

ACCESS TO JUSTICE BEST PRACTICES IN NORTH EAST NIGERIA

Introduction

The Protection Sector Working Group (PSWG) recommended that a set of best practices on access to justice be developed to guide protection actors intervening in the North East.¹ The following guidelines were thereafter drafted in 2018 by a Protection Sector Working Group drafting group² to lay out recommendations on areas of interventions on access to justice, namely on: detention; gender-based violence; domestic disputes; documentation; housing, land and property; and trafficking and forced labour. The best practices highlight key considerations to ensure that operations are guided by lessons learnt by actors working in access to justice in the North East and adhere to the humanitarian principles.

Detention

Problem Statement

In North East Nigeria, there is rampant prison and police cell congestion. This situation is compounded by the military's detention of individuals suspected of association with Non-State Armed Groups, as well as the presence of de-radicalisation centres run by various security agencies. Thousands of men, boys, women and girls are detained, the vast majority of them without official charges having been brought against them. Given the existing large backlog, it is often not possible to bring cases to trial expeditiously. This challenge is further exacerbated by a lack of financial, logistical and human resources.

National Actors Involved

The **Nigerian Police**, the **Military** and the **Nigerian Prison Services (NPS)** are all detaining or interning people in police stations, military barracks, prisons and screening and rehabilitation centres. Some of the detained or interned individuals have been tried and found guilty, whereas others are either still awaiting charges or trial. The military has indicated that it is detaining these individuals whilst the Federal Ministry of Justice prepares to prosecute them in a court of law. Such prosecutions have started to take place. The **Legal Aid Council (LACoN)** of Nigeria is the national body mandated with the duty to provide free legal representation, assistance and advice, together with alternative dispute resolution services for indigent Nigerians.. LACoN has also powers to conduct inspection of prisons, police cells and other places to assess conditions; liaise with Ministries of Justices for prosecution without delay; and to make application for judicial review of any person held without trial for a period exceeding the maximum provided by the Constitution.

- However, currently the Council is short staffed in North East Nigeria and thus is incapable of providing legal assistance for all.
- Furthermore, in Borno, the **Nigerian Bar Association** has been carrying out weekly visits to police stations and prisons, in order to provide IDPs who need it with legal assistance.
- The **International Federation of Women Lawyers (FIDA)** is also present in the North East and provides legal services, notably to women and children in need.

Protection Considerations for Detention

- Detention of children deprives them of their liberty and has a long-lasting effect on their physical, mental and emotional health and development. The Convention on the Rights of the Child stipulates that detention of a child be used only as a measure of last resort and for the shortest appropriate period of time.
- In the North East, women and children are generally not being detained separately from men. The detention of children, which should be avoided as much as possible, as well of that of women alongside men exposes them to numerous protection risks and human rights violations. In Maiduguri, no separate prisons/detention centres exist for children as the two that existed before the conflict have been destroyed. Advocacy for the separate detention of men, women, children and families is needed. Additionally, cases of persons with specific needs should be prioritised.
- Strengthening LACoN's presence in the North East is desirable as it is the organisation officially mandated for pro bono legal services. LACoN presents a sustainable solution that can outlive the presence of humanitarian actors. The Council works with private lawyers who take cases on a pro bono basis.

¹ National Protection Sector Working Group Meeting Minutes, November 2017.

² The drafting group was led by UNHCR and comprised of UNFPA, NRC and NAPTIP, UNICEF, NEMA. INGO Forum further participated in the planning of the document.

