



Assessment of Borno and Adamawa States for the Project on Strengthening Response Mechanisms and Accountability to Gender-based Violence and Trafficking in Persons in North-East Nigeria



The opinions expressed in the report are those of the authors and do not necessarily reflect the views of the United States Department of State (USAID/INL) and International Organization for Migration (IOM). The designations employed and the presentation of material throughout the report do not imply the expression of any opinion whatsoever on the part of USAID/INL and IOM concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

This publication was made possible through the support provided by the United States Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL), under the Terms of Award no. EXC1043/2017.

Publisher: International Organization for Migration
11 Haile Selassie Street
Asokoro, Abuja
Nigeria
Tel.: +234 814 067 11 27
Fax: +234 807 209 31 33
Email: iomnigeria@iom.int
Website: www.iom.int

© 2019 International Organization for Migration (IOM)

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without the prior written permission of the publisher.

Assessment of Borno and Adamawa
States for the Project on Strengthening
Response Mechanisms and Accountability
to Gender-based Violence and Trafficking
in Persons in North-East Nigeria



CONTENTS

Acronyms and abbreviations	v
1. Background	1
2. Aim of the assessment	3
3. Methodology and description of the assessment	5
4. The legal system in Nigeria	7
4.1. The legal framework governing gender-based violence in Nigeria.....	8
4.1.1. The Constitution.....	8
4.1.2. The Penal Code.....	9
4.1.3. The Violence Against Persons (Prohibition Act) of 2015.....	10
4.1.4. The Child’s Right Act, 2003.....	11
4.1.5. The Gender and Equal Opportunities Bill.....	12
5. Assessment findings related to gender-based violence	13
6. Procedures and service provision	19
6.1. The police force: Roles and responsibilities.....	19
6.1.1. Capacity of the police to deal with gender-based violence cases.....	20
6.2. Legal aid services.....	20
6.3. Perception towards access to security and legal services.....	21
6.4. Medical services.....	21
7. Trafficking in persons	23
7.1. The legal framework governing trafficking in persons in Nigeria.....	23
7.1.1. The Constitution of Nigeria, 1999.....	23
7.1.2. The Penal Code Act of 1960.....	24
7.1.3. The Immigration Act of 1963.....	24
7.1.4. The Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2003.....	24
7.1.5. The NAPTIP Act of 2015.....	25
7.1.6. The Child Rights Act of 2003.....	26

7.2. Assessment findings relating to trafficking in persons.....	26
7.2.1. Human trafficking situation in Adamawa.....	29
7.2.2. Factors that exacerbate exposure of people to human trafficking.....	30
8. Recommendations.....	31
8.1. Recommendations relating to gender-based violence and trafficking in persons.....	31
8.2. Training needs with regards to gender-based violence.....	32
8.3. Operational interventions required for training on gender-based violence.....	33
8.4. Training needs with regards to trafficking in persons.....	35
8.5. Operational interventions required for training on trafficking.....	35
8.6. Recommendations for procedural enhancements.....	36
8.7. Recommendations for community engagements and sensitization.....	37
Works cited.....	39
Annex 1: List of key informants in Borno.....	43
Annex 2: List of key informants in Adamawa.....	44

ACRONYMS AND ABBREVIATIONS

CCCM	Camp coordination and camp management
CJTF	Civilian Joint Task Force
CSO	Civil society organization
ECOWAS	Economic Community of West African Countries
FAO	Food and Agriculture Organization of the United Nations
FCT	Federal Capital Territory
FGD	Focus group discussion
FIDA	International Federation of Women Lawyers
GBV	Gender-based violence
GBVSS	Gender-based violence sub-sector
IASC	Inter-Agency Standing Committee
IDP	Internally displaced person
INL	United States Department of State's Bureau of International Narcotics and Law Enforcement Affairs
IOM	International Organization for Migration
LGA	Local government area
MoH	Ministry of Health
MoJ	Ministry of Justice
MWASD	Ministry of Women's Affairs and Social Development
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NDLEA	National Drug Law Enforcement Agency
NEMA	National Emergency Management Agency
NFI	Non-food item
NGN	Nigerian naira
NGO	Non-governmental organization
NHRC	Nigeria Human Rights Commission
NIS	Nigeria Immigration Service
NOA	National Orientation Agency
NPF	Nigeria Police Force
NSAG	Non-state armed groups
NSCDC	Nigeria Security and Civil Defence Corps

OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
SEA	Sexual exploitation and abuse
SEMA	State Emergency Management Agency
TIP	Trafficking in persons
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development
VAPP	Violence Against Persons Prohibition

1. BACKGROUND

The conflict that continues to affect North-East Nigeria has caused the displacement of almost 2 million individuals throughout the country, most of whom had sought refuge in host communities and camps for internally displaced persons (IDPs), both formal and informal. Many of these individuals are in Borno and Adamawa states. Eighty per cent of IDPs are concentrated in Borno State, the epicentre of counter-insurgency activities. In addition to responding to the widespread displacement, humanitarian actors are confronted with grave protection concerns, food insecurity and inadequate access to basic services. One in four of the IDPs are under five, and 79 per cent are women and children.

Despite the fact that some IDPs have started to return to their villages of origin, the living conditions for conflict-affected population remains dire. Women and children are particularly affected by the conflict, who remain at high risk of abuse from insurgents, security agents and other actors in the community.

Gender-based violence (GBV) remains a serious protection concern in the North-East region of Nigeria, including in the states of Borno and Adamawa. In 2018, the Protection Cluster reported that a considerable number of IDPs and returnees experienced rape, abductions, child and forced marriage, undesired pregnancies, sexual exploitation, physical assault, denial of resources, psychological abuse and sexual assault in the hands of the non-State armed groups (NSAG) before flight and during captivity, in the countries of asylum and in IDP camps in Nigeria.¹ Furthermore, and according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), an estimated 6 out of 10 women in the North-East have experienced one or more forms of GBV.² Moreover, data shows that among GBV survivors seeking assistance, 44 per cent are children, of whom 98 per cent are girls.³

In addition, while there is anecdotal evidence that trafficking in persons (TIP) from the region takes place, the extent of its scale is unclear, particularly given that stakeholders consider it to be largely misunderstood and under-reported.

In light of these serious protection concerns, the International Organization for Migration (IOM) is stepping up its involvement, with the objective of promoting that crisis-affected persons live freely from GBV and TIP. A significant part of this involvement will require support for law enforcement agencies to enhance their internal accountability policies and procedures.

In order to embark on support that is timely, relevant and efficient, IOM carried out an in-depth assessment of the training needs of law enforcement authorities in Nigeria, with a focus on the Nigeria Police Force (NPF) and the Nigeria Security and Civil Defence Corps (NSCDC). This included completing a mapping and assessment of existing internal mechanisms within the security sector for addressing sexual exploitation and abuse (SEA) and their response to GBV, SEA and TIP in IDP camps and IDP host communities.

¹ United Nations High Commissioner for Refugees (UNHCR), 2018:3.

² United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 2017.

³ *Ibid.*, 22.

2. AIM OF THE ASSESSMENT

This assessment aims to pave the way for targeted activities that would take place in eight local government areas (LGAs), including 22 IDP camps. The locations were chosen based on the prevalence of reports on incidents of offender-based violence, SEA and TIP or red flags indicating heightened vulnerabilities and risks. In addition, some locations have very limited presence of protection actors.

More specifically, the project on strengthening response mechanisms and accountability to GBV in North-East Nigeria (United States Department of State's Bureau of International Narcotics and Law Enforcement Affairs) aims to expand risk mitigation and response to GBV, SEA and TIP in the states of Adamawa and Borno through the following interventions:

- Strengthening and building the capacity of NPF to prevent, respond to and investigate acts of GBV, SEA and TIP;
- Assessing and strengthening the internal accountability procedures of law enforcement actors for acts of SEA and/or TIP committed by its members;
- Building the capacity of police officers – particularly female police units deployed as protection officers to IDP camps and host communities – to work on prevention and identification of, response to and investigation of acts of GBV, SEA or TIP; and
- Promoting awareness and sensitization on gender equality and respect for women's rights and reinforce participants' knowledge regarding the legal implications of GBV and human trafficking for sexual purposes.⁴

⁴ Ibid., 5–6.

3. METHODOLOGY AND DESCRIPTION OF THE ASSESSMENT

This report is designed around a qualitative data collection methodology. Typically, these reports would include collections tools – key informant interviews, direct observation, focus group discussions (FGDs) and other open source data collection. Due to the current security situation in Adamawa and Borno states, key informant interviews were selected as the main source of information for this report.

Field missions were conducted to carry out the assessment in both states. In Borno state, the assessment was conducted in Maiduguri from 8 to 19 October 2018 and from 14 to 22 November in Yola, Adamawa State. The objectives of the assessments in the two states were to assess the training needs and internal reporting mechanisms of law enforcement authorities that would allow them to better mitigate risks and respond to GBV and trafficking.

Over a time spanning two weeks, the assessment team met a wide array of national and international actors in Borno State representing government authorities, civil society, humanitarian and protection organizations, as well as IDPs, members of host communities and victims of trafficking.

A similar exercise was conducted in Yola, Adamawa State to understand training needs for the NPF and NSCDC and strengthen response for internal mechanisms and accountability to GBV, SEA and TIP. Meeting sessions were held with key stakeholders in both Borno and Adamawa states and among them included NPF, NSCDC, OCHA, International Federation of Women Lawyers (FIDA), Ministry of Justice (MoJ), Nigeria Immigration Service (NIS), Office of the High Commissioner for Human Rights (OHCHR), United Nations High Commissioner for Refugees (UNHCR), British Council, Confluence Development Initiative, Nigeria Human Rights Commission, National Drug Law Enforcement Agency, National Orientation Agency and United Nations Population Fund; six FGDs were held targeting women, female religious leaders and community leaders in Furfure camp, Malkohi camp and Malkohi informal IDP camp in Adamawa State. Annexes 1 and 2 provide a detailed list of agencies met during the field missions to Maiduguri and Yola respectively.

In Maiduguri, four IDP camps were visited, namely Dalori 1 and Dalori 2 camps, Teachers' Village and Bakassi camp; and seven FGDs were held. Visits to other camps in hard-to-reach areas were not achieved because of the security situation. The findings of this assessment might have been more amplified in hard-to-reach areas, where the level of insecurity is higher and the presence of civil society, humanitarian and development organizations is lower as a result. In 2017, a number of international non-governmental organizations (NGOs) had expressed concern that “many sites identified by the authorities for return are already at maximum capacity and cannot support further population increases. In almost all instances, there is insufficient shelter, water, food, health and no education services, and this has further exacerbated existing protection risks. These movements therefore pose risks and challenges to those displaced and for those already living in these sites.”⁵

⁵ COOPI et al., 2017.

4. THE LEGAL SYSTEM IN NIGERIA

Prior to delving into a description of the findings and recommendations, and to facilitate the understanding of the readers, it is important to briefly describe the nature of the legal system in Nigeria⁶ and how it may affect each state.

