

# OVERCOMING INSTITUTIONAL AND LEGAL BARRIERS THAT PREVENT ABUSED FEMALES FROM ACCESSING JUSTICE IN FRAGILE NIGERIAN REGIONS

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I. BACKGROUND

A. *What are the main drivers and forms of gender based violence in fragile regions of Nigeria?*

In fragile<sup>1</sup> regions and beyond, conflict and socioeconomic values drive

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1. See UNHCR Nigeria, *Volker Turk Visits Bakasi IDPs Camp Maiduguri*, YOUTUBE (Feb. 23, 2016), <https://www.youtube.com/watch?v=qsmsQ9mUNzQ> (interviewing Voker Turk and internally displaced persons at the Bakasi camp); *Nigeria: Officials Abusing Displaced Women, Girls* HUMAN RIGHTS WATCH (Oct. 31, 2016), <https://www.hrw.org/news/2016/10/31/nigeria-officials-abusing-displaced-women-girls>

various forms of gender-based violence (GBV), and influence the legal and institutional barriers to victims' accessing legal and socioeconomic justice.<sup>2</sup> Particularly, forced underage marriage is one of the worst forms of gender-based violence because it is a legalized form of prostitution, abuse, and trade of underage brides in exchange for dowry payments.<sup>3</sup> In 2017, out of 117 nations that practiced child marriages, Nigeria ranked third amongst the top five nations with the highest number of child marriage. Nigeria had 3,306,000 child marriages and 43 percent of girls married before the age of eighteen.<sup>4</sup> Over 650 million females between twenty and twenty-four years

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[hereinafter *Abusing Displaced Women*]; Adebote Seyifunmi, *The State of IDPs Camps in Nigeria*, NEWSDIARY ONLINE.COM (Apr. 13, 2017), <http://newsdiaryonline.com/state-idp-camps-nigeriaby-adebote-seyifunmi/>.

2. Abused females are girls and women that experience gender-based violence. Female access to justice refers to fair treatment and equal opportunities for females to access legal and socioeconomic justice in a timely manner. See Ajibola Amzat, *Despite Decades of Funding, Literacy Levels in the Northern States Remains Low*, THE GUARDIAN (July 24, 2017) <https://guardian.ng/news/despite-decades-of-funding-literacy-level-in-the-northern-states-remains-low/>. UNESCO claims that there is a relationship between early marriage, low levels of education, high levels of violence and abuse, social isolation and severe health risks. Illiteracy undermines access to the courts and it also influences legal and institutional barriers to access to the justice. Illiterate women are often intimidated by court procedures and do not understand the language of the justice system. See *Paralegal Toolkit on Improving Women's Access to Justice in Northern Nigeria*, GLOBAL RIGHTS (2010), [http://www.globalrights.org/ngn/download/paralegal-toolkit-on-improving-womens-access-to-justice-in-northern-nigeria/?wpdm\\_dl=353&\\_wpdmkey=5a8226887f2ec](http://www.globalrights.org/ngn/download/paralegal-toolkit-on-improving-womens-access-to-justice-in-northern-nigeria/?wpdm_dl=353&_wpdmkey=5a8226887f2ec) [hereinafter *Paralegal Toolkit*].

3. See e.g., Rasheed O. Olaniyi, *Global Sex Trade and Women Trafficking in Nigeria*, 6 J. GLOBAL INITIATIVES 111 (2011) (reminding the community GBV specific impact on young Nigerian children); see also Maryam Uwais, *Nigeria: Child Marriage, Worst Form of Violence against Girl Child - Uwais*, DAILY TRUST (Aug. 27 2017), <https://www.dailytrust.com.ng/child-marriage-worst-form-of-violence-against-girl-child-uwais.html> [hereinafter *Worst Form of Violence*] (detailing the societal expectations, tradition, and correlation with poverty and its disproportionate impact on women); see generally Stephanie Sinclair, *Child, Bride, Mother: Nigeria*, N.Y. TIMES (Jan. 27, 2017), <http://www.nytimes.com/interactive/2017/01/27/sunday-review/29-Exposures-child-bride-interactive.html> (demonstrating Nigeria's child marriage rate, and exemplifying its societal normality along with the abuses different women have suffered).

4. Madison Feser, *Girls and Women, Five Countries with Highest Numbers of Child Marriage* GLOBAL CITIZEN, (July 2017), <https://www.globalcitizen.org/en/content/5-countries-with-highest-child-marriage/>; see also Madison Feser, *Chime for Change: 5 Countries with the Highest Numbers of Child Marriage*, GLOBAL CITIZEN (Jul. 6, 2017), <http://www.globalcitizen.org/en/content/5-countries-with-highest-child-marriage/July-6-2017> (listing Nigeria as one of the countries with the highest numbers of child

old in the world are involved in underage marriage. Of the twenty countries with the highest rate of underage child marriages, Niger ranked first place with a 76 percent of child marriage while Nigeria ranked eleventh place with 44 percent of such marriages.<sup>5</sup>

It also has negative consequences on the emotional, social, physical, and psychological health of vulnerable girls.<sup>6</sup> Forced underage girl marriages also enable other forms of gender-based violence including female genital mutilations and Boko Haram related violence.<sup>7</sup> Based on cultural normative values and beliefs, circumcised underage girls are considered purer and cleaner; therefore, they are economically more valuable as it pertains to their dowry payments for their forced marriage.<sup>8</sup>

Selling girl brides was a common form of gender-based violence before the terrorist group Boko Haram abducted more than 250 girls from Chibok, Borno State, Northern Nigeria.<sup>9</sup> Abubakar Shekau, the leader of Boko Haram, promised to sell the girls kidnapped from Chibok in April 2014.<sup>10</sup> “I abducted your girls. I will sell them in the market, by Allah” because “[t]here is a market for selling humans. Allah says I should sell. He commands me to sell. I will sell women. I sell women.”<sup>11</sup> In Northern Nigeria, 76 percent of

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marriage).

5. GIRLS NOT BRIDES, CHILD MARRIAGE AROUND THE WORLD (2017) (citing statistics from UNICEF, State of the World’s Children 2017) <https://www.girlsnotbrides.org/child-marriage/nigeria/>.

6. See Archbishop Desmond Tutu, *Let Us Measure Up As Men*, GIRLS NOT BRIDES (Dec. 5, 2012), <http://www.girlsnotbrides.org/let-us-measure-up-as-men-desmond-tutu-on-engaging-men-and-boys-against-gender-based-violence/> (quoting archbishop Tutu regarding his opinions as a political figure and elder of the community); see also Olaniyi, *supra* note 3, at 115–16 (discussing the harmful impact on young children and exploitation of young girls in child marriages).

7. See Womdimu Yirga et al., *Female Genital Mutilation: Prevalence Perceptions and Effect on Women’s Health in Kersa District of Ethiopia*, 4 INT. J. WOMENS HEALTH 45–54 (2012).

8. See, e.g., *Revisiting Female Genital Mutilation in Nigeria as an Extreme Form of Violence Against Women*, INNO NEWS (2017), <https://innonews.com.ng/2017/12/revisiting-female-genital-mutilation-in-nigeria-as-an-extreme-form-of-violence-against-women/> [hereinafter *Female Genital Mutilation*].

9. See *Worst Form of Violence*, *supra* note 3 (reflecting on the correlation between poverty and girl bride marriages as a cultural phenomenon).

10. See Aminu Abubakar & Josh Levs, *I Will Sell Them, Boko Haram Leader Says of Kidnapped Nigerian Girls*, CNN (May 6, 2014), <https://www.cnn.com/2014/05/05/world/africa/nigeria-abducted-girls/index.html> (discussing the tactics and religious and cultural justification the leader of Boko Haram utilized).