- For petty criminal cases, Alternative Dispute Resolution (ADR) is an option to be considered. Despite not yet taking place at any significant scale, the State Ministry of Justice has already indicated willingness to settle petty criminal cases through informal justice mechanisms, such as ADR. This avenue could be used in order to decongest certain detention facilities. Additionally, ADR could be useful in areas where there is no functioning court system and the police thus face the choice of either detaining individuals indefinitely or taking the role of the judiciary upon themselves. More serious and sensitive cases, however, should be handled by the formal court system as much as possible, with all parties being provided with adequate legal representation. In situations where ADR is used, proper training of those undertaking it is required, especially for criminal cases, potentially involving (the release from) detention as these are serious consequences. The use of ADR should be voluntary and should not compromise the universal human right to a fair hearing.
- The prisons and police stations in Maiduguri are accessible to lawyers and humanitarian actors most of the time. However, in certain sensitive situations, access has been denied to humanitarian actors, with the authority in question requesting for authorisation from their headquarters in Abuja. Additionally, the military has only granted access on a case-by-case basis to its detention facilities. Further advocacy is needed at both the state and national levels in order to ensure that humanitarian actors have access to detention facilities at all times. Actors should strive to obtain access rights to detention facilities for monitoring so as to ensure compliance with international detention standards.
- The military, police and prisons services have indicated being aware of the problems with regards to detention and congestion but that they are not in a position, neither legally nor financially, to improve on this. In cases where the detaining authorities are waiting for action from the executive or the judiciary in order to process cases (i.e. for charges to be brought), actors can intervene directly with the authorities in question in order for cases to be processed or dismissed. This can be done by intervening with lawyers, but also by making sure charges are brought by the proper authorities. This might involve interacting with the Federal Ministry of Justice, who is charged with the prosecution of terrorism cases and which has already demonstrated that it is willing to dismiss cases lacking sufficient evidence to warrant prosecution.
- Training of security personnel involved in detaining people is needed so as to ensure that they are aware of rights and obligations.
- Ensure interaction with military and other security officials operating screening and rehabilitation centres, such as under Operation Safe Corridor, in order to ensure that these do not become internment sites and that the rights of detainees are respected.
- Access to family members and information is important for all parties involved. Transparent information systems and access mechanisms for family members should be set up, especially for military detention centres. Sensitisation of all parties is also required.

Do No Harm Principle:

- Any actors/lawyer assisting detained individuals should make sure that the PoC remains central to any intervention by informing him/her (in a language he/she understands) of their constitutional rights, the procedure and the options/steps to be taken. Any and all legal actions that are taken on behalf of the detainee must be done with informed consent.
- During monitoring and identification activities, actors should make sure that they do not endanger PoCs by, for example, discussing prison conditions in front of guards, which could lead to reprisals.
- The detention of children should be avoided and the best interest of children should be a primary consideration.

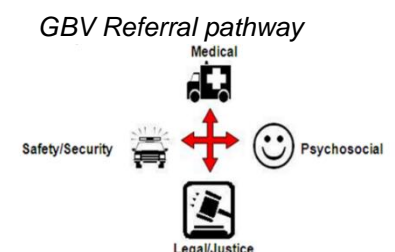
Survivors of Gender Based Violence (GBV)

Problem Statement

It is important to ensure access to justice does not only exist on paper but is also widely available. Access to justice for survivors of gender based violence is one of the multi-sectoral services available through GBV referral pathways and case management in situations where survivors wish to pursue formal legal action. In providing legal assistance to survivors of GBV, principles of GBV will need to be put into consideration i.e. *respect, confidentiality, safety and security of the survivor; and non-discrimination.*

Survivors of GBV often decline to proceed with legal assistance due to:

- Insufficient knowledge on the availability of services/options for legal assistance.
- The cultural pressure in communities where female survivors are pressured to use informal/traditional justice systems that often fail to promote equal treatment and dignity for women and girls, increasing risks of sexual assault for survivors.
- Fear that court proceedings might impact the relationship within the family in cases where the perpetrator is a family member. Putting the perpetrator in jail may affect income generation and



create animosity between the female survivor and her family. GBV survivors may further face deep stigmatization from the community.

- Insufficient evidence to support court proceedings i.e. some survivors may not even know their perpetrators, may not have received documented treatment in situations of clinical management for wounds and injuries inflicted upon them.

National Actors Involved

In the North East, the Nigerian Bar Association and the Federation of Women Lawyers in Nigeria, in partnership with UNHCR and government justice systems, work together to provide legal assistance to survivors who wish to pursue legal action.

Working with Informal Justice Systems

- Map out and identify existing traditional justice mechanisms in camps and host communities, train them on the country's systems concerning gender-based violence, child protection and gender mainstreaming, legal and legislative framework, and work with them as partners and agents of change. Involving them in community sensitization is essential as they are considered to be respected opinion leaders in their communities. Awareness raising should be done with survivors to ensure that they are cognisant of their rights.
- Traditional justice mechanisms as friends of the judicial system in Nigeria will support identification and apprehension of perpetrators, assuring the safety and security for the survivors and their families and post justice follow-ups.
- Some survivors start with the traditional justice mechanisms as a point of first contact to report GBV incidences; therefore, including them in the referral pathways assures the survivor increased chances for legal remedy in the referral pathway.
- Traditional justice mechanisms are an opportunity to establish and maintain IDP and host community networks and relationships, including arbitration of conflicts. For GBV this may include negotiating safe passage to fuel sources for women and girls.
- These mechanisms can be instrumental in enforcing legislative decisions regarding property and inheritance for affected women and girls.
- Including women in community positions through which they could make sure the plight of women survivors is heard and taken into account is important.