Nigeria is a federal republic that is made up of 36 States, with the federal capital territory (FCT) located in Abuja. At independence, Nigeria consisted of three regions, namely the Northern region, the Eastern region and the Western region. Apart from the Mid-Western region – which was carved out of the Western region in 1964 through the process laid down by the 1963 Republican constitution – the other five subsequent exercises of creation of states were undertaken by the military. Because of the multiplicity of these states, they are as a matter of convenience and political expediency grouped into the six geopolitical zones of North-East, North-West, North Central, South-East, South-West and South-South. This grouping has not been accorded any constitutional recognition.

The Nigerian legal system is based on the English common law legal tradition by virtue of colonization and the attendant incidence of reception of English law through the process of legal transplant. It has four sources of law: (a) English law; (b) customary law; (c) ethnic/non-Muslim law; and (d) sharia law and judicial precedents.

For treaties to be implemented in Nigeria, they have to be incorporated into domestic law through an Act of Parliament. Such incorporating enactments clearly state that the treaty provisions “are in force”. All fundamental rights entrenched in the constitution and treaties on human rights are applicable throughout Nigeria by virtue of the fact that they have been ratified or acceded to by Nigeria.⁷ The consequence of failing to get ratification of a treaty by a majority of the various State Houses of Assembly in Nigeria – where a matter to be legislated upon falls outside the purview of the Exclusive Legislative List – is that such law enacted by the National Assembly will be made to govern only the FCT, Abuja.

The federal legislature is responsible for law-making, and it follows law-making procedures as specified in sections 58 and 59 of the 1999 Constitution. The legislature is bicameral and made up of the Senate and the House of Representatives.⁸ Each state also has its own law-making organ known as the House of Assembly. The members elected into the Houses of Assembly represent the various state constituencies usually delineated on the basis of population.

By virtue of section 6 (1) of the 1999 Nigerian Constitution, a number of courts in the Federal Republic of Nigeria was established.⁹ The courts established by the Constitution are the only superior courts of record in Nigeria. The Constitution empowers the National Assembly and the Houses of Assembly to establish courts with subordinate jurisdiction to the High Courts. Courts established pursuant to the Constitution are invariably inferior courts of record notwithstanding the status of the officer presiding in the courts.

⁶ Dina, Akintayo and Ekundayo, 2005.

⁷ Okeke, 1997.

⁸ The Senate is made up of 109 elected members, while the House of Representatives has 360 members. The membership of the Senate is based on equality of states, with each state having three senators. The federal capital territory is represented by one senator. The number of representatives elected by each state is determined on the basis of population (ibid).

⁹ These are as follows: Court of Appeal; Federal High Court; High Court of the FCT, Abuja, a High Court of a state; Sharia Court of Appeal of the FCT, Abuja, a Sharia Court of Appeal of a state; Customary Court of Appeal of the FCT, Abuja; and Customary Court of Appeal of a state (ibid).

The Supreme Court is the highest court, and all decisions from the court are binding on all other courts. In Nigeria, the state court structure dovetails into the federal court structure at the level of the Court of Appeal. The Court of Appeal entertains appeals from the decisions of the High Courts, the Sharia Courts of Appeal and the Customary Courts of Appeal. Appeals from the decisions of the Court of Appeal go to the Supreme Court. In effect, the Supreme Court is not only a Supreme Court on federal matters; it is also the final court in respect of state laws.

However, in terms of administrative responsibility, State High Courts are the most important courts in each state. This assertion is strengthened because whereas the Constitution has established a High Court for each state directly, each state has an option to establish a Sharia Court of Appeal or a Customary Court of Appeal. The inferior courts that are established pursuant to constitutional provisions include magistrate courts, district courts, area/sharia courts and customary courts. By and large these courts are established by state laws, except for the FCT and the judicial hierarchy, and the nomenclatures of inferior courts are dissimilar. The High Courts and other specialized courts exercise supervisory and appellate jurisdiction over the inferior courts.

The federal and state legal frameworks should be considered when assessing GBV, TIP and other protection issues among the crisis-affected population in North-East Nigeria.

4.1. THE LEGAL FRAMEWORK GOVERNING GENDER-BASED VIOLENCE IN NIGERIA

The Inter-Agency Standing Committee (IASC) defines GBV as “any harmful act that is perpetrated against a person’s will and that is based on socially ascribed (i.e. gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threat of such acts, coercion, and other deprivations of liberty”.¹⁰ It is one of the most widespread human rights abuses in the world, affecting individuals everywhere, with consequences that reach beyond the individual and can affect entire communities.

Nigeria ratified the Convention on the Rights of the Child in 1991, the Convention on the Elimination of All Forms of Discrimination against Women in 1985 and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2004. The country also ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa in 2005.

With regard to its domestic legislative framework, several laws contain provisions that address the issue of GBV. A careful reading of these laws shows how they can contribute positively to mitigate and respond to acts of GBV, as well as their limitations in doing so.

4.1.1. The Constitution

The Constitution of the Federal Republic of Nigeria, 1999 and the African Charter on Human and Peoples’ Rights constitute the core framework for the recognition and protection of fundamental human rights in Nigeria, including the right to the dignity of the person. These laws provide a general framework available to all classes of individuals for the redress of specific rights violations.

¹⁰ Inter-Agency Standing Committee (IASC), *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery* (IASC, 2015).

Section 34(1) of the Constitution provides that every individual is entitled to respect for the dignity of his person, and accordingly, no person should be subjected to torture or to inhuman or degrading treatment, no person is to be held in slavery or servitude, and no person ought to perform forced or compulsory labour.¹¹

The right to dignity implies that all individuals should be treated in accordance with GBV guiding principles, and acts of GBV undermines the dignity and humanity of GBV survivors. However, this section does appear, upon careful reading, to restrict unlawful violence only to the specified instances of subjugation to torture, inhuman or degrading treatment, slavery or servitude, forced or compulsory labour and no more. This was also the view rightly taken by the Nigerian Court of Appeal in the case of *Uzoukwu versus Ezeonu II*, where it stated that no tribunal had the jurisdiction to go beyond the categories explicitly mentioned in the Constitution, in search of additional acts of violation.¹²

Moreover, and under section 33 of the 1999 Constitution, the right to life of every individual is guaranteed. Section 33(1) provides that “Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.”¹³

4.1.2. The Penal Code

The Penal Code is applicable to both Adamawa and Borno states. It has a number of provisions relevant to GBV, such as the ones that address assault or the use of criminal force with the intent to outrage modesty, including abduction and kidnapping.¹⁴ At the state level, each state has its own law; for the 19 northern states, the Penal Code is applicable and specific to each state.

It does not however take a sufficiently comprehensive approach to defining rape and sexual abuse. The Penal Code does not recognize offences, such as domestic violence or marital rape.¹⁵ This is best exemplified in chapter 1, article 6, which states that carnal knowledge is only unlawful when it “take [s] place otherwise than between husband and wife”.¹⁶ It also contains no provisions for civil remedies, such as compensation or protection orders.¹⁷ Hence, even if it is confirmed that a survivor has been abused, the law does not foresee any reparations for the survivor.¹⁸

It is important to note that the Penal Code for Adamawa was reviewed in 2018 and adopted and applicable in Adamawa State. It was noted that the act is similar to the Violence Against Persons (Prohibition) Act (VAPP Act) but more extensive; for instance, the penalties for rape is 21 years or life in imprisonment. The requirements to prove rape has also been lessened, and use of objects are also criminalized and seen as sexual assault.

Adamawa State has also passed the administration of the Criminal Justice Act in 2018, which highlights GBV as one of the legal standards for GBV prevention and response in the State.

¹¹ Constitution of the Federal Republic of Nigeria (1999). Available from www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm

¹² Ngozi, Iyoha and Durojaye, 2018.

¹³ Constitution of the Federal Republic of Nigeria.

¹⁴ Akpoghome, 2016.

¹⁵ This understanding is also reflected in the understanding of the Immigration and Refugee Board of Canada when it stated that: “Marital rape is unrecognized by law in Nigeria, the most fundamental reason being that consent to marriage is tantamount to the foreclosure of consent to each particular sexual intercourse” (Immigration and Refugee Board of Canada, 1999).

¹⁶ Criminal Code Act, Laws of the Federation of Nigeria, 1990 revised version. Available from www.refworld.org/cgi-bin/texis/vtx/rwmain/pendocpdf.pdf?reldoc=y&docid=54f975004

¹⁷ Makinde et al., 2017:190.

¹⁸ Following the writing of this report, the Ministry of Justice informed the IOM Office in Maiduguri that it had reviewed the penalty for rape in the Criminal Code Act, and that it has been amended to 21 years. Moreover, the consent of the survivor is supposedly not required for prosecution, and requirements to prove rape have been drastically reduced. These changes have however not been found in writing, hence why they could not have been included in the final text of this report.

4.1.3. The Violence Against Persons (Prohibition Act) of 2015

The Act provides in section 1 that:

- (1) A person commits the offence of rape if—
 - (a) He or she intentionally penetrates the vagina, anus or mouth of another person with any other part of the body or anything else;
 - (b) The other person does not consent to the penetration; or
 - (c) The consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false or fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.

When it comes to punishment, heavy penalties are provided for in the law. For example, where an offender is found guilty of violations described in section 1, he/she would be sentenced to life imprisonment. Where the offender is less than 14 years old, the punishment would be a maximum of 14 years of imprisonment. In other cases, a minimum of 12 years of imprisonment is provided by the Act. In the case of gang rape, the offenders are jointly liable for a minimum term of 20 years without the option of a fine to replace it.

Furthermore, section 25 of the Prohibition Act also mentions “incest” as an offence. Upon conviction, the perpetrator is sentenced to 10 years imprisonment without the option of fine (unless there is consent between the two parties in which case it would be reduced to five).

The Act was welcomed by advocates for women’s rights for taking a giant leap in expanding the definition of rape when compared to other laws. It acknowledged that both males and females can be raped and also that it can involve organs other than the primary sexual ones.

The definition of specific acts of GBV, such as domestic violence, remains inadequately articulated in the Prohibition Act. It defines domestic violence as “any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health, or well-being of any person”. Such a definition does not detail all types of harm or abuse that a person can be subjected to – ranging from verbal to physical, psychological and emotional – nor does it recognize violence caused by “intimate partners” as opposed to spouses only.

It is also worth mentioning that the Prohibition Act imposes on police officers the obligation to act when receiving a report of GBV. It describes these responsibilities in great details by stating that where a police officer has received a report of such violence, he/she is under duty of:

- “(a) assisting a victim of violence to file a complaint regarding the violence;
- (b) providing or arranging safe transport for the victim to an alternative residence, safe place or shelter where such is required;
- (c) providing or arranging transportation for the victim to the nearest hospital or medical facility for treatment of injuries where such treatment is needed;
- (d) explaining to the victim his or her rights to protection against violence and remedies available in terms of this Act;

- (e) explaining to the victim that he or she has the right to lodge a criminal complaint in addition to any remedy provided under this Act; and
- (f) accompanying the victim to victim's residence to collect personal belongings."¹⁹

In addition, and according to article 32(2) of the Prohibition Act, "a police officer may, without an order from the Court or a warrant of arrest, arrest any person whom (a) he or she suspects upon reasonable grounds to have committed any of the offences under Part 1 of this Act; and (b) a complaint had been made for having committed any of the offences under Part 1 of this Act."