11. *Id.*

girls are married before their eighteenth birthday.<sup>12</sup> Specifically, four in ten Nigerian girls from Yoruba are married before their eighteenth year and a fifth marry before the age of fifteen.<sup>13</sup> But Boko Haram insurgents have taken gender-based violence and forced marriage to a more violent level through weaponization and commodification of females. Female weaponization takes place through rape, abductions, and other violent means to achieve their goal of winning the war against “infidels.”<sup>14</sup> Commodification takes place through the sale of females as chattels in exchange for monies used to purchase drugs<sup>15</sup> and weapons.<sup>16</sup>

*B. Did emergence of Boko Haram insurgency result in internal displaced settlement camps?*

Although global attention focused on Boko Haram’s kidnap of about 250 Chibok girls, their abduction represents less than 0.1 percent of the entire abductions of girls.<sup>17</sup> Since Boko Haram’s emergence in 2009, they have abducted over 9,000 women and girls.<sup>18</sup> Engr Satomi Ahmad, the Chairman of the Borno State Emergency Management Agency, believes that the figure is 22,000.<sup>19</sup> The higher figure stems from geographic locations that are too risky to determine.<sup>20</sup>

Additionally, 75 percent of the one hundred children used as suicide bombers were young females.<sup>21</sup> In this regard, Boko Haram’s modus

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12. See Sinclair, *supra* note 3 (demonstrating the significant impact of child marriages).

13. See *Nigerian Centre Rescues Girls from Early Marriage and Street Work*, ALL NEWS & REPORTS (June 9, 2017), <http://www.allnewsandreports.com/nigerian-centre-rescues-girls-from-early-marriage-and-street-work/> [hereinafter *Rescue*] (reporting the estimated number of young girls facing an uncertain future).

14. See Sinclair, *supra* note 3; see also Aminu Abubakar & Josh Levs, *supra* note 10.

15. See Samuel Osborne, *Boko Haram Increasingly Using Drugged Children as Suicide Bombers, Warns Chief*, INDEPENDENT (April 12, 2017), <http://www.independent.co.uk/news/world/africa/boko-haram-children-unicef-warn-nigeria-cameroon-niger-chad-a7680366.html> (hereinafter, Osborne, *Boko Haram Increasingly Using Drugged Children*).

16. *Id.* (discussing the disturbing strategies of using children as weapons).

17. See Sinclair, *supra* note 3 (drawing attention to Boko Haram’s violence and destruction beyond the Chibok kidnapping).

18. *Id.*

19. *Id.*

20. *Id.*

21. See Carley Petesch, *Boko Haram Leaves 3 Million Kids Out of School in*

operandi with respect to girls evolved from rape and violent crimes to include suicide murders.<sup>22</sup> Beyond weaponization and commodification of young females, Boko Haram insurgency has worsened human and socioeconomic security in the already fragile internal displaced person (IDP) camps of Northern Nigeria.<sup>23</sup> As of late 2017, Boko Haram has killed over 15,000 people and displaced at least 2 million people who live in seventeen IDP camps across thirteen Northern Nigerian states.<sup>24</sup> Borno, Adamawa, and Yobe states have the largest concentration of IDPs.<sup>25</sup> Over 1.7 million of the 2 million people who live in IDP camps live in Borno.<sup>26</sup> Over 126,000 IDPs are in the Maiduguri camp, located in Borno state.<sup>27</sup> Banki, a Boko Haram-infested Nigerian town of Borno State that borders Cameroon, has about 40,000 refugees.<sup>28</sup> The town has a four-meter-high barricade that surrounds bombed concrete buildings and white tents.<sup>29</sup> Boko Haram has devastated the livelihood of about 5.2 million people in Borno, Yobe, and Adamawa states who suffer from food and water insecurity and health problems,

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*Northern Nigeria*, FOX NEWS (Sept. 29, 2017), <http://www.foxnews.com/world/2017/09/29/boko-haram-leaves-3-million-kids-out-school-in-nigeria.html> (comparing disparate impacts of GBV on young female captives); *see also* Tara John, *Boko Haram is Using More Children as Suicide Bombers*, TIME (Apr. 14, 2016), <http://time.com/4290570/boko-haram-suicide-bombers-children-unicef/> (discussing the weaponization of children); *see also* Dionne Searcey, *Boko Haram strapped suicide bombs to them. Somehow these teenage girls survived*, N.Y. TIMES, (Oct. 25, 2017), <https://www.nytimes.com/interactive/2017/10/25/world/africa/nigeria-boko-haram-suicide-bomb.html> [hereinafter *Survived*].

22. *See, e.g., Survived, supra* note 21; *see also* Osborne, *supra* note 15.

23. *See, e.g.,* Dionne Searcey, *They Fled Boko Haram, Only to be Raped by Nigeria's Security Forces*, N.Y. TIMES (Dec. 8, 2017), <http://www.newyorktimes.com/2017/12/08/world/Africa/book-haram-nigeria-security-forces-rape.html>.

24. *See* UNHCR Nigeria, *supra* note 1; *Abusing Displaced Women, supra* note 1; Adebote Seyifunmi, *supra* note 1.

25. *See* Seyifunmi, *supra* note 1.

26. *See* UNHCR Nigeria, *supra* note 1.

27. *Id.*

28. *See* Njadvara Musa, *Returning refugees from Cameroun overstretching Borno IDPs camps, army warns*, THE GUARDIAN (May, 6, 2017), <http://guardian.ng/news/returning-refugees-from-cameroun-overstretching-borno-idps-camps-army-warns/>; Petesch, *supra* note 21 (analyzing the total impact of Boko Haram on Nigeria).

29. *See* *Banki: a Nigerian border town choked by Boko Haram homeless*, VANGUARD (May 4, 2017), <https://www.vanguardngr.com/2017/05/banki-nigerian-border-town-choked-boko-haram-homeless/> [hereinafter *Banki*]; *see also* WORLD FOOD PROGRAMME, WFP NIGERIA SITUATION REPORT #15, 1-15 JUNE 2017, (2017) <https://reliefweb.int/report/nigeria/wfp-nigeria-situation-report-15-1-15-june-2017>.

including cholera, malnutrition, HIV aids and deaths.<sup>30</sup>

Regarding economic insecurity, since 2009, Boko Haram has forced over 57 percent of schools to close in Borno State and 3 million children do not have access to education.<sup>31</sup> Boko Haram damaged about 1,400 schools and killed 2,300 teachers in North Eastern Nigeria.<sup>32</sup> By closing schools and destroying the economic livelihood of communities, the terrorist group's activities have also increased the parental pressure to trade their underage daughters into marriage for economic gain.<sup>33</sup> The increased fragility of the camps aggravates the vulnerability of girls to gender based violence and creates an urgency to provide access to justice for victims.

### C. Summary

IDP camps are fraught with hazards for their inhabitants. Even prior to entering such camps, the women and girls who must turn to these open-air shelters have endured severe socioeconomic and legal limitations.<sup>34</sup> This paper recognizes how the fragility of the IDP camps combined with the socioeconomic vulnerability of female victims has undermined access to both legal and socioeconomic justice systems. The fragility of camps and vulnerability of females also creates an urgent need to improve female victims' access justice systems and to seek punitive measures against perpetrators of GBV. Additionally, Nigeria should go beyond punitive measures to adopt preventive, proactive, multidisciplinary and holistic strategies that help victims deal with the GBV trauma.<sup>35</sup> Nigeria's enactment of two federal laws—2015 Violence against Persons Prohibition Act (VAPP)

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30. *See id.* (describing food and water insecurity reaches extreme level in pockets Borno, Yobe, and Adamawa); *see also Food Insecurity Reaches Extreme Level in Pockets of Nigeria's Borno State*, WORLD FOOD PROGRAMME (July 7, 2016), <https://www.wfp.org/news/news-release/food-insecurity-reaches-extreme-level-pockets-nigerias-borno-state>; Petesch, *supra* note 21 (noting the exacerbation of poor life quality with rampant disease and a lack of resources); *see also* UNHCR, ET AL., BANKI INTER-AGENCY ASSESSMENT REPORT (2016) [hereinafter INTER-AGENCY ASSESSMENT].