Protection Considerations for Survivors of GBV

- Awareness raising of community stakeholders on Nigerian laws, such as the Violence Against Persons Prohibition Act/the Penal Code, and offences that attract criminal sentence, to act as a deterrent for persons in communities intending to commit acts of crime e.g. rape. Community leaders/traditional elders need to be trained on state laws as well as on GBV to support principles of do no harm.
- Law enforcement officers (Police) must be trained on working with survivors of gender-based violence, Documentation and referral pathways to support hearings in courts of law, as well as psychosocial and health needs of survivors. There is also a need to provide law enforcement stations with necessary legal instruments such as police forms, Nigerian State/Federal Government Laws/Constitution to increase awareness even amongst the Police.
- Promote gender sensitive laws and policies, safety and protection of survivors, witnesses; including the enrolment and deployment of female officers to support investigations involving women and girls.
- Ensure survivor friendly services at all levels of legal assistance in terms of specialized personnel and facilities for handling sexual offences i.e. investigation, perpetrator identification, and prosecution sessions may need to put into account psychosocial and trauma effects to survivors of Gender based violence.
- Ensure survivor friendly services, where possible, are concentrated together -- "one window for all services." Practical, rather than "paper" solutions should be pursued, particularly in remote areas that will operate differently from metropolitan centres.
- Increase availability of justice mechanisms e.g. pro-bono legal services for survivors of GBV could be up-scaled to include court circuits to local government areas to clear case backlogs, reduce logistical challenges and support strengthening of local government legal branches.

Do No Harm Principle:

- As stated above, emphasis should be placed on confidentiality, safety and security of survivors, as well as non-discrimination at all levels of response.
- Coordinated response should be in place to avoid re-victimizing survivors by having them re-tell their stories.
- Survivor-centred response should respect the wishes, rights, choices and dignity of individuals.
- To avoid alienating traditional systems and exposing survivors to additional issues, efforts should be made to engage the informal justice system.

Domestic Disputes

Problem Statement

Domestic disputes include any general quarrels that could either lead to physical or emotional violence inflicted on a party or parties within a home, ranging from minor disagreements to verbal abuse and physical assault. Domestic issues can often be exacerbated by the breakdown of protective social norms in situations of humanitarian emergency. Example of such domestic disputes include: financial disputes; internal theft; extramarital affairs; parenting issues; extended family conflicts and violence; HLP (which could have components of domestic rivalry); family inheritance; etc. Domestic violence is a type of gender-based violence and its survivors are often women and girls. In a patriarchal society like in North East Nigeria, power dynamics and socially ascribed gender roles contribute to under reporting of issues. Even so, assessments conducted in the North East have shown that domestic violence, specifically intimate partner violence, is a prevalent issue affecting women and girls. Domestic violence is often viewed as a private matter, which makes it difficult for victims to seek and receive support from law enforcement agents and other parties.

On a wide spectrum, alternative dispute resolution (ADR) in Borno State has different approaches with the following three options available for dispute resolution:

1. **Family and Community** with no designated role but generally trusted for dispute resolution. This includes religious figures.
2. **Customary Leaders** with governance functions who also receive complaints and engage in dispute resolution and mediation, most notably ward leaders ('Bulamas' or 'Mai Anguwa') and village heads ('Lawans' or 'Mai Jimila'). While the customary sector is acknowledged in elements of statute, its effectiveness emerges from its legitimacy and credibility in communities. There are also women groups who represent and advocate for women within the community.
3. **The Statutory Legal sector**, comprising the police and courts, where federal and state law engage with identification, investigation and resolution of disputes or complaints, as well as any state-provided service such as alternative dispute resolution (ADR) or legal aid services. There are also other actors such as women's organisations or groups that work on family related issues but cannot properly be considered to offer dispute resolution themselves. These may be referred to as supportive actors. Nigeria's 2015 Violence Against Persons (Prohibition) Act outlines legislative action to address domestic violence issues. The applicability of the VAPP Act outside the FCT is a matter of legal debate, whether it needs to be passed in all the 36 states of the Federation is unclear.