Finally, according to the Prohibition Act, victims are entitled to receive assistance and rehabilitation support.

Despite many progressive elements, the Act remains only applicable at the federal level. For it to apply at state level, it would have to be adopted by the House of Assembly of the concerned state. Only five states in Nigeria have adopted related State legislation against GBV and these are Ebonyi, Lagos, Jigawa, Ekiti and Cross Rivers. None of these are in the North-East region of Nigeria.

4.1.4. The Child's Right Act, 2003

The Child's Right Act was enacted in 2003 with the objective of protecting the rights of children. It defines a child as anyone who is less than 18 years old.²⁰ Right from the beginning, and in article 1 of the Act, it stipulates that "In every action concerning a child, whether undertaken by an individual, public or private body, institutions or service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration."²¹

The Act spells out a number of rights that a child should enjoy, and that should be protected. This includes protection against physical, mental or emotional injury, abuse or neglect, maltreatment, torture, inhuman or degrading punishment and attacks on his/her honour or reputation.

In addition, the Act states that no person is permitted to have sexual intercourse with a child, and that in case he/she does, one would be punished with life. Interestingly, the Act does not allow the defence of ignorance of the child's age or that the child gave consent for the sexual intercourse. Furthermore, article 11 prohibits anyone from subjecting a child to physical, mental or emotional injury, abuse, neglect or maltreatment including sexual abuse.²² It also requests that children that are in need of special protection measures (mentally or physically challenged or street children) be protected in a manner that would enable them to achieve their fullest, possible social integration and moral development.²³ Unfortunately, this Act has not been domesticated in Borno and Adamawa states. However, in Adamawa State, a Special Rights Agency was established in 2018 and focuses on the rights of the child.

¹⁹ Article 32 of Nigeria's Violence Against Persons (Prohibition) Act, 2015: Explanatory Memorandum, 25 May 2015. Available from www.refworld.org/docid/556d5eb14.html

²⁰ Article 21 of the Child's Right Act. Available from www.refworld.org/docid/5568201f4.html

²¹ Ibid.

²² Ibid.

²³ Ibid.

4.1.5. The Gender and Equal Opportunities Bill

The Gender and Equal Opportunities Bill was under consideration in the Nigeria Senate since 2010. After six years, the Bill was voted out for “lack of merit”, as there were concerns based on the content of the Bill. The Nigeria Senate was of the view that the content of the Bill was not in line with the religious and cultural beliefs of most of the Nigerian population and thus, unworthy to be enacted as a Nigerian law.²⁴

²⁴ Makinde et al., 2017.

5. ASSESSMENT FINDINGS RELATED TO GENDER-BASED VIOLENCE

While the coverage of GBV services continue to improve in Borno and Adamawa in 2018, most notably with the increase of actors providing services as well as GBV-related interventions, the need for GBV assistance outweighed the capacity of actors to respond. GBV services outside main towns are still very limited, as few organizations are capable of providing adequate and comprehensive support to survivors. Partners have limited capacity to prevent and respond to GBV.

In the State of Adamawa, high levels of GBV in all forms is witnessed, including but not limited to sexual abuse. Molestation of the male members of society for cleansing and ritual purposes is an emerging practice that is spreading across the State. Other major concerns include cases of family members raping their own young female relatives, denial of resources to women by their husbands, reports of survival sex, exploitation for accommodation, intimate partner violence, rape, sexual assault, child marriages and forced marriages. According to the *Humanitarian Needs Overview* GBV document, in Borno State, physical assault, denial of resources and psychological and emotional abuse are among the violations most frequently reported, recurrently perpetrated by intimate or former partners. Children, particularly adolescent girls, are also at risk of GBV that occur mainly in the context of child sexual abuse and early marriage.

The conflict has resulted into a change in gender roles where both women and men are engaged in search for livelihood opportunities outside the camp, and female-headed households have become breadwinners. During the data collection, it was mentioned that few IDPs, including women and the youth, have access to means of livelihood. Limited access to services and livelihood opportunities within the camps has resulted in women and men searching for casual work outside the camp like farming or cutting firewood to meet their family's basic needs like food, non-food items (NFI) and medical care. In addition, some of the IDPs involved in income-generating activities are subjected to discrimination when they go to the market to sell their goods due to their status in the community as IDPs, as well as types of products sold compared to other vendors. Furthermore, norms and traditional practices have contributed to widows having their assets expropriated by the relatives of their husbands and are left with nothing to provide livelihood support for themselves and their children. Boys living with physical disabilities are claimed to be sexually and physically abused. Cases of sexual molestation were also reported to be happening in the camps and are now taking place in the host communities after many of the camps were dismantled.

Services within the camp setting, especially in Yola, have diminished due to the increasing needs for response in areas experiencing fresh attacks in the Adamawa state, hence affecting the multisectoral response for GBV survivors. For instance, NFI items were last distributed two years ago. Some of the IDPs expressed their concerns towards the humanitarian workers' attitudes; these IDPs said they are not listened to, are discriminated against and are not respected or served with dignity, which does not promote accountability to the affected population. In addition, similar concerns were also raised in Borno State by IDPs living in these camps for more than two years without receiving NFI items, Teachers' Village is among the affected camps.

In some settings, community members prefer using existing community structures such as community leaders to solve family disputes; as such, there is a need for humanitarian agencies to strengthen and work closely with the already existing mechanisms within the camp. In one of the informal camp-like settings, community leaders have taken up some of the roles to support screening of the new arrivals and ensure they have access to space for shelter.

Against this backdrop of serious shortages in relevant and available services, one important project filling this gap is the Nelewa Centre in Maiduguri and the Hope Centre in Yola. These centres undertake the referral of sexual assault survivors, as well as their recovery and assistance. The steering committees are led by MoJ, Ministry of Health (MoH) and Ministry of Women's Affairs and Social Development (MWASD) and have the overall role of coordinating and overseeing the design and implementation of its activities. In Maiduguri, doctors, nurses and lawyers from FIDA and a police officer are permanently present at the site. In Yola, the lawyer is not present all the time, but the centre coordinates closely with FIDA. Both centres provide survivors of violence who either go directly or have been referred to the police with immediate medical and psychological support, as well as medical support and tests that can be used to press charges and prosecute perpetrators.

Key reasons for under-reporting and for not seeking support

All forms of GBV are chronically under-reported. Particularly, reporting an incident of sexual violence is deterred by the following:

- The lack of awareness of physicians about the requirements that many courts have regarding medical reports, which are required to corroborate the allegations made by the survivor. They need to fulfil certain requirements for them to be admitted evidence in criminal proceeding. This often leads to medical reports being considered inadmissible as evidence by the court.²⁵
- There is a no safe space for survivors of GBV, which has been signaled as a significant deficiency. The only shelter that receives some survivors for a short period of time is the shelter run by the National Agency for the Prohibition of Trafficking in Persons (NAPTIP). This shelter is not properly resourced, and generally needs improvement to meet international minimum standards.
- Lack of confidentiality of trials and a lack of awareness that confidentiality is a right that can be claimed by the survivor. As such, the significant risk of their identity becoming known discourages them from taking it further.
- Related to the above, there is a significant delay before survivors seek medical assistance, which means that valuable forensic evidence is often lost.
- Survivors and/or their family members have to pay out of their own pocket for all costs relating to the prosecution including transportation and documentation, as neither the police, NAPTIP, MoJ nor MWASD have budget lines for such important steps of the process.
- The length of time that it takes to prosecute a case and for it to stand trial discourages survivors. In the words of one of the interlocutors, "justice delayed is justice denied". The tendency for justice to slowly take its course contributes to the overcrowding of prisons, as some prisoners are spending longer time in prison to be tried than the time they would be spending as a sentence. The capacity to place women and children in separate detention facilities is largely non-existent.

²⁵ One scholar suggested that there was no clear legal justification for such a procedure, pointing out to the fact that even the appellate courts are divided on the issue and have acknowledged that the law of corroboration in the offence of rape is unsettled in Nigeria (Ngozi, Iyioha and Durojaye, 2018:346).

- Violence has become such a daily occurrence that it has been “normalized” by society, despite the fact that reporting of GBV cases is considered mandatory and not up to the discretion of the individual. However, the NSCDC is – by the account of most key counterparts – the closest to the communities, and they play an important role in detecting and referring survivors of GBV.
- There is no obligation to compensate the survivor in cases where the perpetrator has been found guilty. In fact, the Prohibition Act only recommends that appropriate compensation be granted to the survivor.²⁶
- Adamawa and Borno States have not yet domesticated the Prohibition Act, and it is difficult for the states to prosecute these cases.

Root causes and factors contributing to exposure of women and children to gender-based violence

There are other factors that cause and aggravate the exposure of women and children to GBV in both locations. Among the most significant of these are the following:

Root causes

- The cattle herders promote early marriages as they are always on the move and feel the need to protect their young daughters from exploitation during the migration processes.
- In some areas, it is reported that female children are deprived the opportunity to go to school as they have to take part in the household chores.
- A limited acknowledgement by government authorities of the full risks that children may experience, particularly in as far as they may be exposed to GBV. Several key informants have alluded to the fact that boys that are sent away from their homes to undergo religious education may be vulnerable to sexual abuse and other forms of exploitation (such as forced labour). However, the sexual exploitation of boys seems to be an even bigger taboo in this region of Nigeria than other forms of GBV against women and girls. It is therefore significantly under-reported.

Contributing factors

- Parents cannot afford to take the children to school as the free education system is not functioning effectively in the states, and as a result, young women reportedly offer themselves to camp officials in exchange for some favours such as food.
- Availability of cheaper drugs and their use, as well as the proliferation of small arms by the communities, results in increase in crimes in society such as NSAG, rape, petty theft and armed robbery. It was mentioned that there are cases of drug abuse in the Fufore camp in Adamawa state. Rehabilitation is followed by relapse as the people go to the camps where the drugs are easily available.
- Unaccompanied children, widows, women who are not aware of the whereabouts of their husbands, the elderly, persons suffering from mental health challenges and disconnected families in the IDPs face insurmountable tasks to move ahead in life.

²⁶ Akpoghome, 2016:21.

