

UNDERSTANDING THE THREATS TO THE HUMAN RIGHTS OF DISPLACED NIGERIAN RETURNEES: A CONTEMPORARY EVALUATION

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ABSTRACT

Human rights violations are faced by different classes of persons in a society, but there are distinct violations that confront returnees due to displacement by war or conflict, and through the relocation process. The degree of vulnerability of individuals and groups at risk must be constantly reassessed in light of changes in the situation on ground at any point in time. This paper found that relocation by returnees is not often a seamless process and returnees have to struggle for the basic rights to survive and re-integrate into communities. Indeed this often unacknowledged group of displaced persons are also vulnerable to abuse, human rights violations and discrimination of different categories. There is need for government and its institutions to pay particular attention to this group of persons as a distinct vulnerable sect, even as this research identified the different conditions in which the human rights of displaced returnees can be further threatened in Nigeria.

Keywords: Displaced Persons, Returnees, Dignity, Vulnerable Persons, Human Rights

INTRODUCTION

Displacement is a by-product of political instability, religious, communal armed conflict and violence as well as sudden and slow-onset disasters, forcing people to flee to safety.ⁱ It is a human right violation in itself. Currently, due to war, citizens of Ukraine are being forced to flee or bear arms. The reality remains that Ukrainians who have become refugees and IDPs, are simply joining the ever increasing numbers of innocent citizens around the world suffering the consequences of needless conflict and wars, and leaving immigrants of Ukraine to seek safety in other countries.ⁱⁱ Over the horrors of war and sadly so, the Ukrainian situation caused many Nigerians in Ukraine to abandon their homes and livelihood and return to Nigeria.ⁱⁱⁱ

Beyond the mental or psychological difficulties of displacement, are the physical challenges. Many African countries like Nigeria cannot absorb too many returnees, as there are problems associated with infrastructures, security and other social good which are taken for granted in many foreign countries. Also, these returnees suffer from the uncertainty associated with basic human needs such as electricity, portable water, good health infrastructure, good roads and telecommunication, clean air and environment, personal security etc. For immigrants and returnees it can be a complicated undertaking.^{iv}

The Nigerian society which the returnees came back to constitutionally operates on the national ethics of discipline, integrity, dignity of labour, social justice, religious tolerance, self-reliance and patriotism.^v This implies that those who returned home due to war; whether they were refugees who fled, or persons who migrated for better economic or social life, ought to return respected and protected. Concerns about the condition of the vulnerable and disadvantaged come from the realization that in virtually all societies, certain individuals and groups systematically lack enjoyment of a wide range of human rights, as there is a story of violation, fear, and human suffering for every person who flees from his home; displaced by conflict.

The degree of vulnerability of individuals and groups at risk must be constantly reassessed in light of changes in the situation on ground at any point in time. A group that was not considered vulnerable during an initial assessment may later be perceived as such, and vice versa,^{vi} and wherever vulnerability is concerned, human rights are exposed to threats and violations. According to Abidde, relocation due to conflict and under any circumstance, can be an energy sapping, emotional, psychological, physical and financially discouraging task.^{vii} What

situations threaten the human rights of returnees in their relocation and re-integration process? And should the state pay particular attention to displaced returnees as a distinct vulnerable sect?

WHO IS A DISPLACED RETURNEE?

Returnees refer to persons or group of persons returning to their communities after displacement by armed conflict, natural or human induced disasters, situations of generalized violence, forced evictions or human rights violations. Broadly, returnee is the term used by the international community to identify a person who was a refugee, but who has recently returned to his/her country of origin. When a refugee decides to go home, it is usually because the threat or danger that had caused him/her to leave his/her place of habitual abode has significantly diminished or the danger in the place of refuge has become greater than the risk of returning home.^{viii}

A returnee may not necessarily be a displaced person to prompt a return to his or her home, but where conflict or war arises; displacing immigrants in any country and giving them the limited options of refugee statuses in other countries or a relocation to their previous abode or countries of origin, then such returnees can be referred to as displaced returnees. Re-entering one's country after a period of time spent as a refugee should mark the end of personal suffering and displacement and a return to a normal life, but in practice, returnees are increasingly relocating to situations which are far from safe. Sometimes, they may choose to return because their situation in the country of refuge has become worse than the situation in the country of origin. In other instances, refugees and migrants are forced to return home,^{ix} and at other times they are prompted by the end of a civil war or the replacement of a previous repressive government.