31. *See* Petesch, *supra* note 21.

32. *Id.*

33. *See* Sinclair, *supra* note 3; *Worst Form of Violence*, *supra* note 3 (asserting Boko Haram's involvement exacerbates the exploitation of poor families and enables GBV).

34. *See, e.g., Worst Form of Violence*, *supra* note 3 (noting the correlation between legally sanctioned child marriage and poverty); *see also* Aminu H. Gamawa, *How Nigeria Legalizes Discrimination Against Women*, PREMIUM TIMES NG (Jul. 28, 2013), <http://www.premiumtimesng.com/opinion/141797-how-nigeria-legalizes-discrimination-against-women-by-aminu-hassan-gamawa.html>.

35. *See* Gamawa, *supra* note 34.

and the 2003 Child Rights Act (CRA)—signal a positive step to address GBV on a national scale.<sup>36</sup> These laws are also indicative of the existence of a justice system to combat GBV.<sup>37</sup> Nevertheless, they are not indicative of access to justice for all persons regardless of gender, religion, race, ethnicity, age, and economic status. Access to justice is a foundation of the rule of law and without such access, female victims of GBV cannot get redress for the harm they suffered.

In agreement, Distinguished and Honorable Justice Chukwudifu Oputa eloquently stressed the significance and problems of access to justice for all citizens, specifically, how undue delays and economic incapacity<sup>38</sup> undermine such access.<sup>39</sup> He stated that:

[I]n theory, our constitution in its preamble talks notably of promoting the good government and welfare of all persons in our country on the principles of freedom, equality and justice. But in actual practice, one sees that it is the powerful, the rich and the dominant class that seem to have all the rights, while the only rights left to the poor, the weak and the down trodden seem to be the right to suffer in silence, to be patient and to wait for their reward in heaven (if they are believers).<sup>40</sup>

So how should Nigeria create equal and fair access to socioeconomic and legal justice to female victims of gender based violence in IDP camps? Is it through overcoming institutional and legal barriers that undermine such access? This Article proposes that Nigeria should create fair and equal access to both legal and socioeconomic justice for female victims of abuse and the author also examines the institutional and legal barriers to such access, including the issue of how to overcome such barriers.<sup>41</sup> Particularly,

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36. See Martins Ifijeh, *UNICEF Calls for Adoption of Child Rights Acts in All States*, THIS DAY LIVE (June 1, 2017), <http://www.thisdaylive.com/index.php/2017/06/01/unicef-calls-for-adoption-of-child-rights-acts-in-all-states/>; see also VIOLENCE AGAINST PERSONS (PROHIBITION) ACT (2015) (Nigeria); NIGERIAN CHILD RIGHTS ACT (2003), [https://www.unicef.org/38igeria/ng\\_publications\\_Childs\\_Right\\_Act\\_2003.pdf](https://www.unicef.org/38igeria/ng_publications_Childs_Right_Act_2003.pdf).

37. See generally VIOLENCE AGAINST PERSONS (PROHIBITION) ACT.

38. Economic incapacity refers to a lack of economic opportunities due to, *inter alia*, unemployment, poor access to education, and endemic poverty.

39. See JUSTICE C. OPUTA, HUMAN RIGHTS IN THE POLITICAL AND LEGAL CULTURE OF NIGERIA 66-67 (1989) (detailing the insurmountable barriers to justice and economic factors undermine access).

40. *Id.* (speaking to the unavailability of justice for the indigent populations); see also Nagu Yakubu Idisiere, *The Judiciary & the Nigerian Cry for True Justice* 1-14 (Aug. 14, 2017) (unpublished manuscript) (on file with SSRN).

41. See Child Rights Act, *supra* note 36; see also Violence Prohibition, *supra* note

this Article seeks to answer several questions: how do we overcome pluralistic and conflicting institutional and legal systems, psychological and socioeconomic, legal ambiguities/lacunae and other barriers that undermine such access? Regarding pluralisms and conflicts, can laws (e.g. the federal statutes), per se, overcome deeply entrenched traditions, the most challenging barriers to access?

## II. WHAT ARE THE INSTITUTIONAL BARRIERS TO SOCIOECONOMIC JUSTICE AT IDP CAMPS AND HOW DO FEMALE VICTIMS OF GBV OVERCOME THEM?

The institutional barriers to abused female access to socioeconomic justice include (1) federalism-related problems<sup>42</sup> (2) abusive security powers, and (3) inadequate institutional coordination and maintenance of GBV data.

### A. Federalism

Section 2 subsection 2 and 3 of the 1999 Constitution of Nigeria established a system of governance including a three tier government at the federal, state and local government levels.<sup>43</sup> Section 3 subsection 1 to 6 creates thirty-six states at the state level, a Federal Capital Territory at the federal level and 768 local governments at the local government level.

The three levels of government<sup>44</sup> have made some progress working with UNICEF and other organizations to provide socioeconomic assistance—including education<sup>45</sup>, water, and sanitation—to females and their families at

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36. Institutional barriers include pluralistic and conflicting systems, geographic restrictions, economic incapacity, and illiteracy; Nigeria's federalism, prevents the laws from automatically applying in all 36 states. As demonstrated in Tables 1 and 2, *infra*, apart from the anti-gender violence federal laws (VAPP and CRA), various states have also adopted laws that prohibit gender-based violence.

42. Federalism problems include power sharing and struggles, inadequate coordination, inadequate accountability and transparency, inadequate coordination and nepotism. See generally Amah Emmanuel Ibiam, *Federalism, Democracy and Constitutionalism: The Nigerian Experience*, 53 J. L. POL'Y & GLOBALIZATION 1 (2016) (exploring the theoretical principles of federalism, how those principles have been put into practice in Nigeria, and some problems that have arisen out of the Nigerian federalist system).

43. CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm> (1999). Section 2(2) provides that Nigeria shall be a federation consisting of states and a Federal Capital Territory.

44. *Id.* (establishing the three levels of government include local, state and federal levels.)

45. Such education reduces the risk of the boys becoming fighters and human bombs

IDP camps.<sup>46</sup> In 2017, UNICEF enrolled nearly 750,000 children in school in Northern Nigeria and developed 350 temporary school camps.<sup>47</sup> But there is still much work to be done to coordinate and promote more education sector funding sources, including a transparent and accountable system. For example, as of September 2017, only 12 percent of the education sector has been funded<sup>48</sup>. Regarding food and water insecurity, in May, 2017, with the help of donors and the Nigerian government, food insecurity slightly improved in the Banki region<sup>49</sup> from a year earlier when reports confirmed that ten people died per day of hunger.<sup>50</sup> However, evolving and increasing intensity of the socioeconomic structure problems of the IDP camps intensifies the urgency for increased humanitarian and financial assistance. For example, in September 2017, lack of safe drinking water and inadequate sanitation resulted in an outbreak of cholera in the camps.<sup>51</sup>

But institutional (e.g. financial constraints) barriers continue to stifle support to the humanitarian aid process at the local level of IDP camps. Further, in practice, Nigerian federalism promotes a centralized system of delivering humanitarian aid to the federal government at the federal level instead of direct delivery to IDP camps at the local level.

Lack of transparency and accountability systems worsens federalism problems of government control and power struggles.<sup>52</sup> With the absence of such systems, most of the aid monies do not trickle from the federal and state levels to local levels, but are diverted to corrupt officials.<sup>53</sup> Federal and

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for Boko Haram. Education also helps the girls to be economically empowered and less likely to accept humiliating jobs of prostitution that undermine their confidence and expose them to gender based violence.

46. See Petesch, *supra* note 21 (demonstrating UNICEF development of schools, educating children, and addressing human and financial resource shortages with government on a way forward).