The Family Centre: Family is considered the building block of society in North East Nigeria. Family hierarchy serves both to resolve disputes within the family and to provide a representative of the family to mediate in disputes with those outside the family. This is the responsibility of the head of the household, typically an older male. For disputes between family members, such as inheritance or marital disagreements, all efforts will be made to resolve it without discussing family business in the wider community. Familial dispute resolution tends to be drawn from social structures around people with disputes and can include religious leaders whose social position gives them authority to resolve disputes. The people involved are not generally designated by anyone other than the complainant or disputant as having powers to adjudicate over a matter. There is not a clear and discoverable framework by which decisions are reached, although decisions are considered to be influenced by – or based upon – religious frameworks and principles. The effects or consequences of failing to adhere to an outcome from familial dispute resolution are limited to social ones. The uncertainty of this method is indeed high as there are no precedents or templates to follow in the process of resolution. It can be influenced by religious beliefs, as religious leaders whom the families hold in esteem would adjudicate over the disputes. Religious leaders operate in a complementary manner to the customary leaders. Muslim and Christian religious leaders tend to be involved in disputes between those who share the same faith in all contexts: customary and statutory processes through the provision of their opinion.

Customary Structures: A strong and respected build of dispute resolution structures exists, rooted in well-established customs that holds a great deal of legitimacy for communities. These structures are recognized as having some powers, which originate from their social positioning or leadership in the community. They constitute a hierarchy that begins with the local community leader at ward level and continues to the customary ruling emir at the state level. All levels of this structure are engaged in consensual dispute resolution with a tradition of appeal from a lower to a higher level as the grievances continue to escalate till satisfaction. The history of the North East of Nigeria is one of Islamic kingdoms dating back to the ninth century. Maiduguri, Borno, is the capital of the Kanuri kingdom, founded in the early twentieth century and ruled by the Shehu. While the influence of the emirate has waned (particularly when Yobe state was created from Borno in 1991), and Hausa has become the dominant language in Maiduguri, the traditional leaders maintain Kanuri titles and most are of Kanuri origin.

Titles of Traditional Leaders

Title	Traditional name
Ward Head	Bulama
Village Head	Lawan
District Head	Hakimi
Emir	Mai
Supreme Emir	Shehu

The complainant is faced with two **challenges** trying to settle disputes through this method:

1. **Access** is the first challenge for dispute resolution, particularly for those, such as women, who are traditionally excluded from particular social roles. In north-east Nigeria, the role of a woman is lacking in decision-making structures. In every case the Bulama, who is male, is available to resolve disputes. These customary leaders are

usually physically accessible in the community and open to being approached about disputes. The Bulama and Lawan do not demand fees for their services and are thus affordable, but in some cases it is reported that one can give a ‘token’ to the Bulama for his work of adjudication.

2. The second challenge is the issue of a **different customary structure** in the disposition of issues and the delivery of justice, novel to the disputant who might be an IDP in a hosting community.

Women Groups: In some communities, there are women groups that mediate disputes and are likely to provide a service that does not articulate patriarchy in the same way as the other informal and customary structures. These groups are perceived as more compassionate and female complainants easily turn to them for dispute resolution. Women groups are usually made up of older, “wiser” (based on either age or experience) and well respected feminine figures in the communities who are seen as trustworthy and reliable.

National Actors Involved

Generally, dispute resolution in Nigeria is regulated by law. While there are traditional means of alternative dispute resolution as highlighted above, there is also a legal system, in which persons or bodies are mandated by state or federal statute to engage with identification, investigation and resolution of disputes or complaints. These established institutions in the State are as follows:

- **The Legal Aid Council (LAC)** is a government-organization with the mandate to provide services to indigent individuals. The number of indigent individuals has expanded with the volume of IDPs and thus fall in the scope of the LAC. Services by the LAC include dispute resolution to avoid court, establishing of conflict resolution centres, and signposting and referrals to other services. Conflict resolution centres were established in Maiduguri in 2008-9, but their operation was interrupted by the armed conflict. LAC also provides free legal advice and assistance if cases do go to court. The view expressed by the LAC was that, “traditional institutions are a vital part of dispute resolution because they are close to the population”³ which accords with the general perception of dispute resolution operating on a spectrum of choice from community-based responses to disputes to legal challenges before courts.
- **The Nigerian Bar Association (NBA)** is a professional association for lawyers across Nigeria with local chapters in each state. Within the NBA, there is a human rights committee and a law reform committee that offer pro bono services for all IDPs. The NBA in Borno is an implementing partner of UNHCR, working closely together to provide pro-bono legal aid to IDPs cutting across various conflict areas, including family disputes. The NBA has a programme, entitled ‘Legal Protection for IDPs’, under which it provides training to traditional leaders, local government authorities, IDP and camp leaders on fundamental human rights and ADR techniques. These measures can form dispute settlement mechanisms for such recurring family conflicts within a more structured context.
- **The Amicable Settlement Corridor (ASC)** is a service available to parties to a dispute, offered as ‘Multi-Corridor’ system at the Maiduguri High Court. The legal basis for this form of alternative dispute resolution is in the High Court Civil Procedure Rules (2016) and practice directions of State High Courts and is triggered at the pre-trial notice stage of formal proceedings. The ASC provides three types of dispute resolution: mediation (mostly used in Christian matrimonial cases, common law and business matters); arbitration (hardly used in Borno state, but usually used for commercial disputes); and *Sulhu* (for matrimonial, inheritance, land disputes, and business). *Sulhu* is most commonly used in Borno and applies Islamic law. The ASC is staffed by experts in dispute resolution/mediation and Islamic law experts. *Sulhu* comes from the Arabic term for reconciliation and this is borne out in the process. It is used in many cases, especially in inheritance, when a woman is denied the right to inheritance, and matrimonial cases (mostly complaints about custody and maintenance). ASC services are free and sessions are held in private with only relatives of the parties present if the parties wish so. This is part of the reason why some people prefer the ASC to the courts, which have public hearings. As the outcomes reached through the ASC are through consensus, they are usually adhered to by parties. The outcome document is taken to the Area/Sharia Court or the High Court to crystallize the agreement into a Consent Judgment, which then becomes enforceable in the manner analogous to a court judgement issued by a judge. The ASC in Borno receives at least 30 cases from the whole of Borno every month. Approximately two thirds of these were resolved amicably, showing a decent rate of success for the ASC.

Protection Considerations for Domestic Disputes

- Better synchronized effort needed between statutory and customary dispute resolution structures. Generally, indigents are more likely to seek resolution of family disputes from their community leaders, other family or close relations or even their neighbours. It is important that in special cases where dispute becomes violent and abusive, statutory mechanisms should apply.
- Regularization of the decisions of traditional or customary leaders needed, such that there would be a continuity of enforcement and a route for challenge.

³ Assessment of Dispute Resolution Structures and HLP Issues in Borno and Adamawa States, North-east Nigeria, March 2018 NRC Report, p.51

- To reduce the bulk of cases that are brought forward regularly, community and customary leaders are recommended to delegate some of these cases to the women group. That way, not only reaching resolution faster, but also empowering these women groups.
- Interventions should build on already existing structures to both address some of their deficiencies and to increase the access and influence of women, by increased training of traditional leaders and customary structures on dispute resolution with emphasis on the importance of confidentiality and gender equality.
- Psychosocial systems should be put in place to provide support especially to children who have borne the brunt of family disputes either through physical abuse or emotional abuse.

Do No Harm Principle:

- Coordinated response should be in place to make sure that survivors access services they need without being re-victimized by having to re-tell their stories.
- The wishes, rights, choices and dignity of survivors should be respected.
- Interventions should recognize the patriarchal nature of the society, take into account existing gender dynamics, and respect existing traditional conflict resolution systems.

Documentation

Problem Statement

Even before the insurgency in North East Nigeria, documentation was an issue, with very few people having access to any official form of identification. The current crisis has further exacerbated this issue, especially for IDPs who were forced to flee and leave behind such belongings (ID cards, birth certificates and other legal documents). Lack of documentation exposes people to multiple risks. Where identity cannot be ascertained, there is always the heightened risk that a person may be identified and detained as an insurgent by the military. This is likely to continue until the detainee can prove he is not associated with Boko Haram and other insurgent groups. Lack of documentation disproportionately impacts negatively women and girls. In place where their movements are restricted and they are unable to go in and out of certain area, they become vulnerable to exploitation when they are not able to use identity cards to prove their legitimacy and secure their freedom of movement. Furthermore, a lack of official documentation, such as an ID card or a Nigerian Identification Number (NIN), can hinder people from accessing certain services) services, such as opening a bank account or obtaining capital and credit. Lack of documentation impacts children attending school and further gives rise to the risk of statelessness.