- The shortage of food: While undertaking the assessment, numerous reports were also received of the fact that IDPs – particularly women and girls – were engaging in survival sex, including in exchange for food. This seems to be consistent with the larger finding by the protection sector working group that survival sex is extensive and remains a big issue in Borno State.²⁷ Most key informants expressed their awareness of these reports.²⁸ Several sources, including IDPs, have reported that the food ration is not sufficient to take them until the next distribution cycle, which sometimes is late in arriving. All these aspects, coupled with the lack of alternative viable income generation opportunities, mean that many women and children become involved in negative coping strategies. Communities and other key informants added that many end up becoming pregnant. In one camp, cases of women killing their newborn children given the stigma of having children out of wedlock as well as their inability to feed additional mouths were cited. The occurrence of these incidents was also confirmed by one key informant.
- In addition to the scarcity of food, many women and girls are approached or attacked while they are collecting firewood outside of the camps. These women and girls are reported to have gone through different forms of GBV, such as rape, physical assault and abductions.
- Related to this, some IDPs are selling their biometric cards. Having the card is essential in order to obtain food. As the details on the card have to match the identity of the supposed owner of the card, it was unclear whether IDPs buying these cards were aware of the verification process before buying biometric cards from anyone. In some cases, new arrivals are not registered in a timely manner and therefore choose to buy the biometric cards from other IDPs.
- Sanitation: While visiting two IDP camps in the surroundings of Maiduguri, significant problems with sanitation facilities were identified that can exacerbate protection problems, particularly for women and children. Toilets were not segregated, the locks on doors were not working properly and the toilets seemed very dirty. The situation seemed to suggest that the communities were not properly sensitized on hygiene promotion, care and maintenance of facilities.
- The lack of meaningful and relevant livelihood opportunities: This influences the way survivors decide to deal with the events that happened to them. For example, women who become aware that their intimate partners are sexually abusing their children find themselves obliged to remain silent, given that they are fully dependent on these men as income earners. In such cases, the only resort is, at times, to send the child survivor out of the house, where the survivor will continue to experience similar, if not greater risk.
- Livelihood has been sharply affected during the conflict in the North-East states of Nigeria. Loss of livelihoods and the weakened social cohesion is of concern to the responsible authorities and community leaders. These states were once home to flourishing international trading routes, as well as farming. The conflict has left most farmers significantly impoverished. While there are some livelihood projects in some areas, these projects are limited and do not seem to respond to the needs or the skill set of the affected population. During the assessment, grinding machines were seen set up in some camps, and beneficiaries expressed strong views that they did not know how to use them and did not feel it was what they needed. Nevertheless, it was encouraging to know that some UN agencies are already working on substantially supporting the restoration of livelihood activities in more meaningful and effective manner. For example, the Food and

²⁷ UNHCR, 2018:8.

²⁸ In addition, protection agencies had received reports that some aid workers and the Civilian Joint Task Force (CJTF) take advantage of the lack of food and use these as condiments to force women into unwanted sexual relationships (ibid., 7).

Agriculture Organization of the United Nations (FAO) is focusing on micro-gardening, distributing seeds and fertilizers and providing technical expertise to farmers who make up the majority of workers in the state. Women are also being targeted. FAO is also focusing on firewood, as well as supporting fuel distribution centres and the use of fuel efficient stoves. Other agencies such as the United Nations Development Programme are planning on supporting farmers to improve their yields. Unfortunately, the scale and sustainability of these much-needed interventions is likely to be negatively affected by the volatile security situation.

- Lack of essential NFI particularly mattresses and tents: During visits to some of these camps, it would seem that the last time any NFIs were distributed at the IDP camps was several months ago. Reports received and collaborated with different key informants point to the fact that new IDP arrivals did not receive any items. This therefore also prompts a number of women and children to engage in survival sex and/or sell some of their limited food supplies in order to obtain some of these.
- Insufficient understanding of the concept of “limited confidentiality” and use of referral mechanisms: It was noted that among the field staff of the different organizations, there is still insufficient understanding of the concept of confidentiality in managing GBV cases and its limitations, as well as the referral protocols when a potential survivor has been identified. In conversations with staff of some aid agencies, there was a sense that many see their responsibility as ending with the referral to a protection actor without adopting a proactive approach or following up to ensure that the survivor has been taken care of.
- Limited understanding of confidentiality and disclosure. A survivor has the right to decide who should know about what has happened to him or her. At the same time, applying a survivor-centred approach seeks to empower that he/she is able to restore a sense of control over their bodies and their lives.²⁹ This requires a deliberate effort on the part of all humanitarian staff to act in a way that seeks to build trust and rapport with suspected survivors of GBV, so that they are able to provide information to survivors in an ethical, safe and confidential manner.
- A genuine community mobilization in the IDP camps seems to be lacking. The lack of participation of women in the IDP camp committees was striking. Though they were officially there on paper, it was clear that their voice was not being heard, nor were they consulted. Furthermore, and as recommended by the Protection Cluster, men and boys need to be engaged in efforts to mitigate GBV in the communities.³⁰ Consultation with agencies operating in these camps confirmed that various camp committees were established to encourage and enable active participation of representatives of all segments of women, men and youth, but that women’s participation in camp activities is still inadequate.
- The option of community complaint mechanisms has not been sufficiently utilized. A draft community complaint mechanism has been prepared by the GBV subsector of the Protection Cluster. It is however still awaiting final approval. Community complaint/feedback mechanisms including suggestion boxes, information desks were set up by IOM’s Camp Coordination and Camp Management (CCCM) programme across IDP camps to receive, document and respond to complaints. Further, CCCM has rolled out voices recorders in Maiduguri, which are planned to be expanded to other locations.

²⁹ Inter-Agency Standing Committee, 2017:16.

³⁰ UNHCR, 2018:8.

- Finding lasting safe solutions for survivors that allow them to restart their lives is also challenging. In this regard, members of the GBV subsector have tried to find solutions by placing survivors in alternative families. The child protection sub-working group has also done that for children who are at risk. However, the record so far has been mixed for different reasons, including threats by the perpetrator against the family.
- Insufficient female staff among national institutions with a mandate to deal with GBV: While most national institutions mandated to deal with GBV claim to have female staff to be able to deal with female survivors, it was clear that the number was very limited and often did not exceed one or two persons. It was noticeable that they seemed to be largely office bound and charged with undertaking administrative tasks rather than being in the locations where IDP women are. The situation is different with the police, particularly the NSCDC, which has made an effort to hire more female officers. These participate in police investigations, record testimonies particularly by women and take part in dispute resolution mechanisms. At the same time, it is worth mentioning that the serious lack of infrastructure at LGA level has limited the deployment of female police officers.

6. PROCEDURES AND SERVICE PROVISION

6.1. THE POLICE FORCE: ROLES AND RESPONSIBILITIES

Key roles of the police include arrest, follow-up on reported cases through investigation and referrals to health services at the special hospital for survivors of GBV (free of charge). Some survivors are not willing to go to the hospital, as they are not aware of the long-term consequences. Police and other actors and bodies facilitate and support access to legal aid service (UNHCR and FIDA, Director of Public Protector).

Rape is categorized as a criminal case against the state, henceforth bail is not granted for such cases, and all cases of rape must be referred to the High Court. In practice, however, if the cases are withdrawn, the perpetrators settle the case out of court. As part of GBV and counter-trafficking response, incidences within the police are referred to a Gender desk officer at the State police command, thus there is a need to continuously work with the Gender unit and ensure that the guiding principles are observed at all times and that the response is survivor-centred.

As part of the accountability procedures, the police have internal procedures where perpetrators who are officials are tried and if found guilty, the officer is first dismissed from service and charged to court for trial as civilians, and during the trial, the Police Act and the Constitution are referred to.

While law enforcement bodies have different types of reporting mechanisms,³¹ as well as retribution³² where responsibility has been found, GBV survivors are also largely reluctant to report perpetrators and also initiating legal proceedings against them. There are many reasons that explain this, most notably the following:

- GBV is not considered a crime at the federal level – relegating it to lesser importance;
- Survivors of GBV suffer from strong stigma. As such, it is often the parents or the survivor himself/herself who are reluctant to press charges or to drop them; and
- Fear for the personal safety of the survivor or their family members, particularly when the alleged perpetrator is a member of the law enforcement, a person with power or a staff of the military.

³¹ Reports to the police can be done through the following: (a) complaint boxes; (b) email addresses; (c) written complaints to police service commission; and (d) hotline for the Nigeria Security and Civil Defence Corps (NSCDC); reporting can take place with any of the divisional officers in the 217 local government areas or any officer who lives nearby (IOM Maiduguri, Update for Bureau of International Narcotics and Law Enforcement Affairs (INL) Project, October 2018 (Unpublished)).

³² When it comes to the police, and should an officer be found guilty, disciplinary action is taken at the provost office, which could consist of dismissal from service or trial at a court. With regard to the NSCDC, the officer could be: (a) dismissed; (b) deranged; (c) suspended; or (d) charged in front of a court of law (ibid).

6.1.1. Capacity of the police to deal with gender-based violence cases

While law enforcement understands their responsibility to refer, assist and protect survivors of GBV, there are a number of structural and attitude-related problems that hamper the police's ability to exercise this role. To mention some:

- Police sections are understaffed, particularly when it comes to the ratio of female to male officers;
- Challenges with covering running costs such as transportation costs that particularly limit the timely responses to GBV cases;
- Police quarters do not have a separate office for investigating crimes relating to GBV;
- The police force was modelled as a predominantly masculine institution with masculine values, behaviours and attitudes that will take some time to change; and
- Responses to women-specific interests both by law and in practice are entrenched in gender stereotypes and gender prejudices (gender unfriendly conditions of service, especially for the female police officers, gender-biased treatment of domestic violence and other forms of violence against women).³³

6.2. LEGAL AID SERVICES

There was a review of the legal framework for inclusion in the response to GBV committed by the security actors in the Penal Code and criminal justice law. The new Penal Code Act that was passed in November 2018 has stricter sentences for perpetrators of rape and related GBV crimes, there is a reduction in the requirements to prove that a rape occurred, and the trial can proceed even if the survivor does not appear in court.

UNHCR and FIDA's legal association play a big role regarding survivors' access to legal aid services through facilitation. In Adamawa, there are special juvenile courts, but in cases where the perpetrator is an adult, the cases are dealt with in an open court. The best interest procedure for young children is not conducted, but an enabling environment is created where they can eventually open up about their ordeals. Article 3 of the UN Convention on the Rights of the Child requires Member States to observe the "best interests of the child as a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies". The states of Adamawa and Borno have not yet domesticated the Child Rights Act, and this hinders the enforcement of many recommended best international practices.

Promoting confidentiality has been one of the considerations in reference to access to justice; for instance, some of the judges conduct the cases in their chambers to protect survivors and their parents from stigmatization. However, access to justice is very slow, and the Government has created a Special Rights Agency under the MoJ whose objectives is to work on the following pillars to ensure improved access to justice: (a) gender; (b) human rights; (c) persons with disabilities; and (d) children's rights.

³³ National Police Force, UN Women and United Nations Population Fund, 2010:25–26.

6.3. PERCEPTION TOWARDS ACCESS TO SECURITY AND LEGAL SERVICES

Community members have negative perceptions when it comes to access to security services and prefer not to report their case to law enforcement agencies with the belief that timely support is not provided; hence, they rather present their case to legal justice services. There are other contributing factors that prevents survivors' access to both security and legal services, including the following:

- Perpetrator is a family member;
- Fear of retaliation from the perpetrator;
- Perceived lack of privacy and confidentiality or breaches thereof;
- Lack of confidence and trust in the security services;
- Logistical challenges (since rape incidences are handled from the police state command, thus there is a need for transport);
- Severity of the punishment of the perpetrator or penalties are not deterrent to the perpetrators of GBV;
- Long process in response to incidences reported, including a slow justice process;
- Stigma from other community members that influences cultural silence of the communities; and
- Absence of special courts and mobile courts to increase the outreach of services to the communities.