47. *See id.*

48. *Id.*

49. *See Infra* Part I.

50. *See Banki, supra* note 29.

51. *See Cholera Hits Camp for Displaced in Northeast Nigeria*, REUTERS (Aug. 31, 2017), <http://www.reuters.com/article/us-nigeria-security-disease/cholera-hits-camp-for-displaced-in-northeast-nigeria-idUSKCN1BB254> (criticizing the conditions of IDP camps and communicating concerns for displaced persons anticipating future outbreaks) [hereinafter *Cholera Hits Camp*].

52. *See also*, Angela Atabo, *Fighting Corruption In IDPs' Camps*, LEADERSHIP NEWSPAPER (Jan. 11, 2018) <https://leadership.ng/2018/01/11/fighting-corruption-idps-camps/>.

53. Atabo, *supra* note 52 (showing a lack of transparency and accountability also

state government control and power struggles undermines delivery of humanitarian aid and services to IDP camps and worsens corruption.<sup>54</sup> Regarding state government control, the Adamawa State government refused to exercise control of some IDP camps at the local level in its territory and justified their refusal by claiming that the camps had not complied with “proper” channels.<sup>55</sup> Consequently, the failure or reluctance of some states to control some IDP camps in their territories has prevented international humanitarian support to most of the camps.<sup>56</sup> Regarding federal control of and diversion of resources, Babachir David Lawal, on October 30, 2017, President Buhari dismissed the Secretary to the Federation of Nigeria for diverting N220 million naira from essential services (food, shelter health and clothing) at the IDP camps.<sup>57</sup> In defense, Babachir claimed that he awarded the N220 million to a company to cut grass and clear weed at the IDP camps, but further Senate committee panel investigation revealed that he diverted the N220 million to Rholavision Engineering Limited, his company.<sup>58</sup> On October 30, 2017, based on the recommendations of an investigative panel, President Muhammadu Buhari dismissed the suspended Babachir from office for violating the law.<sup>59</sup> A report of United Nations Development Program and the National Human Rights Commission confirm that Babachir is not alone in his fraudulent acts of diverting IDP camp fund for personal gain.<sup>60</sup> Between 2015 and 2017, other officials of the Presidential Initiative on the North East (PINE) have also participated in corrupt acts of diverting aid monies from IDP camps for personal gain.<sup>61</sup> Further, in August 2017, the absence of transparency and accountable systems of managing

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worsen violence in IDP camps.).

54. Atabo, *supra* note 52.

55. Olawale Rotimi, *IDPs in Nigeria and a Call for Urgent Intervention*, PREMIUM TIMES (Dec. 28, 2015), <https://opinion.premiumtimesng.com/2015/12/28/idps-in-nigeria-and-a-call-for-urgent-intervention-by-olawale-rotimi/>.

56. Atabo, *supra* note 52.

57. Henry Umoru, *Revealed: SGF, Babachir Lawal Awarded N220m Grass Removal Job to his Firm - Senate Report*, VANGUARD NEWS, (Dec. 18, 2016), <https://www.vanguardngr.com/2016/12/revealed-sgf-awarded-n220m-grass-removal-job-to-his-firm-senate-report/>.

58. *Id.*

59. *See generally President Buhari Formally Sacks Suspended SGF Babachir Lawal, Appoints Boss Mustapha As New SGF*, SAHARAREPORTERS (Oct. 30, 2017), <http://saharareporters.com/2017/10/30/president-buhari-formally-sacks-suspended-sgf-babachir-lawal-appoints-boss-mustapha-new>.

60. Atabo, *supra* note 52.

61. *Id.*

humanitarian aid also worsened violence and insecurity in IDP camps, including those in Borno state.<sup>62</sup>

### *B. Abusive Security Powers*

The heightened state of insecurity creates an urgency for Nigerian government to partner with UN and other aid agencies to strengthen the credibility and capacity of security agencies that are failing to protect female IDP camp dwellers. The heightened violence and insecurity at IDP camps stifles the ability to provide access to socioeconomic programs and also worsens the vulnerability of females to prostitution, abductions and rape. Boko Haram targets many vulnerable elderly women, girls and boys. Children comprise one third of the 32,000 Banki town refugees.<sup>63</sup> At the seventeen IDP camps, there are also very few men in the town because some have been killed or recruited by Boko Haram while others have been detained by Nigerian military centers.

The Nigerian government should also partner with UN and other aid agencies to strengthen the credibility and capacity of security agencies that are charged with protecting female IDP camp dwellers. The heightened violence and insecurity at IDP camps stifles the ability to provide access to socioeconomic programs and also worsens the vulnerability of females to prostitution, abductions and rape. Many of the camp residents are elderly women, girls, and boys who are vulnerable to Boko Haram attacks. Children comprise one third of the 32,000 Banki town refugees.<sup>64</sup> At the seventeen IDP camps, there are also very few men in the town because some have been killed or recruited by Boko Haram while others have been detained by Nigerian military centers. Therefore, Nigerian military's priority is not to build educational and camp facilities, but to overcome challenges of protecting victims in Banki and other camps. The vulnerability of females and fragility of the camps are such that they need to obtain a movement permit to move around and outside the camp.<sup>65</sup>

Female vulnerability combined with food and water insecurity has also increased the risk of abusive behaviors from Nigerian security officers who are supposed to guard the camp residents within the enclaves of barb wired

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62. *See Atabo, supra* note 52.

63. *See Banki, supra* note 29.

64. *Id.*

65. *Id.* (“the unit battalion is faced with the challenge of protecting the internal displaced settlements . . . if the town is not excavated in the nearest future, we will be exposed to suicide bomb attacks and supporters of Boko Haram terrorists”); *Abusing Displaced Women, supra* note 1.

fences where they live.<sup>66</sup> The restricted freedom of movement within restricted zones protects female refugees from Boko Haram, but restricts their freedom of movement to easily access socioeconomic (e.g. food and health services) and legal services.<sup>67</sup> Particularly, in Maiduguri and other camp locations, vulnerable females often line up to enter nutrition clinics to access scarce food and water for their children.<sup>68</sup> Consequently, the increased food and water insecurity at the IDP camps has energized opportunistic security workers to force female Boko Haram victims to either die of starvation or sell sex in exchange for basic needs and freedom of movement. In July 2016, security officers and male camp residents that were supposed to protect females at seven of those camps in Maiduguri, raped and exploited forty-three of the females.<sup>69</sup> Further, in 2017, in September alone, male camp residents and workers also raped and exploited thirty Boko Haram victims in Yobe IDP camps. Further, in October 2016, in an IDP camp of 10,000 residents, HIV cases more than doubled from 200 cases in 2014 to 500 in 2016.<sup>70</sup> In November 2017, grief struck the Borno IDP camp when Bana Losoraye, eight-year-old orphan died of HIV. She was from Bama agrarian community, Borno State.<sup>71</sup> Her experience is not unique because many more women and girls are infected but tradition of shame and social pressures prevent them from going to the clinic.<sup>72</sup> Further, the abuse of security officers also increases their fear, distrust and lack of confidence in the law enforcement system and undermines their willingness to access

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66. *Sexual Violence in IDP camps on the rise, as 30 girls raped in Yobe in Sept. Alone*, RIPPLES NIGERIA (Oct. 19, 2017), <http://www.ripplesnigeria.com/sexual-violence-idp-camps-arise-30-girls-raped-yobe-sept-alone/> [hereinafter *Sexual Violence*]; *Abusing Displaced Women*, *supra* note 1 (reporting more than 2 million displaced victims of Boko Haram live in 17 IDP camps in 13 Northern Nigeria states and more than half are women.).

67. *Abusing Displaced Women*, *supra* note 1.

68. *See Some Female Boko Haram Victims in IDPs Camps Forced to sell sex as food runs out*, DAILY TRUST, <https://www.dailytrust.com.ng/female-boko-haram-victims-in-idps-camps-forced-to-sell-sex-as-food-runs-out.html> (Sept. 27, 2016).

