop measures against acts of rape, assault, violence attack on

⁷The policy has an implementation framework, which has targets of establishing one GBV Shelter in each of the six geo-political zones of the country, development of guidelines on SGBV, training of health care providers on use of guidelines, and establishment of one SGBV recovery Centre at the National hospital. Apart from developing gender policies and plans, the Ministry also develops gender assessments and makes recommendations based on the assessment.

⁸ This project commenced in 2015 started with nine states of the North East, North Central Nigeria and the Federal Capital Territory, and later scaled down to six and currently to the three states mentioned above.

IDPs arising from their displacement, and other discriminatory acts taken against IDPs because of their displacement. The Commission collaborates with the UNHCR to carry out door-to-door sensitization on SGBV, documents cases, and provide individual case-management services, including the referral of identified female survivors of rape and early or forced marriages to a safe space for care.

4 Conclusion and Recommendations

Responding to SGBV against IDPs requires strong policy and legal actions but more than that, stronger and harmonized implementation. There are too many parallel programs and strategic frameworks, which do not necessarily spell out how to achieve harmonization of SGBV intervention frameworks. The resources are definitely few but the available ones are not maximized through clear collaborative efforts between government and non-governmental stakeholders. This brief recommends the following for Nigeria:

- In the light of lacuna in the legal and policy framework highlighted above, it is necessary for the National Assembly to domesticate the regional framework on internal displacement. In addition, the erring State Houses of Assembly should domesticate the CRA and VAPP Act.
- There is also need for the creation of safe spaces for reporting and for the management of SGBV. A written and actionable SGBV treatment protocol, rape treatment kits and post-exposure prophylaxis that are currently lacking in many IDP camps should be made available.
- Pursuant to the existing institutional framework, there is need for collaboration among the various stakeholders, to build technical competence by promoting establishment of a pool of trainers particularly among security actors on SGBV for sustainability. This will also improve identification and inter-sectoral referral of survivors.
- Finally, to stimulate more convictions, the silence culture needs to be broken. Consequently, the relevant stakeholders should embark on enlightenment campaigns in IDP communities, which should encourage SGBV victims to seek care and inform about available SGBV survivor services.

References

Child's Rights Act 2003

Criminal Code Act 1990

Penal Code Act 1990

Violence against Persons (Prohibition) Act 2015

About the Author

Cynthia Adaugo MBAJUNWA is an affiliate of the Global Engagement Network on Internal Displacement in Africa. She works as a Lawyer and Consultant with Andersen Tax in Lagos, Nigeria.

* Cite as: Cynthia Adaugo Mbajunwa *Protecting internally displaced women and girls from sexual gender based violence in Nigeria* GENIDA Policy Brief IV (April 2020).