6.4. MEDICAL SERVICES

The Hope Centre in Yola aims to provide support in the efforts of all concerned parties to address the rising incidences GBV in target states. Free immediate medical services and counselling are available to survivors. The centre, through the support from the British Council, was opened in March 2018 to cater for survivors of GBV as the crimes against women have increased in the recent time in the state. The staff at the centre are employed by the MoH. The centre will be handed over to the MoH in three years' time. The centre is managed by a Sexual Assault Referral Centre Committee, which consists of MoJ, MoH and MWASD.

The lack of collaboration leads to a fragmented approach and service provision to survivors of GBV and TIP. The referral mechanisms are not effective, as the different partners responding to the challenge face geographical limitations. The programmes also target specific beneficiaries, and thus, survivors outside of these categories cannot get any assistance. Furthermore, the lack of livelihood opportunities has forced communities to look for alternative sources of income for the family to be able to purchase basic needs like food and medication.

7. TRAFFICKING IN PERSONS

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, “‘trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”³⁴ This UN Protocol is one of the three Palermo Protocols supplementing the UN Convention against Transnational Organized Crime.

7.1. THE LEGAL FRAMEWORK GOVERNING TRAFFICKING IN PERSONS IN NIGERIA

The Federal State of Nigeria has signed and ratified a number of important conventions and treaties that relate to TIP. In addition to the ones mentioned under the GBV section and which are also relevant to TIP, it is worth mentioning that Nigeria has ratified the following: (a) United Nations Convention Against Transnational Organized Crime; (b) Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; (c) Economic Community of West African States’ (ECOWAS) Declaration on the Fight against Trafficking in Persons and ECOWAS Initial Plan of Action Against Trafficking in Persons; (d) Forced Labour Convention, 1930 (C029); (e) Minimum Age Convention, 1973 (C138); and (f) Worst Forms of Child Labour Convention, 1999 (C182).

On the domestic front, a number of instruments address the issue of TIP.

7.1.1. The Constitution of Nigeria, 1999

The Constitution of Nigeria provides constitutional protection against slavery, forced labour or compulsory labour, sexual exploitation and deprivation of personal liberties. TIP violates the provisions of sections 17,³⁵ 34³⁶ and 42³⁷ of the Constitution of the Federal Republic of Nigeria, which address these as well as the right of every Nigerian to dignity and freedom from torture.

³⁴ United Nations Convention against Transnational Organized Crime and the Protocols Thereto, 2000. Available from www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html

³⁵ Section 17 of the Constitution provides that:

“(1) The State social order is founded on ideals of freedom, equality and justice.

(2) In furtherance of the social order – ... (b) the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced; ...

(3) The State shall direct its policy towards ensuring that –... (f) children, young persons and the aged are protected against any exploitation whatsoever and against moral and material neglect.” (Constitution of the Federal Republic of Nigeria of 1999. Available from www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm)

³⁶ The section reads: “Every individual is entitled to respect for the dignity of his person and accordingly – (a) no person shall be subject to torture or to inhuman treatment or to degrading treatment; (b) no person shall be held in slavery or servitude; and (c) no person shall be required to perform forced or compulsory labour.” (ibid.)

³⁷ Section 42.2 reads: “No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.” (Ibid.)

7.1.2. The Penal Code Act of 1960

While the Penal Code of 1960 criminalizes trafficking in women,³⁸ it fails to define what it is. Furthermore, it leaves many of the important forms in which TIP manifests itself in Nigeria unaddressed, focusing only on the ones for the purpose of slavery and prostitution.³⁹

In many ways, it was the significant gaps and shortcomings of the Penal Code Act that led the Government of Nigeria to enact a new law, namely the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2003.

7.1.3. The Immigration Act of 1963

Section 18.1 (g)⁴⁰ and 18.1 (h)⁴¹ are grounds on which the Department of Immigration is able to prohibit and reliably refuse admission to a foreigner into Nigeria or to be deported from Nigeria. The main problem with these articles is that they limit the age of victims of prostitution to children (with the age 13 or below used in different occasions), hence leaving older females and males without protection.⁴²

7.1.4. The Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2003

This act created the NAPTIP, which is the government agency responsible for dealing with TIP in Nigeria. The organization took over the functions of the special task force in human trafficking and was vested with the responsibilities to enforce laws against TIP, and to take charge and coordinate the rehabilitation and counselling of trafficked persons and other related matters.⁴³

NAPTIP has four areas of work: (a) prevention; (b) protection; (c) partnership; and (d) prosecution. The agency has eight departments but carries out its functions through four main departments, which are as follows: (a) Prosecution; (b) Investigations; (c) Rehabilitation; and (d) Public Enlightenment.

While the Act provided a unified approach for the first time, it has shortcomings. For example, although the law uses the definition of TIP given in the UN-sponsored Palermo Protocol adopted to supplement the United Nations Convention against Transnational Organized Crime (2000), it deals more extensively with trafficking for prostitution and sexual exploitation than with trafficking for other forms of exploitation.⁴⁴

The Act was amended in December 2005. In 2015, as a result of the new trends in the crime of TIP and with the need to further strengthen the institutional framework, the Act was repealed, and the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 was enacted in March 2015. It is worth mentioning that the act is a federal legislation and applies to all 36 states

³⁸ Article 281 of the Penal Code Act reads: "Whoever, in order to gratify the passions of another person, procures, entices or leads away, even with her consent, a woman or girl for immoral purposes shall be punished with imprisonment which may extend to seven years and shall also be liable to fine."

³⁹ Article 279 of the Penal Code Act reads: "Whoever imports, exports, removes, buys, sells, disposes, traffics or deals in a person as a slave, or accepts, receives or detains against his will a person as a slave, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine."

⁴⁰ "(g) any prostitute" (Chapter 171, Immigration Act of 1963. Available from www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=54f977a24).

⁴¹ "(h) any person who is or has been – (i) a brothel keeper, (ii) a householder permitting the defilement of a young girl on his premises, (iii) a person allowing a person under thirteen years of age to be in a brothel, (iv) a person causing or encouraging the seduction or prostitution of girl under thirteen years of age, (v) a person trading in prostitution, or (vi) a procurer." (ibid.)

⁴² Kigbu and Hassan, 2015:214.

⁴³ Ibid., 206.

⁴⁴ Babatunde, 2014:76.

including the FCT, Abuja.⁴⁵ Many of the amendments that have been introduced were positive. For one, it broadened the number of offences that can be considered as TIP, such as child labour and keeping a brothel. However, the amendments also restricted punishable trafficking offences mainly to those that were made in respect to children, suggesting that a person who is 18 or above cannot be trafficked. Moreover, it increased penalties for trafficking offenders and prohibited all forms of TIP. Looking at its limitations, however, offences for labour trafficking were defined at five years of imprisonment or a fine not to exceed the equivalent of around USD 645; both penalties are arguably not proportionate to the crime committed. Furthermore, the law's provisions to protect trafficked persons and witnesses remained inadequate, and thus, it falls short of the recommended human rights standard.

7.1.5. The NAPTIP Act of 2015

Article 13 of the NAPTIP Act of 2015, which tries to define acts that constitute trafficking, is not entirely in line with the definition of one of the Palermo Protocols on Trafficking in Persons, which Nigeria has subscribed to.⁴⁶ Notably missing is the definition of exploitation, which according to the Palermo Protocol on TIP, “shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.⁴⁷

Furthermore, a person charged for the offences created by the Act may be charged to a State High Court, FCT High Court and Federal High Court in the relevant state where the exportation or importation occurred. The Act also stipulates that the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters. In addition, a trafficker or his/her accomplice could be prosecuted outside the state of abode once the commission of the offence is discovered in the state to which the victim is trafficked. He/She could be taken there for prosecution, and it will not be an excuse that he/she was taken there involuntarily.

The weak national legal framework, coupled with the challenges in the enforcement capacity of NAPTIP, partially explains why there were only two convictions on trafficking in the states of Borno and Adamawa over the course of the entire year of 2017. In addition, the relevant federal laws from which NAPTIP draws its authority are not sufficiently strong.

In the view of NAPTIP, the federal nature of the offence means that survivors or their family members who file a case against the aggressor are technically not allowed to withdraw these cases, as only the state can withdraw it, not the individual. However, despite the law being clear on this, the majority of those that file cases end up withdrawing them for different reasons that will be elaborated on in upcoming sections of the report.

⁴⁵ Kigbu and Hassan, 2015:206.

⁴⁶ It is worth mentioning that the first act on this issue, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 went through an amendment in 2005 in a bid to further strengthen the Agency. However, in 2015, as a result of the new trends in the crime of TIP and the need to further strengthen the institutional framework, the Act was repealed and the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 was enacted. The new Act received Presidential assent on 26 March 2015 (National Agency for the Prohibition of Trafficking in Persons (NAPTIP), About NAPTIP. Available from www.naptip.gov.ng/?page_id=112).

⁴⁷ Office of the High Commissioner for Human Rights, 2000.

7.1.6. The Child Rights Act of 2003

With respect to trafficking forced labour and other harmful practices to children, the law defined a number of offences and punishments for each of these. Among those, the following prohibitions and their corresponding punishments are highlighted below:⁴⁸

- Child marriage and its corresponding penalties in sections 21–23;
- The exposure of children to the use, production and trafficking of narcotic drugs in section 25, for which the punishment is life imprisonment;
- The use of children in criminal activities of whatever nature (section 26), for which the penalty is 14 years of imprisonment;
- The abduction, removal and transfer of children from lawful custody of their parents or guardians, whereby the offender would be punished between 10 and 20 years of imprisonment depending on the gravity of the offence involved;
- The use of children in forced labour or hazardous or exploitative activities, for which the offender could be imprisoned for five years in prison or a fine between 50,000 and 250,000 Nigerian naira (NGN);
- Buying selling, hiring or otherwise dealing in children for the purposes of hawking or begging for arms or prostitution or other similar practices, and for which the breach is 10 years of imprisonment (section 30);
- Sexual abuse and exploitation of children below the age of 18 years (sections 31–32);
- Recruitment of children into the armed forces, though curiously no provisions for sanctioning this behaviour was made (section 34); it also therefore does not criminalize the forced recruitment and use of adults into the armed forces.

7.2. ASSESSMENT FINDINGS RELATING TO TRAFFICKING IN PERSONS

The prevalence of TIP in Nigeria is well documented, depicting Nigeria as a source, transit and destination country primarily for women and children subjected to forced labour and trafficking. It is also a source country for men subjected to forced labour.⁴⁹

Many intertwined reasons account for these phenomena, including poverty, governance problems, unemployment, corruption and violence, to name a few.⁵⁰ In Nigeria, women and children are particularly vulnerable and the main victims of this horrific crime.⁵¹

There is a significant international trafficking trend, originating from Nigeria's Edo state and its capital, Benin City, with victims exploited in other countries. Apart from Edo, identified trafficked girls and women come from Delta and Lagos states. They range in age from 15 to 35 years of age. Other states with a high rate of trafficked victims are Akwa Ibom, Cross River, Imo, Ebonyi, Lagos, Ogun, Oyo, Kano and Borno states.⁵² Key informants confirmed that TIP was taking place in Borno and the North-East in general, though it is difficult to determine the scale of this phenomena given the lack of reliable data and research. The characteristic of this phenomena are different from the rest of the country. Victims of trafficking who are from the North-East region are primarily

⁴⁸ Kigbu and Hassan, 2015:215. The full sections can be found in the Child Rights Act of 2003, accessible here: www.refworld.org/docid/5568201f4.html

⁴⁹ United States Department of State, 2018a:331.