69. *Abusing Displaced Women*, *supra* note 1.

70. *See HRW reports sharp rise in HIV prevalence in IDPS camp*, CHANNELS TELEVISION, (Oct. 31, 2016) <https://www.channelstv.com/2016/10/31/hrw-reports-sharp-rise-hiv-prevalence-idps-camp/> [hereinafter *Rise in HIV*].

71. *See Abdulkareem Haruna, Grief in Borno IDP as 8 year old Orphan reportedly dies of HIV*, PREMIUM TIMES, (November 2, 2017) <https://www.premiumtimesng.com/news/headlines/248111-grief-borno-idp-camp-8-year-old-orphan-reportedly-dies-hiv.html>

72. *See Rise in HIV*, *supra* note 70.

the socioeconomic services (e.g. mental health and medical services). To address abusive security powers and to regain female trust, Nigerian authorities replaced some male officers with one hundred female police officers at the Borno IDP camps.<sup>73</sup>

This measure was a positive step, but insufficient to address the gravity of the problem of abuse and insecurity at the camps. To overcome the problem, Nigeria should go beyond female staffing issues to develop a system of oversight, accountability, transparency to control and prevent any abuse or excessive use of powers. The donor organizations should continue to provide assistance to the Nigerian government and military as they try to overcome the enormous insecurity challenges in the region. They should increase access to basic socioeconomic services (food and water), provide vocational training and education for vulnerable unemployed youth to reduce risk of prostitution sexual assaults and recruitment by Boko Haram. The country should amend the enormous and arbitrary powers granted to police and military under the Terrorism Prevention Act 2011.<sup>74</sup>

### *C. Inadequate Institutional Coordination and Maintenance of GBV Data*

Despite some traditional resistance, non-governmental organizations have provided some socioeconomic support to the IDP camps. For example, the Yola Centre for Women and Adolescent Empowerment (CWAE)<sup>75</sup> provides financial, housing, education, health and psychological services to female

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73. See *Sexual Abuse: Police Deploy 100 Female Personnel to Borno IDP Camps*, PREMIUM TIMES (Nov. 6, 2016), <http://www.premiumtimesng.com/news/headlines/214622-sexual-abuse-police-deploy-100-female-personnel-borno-idp-camps.html> [hereinafter *Female Personnel to Borno Camps*] (changing personnel quoting Human Rights Watch allegation as a spark for the movement); see also *Abusing Displaced Women*, *supra* note 1.

74. *Id.*; see also Terrorism Prevention (Amendment) Act § 2(2)(1)(A)(3)-(6) (2013), <http://www.sec.gov.ng/files/TERRORISM%20PREVENTION%20AMENDMENT%20ACT%202013.pdf>. Prior to the 2013 amendment, a 2012 Amnesty International 2012 report criticized the arbitrary powers of the Nigerian law enforcement agencies and claimed that the agencies are violating human rights, including burning homes and detaining prisoners without fair trial. See SNEHA BHURA, INST. FOR DEF. STUDIES & ANALYSIS CAN NIGERIA'S ANTI-TERRORISM LAW ADDRESS THE BOKO HARAM THREAT? (December 2012), [https://idsa.in/africatrends/nigeria-anti-terrorism-law-address-the-boko-haram-threat\\_sbhura\\_1212](https://idsa.in/africatrends/nigeria-anti-terrorism-law-address-the-boko-haram-threat_sbhura_1212).

75. See Adaobi Tricia Nwaubani, *Nigerian Shelter Shrugs off Attacks to Save Girls From Marriage and Street Work*, REUTERS (June 9, 2017, 4:19 AM), <http://af.reuters.com/article/africaTech/idAFKBN1900X7-OZATP> (reporting on CWAE's work and noting that two in five girls are married before 18 and a fifth marry before age 15 in Nigeria).

victims of gender based violence and their families in the IDP camps in Yola.<sup>76</sup> Many of them are victims of Boko Haram insurgency who suffered shame, stigmatization, health problems (e.g. mental trauma, HIV aids, vesicovaginal fistula) from rape, sexual violence, early marriage and teenage pregnancy. The center also provides access to basic needs of food and shelter. Despite criticism from anti-gender equality traditionalists, the center continues to help thousands of girls and their families with overcoming barriers to access to economic justice.

CWAE empowered Hadiza, a thirteen year old victim of child bride marriage, who was forced to marry a fifty-five year old man. Her family disowned her and forced her to roam the streets. But the center saved her from the homelessness and gave her access to all her social and economic needs and at thirty-two years old, she graduated in information technology and lived in her own home in 2016.<sup>77</sup>

A unique aspect of their work is that they provide monies to parents of girl victims of child marriage to help them pay for their daughter's school. The rationale is to prevent them from selling their under-age girls in marriage or prostitution. They also engage traditional leaders to resolve any conflicts with unwilling parents who refuse to send their girls to school.

The broad geographic global and local support to the Nigerian government signals a positive step in the right direction to overcome such inadequacy and to promote access to socioeconomic activities. Many organizations<sup>78</sup> have developed fundraising and monitoring websites that record socioeconomic, demographic conditions in the internal displaced persons settlement camps. But there is still more work to be done. They varied GBV and camp data from various organizations creates an urgency to strengthen institutional maintenance and coordination of a uniform and accurate data system. To worsen matters, traditional and social pressures of shame undermine willingness of abused females to disclose their gender based violence experiences and to access socioeconomic services, including mental health and counselling. It also undermines the ability of organizations to gather accurate statistical data on the percentage of gender based violent

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76. See Nwaubani, *supra* note 75.

77. *Id.*

78. The organizations that monitor status of GBV and refugees include UN International Children's Emergency Fund (UNICEF), The World Bank Group, the Yola Centre for Women and Adolescent Empowerment ("CWAE"), Internal Displacement Monitoring Centre (The Global Internal Displacement Database), The World Health Organization, UN High Commissioner for Refugees, US Agency for International Development, The British Council and the UN Population Fund.

cases. Therefore, to overcome such pressures, with assistance from donors, Nigeria and the donor community should strengthen medical and mental health support to abused females. They should also develop a national and global GBV survivor's network to provide access to justice in legal, social, psychology, education, business and employment services.<sup>79</sup>

Further, the organizations have made some progress in training some Nigerian military and security forces, but they should also take preventive and proactive measures against those forces from committing gender-based violence against females at the camps. Some of those females who were already victims of Boko Haram gender violence also experienced additional violence from those officers who were supposed to protect them. Therefore, any humanitarian efforts should implement a holistic and reactive approach to help the females have access to the legal system, including obtain redress against those abusive officers and proactive measures in form of training officers on the gender equality, violence prevention, respect and values.

### III. WHAT ARE INSTITUTIONAL BARRIERS THAT PREVENT ABUSED FEMALES IN IDP CAMPS FROM OBTAINING LEGAL JUSTICE, AND HOW CAN WE OVERCOME SUCH BARRIERS?

Nigeria made some progress in providing access to legal justice, including enacting the CRA<sup>80</sup> and the VAPP.<sup>81</sup> But there is room for improvement in overcoming institutional barriers to enforce the laws and to increase access to legal justice for abused female residents of IDP camps. Such barriers include: (1) pluralistic and conflicting institutional and legal systems,<sup>82</sup> (2) freedom of movement, undue delays, economic incapacity, distrust of legal system, shame and mental trauma, (3) economic incapacity and geographic barriers and (4) illiteracy.

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79. Nigeria should also develop a database that coordinates and confirms the accuracy of all the statistical data of all the monitoring organizations. It should also have a database that builds upon the sex offender database that the Lagos state government of western region of Nigeria has developed to record and track sex offenders.