The term returnee is a descriptive term that acknowledges the fact that returning refugees and migrants are in need of certain assistance; and sometimes special attention and protection, during an interim period until they have re-integrated. In international law, there is no universally accepted definition of the term 'migrant', although some categories are defined in specialized international instruments. A migrant is 'any person who is outside a State of which he or she is a citizen or national, or, in the case of a stateless person, his or her State of birth or habitual residence. Migrants broadly cover persons who leave or flee their habitual residence to seek opportunities or safer and better prospects.^x Defining the period of time a person can continue to be recognized as a returnee differs according to each specific situation.^{xi}

On the other hand, a refugee unlike a returnee is a person who flees or is expelled from a country, esp. because of persecution, and seeks haven in another country.^{xii} A refugee is defined as a person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality or habitual residence, and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country.^{xiii} Refugees are protected by international law.^{xiv}

People who take flight within the boundaries of their home countries are identified as internally displaced persons.^{xv} They are compelled to seek safety before their own governments and within the confines of their nation's borders.^{xvi} The United Nations 2004 guiding principles on internal displacement define internally displaced persons (IDPs) as 'People or groups of people who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.'^{xvii}

While both IDPs and refugees are displaced, a refugee in seeking refuge, crosses the internationally recognized border of the State where the disaster originated, whereas an IDP remains within. The Vienna declaration and program of action adopted at the end of the world conference on human rights held in 1993 mentioned the case of IDPs as a human rights matter.^{xviii}

By this construct, Nigerian citizens who remain in Ukraine despite the violence and displacement from their homes are IDPs; where they seek refuge within the Ukrainian borders and protected by the government or her institutions. It is on the basis of this distinction that the care, prevention and protection of internally displaced persons are primarily the municipal responsibilities of the State where it occurs whereas the care and protection of refugees are the burdens of the international community. This is the case for Nigerians who refused to or could not return home, but fled Ukraine to neighbouring countries in search of safety.^{xix}

What about persons who fled through war zones and agonizing displacement to their home countries? Returnees 'return' or 'flee' to their home country for protection. Like IDPs, returnees, are open to lack, and may be faced with very limited access to adequate food, water and shelter, health or education facilities, and limited or no employment during relocation and

re-integration. They are prone to suffer from violations of their human rights, which may have initially caused them to leave the country of return; and they may experience wide threats to their human rights during the period of initial displacement; in preparation for a return home; during a return process; after a return, and during the period of re-integration.^{xx}

PROTECTING THE DIGNITY AND HUMAN RIGHTS OF DISPLACED RETURNEES

Vulnerabilities vary according to context and may impact upon different people in diverse ways in conflict and post-conflict environments.^{xxi} In emphasizing the essence of human dignity, Luban expressed that human rights law gives pride of place to the general principles of respect for human dignity. To him, most of the central international human rights instruments, link human rights with human dignity.^{xxii}

Rights elevate personal dignity and worth over fear and degradation. Respect for individuals offsets the war powers of states, the secrecy and censorship, the coercion of patriotism, and the high cost of dissent.^{xxiii} According to the 2012 National Policy on Internally Displaced Persons in Nigeria, *'persons affected by displacement situations experience a wide variety of needs in the short, medium and long term. These include food, water, shelter and other essential items, security, physical and psychological well-being, assistance in restoring family links, health care, education, economic and social rehabilitation.'*^{xxiv}

Human rights officers and the Nigerian state can address the human rights protection needs of returnees who are vulnerable at various levels. Accommodating the needs of returnees requires a high level of state social protection which aims to reduce the economic and social vulnerability of susceptible and marginalized groups and in particular, to support vulnerable returnees to overcome specific human rights violations.^{xxv} There are different forms of violations and threats that returnees may face, and these categories ought to be understood in order to protect the human rights of this distinct sect of vulnerable persons. The categories include:^{xxvi}

- a. Discrimination based on membership of a group: Depending on the background reason which originally caused the returnee to leave the country, any such group of returnees which may be ethnic, religious, linguistic, or cultural classification, or may be of the

same sex, pursue similar goals, have common commitments etc., can face discrimination and abuse simply by being a member of such group or class of displaced returnees.