National Actors Involved

- **National Identity Management Commission (NIMC)** is the government institution mandated with the registration of Nigerians, the provision of the NIN and the printing and distribution of electronic ID cards. Since 2017, UNHCR has partnered with NIMC in order to provide IDPs with ID cards.
- **National Population Commission (NPC)** is the government institution provides birth certificates to Nigerians and has worked with UNHCR and NBA to cover a number of locations in Borno State. Birth certificates are free of charge for all children.
- **LGA administrations** and the **judiciary** (which issues affidavit/declaration to support applicants' claim to the LGA Administrations when necessary) are responsible for providing certificates of indigeneship and statutory declarations of age, respectively. UNHCR and NBA have also been assisting IDPs in obtaining these documents.

Protection Considerations for Documentation

- Before being able to obtain a National ID card, Nigerians need to provide certain preliminary documents to prove their identity and nationality. These documents include either a birth certificate, a certificate of indigeneship or a statutory declarations of age. Depending on the situation, notably age, of the person in question different preliminary documents can be obtained. It is important to weigh the costs and benefits of each document first. For example, birth certificates are a preferred form of documentation for minors as they can be obtained at no cost.
- Communities should be brought along in the process, notably through interactions with leaders (traditional, local and religious) and through awareness raising/sensitisation sessions. In setting up a project, focus group discussions with community members are necessary to ensure that they can input into programming. This is important as LGA authorities are often used as a means to verify someone's identity for officials.
- It is important to make sure that women and girls also have the same access to legal documents as they are often particularly vulnerable. Thus programs or components of programs should target women and girls specifically so as to ensure that they also obtain documentation and that they do not fall between the cracks of gender neutral programs.

Do No Harm Principle:

- Legal documentation should be equally accessible for various IDP groups, including women and girls.
- Despite being an important tool allowing people to access services and guarantee their rights, the provision of ID cards to a certain part of a population group, but not to another part, could serve to limit the latter's rights as an

additional requirement can be created in order to be able to undertake certain actions (such as freedom of movement to/from an IDP camp). Sensitisation of communities and authorities is required to ensure that this does not occur. For instance, provision of ID cards solely to IDPs (rather than to both IDPs and host communities) could be seen as giving IDPs a de facto “IDP status” which should be discouraged. IDPs are Nigerian citizens and should not be treated as secondary ones, or as having an enduring status (as being internally displaced should not be conflated with status as a refugee).

Housing Land and Property (HLP)

Problem Statement

Repeated security incidents and violations of human rights attributed to the insurgency continue to cause population movements inside and outside the country. Families forced to flee their usual places of residence left behind houses, land and other property. Amidst contemplation of return, as a preferred durable solution, concerns have been raised by displaced populations over risks of damage, looting, destruction, illegal sale and secondary occupation of abandoned property in potential areas of return. Related to these concerns is the increase of HLP disputes exacerbated by the disrupted HLP administrative functions, loss of title/ownership documents, inheritance disputes as well as multiple and fraudulent sales.

In areas of displacement, there is currently limited access to homes, land and property, depriving people of physical and socio-economic security including shelter, water, food, and the ability to have a sustainable source of livelihood. Exacerbating these circumstances is the fact that none of the returnees who claim to be owners of houses have documents to prove ownership and are thus left at the mercy of traditional leaders (Bulama and Lawan) to validate ownership. HLP Thematic Areas include: Information sessions; Counselling sessions; Legal Assistance; and Collaborative Dispute Resolution.

The Land Use Act of 1978 vests all urban land within a state in the state governor and all non-urban land in the local governments in which they are found. The Ministry of Land and Survey is responsible for land allocation and management which includes title documentation, the process of verification of title holders to ascertain the authenticity of ownership, as well as registration of new titles and transfer of ownership. The State Governor has the mandate of issuance of the Certificate of Occupancy (CofO), while the Local Government chairman issues out the Customary Right of Occupancy (CRofO). Prior to the registration and documentation at the land registry, the owner of land is required to ensure that transfer is executed through a deed of assignment or a sales agreement, ideally prepared by a lawyer or a register land agent. In the case of land which is not registered with the Ministry of Land, ownership derives authenticity from the traditional or community leaders, who confirm ownership is by way of sale, inheritance or gift in the presence of witnesses.

In Nigeria, vulnerable populations like IDPs, IDP returnees and refugee returnees often fall under this situation. Many did not have title deeds and thus can only lay claims via traditional or community leaders, neighbouring owners of land, and/or persons who might have been using the land prior to displacement.

