

Policy Brief

The realities of urban slum dwellers in the wake of COVID-19: a case study on forced evictions in Lagos, Nigeria

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Summary

Covid-19 has heightened vulnerabilities for slum dwellers in cities across the global south. In African metropolises such as Lagos, Nigeria – slum dwellers represent part of the vulnerable groups bearing the brunt of the current health crisis. More specifically, the pandemic has brought worsened realities for displaced urban slum populations who have historically been victims of forced evictions, carried out by the city government to meet overly ambitious development agendas. Undoubtedly, forced evictions (inclusive of those carried out before & during the pandemic) have left displaced urban slum dwellers homeless and in inhumane living conditions. These increasing realities have made them more susceptible to risks associated with the virus. In unprecedented times such as this, it is therefore crucial, more so than ever before, that the existing legal framework (though fragmented) should be fully utilized, to afford Urban IDPs, legal protections they so desperately need. In advancing these protections, democratic institutions such as the Courts play an important role by giving holistic interpretations to basic rights contained

in extant laws such as the Constitution, as well as handing down bold, definitive and enforceable orders. This brief seeks to evaluate the situation of displaced urban slum populations in Lagos, in the era of Covid-19, a critique of the existing legal framework and the government's response to the plights of Urban IDPs. Lastly, it shares how advocacy efforts such as public interest litigation can aid in preserving the rights of Urban IDPs even in this period.

1 Introduction

African cities such as Lagos are evolving and are fast becoming centres for opportunities. Evidently, this has led to trends in migration. Lagos serves as a hub and an attraction for migrants coming in from different parts of the continent, primarily West Africa. In the same vein, the city is currently witnessing massive increase in rural-urban migration. Migrants troop into the city for variety of reasons, chiefly economic compulsions, upward mobility and the quest for better lives. However, the high population density (Wallace and Alake 2019)¹, with a relatively small land mass has burdened the city with enormous urban challenges. The biggest worry has always been affordable housing. Lagos has a formal housing deficit that is largely unaffordable & unfavorable to the low-income populace (Amnesty International 2017)² which makes up at least 70% of the overall population. Based on this, there is an existing correlation between the unequal access to formal housing in these urban areas and the emergence of slums and informal settlements spread over the city. Slums, informal settlements in cities such as Lagos are manifestly byproducts of ignored inequalities and a dysfunctional urban governance system that disregards the needs of the urban poor.

With increased urbanization, city administrators in Lagos have gotten obsessive with the processes of urban development. Lagos enthuses big dreams in its leaders and has a developmental agenda that aspires to be one of Africa's model megacities by year 2025 (Lagos State Government 2013). Though it appears creditable, it aims to achieve this through poverty eradication and sustainable economic growth through infrastructural renewal and development (Lagos State Government 2013). Urban development has brought trends in urban gentrification giving room for forced evictions of the urban poor, processes involving exclusionary displacement, where the low-income populace are denied access to places they might have lived previously (Lawanson and Omoegun 2018).

¹At the moment, the Lagos State Bureau of Statistics estimates the population for 26 million.

²The City's Bureau of Statistics also estimates that 66.9% of the city dwellers lived below the poverty line of US\$1 a day.

These urban programs have engendered development-induced displacement leaving lots of previous slum dwellers as targets through forced evictions employed by the city government. To put it clearer, Lagos has a historical pattern of forcefully evicting slum dwellers without prior consultation, adequate compensation and resettlement. Over the last decade, government has evicted informal settlements in places like Badia-East (2013), Otodo-Gbame (2016) and Tarkwa-Bay (2020) shortly before lockdown in January. Government has always raised environmental and security concerns to justify evictions, but it is argued that forced evictions are all in breach of basic human rights provisions guaranteed under a plethora of legal instruments.

2 COVID-19 and exacerbated vulnerabilities for displaced urban slum populations

Covid-19 has emerged as a global health crisis, one that has heightened the vulnerabilities of slum dwellers and their communities. More importantly, it has brought anxieties for displaced urban slum populations affected by previous evictions, by making them susceptible to the risks associated with the pandemic. It has also brought to the fore, pre-existing service gaps in development, access to water, sanitation and hygiene that have been non-existent in these communities. It should be highlighted that their susceptibility to the health crisis isn't coincidental. It is a logical effect of the non-inclusive cities that have been built over the years. While displaced urban slum populations have been rendered homeless in the middle of the pandemic, it is necessary to distinguish the current situation from previous lingering challenges they have often times been faced with. The medical protocols and preventive methods laid down by the World Health Organization is evidently unsuited to meet the realities for slum communities and their displaced populations. Social distancing cannot be practicable for inhabitants of slum communities. Isolating with a roof over your head is luxury and cannot be accessible for displaced persons because of homelessness. Access to health care, water & sanitation to encourage hygienic practices remains a huge challenge.