80. See NIGERIAN CHILD RIGHTS ACT (2003); *see also* Martins Ifijeh, *supra* note 36.

81. See VIOLENCE AGAINST PERSONS (PROHIBITION) ACT (2015), (enacting country's first federal statute that prohibits all forms of violence against females, including providing maximum safeguards and effective remedies for victims of such violence).

82. The pluralistic and conflicting institutional systems include traditional, religious, statutory courts, legislature (e.g. national assembly) and the security forces (police and military are part of the executive branch).

*A. Pluralistic and Conflicting Institutional and Legal Systems*

Nigerian courts interpret and apply three conflicting and pluralistic legal systems including: customary laws, religious law (e.g. Sharia), and statutory law which is based on English common law.<sup>83</sup> The traditional law varies in all the 250 ethnic communities in Nigeria. The higher courts are formal systems that apply Nigerian Constitutional and Statutory laws based on English Common law while the lower courts are more informal customary (or magistrate courts) and religious (or local or Sharia courts) courts that adopt traditional normative values that do not respect gender rights.

Eleven Northern states,<sup>84</sup> including Borno, Adamawa and Yobe states—which contain the most troubling cases of gender based violence in IDP camps—have not adopted the Child Rights Act and the 2015 VAPP.<sup>85</sup> Reason being that they have problems with conflict between their traditional norms and the Child Rights Act's definition of child as a person below the age of 18 and sections 22 and 23 which prohibits child marriage and punishes violators.<sup>86</sup> Their traditions are also in conflict with the VAPP provisions including those that prohibit harmful traditional practices.<sup>87</sup>

Section 18 (3) of the 2011 Nigerian Evidence Act applies the repugnancy doctrine which requires that judges shall not enforce customs as law if the custom is contrary to public policy, or is not consistent with natural justice, equity and good conscience.<sup>88</sup> But in practice, traditional norms are deeply

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83. See Jadesola Lokulo-Sodipe et al., *Legal Basis for Research Ethics Governance in Nigeria*, TRAINING AND RESOURCES IN RESEARCH ETHICS AND EVALUATION (March 5, 2014), <https://elearning.trree.org/mod/page/view.php?id=142>; Yemisi Dina et al., *Guide to Nigerian Legal Information*, HAUSER GLOBAL LAW SCHOOL PROGRAM (February 2005) [http://www.nyulawglobal.org/globalex/Nigeria.html#\\_LEGAL\\_SYSTEM](http://www.nyulawglobal.org/globalex/Nigeria.html#_LEGAL_SYSTEM).

84. See *States Yet to Domesticate Child Rights Act*, NIGERIAN BULLETIN (January 31, 2016), <http://www.nigerianbulletin.com/threads/list-of-nigerian-states-that-are-yet-to-domesticate-child-rights-act-of-2003.172268/>.

85. *Id.* (showing three states that have domesticated the VAPP include Ogun, Oyo and Anambra states).

86. NIGERIAN CHILD RIGHTS ACT §§ 22-23, § 277(6) (2003)

87. See VIOLENCE AGAINST PERSONS (PROHIBITION) ACT § 20 (2015) (prohibiting harmful traditional practices). See *id.* § 4, (defining harmful traditional practices to include traditional behavior and practice that negatively affect fundamental rights of women, girls or any person, including denial of inheritance, female genital mutilation, female circumcision, forced marriage and force isolation from family and friends).

88. See EVIDENCE ACT OF THE FEDERATION OF THE NIGERIA § 18(3) (2011), <http://www.refworld.org/pdfid/54f86b844.pdf>.

entrenched and widespread in the Nigerian institutional and legal system.<sup>89</sup> There is no guarantee that Judges of higher courts will declare a gender based discriminatory customary practice to be repugnant because they perceive human rights as an arbitrary processes that is not based on a universally accepted standard. Therefore, deeply entrenched traditional values can also influence judges of formal (statutory) courts to discriminate against females in family and marriage law cases.<sup>90</sup> The applications of such pluralistic laws undermine fair and equal access to legal justice for female victims of gender based violence.<sup>91</sup> For example, traditional courts—which are lower hierarchy courts—are influenced by traditional beliefs that a married female is not an equal partner with her spouse and is a mere societal chattel with no access to the legal justice system.<sup>92</sup> The chief or elder, who is the head of the traditional court, interprets and applies such traditional norms which are backed by strict social sanctions against a non-compliant female. Other gender discriminatory features of traditional dispute resolution mechanisms include lack of respect for gender and human rights, exploitation of illiterate women, lack of organizations to provide free legal aid to the communities, weak compliance systems that are backed by societal pressure and the degree of respect for the traditional leader, and suppression of female voices. The traditional courts do not provide adequate recourse and access to justice to a female who has been subjected to child marriage form of GBV because it legalizes such marriage.

In addition to influencing the judicial process, traditional norms also influence the legislative process. In 2013, factual evidence demonstrates that traditional values was one of the factors that influenced Nigerian Senate Committee to vote in favor of gender discriminatory Constitutional provision that recognizes underage girl child marriage.<sup>93</sup> Section 29 (1) of the Nigeria Constitution stipulates that any citizen of Nigeria of full age may renounce

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89. See Dr. Bob Arnot, *How Traditional Justice in Nigeria is Changing*, BRITISH COUNCIL (Feb. 24, 2015) <https://www.britishcouncil.org/voices-magazine/how-traditional-justice-nigeria-changing>. See also Richard Bowd, *Comparisons Between Sierra Leone, Tanzania and Zambia*, POLICY BRIEF NR. 13, (2009).

90. See Rita Ozoemena & Michelo Hansungule, *Re-Envisioning Gender Justice in African Customary Law through Traditional Institutions*, 63 POL. BRIEF 1, 3-4 (2009), <https://www.africaportal.org/documents/2459/polbrief63.pdf> (demonstrating the effects of the VAPP and Evidence Act, which in conjunction, are applied unequally).

91. *Id.* (noting that some scholars have argued the traditional system is more detrimental towards women, but ultimately concluding that traditional courts are just as well equipped to handle issues of gender justice).

92. *Id.*

93. See CONSTITUTION OF NIGERIA (1999), § 29(4)(b).

their citizenship when they attain full age. It then adds that full age means the age of eighteen and above section 29(4) (a). But then, section 29 (4) (b) adds a controversial clause that “any woman who is married shall be deemed to be of full age.”<sup>94</sup> The majority of Nigeria Senate Committee voted in favor of the keeping the controversial and ambiguous 29(4)(b) provision of the Constitution that permits underage girl child marriage.<sup>95</sup> Their vote was indicative of the good workings of the Nigeria’s democratic process, but was also demonstrative of the negative effects of traditional influences on legal and political process.<sup>96</sup> Following the Senate vote, some Nigerians, including many organizations (e.g. Gender and Constitution Reform Network, the Nigerian Feminist Forum and Nigerian Branch of the Federation of Women Lawyers) called for deleting the controversial provision because it undermined the earlier provision of eighteen years and legalized marriage to under girls. During the Senate Committee hearing of the matter, a Muslim Senator Ahmed Yerima defended the provision on the basis that deleting the provision will discriminate against Muslim women who can marry below age eighteen. In July 2013, the Nigerian Senate Committee’s voted in favor of leaving the provision. Therefore, some scholars and women’s organization criticized the Senate’s vote for implicitly legitimizing child marriage.<sup>97</sup>

Undisputedly, traditional values are the most difficult barriers to overcome partly because they entrenched into Nigeria’s institutional and political fabrics. Therefore, some scholars agree that realistically, legislation (e.g. VAPP and CRA) cannot have an immediate effect of changing judicial and legislative behaviors. Such legislation, per se, cannot also rapidly reform or ban underage girl—child marriage and other gender discriminatory customs because those customary norms are based on deeply enshrined and long term beliefs, history, culture and practices of people.<sup>98</sup> Any attempts to reform

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94. *Id.*

95. Afua Hirsch, *Nigerian Senator Who Married Girl of 13 Accused of Breaking Child Rights Act*, THE GUARDIAN (July 13, 2013), <http://www.theguardian.com/world/2013/jul/25/nigeria-senator-accused-child-bride> (noting the legislative intent of the institution at the time of enactment); see also GIRLS NOT BRIDES, CONTROVERSY IN NIGERIA OVER MINIMUM AGE OF MARRIAGE (2013), <http://www.girlsnotbrides.org/controversy-in-nigeria-over-minimum-age-of-marriage>.