For IDPs, IDP returnees and refugee returnees who had registered their land and had title documents, there is a need to recover these lost documents. Copies of such documents could be re-issued at the Ministry of land for CofO and at the Local Government Council Land-Department for the CRofO.

National Actors Involved

Ministries, Departments and Agencies with Mandates for HLP Issues: Federal/State Ministry of Lands and Survey; Federal/State Urban Planning and Development Board; Federal/State Ministry of Housing; State Ministry of Rehabilitation, Reconstruction and Resettlement (MRRR); National Boundary Commission; Catholic relief services (CRS)

Search / Registration of HLP Titles: Ministry of Lands and Survey

ADR on Tenancy + Forced Evictions: Rent tribunals; Legal Aid Council; Rights-based associations (FIDA and NBA); National Human Right Commission (NHRC); Borno state ASC; Civil Defence; Public complaint commission; Police; MOJ - Citizens' Rights Department

Inheritance: Courts; Borno State amicable settlement; NHRC; Legal aid council

Secondary Occupation: Police; Ministry of RRR; Ministry of Lands and Survey; Local Government Council; Emirate Council

Squatting: Civil Defence; Police; Courts

Misallocation of Land for Shelter: Ministry of Lands and Survey; Emirate Council

Multiple Sale and Illegal Sale: Ministry of Lands and Survey; Courts; Civil defence; Police

Encroachment / Trespassing: Ministry of Lands and Survey; Courts

Protection Considerations for Housing, Land and Property

- Secondary occupation in instances where returnees settle in houses (renovated or not) that belong to other IDPs will pose a major challenge upon the true owners' return.

- Proof of ownership is particularly difficult for widows and child-headed households who never had their land registered.
- The large numbers of widows who lost their husbands as result of the conflict will require claim of title assistance to access their inheritance.
- Boundary disputes will continue to arise relating to encroachment.
- Protection of women claiming their HLP rights will be needed to address cultural and religious practices which discourage women from reporting the infringement of their rights.
- There is a continuing need for reconstruction of destroyed houses and for access in many affected areas to basic infrastructures and facilities.
- With the breakdown of the formal justice system in many communities, the need for ADR becomes imperative, taking into account the many HLP disputes that may arise. There is an urgent need to strengthen existing ADR mechanisms, as well as establish conflict resolution centres where applicable. The use of ADR for the North East may be more beneficial for IDPs and IDP/refugee returnees as the majority lack the technical know-how and funding to access the formal justice system. ADR sustains relationships, builds trust and contributes to the peace building process.
- Approach/interventions should be relevant to the conflict and governance setting. The ADR process must be seen as legitimate by the parties to the conflict.

Do No Harm Principle:

- Interventions should work towards strengthening the capacity of Traditional institutions for HLP governance and ensuring their awareness on international standards for HLP (including on gender equality issues).
- Uneven power dynamics must be taken into account to ensure that protection of vulnerable populations' rights, chiefly women and children, is mainstreamed into HLP/Access to justice.
- Ensure that solutions address the root causes of the disputes to reduce the chance of recurring disputes.
- Dispute resolution services should be accessible geographically, culturally, linguistically and financially for all parties.

Trafficking & Forced Labour

Problem Statement

Forced labour refers to any work that is performed involuntarily and under the threat of any penalty, including coercion through violence, manipulated debt, and other subtle mechanisms (ILO Forced Labour Convention, 1930 (No. 29)). Forced labour encompasses the following: human trafficking, modern slavery, women and girls being used for domestic servitude; boys for forced labour; street begging (almajiri); mining/quarry work; agriculture; forced prostitution; and use of children by armed groups. Nigeria is a signatory of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons. It has also put in place legislation to address forced labour. In 2015, it enacted the Trafficking in Persons (Prohibition), Enforcement and Administration Act, which replaced a 2003 Act on the prohibition of trafficking. Although a legal framework has been put in place, investigation, prosecution, and conviction of individuals suspected of trafficking or forced labour crimes remains a challenge.

Nigeria has been a source, transit and destination country for women and children trafficked and subjected to forced labour. Various sources, including the United Nations Office on Drugs and Crime (UNODC), have reported the involvement of Nigerian criminal networks in the trafficking of young Nigerian women and girls to Europe and other destinations, where they are exploited and forced into prostitution. Traffickers often lure individuals with the promise of better livelihood opportunities abroad or in bigger cities. They then employ fear tactics, debt bondage, and other schemes to control victims. It is difficult to determine the extent to which women and girls from North Eastern Nigeria have been targeted by traffickers. However, it is clear that the conflict in the North East has increased vulnerability and led to extensive labour exploitation, often disproportionately affecting women and children.