3 A committed legal framework matters for the protection of urban IDPs

Advancing the rights and addressing the concerns of Urban IDPs becomes more viable with the existence of a legal framework and the enforcement of same. In mid of this health crisis, obligations and rights spelt out in these available legal instruments must be fully utilized to meet the growing realities of Urban IDPs.

Normative frameworks set out in the United Nations Guiding Principles on Internal Displacement (Guiding Principles), the African Union Convention for the Protection and Assistance of IDPs in Africa (Kampala Convention) places a primary responsibility on the national governments of each state including Nigeria to cater for the needs of its displaced populations. It further calls on them to commit in ensuring protection for citizens against displacement whilst recognizing other basic rights to shelter, dignity and safety. The protection of these rights is very crucial in the wake of this health crisis. But at the moment, Nigeria has a fragmented legal framework and protection for its displaced population. This gaps in legal protection has hampered the realization of rights accruable to Urban IDPs. In 2003, the Nigerian government had set up a committee to come up with a draft National Policy for IDPs, which was aimed at guiding the different branches of government, donors and humanitarian agencies in preventing displacement and in providing protection and assistance to those displaced (Bukar 2012). The draft National Policy which is an offshoot of the 1998 UN Guiding Principles and the 2009 Kampala Convention is yet to be officially adopted and as such, has no legal force (Bukar 2012).

Nigeria has signed and ratified the Kampala Convention, a significant legal instrument which guarantees the rights of displaced persons in Africa, but it has been rendered bootless because of non-domestication in accordance with Section 12 of the 1999 Constitution.³ Separately, the National Commission for Refugees, Migrants and Internally Displaced Persons (IDPs) bill of 2019 which seeks to repeal existing legal framework and extend the mandate of the National Commission to take into account the situation of IDPs in the Country is currently going through legislative process (Policy and Legal Advocacy Centre 2017). The bill has only been passed by the lower house of the National assembly. There is a laidback attitude from the government and it goes without saying, that without a coordinated legal framework, displaced populations will continue to be vulnerable and inadequately protected.

4 Assessing the rights of urban IDPs under the Nigerian Constitution

Since there is no holistic legal regime in place, designed to meet the plights of IDPs inclusive of those residents in urban centers, the Constitution remains the most effective legal instrument that can afford adequate protection for displaced populations. Displaced persons are bona-fide citizens of the country, more importantly, they are residents within

³ Section 12 of the Nigerian Constitution stipulates that all international treaties must be enacted into law by the National Assembly before having any legal force.

state borders which makes the government bear primary responsibility for their protection. It is argued that the civil and political rights contained and espoused under the chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria automatically extends to them. In other words, they are entitled to claim these fundamental human rights⁴ which consists of right to life, right to human dignity amongst other rights.

The Nigerian Constitution is the existing national law where IDPs can legitimately proclaim their rights to sufficient and decent protection against any threat to their lives (Magaji, Ahmad and Apandi 2018). Consequently, the Constitution can serve as the National legal framework for the protection of IDPs (Magaji, Ahmad and Apandi 2018). Furthermore, it is important to highlight that in spite of these rights contained in the Nigerian Constitution, internally displaced persons are invariably and tactically denied access to these rights available to the general citizens (Magaji, Ahmad and Apandi 2018). Against this background, it is necessary to reiterate the role of democratic institutions such as the Courts in preserving the rights of Urban IDPs. IDPs can legitimately approach the Courts to seek redress in the event where any of their rights have been or is likely to be contravened (Constitution of the Federal Republic of Nigeria 1999, sec 46(1)).

The Courts are now saddled with the responsibility of determining these claims and to make orders it may consider appropriate, for the purpose of securing rights to which a person may be entitled to (Constitution of the Federal Republic of Nigeria 1999, sec 46(2)).

5 Considering strategic public interest litigation as an advocacy tool to advance to the rights of urban IDPs

Whilst recognising the role the Courts in actualising the rights of Urban IDPs, strategic public interest litigation can serve as a creative and innovative advocacy tool, aimed at prompting government's accountability towards its displaced populations. Public interest litigation seeks to inspire change and have a broad impact on the society beyond the specific interests of the parties involved (Rekosh, Buchko and Terzieva 2001, 81-82). Within the context of advancing rights of Urban IDPs, this advocacy process entails approaching the Courts with strong legal arguments and requesting for a broad, definitive and expansive interpretation of the fundamental human rights available to IDPs as enshrined in the Constitution.

⁴ These fundamental human rights are contained under Sections 33 to 46 of the Nigerian Constitution. The State is lawfully, the primary defender of all these rights and are saddled with a sacred responsibility to preserve same.