96. CONTROVERSY IN NIGERIA, *supra* note 95.

97. *Id.*

98. See Marianne Schnall, *Ending Child Marriage: Insights from Desmond Tutu and Mary Robinson*, HUFF POST, [http://huffingtonpost.com/marianne-schnall/desmond-tutu-and-mary-rob\\_b\\_1254218.html](http://huffingtonpost.com/marianne-schnall/desmond-tutu-and-mary-rob_b_1254218.html) (agreeing with Tutu, that legislation without enforcement cannot end discriminatory traditional practices like underage girl bride

such communal based traditions should be done through a participatory, holistic and gradual process of information sharing and community engagement on the benefits of reform.<sup>99</sup> Over time, communities can collectively agree to ban their cultural practices of under—age girl child marriages.<sup>100</sup>

Further, some scholars caution that any attempts to gradually reform traditional normative values should not undermine the advantages of traditional practices.<sup>101</sup> Such advantages include: reflecting gender equality in terms of communal safeguards for an abused female spouse; less costly; respect and trust for traditional rulers and elders who settle disputes; closer geographic proximity to disputing parties; parties share familiarity with local customs and religious beliefs, communal participation, and conciliatory and informal strategies for resolving disputes.<sup>102</sup> Therefore, females have easier access to justice under traditional mechanism of resolving marriage disputes rather than judicial machineries of the courts that apply more formal statutory systems. For example, under traditional marriage, an abused female can use the pressure of the community elders or rulers, her family and husband's family to informally resolve spousal disputes. She is allowed to return to her husband after he and his family has used gifts and other means to reconcile with her and her family.

Consequently, with the assistance of donors, some progressive communities in Northern Nigeria are implementing community mobilization and gender programs that encourage discussions amongst all relevant village members. In 2015, in Jigawa State of Northern Western Nigeria, the UK government's Department of International Development (DFID) financed a GBP 50 million J4A Program.<sup>103</sup> The British Council implemented it as a pilot project to provide technical, legal and human rights training to the

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marriages).

99. See Ozoemena, *supra* note 90 (arguing that legislation cannot be the sole solution for achieving gender justice as legislation often imposes ill-suited notions of human rights onto existing indigenous law and that traditional institutions should be changed from within).

100. See Schnall, *supra* note 98.

101. See Arnot, *supra* note 89.

102. *Id.*

103. See *Id.* J4A is a Great British Pounds 50 million dollar program. The UK government's Department for International Development (DFID) finances the project and the British Council manages the project. *Id.* See also BRITISH COUNCIL, ACCESS TO JUSTICE AND THE RULE OF LAW: THE BRITISH COUNCIL APPROACH 9 (2015), [https://www.britishcouncil.org/sites/default/files/access\\_to\\_justice\\_final\\_v3\\_web.pdf](https://www.britishcouncil.org/sites/default/files/access_to_justice_final_v3_web.pdf).

prominent and reform minded Emir (traditional leader) of Dutse in the State and 1,500 other traditional leaders.<sup>104</sup> The program also trained one hundred wives of rulers.<sup>105</sup> The training program's objectives include to enhance their dispute resolution authority and to strengthen equal access to justice and gender issues.<sup>106</sup> The Emir of Dutse is committed to changing the traditional system and his influence motivated other less influential traditional leaders to participate in the program.<sup>107</sup> The project used the consultancy services of grassroots and local institutions to develop the training materials and implement the project.<sup>108</sup> Such local participation helped to strengthen the Emir's trust in the project.<sup>109</sup> The local institutions include the emirate council, Nigeria's Ministry of Local Government and Chieftaincy Affairs.<sup>110</sup> His influence and prominence also energized other lower level traditional rulers to participate in the training.<sup>111</sup> This strengthened their commitment to incorporate what they learned into their traditional norms that are enshrined in religion and custom.<sup>112</sup>

One technical challenge was that the low literacy of the traditional rulers made it difficult for them to learn computer-based record keeping.<sup>113</sup> However, the project trained data officers from the Emir's palace that originally mentored them.<sup>114</sup> The project had only one central computer-based data collection and storage unit, called Sulhu Scribe, in the Emir's palace.<sup>115</sup> There was no internet connection, but it worked for processing and keeping records.<sup>116</sup>

In 2015, there were no conflicts between the human rights code of ethics that the project developed and traditional norms.<sup>117</sup> Project trainers stressed

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104. Arnot, *supra* note 89.

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

the similarities between Islam, human rights, and gender rights.<sup>118</sup> Traditional rulers also had participatory round tables that involved discussions with various legal professionals, including magistrates, sharia court judges, lawyers, accountants, and community law center staff, police, and relevant community members.<sup>119</sup> The discussions included ways to reduce misconceptions and understand each other.<sup>120</sup>

Due to increased public satisfaction with the reformed traditional dispute resolution mechanism, there is an upsurge in the use of process.<sup>121</sup> For example, more than 90 percent of the complaints that women have brought before the traditional rulers have been resolved fairly and satisfactorily.<sup>122</sup>

Beyond reform, some traditional leaders in some Northern communities have tried to assist security forces in tracking and monitoring the search and rescue of missing girls and children kidnapped by Boko Haram.<sup>123</sup> For example, in April 2015, traditional leaders in Damasak submitted a list of 501 missing children to police and local government. Although they claimed the police and government did not respond,<sup>124</sup> it was still a good attempt to engage with formal authorities to solve female abduction problems. The government and organizations should strengthen collaboration with trusted traditional communities and leaders to seek justice for kidnapped girls and abused female victims at IDP camps.

*B. Freedom of Movement, Undue Delays, Economic Incapacity and Distrust of Legal System, Shame and Mental Trauma*

Apart from traditional values, other factors, including freedom of movement, undue delays, and economic burdens also worsen female distrust of legal justice system. Such distrust also undermines their willingness to access the system. Societal shame and mental trauma also worsens their unwillingness to seek justice. The restricted freedom of movement is for justifiable security reasons at the camps; however, the cumbersome permit issuance requirements at the camps cause undue delays in administrating

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118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. See *Hundreds Missing in Boko Haram's Biggest Abduction of Kids*, DNA INDIA (Mar. 30, 2017), <http://www.dnaindia.com/world/report-hundreds-missing-in-boko-haram-s-biggest-abduction-of-kids-2375816> (detailing the roles of some community leaders taking on responsibility with security to seek and find kidnapped girls).

124. *Id.*

justice.<sup>125</sup> The courts should comply with the section 36 (Paragraphs 1 and 4) of the 1999 Nigerian Constitution which requires fair trial within a reasonable time for civil and criminal cases.<sup>126</sup> The courts have construed reasonable time to mean that “a person who is arrested is expected to be brought to court within a day of his arrest or detention if the place where he is arrested or detained has a court of competent jurisdiction within a radius of 40 kilometers.”<sup>127</sup> The delays are not unique to gender-based violence cases at IDP camps, but also applies to most Nigerian cases.<sup>128</sup> To reduce the undue delay problem, section 19(d) of the 1999 Constitution provides for alternative dispute resolution mechanisms to settle disputes, but the nature of disputes are mostly civil and minor offense cases and do not apply to criminal cases involving domestic violence.<sup>129</sup> To regain female trust of the system, Nigeria should address the restricted movement problem. Camp security should promptly issue camp exit permits to female camp refugees

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125. See *Abusing Displaced Women*, *supra* note 1 (discussing the negative impacts of abuse and barriers to accessing justice for victims within the IDP camps). See also *Crisis Update: Borno and Yobe States*, MEDECINS SANS FRONTIERS (June 5 2018), <http://www.msf.org/nigeria-crisis-update-borno-and-yobe-states-june-2018> (discussing how IDP camp dwellers try to live safe lives in camps with restricted freedom of movement in IDP camps and the unsafe environments outside the camp).