- b. Discrimination from community or origin: Claiming the normal rights which they have or once had in their community, family or place of origin may be difficult for returnees. They may be discriminated against because of the country or situation they are coming from, the circumstances of their return, or their inability to re-integrate properly. The discrimination may also be based on lack and shortage of resources within the region or community over available food, housing, jobs, property rights, and other essentials of life.
- c. Violations over the return and re-integration process: Returnees displaced by conflict or war are first IDPs who abandon their abodes, activities and livelihood to seek refuge elsewhere. Problems related to travelling through war/conflict zones, loss of kin, property and identity, can cause a slow return process for displaced returnees. Upon return, they also have to deal with psychological and social disadvantages, even as they are expected to re-establish a normal life. Vulnerability at the return and re-integration stages can trigger several violations to basic rights, and requires specific human rights responses which are different from that needed by other members of the population within a specific region.^{xxvii}

Within the resources available, the government is encouraged at all levels to attend to the needs of displaced persons and also protect them to the largest extent possible until durable solutions of return or re-integration are achieved. Protection from arbitrary displacement can be inferred from the Constitution of the Federal republic of Nigeria 1999, that the primary purpose of government is to ensure the welfare and security of the people. The UN Guiding Principle 6 and Article 4 of the Kampala Convention recognize and construe arbitrary displacement to include: *Displacement intentionally used as a method of warfare or due to other violations of international humanitarian law in situations of armed conflict; and Displacement caused by generalized violence or violations of human rights.*^{xxviii} However, without clear-cut local legislations focused on specific groups as IDPs and Returnees, the government cannot be compelled to implement any protective provision.^{xxix}

In 2004, the United Nations Human Rights Committee monitoring compliance with the ICCPR 1966 noted that state signatories are required to respect the rights in the covenant within the power or control of the state.^{xxx} This implies that protection of human rights of returnees within a state is an extension of the protective mechanism functioning within such state. Nigeria is enveloped with several challenges over human rights, often traceable to how the country was formed and how she is being governed, as well as past, present and future social and political decisions and leadership.^{xxxii} This means that human rights of returnees can only be protected to the extent that basic human rights are guarded within the state by its institutions.^{xxxiii}

In as much as the constitutional rights are not set out for vulnerable persons in society alone, and that not all rights under the Nigerian 1999 constitution are justiciable,^{xxxiii} the fundamental rights in the constitution are afforded all persons irrespective of status or other discriminatory measures. Displaced returnees in Nigeria, of all classes, tribes, ranks, ages, sex, etc. are to be treated equally and ought to be protected by national institutions. The fact of being a returnee does not remove or limit any of the human rights to which these categories of a population are entitled. The only distinction which should be made is a positive one: precisely because returnees are in a situation of displacement from their homes, and they are more vulnerable to abuses of their rights, and therefore require more specific form of human rights legal protection than other persons or citizen in Nigeria who have not been displaced.^{xxxiv}

The social, economic and cultural rights as well as the civil and political rights of vulnerable returnees are guaranteed in the constitution, and by the provisions of s 46 CFRN 1999, issues over contravened human rights can be brought before a competent court.^{xxxv} Human rights are protected by constitutions and human right laws, ensuring that actions of persons, governments and institutions do not interfere with fundamental freedoms and human dignity. Unfortunately, human rights expressed and protected under treaties, national and international laws etc., are not often respected and adhered to by the government.^{xxxvi}

CONCLUSION

To be compelled by conflict to leave one's home or locality is indeed a traumatic experience. The return of war or conflict refugees and internally displaced persons should ideally involve and reflect a restoration of their human rights and their connection to their home and community. Federal and State authorities should also take steps to improve coordination with

international partners and humanitarian actors, including by being proactive in sharing information that will allow for more accurate analysis of the gaps in the Government's response and for the protection of Nigerians in need of relocation from countries of war or conflict.

A human rights approach towards the welfare of displaced returnees must involve the resolute voice of justice through the courts, social protection interventions such as public awareness and sensitization that assist returnees in the relocation, return and re-integration process, and the effective operation of workable policies to curb human rights enforcement challenges and ensure evenhanded resource allocation among the citizenry.

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