In 2016, over 30,000 residents of a waterside slum community called *Otodo Gbame* were forcefully evicted and their communities demolished by the Lagos state government to create room for a luxurious estate. Displaced residents together with organised leaderships at the Nigerian Slum/Informal Settlement Federation approached the High Court of Lagos State to seek enforcement of their fundamental human rights as enshrined in the Constitution and the African Charter on Human and People's Rights. In determining the suit (*Agemo and Others v Attorney General of Lagos State and Others* 2017), the Court held that the Applicants were citizens of the state who were constitutionally protected from cruel and inhuman/degrading treatment by virtue of Section 34(1a) of the Constitution. The Courts declared that forced evictions (at short notice and without an immediate alternative accommodation) were un-dignifying and unconstitutional. It further urged the government to proceed with immediate consultation & mediation with a view of addressing the demands of displaced residents. This public interest litigation brought a spotlight on the government, a sense of hope for the displaced residents whilst giving room for a broader debate on the impact of forced evictions for slum dwellers. This advocacy mechanism, though laudable, has always been flawed with the non-enforcement of Court orders. The city government has a historical record of disregarding Court orders. However, it is maintained that advocacy attempts at the Court must continue to give life to the rights available in the constitution for displaced populations. Non-enforcement of Court rulings must also be debated before the same Courts to ensure that city governments are held accountable. This argument is premised on fundamental rights & the kingly position of the Nigerian Constitution, as a grundnorm which commands loyalty and total obeisance from all arms of the government including the executive (Constitution of the Federal Republic of Nigeria 1999, sec 1(1)).

6 Conclusion and Recommendations

The urgency of protection for Urban IDPs in the wake of this health crisis cannot be over-emphasised. The health situation has afforded an opportunity to reflect and deliberate on creative ways to ensure protection for Urban IDPs. Protection can be realised through interventions such as public interest litigation. This advocacy effort should be driven on the understanding that the Courts are readily available in democratic spaces to determine obligations of the government, and the rights enforceable under the constitution for urban IDPs even in the heat of the health crisis. Moreover, this brief recommends the following for Nigeria:

- Prioritise the growing needs of its displaced populations by urgently domesticating the Kampala Convention.
- Give legal force and status to its draft National Policy on IDPs, which will in turn empower the relevant institutions like the National Commission for Refugees, Migrants and IDPs to carry their responsibilities for displaced persons.
- In consideration of the broader implications for Urban IDPs, judicial activism should be welcomed. The Courts must be willing to live up to its expectations as the last resort for the ordinary man. Moreover, the rights of marginalized groups, such as IDPs, must be preserved.
- Specifically, to the Lagos state government, the brief recommends the impact assessments of developmental projects that can potentially cause mass evictions and invariably, internal displacement of persons within the city.
- Moving forward, urban renewal projects should be in line with the spirit of recent court judgments imposing obligations on the government towards the protection of IDPs rights to life, dignity, adequate housing and livelihoods.

References

Agemo and Others v The Attorney General of Lagos State and Others (2017)

Amnesty International (2017). The Human Cost of a Mega-city: Forced Evictions of the Urban poor in Lagos, Nigeria. Link accessible at <https://www.amnesty.org/en/documents/afr44/7389/2017/en/>

Bagoni A Bukar 'Nigeria needs to take responsibility for its IDPs' (2012) 40 *Forced Migration Review* 44

Lagos State Government (2013). Lagos State Development Plan 2012-2025, Ministry of Economic Planning & Development.

Paul Wallace & Tope Alake (2019). Lagos Building Luxury Houses in the face of Affordable Housing Crisis. Link accessible at <https://www.bloomberg.com/news/articles/2019-12-20/lagos-building-luxury-homes-in-face-of-affordable-housing-crisis>

Policy and Legal Advocacy Centre 'Bill Establishing National Commission for Internally Displaced Persons, Refugees and Migrants Bill passes second reading in Senate'. Link accessible at <https://placng.org/i/bill-establishing-national-commission-for-internally-displaced-persons-refugees-and-migrants-bill-passes-second-reading-in-senate/>

Edwin Rekosh, Kyra A Buchko and Vessela Terzieva (eds) (2001). *Pursuing the Public Interest, A Handbook for Legal Professionals and Activists*. New York, Columbia Law School

Tasiu Magaji, Mohammed Z bin Ahmad and Laila SA Apandi (2018). Assessing the legal frameworks for the protection of internally displaced persons (IDPs) in the North-Eastern Nigeria' (2018) *Asian Research Journal of Arts and Social Sciences* 1-10

Taibat Lawanson & Ademola Omoegun (2018). In transiting to Africa's model Mega City...Where is Lagos for the everyday people? Link accessible at <https://ng.boell.org/en/2018/03/05/transiting-africa%E2%80%99s-model-megacity-where-lagos-everyday-people>

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