⁵⁰ Babatunde, 2014.

⁵¹ United States Department of State, 2018b.

⁵² Ibid.

exploited inside Nigeria. There seem to be a few cases of victims of trafficking from the North-East region who are moved across the border and taken to the Lake Chad Basin countries, with an onward journey to Sudan and Arabian Gulf countries for exploitation. One of the external reports on trafficking in Nigeria refers to a local report in 2017, which noted that “traffickers recruit women and girls from IDP camps in Northeast Nigeria for ostensibly legitimate jobs in Italy but exploit them in prostitution in Italy”.⁵³ Some key informants reported having heard similar reports. Moreover, a number of key informants reported that the agents of traffickers would sometimes come to the urban areas and collect photos of young girls, promising them a good life. In doing so, they did not seem to be targeting IDPs specifically, but persons who generally appeared to be particularly vulnerable.

According to the different key informants, the main purposes of TIP from the north of Nigeria are for child labour, recruitment by armed forces or groups, sexual services, as well as organ removal. This is particularly the case in Adamawa State, but it also happens in other parts of the North-East.

The NSAG is also known to have trafficked women and children and coerced them to join its ranks as fighters or sexual slaves. While numerous national key informants acknowledged that these acts were taking place, few were able to label these as acts of trafficking. Similarly, few key informants were able to associate or understand some forms of labour exploitation as trafficking. Those victims who are released from the trafficking situation suffer from stigma by the society, as well as insufficient attention, care and support.

While recognition of this problem exists in the North-East and in Adamawa and Borno states in particular, the identification, assistance and protection of victims of trafficking remain relatively weak. For example, the national report for Nigeria states that only 12 victims of trafficking were from Borno state among the 1,146 persons rescued from a situation of trafficking between April and September 2017.⁵⁴

The Government of Nigeria’s ability to effectively identify, assist and protect victims of TIP continues to be limited. For example, to this date, the Government of Nigeria has not fully operationalized the formal procedures for the return and reintegration of trafficked Nigerians who were identified either in-country or abroad.⁵⁵ Related to this, projects to rehabilitate victims and help them restart their lives are virtually non-existent. According to NAPTIP, this is a serious gap that can lead to the re-trafficking of the victim.

It was not entirely clear whether NAPTIP was adequately financed, given conflicting information. According to some key informants, there is no dedicated budget line available to enable NAPTIP to carry out its work, whether it consists of providing legal advice or transporting victims to a safer place. At the same time, external reports such as the United States Department of State’s *2018 Trafficking in Persons Report* claims that NGN 3.14 billion (USD 8.7 million) were allocated to NAPTIP in 2017, constituting a significant increase from NGN 1.69 billion (USD 4.7 million allocated in 2016).⁵⁶

Despite the fact that NAPTIP is the national entity that is entrusted with handling issues related to trafficking, other law enforcement entities are not fully cooperating with it either. Furthermore, there seems to be a lack of clarity in the responsibilities of the different law enforcement authorities, at least to the crisis-affected populations, as well as a significant lack of coordination between them. According to the Criminal Procedure Act, law enforcement agents are empowered

⁵³ United States Department of State, 2018a:331.

⁵⁴ NAPTIP, 2017:28.

⁵⁵ Babatunde, 2014:77.

⁵⁶ United States Department of State, 2018a:329.

to search, seize, arrest suspects and perform other relevant acts necessary for the enforcement of the provision of the Act. The NSCDC seems to be often the first point of call, as its forces are regularly present in the IDP camps. NSCDC forces take on investigations that are non-criminal in nature (the latter being referred to the police).

There is a significant reluctance by victims of TIP to approach law enforcement or NAPTIP due to a number of reasons. For one, there seems to be complicity between law enforcement authorities, members of the judiciary and TIP networks. Moreover, Nigerian Police officers themselves fear reprisals from criminal gangs, so they find it easier to deny knowledge of trafficking or downplay the extent of the problem.

It was noted that many representatives of the authorities, including NAPTIP, did not have a sufficient understanding of what constitutes the crime of trafficking. Furthermore, it was observed that when visits were made to the authorities by IOM staff and the definition of trafficking was provided or the elements that constitute it without naming it were discussed, authorities were more open and forthcoming in their discussion, and the conversations around this subject were more productive. Therefore, addressing the issue of trafficking head-on seems to be counterproductive and should be avoided.

According to many key informants, there is a lack of political will to apprehend and successfully prosecute traffickers, particularly in the face of competing priorities and limited resources. While NAPTIP is empowered to prosecute persons who have committed acts of TIP, the number of prosecutions remain very low. Of the 662 cases that NAPTIP received nationwide in 2017, it prosecuted 43 cases and convicted 26 cases.⁵⁷ Moreover, and until this day, the Government of Nigeria has not carried out any investigations, prosecutions or convictions of child soldiering acts, despite the fact that the Civilian Joint Task Force (CJTF) had used children to carry out support services.⁵⁸

Another body that works on combating TIP is the NIS. It carries this out within the framework of its overall responsibility of border surveillance and patrol. The NIS has carried out some spot checks of travelers based on suspicions they may have. While there are no data at the state level, the NIS is the agency second to NAPTIP that has secured the largest number of rescues of victims of trafficking at country level (15.6% of all those rescued between April and September 2017).⁵⁹ Furthermore, the 2017 NIS report indicates that in 2017, the NIS had intercepted 110 victims of trafficking nationwide, of which it handed over 89 to NAPTIP, as well as reunited 15 victims with their families and arrested 4 traffickers.⁶⁰ As such, it would seem that NIS's mandate overlaps to an extent with that of NAPTIP. It is not entirely clear whether the two agencies have clear and complementary ways of engagement. The assessment mission was not able to obtain further information on this.

According to the NIS, one complicating factor is the role of the parents in the trafficking process, and possible complicity between the parents and the traffickers. In addition to some examples described in this report, parents have been reported to encourage their children to trust the traffickers.

⁵⁷ Ibid., 328.

⁵⁸ Ibid.

⁵⁹ Ibid., 34.

⁶⁰ Nigerian Immigration Service (NIS), 2017:74.

At the same time, immigration authorities admitted that they did not know enough about the trafficking phenomenon, nor what their exact mandate is, particularly vis-à-vis other agencies such as NAPTIP. Similar to other concerned national entities, NIS's operational capacity is quite limited. For example, the NIS does not have a transit facility to place victims temporarily before they are handed over to NAPTIP.

7.2.1. Human trafficking situation in Adamawa

Human trafficking is manifested through labour exploitation and domestic servitude of young girls and boys who are brought to Adamawa from the crisis-affected areas. Child labour and domestic servitude seem to be rampant in Adamawa, and there are known locations from where the children are recruited. The children are heavily exploited and physically injured by the families that adopt them. The parents are paid a certain amount of money every month by the adoptive families. These arrangements are not official and not formalized by the High Court as required in the Child Rights Act of 2003. A rapid assessment conducted by the civil society organizations (CSOs) revealed that 65 per cent of the employers or relatives do not treat the children in a humane way, and the children are not enrolled in schools (Report not available).

Cases of people being drugged unknowingly for purposes of sexual and labour exploitation were cited. Some of the women in the camps are not Nigerians and were caught up in the crisis. They are living in the camps with little hope of returning to their countries of origin, making them vulnerable to abuse and exploitation. Abductions of women and girls for forced marriages and sexual exploitation by gangster groups is rampant. A group of gangs known as the Shila boys is operating in Yola and allegedly committing rape, trafficking, robberies, kidnapping and murder. Because of psychosocial support issues and drug abuse, unaccompanied and separated youth who are orphaned and feel marginalized and hopeless join the gangs. This creates a feeding ground for their indoctrination, and they become easy tools for radicalization by NSAGs. The returnees from the armed conflict are rejected by the communities that fear attachment to NSAGs.

A number of key informants raised concerns about the escalation of the fresh attacks of farmers by the cattle herders in Adamawa and surrounding states that cause displacements, thereby exposing people to vulnerabilities and human trafficking. The conflict has evolved from spontaneous reactions to provocations and now to deadlier planned attacks, particularly in Benue, Plateau, Adamawa, Nasarawa and Taraba states. The environmental degradation in the far north and encroachment upon grazing grounds in the Middle Belt has aggravated the long-standing conflict between the farmers and herders in these regions.⁶¹ Yola is also a transit route to Cameroon, and cases of human trafficking are going unreported in the state. Large number of cases of young girls are abducted for the purposes of forced conversion to religion. Some young people are moved away from the communities and engage with the drama houses in Lagos, but there are reports of sexual exploitations and other human rights violations of the youth in the drama houses. IDPs are also discriminated by the farmers and employees in terms of working conditions and remuneration.

⁶¹ International Crisis Group, 2018.

7.2.2. Factors that exacerbate exposure of people to human trafficking

- Recruitment agencies come to the camps and the host communities and take pictures that they send abroad to prospective employers.
- Lack of secondary education for the youths who end up loitering around the village.
- Food shortages are experienced during the rainy season, and they supplement the food by working on the farms where they can be easily exploited.
- High levels of poverty, illiteracy and drug abuse in the communities.
- The armed conflict has resulted in many female- and child-headed households with no means of livelihood. They end up engaging in survival sex to obtain basic necessities.
- As a result of the crisis, children born of rape are ostracized by the community that expose them to more risk of being trafficked.
- Gangs are ravaging the communities, and they are composed of the children born out of rape and those orphaned from the crisis. The boys have seen the violence and are not afraid to take life.
- Large number of cases of young girls are abducted for the purposes of forced conversion to religion.

8. RECOMMENDATIONS

8.1. RECOMMENDATIONS RELATING TO GENDER-BASED VIOLENCE AND TRAFFICKING IN PERSONS

Training on protection issues for law enforcement bodies and the military, including on GBV and anti-trafficking is provided widely by a range of international actors, such as IOM, OHCHR, UNHCR and Norwegian Refugee Council, among others. Many of these have taken place within the framework of the technical working group that the GBV Sub-Sector and the Prevention of Sexual Exploitation and Abuse Network formed on engagement with security actors and which includes training and capacity-building.⁶² These efforts, however, do not appear sufficiently coordinated or complementary to each other, leading at times to duplications and a loss of impact. As such, it would be recommended that future trainings, including those envisaged under this project, are coordinated between actors. Based on the understanding that the project implemented by IOM includes the design of a manual for training the trainers, it would be recommended that other training providers have the opportunity to review the content and contribute to it.