Since the start of the conflict in the North East, non-state armed groups have regularly targeted civilian women and girls, abducting thousands and subjecting them to sexual slavery, forced marriage, and servitude. Those who managed to escape non-state armed groups have had to deal with stigmatization, as well as increased scrutiny from Nigerian security forces. Suspected association with insurgents has led to the detention and interrogation of many survivors of trafficking and abuse. Nigerian authorities and members of security forces have engaged in sexual exploitation of women and girls in exchange for food and freedom of movement outside of IDP camps.

The **exploitation of children** is another aspect of forced labour that is visible in North Eastern Nigeria. ILO defines child labour as “work that deprives children of their childhood, their potential and their dignity, and which is harmful to physical and mental development.” Forced labour deprives children of basic opportunities in both the short and long term. The number of working children under the age of 14 is currently over 17 million worldwide and is expected to rise with the worsening of the main determinations of child labour, mainly poverty and school conditions. Despite

legislative measures, child labour remains a source of major concern in Nigeria, in particular in affected areas of displacement where forced labour is a concern.

Lack of livelihood opportunities in the North East has forced many households to send children as young as 5 years old to hawk items in the streets or beg to be able to have money to buy food. Internally displaced households often solely rely on income from such child hawking/begging. Failure to provide children with opportunities for education has heightened their risks of exploitation, with increased levels of child labour being reported. Being out of school further exacerbates levels of poverty and may lead to future risk of criminality and radicalization, as well as use by armed groups. There is a rise in the number of children being sent by their parents to be part of the Almajiri system for Quranic schooling, where they are forced to beg for sustenance.⁴ The conflict in the North East has also led to the recruitment and use of children by the vigilante group Civilian Joint Task Force (CJTF) in Borno State. Boko Haram and Islamic State affiliates have also forcibly recruited children to fight and carry out attacks. Former child soldiers and children associated with these insurgent groups have been detained by Nigerian military forces.

National Actors Involved

The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) addresses issues of forced labour in gearing interventions towards the rescue and safety of survivors. Identified and rescued survivors are given shelter to provide accommodation for the period of time the person needs to access services for recovery. While at the shelter, he or she has access to medical facilities. Survivors undergo counselling and rehabilitation session to reduce the trauma they experienced. The agency also works to strengthen legislative and law enforcement response to human trafficking.

The State Ministry of Women Affairs and Social Development

Protection Considerations on Forced Labour

- Efforts should be made to promote the proper implementation of the Trafficking in Persons (Prohibition), Enforcement and Administration Act.
- There is a need to increase advocacy for the investigation, prosecution, and conviction of individuals responsible for trafficking and forced labour, including those recruiting child soldiers and sexually exploiting IDP women and girls.
- There is also a need to advocate for the release and reintegration of ex-combatant children, women, and girls who survived exploitation by insurgent groups, but are currently detained by Nigerian security forces who deem them a threat.
- The Nigerian security apparatus should be trained and encouraged to provide protection for victims of trafficking and exploitation. Security personnel should be educated about the anti-trafficking law prohibiting the penalization of victims for unlawful acts committed as a result of being subjected to trafficking.
- Preventative measures to reduce forced labour should be reinforced. This includes information campaigns and outreach to educate at-risk women and girls about potential trafficking scams and where to seek help.
- Better screening is needed to identify victims of forced labour/trafficking in IDP camps.
- Access to comprehensive services for survivors of trafficking and forced labour can be improved.
- In cases of family separation, survivors' families should be traced for proper reunion. In the course of counselling and reunion, livelihood trainings provide survivors with knowledge of a trade or handiwork so as to be self-sufficient when they are being reintegrated back to the society.
- While providing interventions, at all times survivors' fundamental rights must be respected and all efforts made in the treatment of survivors should be geared towards a proper reintegration back to the society.

Do No Harm Principle:

- Prevention and response to forced labour and human trafficking should involve survivors.
- Survivors should not be blamed for their exploitation.
- Survivors should not be asked to relate and re-live stories of their exploitation.

⁴ UNHCR Vulnerability Screening Report (December 2017), available at: <https://data2.unhcr.org/en/documents/download/64592>