Another issue that will be a challenge for maximizing the impact of the training for law enforcement is their frequent rotation. This should be avoided for those that would become trainers, since it would be a missed opportunity to have them rotate to other states not affected by the crisis.

For optimal impact, the upcoming training should be accompanied with interventions that improve the identification, referral, assistance and response for survivors of GBV and victims of trafficking.

Local authorities should strive to improve not only the identification and referral mechanisms for GBV survivors or TIP victims, but also the means to assist and protect them. Otherwise, there is a serious risk of raising expectations and creating more harm to the survivors.

Specific recommendations for actors

- Advocate or separate courts for GBV survivors to guarantee confidentiality during trials (engage State Emergency Management Agency (SEMA) and National Emergency Management Agency (NEMA)).
- Local and international humanitarian agencies need to screen staff deployed to IDP camps to address diversion of assistance for IDPs.
- Provide strategic reflection meetings with different security agencies (police, NSCDC, NAPTIP) to explore mechanisms for better coordination, information-sharing and synergy-building.
- Humanitarian agencies need to screen staff deployed to IDP camps to address diversion of assistance for IDPs.
- Coordination platforms for all partners/actors providing support to the security actors on responses to GBV and TIP should be established.

⁶² To mention an example, a GBV/Prevention of Sexual Exploitation and Abuse (PSEA) training of trainers (ToT) was conducted from 19 to 22 June 2018 in Maiduguri for 28 military focal points under the 7 divisions selected from Maiduguri, Bama, Konduga, Banki, Mafa, Gwoza, Pulka, Ngoshe, Chibok and Askira/Uba. This GBV/PSEA ToT builds on previous training conducted in January 2018 for representatives from the military, police, NSCDC and the CJTF (Gender-Based Violence Sub-Sector, 2018:15).

8.2. TRAINING NEEDS WITH REGARDS TO GENDER-BASED VIOLENCE

The capacity of State institutions with the mandate to identify and safely and ethically respond to cases of GBV is limited. There is a need to provide guidance/training on many basic concepts such as the following:

- The definition of actions that amount to GBV;
- Why GBV can amount to torture and constitutes a violation of the survivor's basic human rights;
- The consequences of GBV on the individual and their need for attention, care and recovery;
- How to set up a survivor-centred and confidential assistance and protection mechanism;
- Specific protection needs of children and the risks that they may be exposed to, as well as child-sensitive referral mechanisms for assistance and protection;
- Procedures for determining the best interest of the child, which should determine all interventions that will impact the child's life;
- The requirements of conducting a full medical assessment of the survivor in such a way that it follows the requirement that many courts ask for, in order for it to be admitted in a court of law;
- Effective dispute resolution mechanisms;
- Definition of persons with specific needs and how to better identify these;
- Foundational aspects of community policing, particularly in view of the positive experience that the State Police Command has had;
- The issue of informed consent, which has become evident from previous workshops, is a contentious issue; it therefore will require permanent clarification and reinforcement;
- Constitutional provisions, international and national enactments on the issues of GBV and human trafficking;
- Training of judges and attorney generals on the procedural and investigative aspects for cases of GBV and TIP;
- Harmonize training curriculum for security actors (military, NPF and NSCDC);
- How to ensure institutional capacity as opposed to individual capacity; and
- Educating the police, immigration and other actors with a mandate on GBV and TIP with human rights-based approaches in responding.

8.3. OPERATIONAL INTERVENTIONS REQUIRED FOR TRAINING ON GENDER-BASED VIOLENCE

As mentioned, for this training to be effective, they will have to be coupled with other parallel interventions:

Short-term interventions

- Given the multisectoral and technical nature of GBV response and prevention, front-line actors will have to enhance their interventions. Within the context of the North-East Nigeria response, this cannot be overemphasized.⁶³
- Female Gender desk officers in each camp and police post from across the states should be deployed, as this will make access to security services easy and improve timely access to services, thus dealing with the logistical challenges.
- The GBV Sub-Sector should be engaged to set up a small temporary working group.
- Good governance and behavioural change among the law enforcement agencies should be advocated.
- Training other security actors like CJTF, CJTF and the military should be considered.
- Best practices on GBV and TIP responses from other countries that can be contextualized should be referred to.
- Advocate for high-level officials with capacity to make decisions to be sent to the trainings.
- Children should be taught what the parameters of appropriate behaviour towards them is and what is not, including through their school curricula.
- It is imperative to strengthen relationships with religious leaders of the communities, given the respect that communities have and the pivotal role that they play in society. They need to be re-trained on religious dogma and interpretation, drawing out the elements that are consistent with fundamental human rights principles.
- Advocate for separate courts for GBV survivors to guarantee confidentiality during trials (engage SEMA and NEMA).
- Technical support and equipment to the relevant departments to enable them to conduct their work more effectively should be provided.
- Database management for cases should be strengthened and associated equipment, such as computers and printers, should be provided.
- The shelter managed by MWASD for survivors should be upgraded.
- There should be a more robust mainstreaming of protection into the work of the other sectors to ensure that these sectors have an increased capacity to identify and follow-up on protection issues rather than channeling them all to the protection sector lead.

Medium-term interventions

- Members of the GBV sub-working group, as well as the health sector in the humanitarian response, should consider supporting the Ninawa centre to increase the scope of its beneficiaries and services. Support and guidance should be provided to the three ministries namely MoJ, MoH, as well as MWASD to elicit larger financial and political resources that would allow the proper functioning of the centre.

⁶³ OCHA, 2017:25.

- MWASD and other government ministries and agencies should update their training curriculums to reflect the current dynamics and changes that have occurred over time, so that they are able to respond to the survivors in a more comprehensive, holistic and effective manner.
- The awareness of the affected population of their rights to physical safety and security, as well as their right not to be subjected to violence, including GBV, should be increased. The same applies to how and where survivors of violence can access relevant services. While national laws have their limitations, there are rights-based and protection sensitive elements to them, yet many are not aware. This is not surprising, considering that many laws are not publicly available to the average citizen.⁶⁴ A comprehensive awareness-raising strategy should be designed that involves the sources of authority and respect in the IDP societies, as well as the communication methods that they mostly use (such as radios⁶⁵). Boys and men should be fully involved in these efforts.
- A coalition of GBV actors should be established, cutting across government, CSOs and community stakeholders who can identify, respond and intervene in addressing arising GBV concern.
- Ongoing efforts by civil society should be supported to reinstate rights-sensitive cultural norms and values, as well as social cohesion – all which have been weakened by the conflict.
- The number of female staff in law enforcement and key ministries, such as SEMA, NEMA, NAPTIP and MWASD of Nigeria, should be increased; they should be deployed to affected areas. These women need be present in the sites where IDPs and returnees are concentrated. They need not only to be trained but also to be empowered to engage with the affected population, including women and girls.
- Special courts and mobile courts should be established to increase the outreach of services to the communities.
- Meaningful livelihood opportunities that also target women and the youth should be expanded.
- Ensure institutional capacity as opposed to individual capacity.
- CSOs should assist in provisions of material support/equipment to security agencies, including computers and desks.
- Funding and staff for the police should be increased, and NSCDC should provide a comprehensive response to GBV cases.

Long-term interventions

- Possibilities for setting up an adequate shelter for survivors of GBV should be seriously explored, given the need for it. National institutions recognize the gravity of the inability to physically protect the survivor. During the assessment, one interlocutor claimed that the State Assembly was about to discuss this issue shortly. Such a shelter should be first run by an organization (national or international) that has experience with such initiatives, in collaboration with MWASD. An interim period (one to three years) should be taken to build the capacity of the ministry in managing the centre in line with adequate standards, then handing it over.

⁶⁴ Makinde et al., 2017.

⁶⁵ The British Council is undertaking mass communication and awareness-raising campaigns in close cooperation with media outlets.

- Advocate for the improvement in logistical issues that may hinder access to justice, such as transport and allowances for officers conducting investigations.
- Advocate for legal reform of some of Nigeria's laws that are relevant to prevent and respond to GBV and to ensure that State laws incorporate Nigeria's international human rights commitments⁶⁶ and are in line with the Nigerian Constitution.
- The Child's Right Act in Borno and Adamawa states should be passed by the House of Assembly to strengthen the protection of children.⁶⁷
- Another issue that requires rework in the legal framework dealing with GBV is the issue of consent. Consent in such cases at the moment is irrelevant, since GBV crimes are considered to be crimes against the State.
- Legal aid services should be expanded, and strategic litigation should be used to try to induce a change in the way the legal system handles cases of GBV.

8.4. TRAINING NEEDS WITH REGARDS TO TRAFFICKING IN PERSONS

- The definition of trafficking and the national and international legal framework governing the fight against TIP, as well as the context in which TIP takes place in Nigeria.
- Interviewing techniques to identify victims of TIP and understand the dynamics between a possible trafficking victim and the trafficker.
- Mechanisms for referring victims to appropriate assistance and support.
- General human rights standards.
- The right to a fair trial.
- Detention standards in human rights law.
- Protection-sensitive family tracing and return and reintegration processes.

8.5. OPERATIONAL INTERVENTIONS REQUIRED FOR TRAINING ON TRAFFICKING

- The definition of trafficking in Nigeria's Trafficking Act has to be brought fully in line with the trafficking definition of the Palermo Protocol.
- Given the serious lack of knowledge as to what constitutes trafficking, awareness on the scale and nature of trafficking should be raised among all national constituencies, particularly NAPTIP, law enforcement, the communities and their leaders. Such efforts should be made carefully and progressively, seeking to put in place mechanisms to improve the understanding of the issue; identification of victims as well as their assistance and response, and only then also focus on strengthening punitive actions and prosecution.
- While the international protection and humanitarian organizations recognize that trafficking is an issue in Nigeria, there is the sense that they do not fully appreciate the complexity and scale of it, and how this phenomenon has been further exacerbated by the ongoing conflict and forced displacement. This was explained by UNHCR as being the result of competing priorities. Other organizations such as UNICEF informed the

⁶⁶ Nigeria is a signatory of the Convention on the Elimination of All Forms of Discrimination Against Women and has ratified the Protocol to the African Charter on Human and Peoples' Rights and the Rights of Women in Africa.

⁶⁷ UNHCR, 2018:7.

assessment mission that they were not aware that this was a problem that was happening on a significant scale. As such, organizations should increase the level and degree of their engagement with the issue, particularly in the Protection Cluster.

- As some experts have suggested, efforts on anti-trafficking need to go hand in hand with serious efforts to fight corruption. While a law for that purpose exists – namely the Corrupt Practices and Other Related Offences Act of 2000 – Nigeria continues to be ranked as a country with significant corruption problems in Transparency International's Corruption Perception Index.⁶⁸

8.6. RECOMMENDATIONS FOR PROCEDURAL ENHANCEMENTS

- Develop policies and guidelines on the movement of unaccompanied and separated children for the Nigeria Immigration Services and related agencies.
- Strengthen capacity of the service providers including GBV actors to enhance the timely access and improved quality of services for the survivors; referral mechanisms must be area specific, and there is a need for constant updates to reflect the entry and exit of different organizations in the state.
- Establish a network for TIP and engage in advocacy for its acknowledgement by the community leaders.
- Review the referral mechanism on TIP and reactivation of the Rapid Response teams.
- Establish an interministerial task force on anti-trafficking.
- Mainstream and integrate counter-trafficking across the relevant humanitarian sector working groups in Adamawa and Borno States.
- All partners must improve coordination, collaboration and information-sharing and establish synergies to reduce fragmented approaches and duplication of services.
- Feedback mechanisms should be put in place for all service providers to allow for the tracking and updates on the cases.
- Deliberate policy should include men in the referral mechanisms as they are also affected by GBV and TIP.
- Women must be provided with safe spaces to operate from and are empowered.
- Stiffer punishment should be endorsed for perpetrators of GBV/TIP.
- Harmonize TIP and Gender Based Violence Sub Sector standard operating procedure to mitigate possible risks of creating confusion among actors especially government actors.
- Strengthen the effort of civil societies, NGOs and international NGOs working on the domestication of the Child Rights Act in responding to GBV in Adamawa State.
- Federal legislation and international conventions and treaties should be domesticated to apply at the state level.
- Enlightening the public and the security instruments of government on the new penal code with a view to enhance deterrence.

⁶⁸ Babatunde, 2014:78.

8.7. RECOMMENDATIONS FOR COMMUNITY ENGAGEMENTS AND SENSITIZATION

- Communities should be sensitized on destigmatization and discrimination against women and girls.
- Address the issues from the grass-roots levels and use a participatory and inclusiveness approach.
- Build the capacity of the survivors and those affected by the crisis through provision of livelihood programmes.
- Conduct massive awareness campaign on the GBV/TIP issues and encourage people to report the cases and to be on the lookout to prevent the cases and the campaigns to be extended to all the LGAs.
- Engage traditional leaders in various issues of concern, such as early marriages, forced marriages and exploitation of people for various purposes.
- Work closely with the Government and CSOs for continuity of programmes and sustainability of activities.
- Continue the sensitization on prevention of drug abuse.
- Perform sensitization on the existence of the special hospital and the services it offers with emphasis to timely access to treatment (72 hours post exposure prophylaxis) window. There is a need to respond to logistical challenges that prevent timely response to incidences reported.
- Popularize the convictions to build the confidence of the communities in the justice system, as well as deter would-be offenders with the stiff sentences meted out by the courts.
- Engage service providers in the development of referral pathway and sensitization of service providers in the referral pathway.
- Include the traditional and religious leaders in awareness-raising sessions.
- Enhance synergy between community and security agencies through effective communication.

WORKS CITED

Akpoghome, T.

- 2016 Analysis of the domestic legal framework on sexual violence in Nigeria. *Journal of Law and Criminal Justice*, 4(2):17–30. Available from <http://jlcjnet.com/vol-4-no-2-december-2016-abstract-3-jlcj>

Babatunde, A.

- 2014 Human trafficking and transnational organized crime: Implications for security in Nigeria. *Peace Research*, 46(1):66–84.

COOPI, Action Against Hunger, Agency for Technical Cooperation and Development, FHI 360, ActionAid, INTERSOS, Médecins du monde, Norwegian Refugee Council, Oxfam, Première Urgence Internationale and Solidarités International

- 2017 Recommendations on refugee and IDP returns and movements. Available from https://reliefweb.int/sites/reliefweb.int/files/resources/26052017_nga_ingo_recommendations_on_refugee_idp_returns_movements.pdf

Dina, Y., J. Akintayo and F. Ekundayo

- 2005 Guide to Nigerian legal information. Global Lex. Available from www.nyulawglobal.org/globalex/Nigeria.html

Gender-Based Violence Sub-Sector

- 2018 *Nigeria Quarterly Bulletin April–June 2018*, Issue 3. Available from www.humanitarianresponse.info/en/operations/nigeria/document/gbv-sub-sector-1st-quarter-bulletin-april-june-2018

Immigration and Refugee Board of Canada

- 1999 Nigeria: Update to NGA20915.E of 12 June 1995 on domestic violence and state protection; laws protecting women against domestic violence; women's organizations; legal assistance, shelter, or protection. Available from www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ae6ad6984&skip=0&query=%22penal%20code%22&coi=NGA#hit2

Inter-Agency Standing Committee (IASC)

- 2017 *Interagency Gender-Based Violence Case Management Guidelines: Providing Care and Case Management Services to Gender-Based Violence Survivors in Humanitarian Settings*, First edition. Available from www.gbvims.com/wp/wp-content/uploads/Interagency-GBV-Case-Management-Guidelines_Final_2017.pdf

International Crisis Group

- 2018 Stopping Nigeria's spiralling farmer-herder violence. Africa Report N°262 | 26 July 2018. International Crisis Group, Brussels.

International Organization for Migration (IOM)

- 2018 Update for Bureau of International Narcotics and Law Enforcement Affairs (INL) Project, October 2018. IOM Maiduguri (Unpublished).

- Kigbu, S.K. and Y.B. Hassan
2015 Legal framework for combating human trafficking in Nigeria: The journey so far. *Journal of Law, Policy and Globalization*, 38:205–220. Available from www.iiste.org/Journals/index.php/JLPG/article/viewFile/23682/24216
- Makinde, O.A., C. Onyemelukwe, A. Onigbanjo-Williams, K.A. Oyediran and C.O. Odimegwu
2017 Rejection of the Gender and Equal Opportunities Bill in Nigeria: A setback for sustainable development goal five. *Gender in Management: An International Journal*, 32(3):234–240. Available from <https://doi.org/10.1108/GM-02-2017-0023>
- National Agency for the Prohibition of Trafficking in Persons (NAPTIP)
2017 Data Analysis Report, April–September 2017. Available from www.naptip.gov.ng/wp-content/uploads/2017/05/2017-April-September-data-analysis.pdf
- National Police Force, UN Women and United Nations Population Fund
2010 *A Gender Policy for the Nigeria Police Force: Final Draft Submitted to the Nigeria Police Force*. Available from www.endvawnow.org/uploads/browser/files/security_nigeria_gender_policy_police_unwomen_2010.pdf
- Ngozi, C., I. Iyioha and E.T. Durojaye
2018 The Violence Against Persons Prohibition Act, the Maputo Protocol and the Rights of Women in Nigeria. *Statute Law Review*, 39(3):337–347.
- Nigeria Immigration Service (NIS)
2017 *2017 Annual Report*. NIS, Abuja. Available from <https://drive.google.com/file/d/13AZ5M5KA6d4HhbeQS2PywgskfZ36SpDx/view>
- Office of the High Commissioner for Human Rights (OHCHR)
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, General Assembly resolution 55/25 of 15 November 2000. Available from www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx
- Okeke, C.
1997 International law in the Nigeria legal system, *California Western International Law Journal*, 27(2):311–356. Available from <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1009&context=pubs>
- UNICEF
2007 Information Note on the Child's Rights Act. Available from www.unicef.org/nigeria/publications_5611.html
- United Nations High Commissioner for Refugees (UNHCR)
2018 *Report on Sexual and Gender Based Violence: Borno, Adamawa and Yobe States, January–June 2018*. Available from <https://reliefweb.int/sites/reliefweb.int/files/resources/66177.pdf>
- United Nations Office for the Coordination of Humanitarian Affairs (OCHA)
2017 *2018 Humanitarian Needs Overview, Nigeria*. November 2017. Available from www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/13022018_ocha_humanitarian_needs_overview.pdf

United States Department of State

2018a *Trafficking in Persons Report*, June 2018. Available from www.state.gov/wp-content/uploads/2019/01/282798.pdf

2018b *Trafficking in Persons Report – Nigeria*, 28 June 2018. Available from www.refworld.org/docid/5b3e0ab6a.html

Legislations

1916 Nigeria: Criminal Code Act [Nigeria], Cap C38 LFN 2004, 1 June 1916. Available from www.refworld.org/docid/49997ade1a.html

1963 Chapter 171, Immigration Act of 1963. Available from www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=54f977a24

1999 Constitution of the Federal Republic of Nigeria. Available from www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm

2003 Nigeria: Act no. 26 of 2003, Child Rights Act, 2003. Available from www.refworld.org/docid/5568201f4.html

2015 Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP). Explanatory Memorandum, 25 May 2015. Available from www.refworld.org/docid/556d5eb14.html

n.d. Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (amended in 2005). Available from <https://lawsofnigeria.placng.org/laws/T23.pdf>

ANNEX 1: LIST OF KEY INFORMANTS IN BORNO

BORNO STATE: MAIDUGURI

Institutions and line ministries that are part of the Federal Government of Nigeria

- Civilian Joint Task Force
- Ministry of Justice, Maiduguri
- Ministry of Women's Affairs and Social Development
- National Emergency Management Agency, Borno State
- Nigeria Immigration Service, Borno State
- Nelelwa Centre
- National Agency for the Prohibition of Trafficking in Persons
- Nigeria Police Force
- Nigeria Security and Civil Defence Corps, Maiduguri
- State Emergency Management Agency, Borno State

Internally displaced communities

- Bakasi
- Dalori 1
- Dalori 2
- Teachers' Village

International institutions

- British Council

International non-governmental organizations (NGOs)

- Heartland Alliance
- International Rescue Committee (IRC)
- Street Child

National NGOs

- International Federation of Women Lawyers

United Nations agencies

- International Organization for Migration
- Office of the United Nations High Commissioner for Human Rights
- United Nations High Commissioner for Refugees
- United Nations Office for the Coordination of Humanitarian Affairs
- United Nations Population Fund

ANNEX 2: LIST OF KEY INFORMANTS IN ADAMAWA

ADAMAWA STATE: YOLA

Institutions and line ministries that are part of the Federal Government of Nigeria

- Ministry of Justice
- National Emergency Management Agency, Borno State
- Nigeria Immigration Service, Borno State
- Hope Centre
- Nigeria Police Force
- Nigeria Security and Civil Defence Corps, Borno State
- State Emergency Management Agency, Borno State
- Nigeria Drug Law Enforcement Agency
- National Human Rights Commission
- Nigerian Prisons Service
- National Orientation Agency

Internally displaced communities

- Malkohi Camp
- Malkohi Informal Camp
- Fufore Camp

International institutions

- British Council

International NGOs

- International Rescue Committee

National NGOs

- CSO Forum
- International Federation of Women Lawyers
- Confluence Development Initiative
- Legal Aid Council of Nigeria
- Clear View and First Step
- Centre for Caring, Empowerment and Peace Initiative
- Multi-Sectoral Crisis Recovery Project

United Nations agencies

- International Organization for Migration
- Office of the United Nations High Commissioner for Human Rights
- United Nations High Commissioner for Refugees
- United Nations Office for the Coordination of Humanitarian Affairs
- United Nations Population Fund

Assessment of Borno and Adamawa
States for the Project on Strengthening
Response Mechanisms and Accountability
to Gender-based Violence and Trafficking
in Persons in North-East Nigeria



International Organization for Migration (IOM)
11 Haile Selassie Street, Asokoro, Abuja, Nigeria

Tel.: +234 814 067 11 27 • Fax: +234 807 209 31 33 • Email: iomnigeria@iom.int • Website: www.iom.int