126. See Ibrahim Abdullahi, *The Supreme Court of Nigeria Decision in Lufadeju v. Johnson 8 NWLR (PT 1037) 535 (2007): Whither the Unconstitutionality of Holding Charges in Nigeria?*, 28 J. L., POL'Y & GLOBALIZATION, 177 (2014), <https://www.iiste.org/Journals/index.php/JLPG/article/viewFile/15925/16393> (stating that the court also held that in some cases ‘reasonable time’ also means that a person has to be brought to court within 2 days or any other time considered reasonable by the court). See also *Abusing Displaced Women*, *supra* note 1 (claiming that the limited movement at the Maiduguri IDP camps violate Principle 14.2 of the United Nations Guiding Principles on Internal Displacement).

127. *Id.*

128. K. Odeku and S. Animashaun, *Poverty, Human Rights and Access to Justice, Reflections from Nigeria*, 6 AFR. J. BUS. MGMT. 6754, 6756 (2012). The transaction and financial cost of such delays discourage some indigent female victims from seeking legal justice. Cases involving human rights violations are not decided within a reasonable time and can last for more than three years. Reasons for delays include delays of security officers to issue camp exit permits, delays of judges that are writing opinions, police, military or prison wardens delay in gathering human and material evidence, geographic distance of some of the courts to remote areas, including the displaced settlement camps and fragile communities.

129. See Edwin Ezike, et al., *Mainstreaming ADR in Nigeria's Criminal Justice System*, 45 EUR. J. SOC. SCI. 32, 33 (2014) (arguing that ADR in criminal matters including the most serious criminal offenses would result in less delays and improve accessibility to justice).

and families to facilitate their appearance in court. Relevant organizations should also train judges to reduce undue delays and economic burdens in administering justice.

### C. *Economic Incapacity and Geographic Barriers*

The IDP camps in the Northern regions are located close to traditional and Sharia courts but they are distant from courts in the urban areas that apply statutory laws that more likely respect gender rights of abused and indigent females.<sup>130</sup> Section 27 of 2015 VAPP worsens the geographic access problems because it provides that only the High Court of the Federal Capital Territory, Abuja shall have jurisdiction to hear and grant cases under the VAPP.<sup>131</sup> Since Abuja, Federal Capital Territory (the location of the High Court) is far from remote and fragile regions, how can indigent female victims in those remote IDP camps access the formal court and overcome the geographic barrier? Undoubtedly, the economic incapacity and geographic restrictions will undermine their access to the High Court in FCT. The expectation that clients should pay transportation costs for lawyers to and from court to far away geographic locations creates undue delay and economic burden problems for abused female indigents that live in remote IDP camps of Nigeria. Consequently, it is extremely difficult for such victims to seek redress for alleged gender-based violence before the formal (statutory) court system. Nigeria should remove geographic barriers and make formal court systems accessible to victims in remote areas.

To address economic barriers to legal justice, the 2015 Violence against Persons Prohibition Act (VAPP, section 38) made some progress in requiring that government should provide such female indigents with free legal, psychological and social services.<sup>132</sup> Accordingly, Nigeria is developing legal aid institutional systems to help poor victims to afford the high cost of litigation and representation within the justice system. There are currently about fourteen legal aid organizations in the country and the most prominent are the Nigerian Legal Aid Council of Nigeria and the Network of University Legal Aid Institutions. But there is still much work to be done to increase legal human resources and perform outreach programs to inform and attract clients at the legal aid clinics. For example, in April 2017, the state branch of the Nigerian Legal Aid Council in the Northern region of Kano State,

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130. See Richard Bowd, *supra* note 89 (noting that accessing legal remedies in the traditional and religious courts are easier for rural and remote populations; thus, geographic restrictions are not unique to Nigeria, but apply in other African nations too).

131. See VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, pt. II, § 27 (2015).

132. See *Id.* at pt. II, § 38.

where there should be a demand for such services, experienced a resource shortage where they only had 4 lawyers for a population of 15 million people in the state.<sup>133</sup> Nigeria should continue to take measures to promote public awareness and outreach programs to educate indigent females about their rights to free legal aid in accordance with the requirements of the victims' rights provision (section 38) of the 2015 VAPP.<sup>134</sup>

#### D. Illiteracy

Nigeria should also educate illiterate female victims about their rights because illiteracy worsens distrust and intimidation of the court system.<sup>135</sup> Illiteracy also undermines willingness to seek redress before the legal justice system.<sup>136</sup> Gender based illiteracy disparities are broad with the female literacy levels at a much lower rate (49.7 percent) than male literacy rates at 69.2 percent.<sup>137</sup> Specifically, in Borno state, one of the states with IDP camps, the female secondary school attendance rate is only 29 percent compared to the national average of 53 percent.<sup>138</sup> In 2011, Dr. Usman Shamsudeen, Former Minister of Finance, claimed that Northern Nigeria has the highest percentage of child illiteracy, not only in Nigeria, but in the entire world.<sup>139</sup> The geographic literacy disparities for both male and females are broad with low literacy levels in the Northern regions with a high

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133. See Yusha'u A. Ibrahim, *Kano Legal Aid Council "Short of Lawyers,"* NIGERIA BAR (Apr. 28, 2017), [http://www.nigeriabar.com/2017/04/kano-legal-aid-council-lsquo-short-of-lawyers-rsquo#.W\\_BJkzhKjcs](http://www.nigeriabar.com/2017/04/kano-legal-aid-council-lsquo-short-of-lawyers-rsquo#.W_BJkzhKjcs) (demonstrating the need for legal services for a population struggling to implement and affect change against gender based violence and children's rights).

134. See generally VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, pt. II § 38.

135. *Paralegal Toolkit*, *supra* note 2.

136. See *High Level International Roundtable on Literacy: "Reaching the 2015 Literacy Target: Delivering on the Promise"* UNESCO (2012), <http://unesdoc.unesco.org/images/0022/002238/223804E.pdf> (redressing injustice through the legal system is insurmountable for illiterate rural women). Illiteracy undermines willingness to seek justice because illiterate females are frightened and puzzled by the justice process, including language used in the courts. See also *Paralegal Toolkit*, *supra* note 2; Richard Bowd, *supra* note 90.

137. See *The World Fact Book: Nigeria*, CIA <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html> (August 7, 2018).

138. See RACHEL HATCH, EDUC. POL'Y DATA CTR., SCHOOLING IN NORTHERN NIGERIA: CHALLENGES FOR GIRLS' EDUCATION, <https://www.epdc.org/epdc-data-points/schooling-northern-nigeria-challenges-girls-education>.

139. See Ajibola Amzat, *supra* note 2 (claiming that high illiteracy levels in the Northern region are partly due to lack of political will to education).

concentration of IDP camps, including Borno state, where the literacy rate is 23.11 percent; Yobe, where the rate is 7.23 percent; and Adamawa where the rate is 55.82 percent.<sup>140</sup> But the southern states have higher literacy levels, including Lagos with a high literacy level of 96.30 percent while IMO state also has high levels of 96.43 percent.<sup>141</sup>

To enhance literacy in Northern Nigeria, the country should replicate the work of some organizations, including Global Rights Organization to provide paralegal training and awareness programs to educate females about gender equality and access to legal and socioeconomic justice.<sup>142</sup> Nigeria should also take measures beyond formal education and vocational training to support and implement such literacy programs at IDP camps, including street law and adult literacy programs that enhance the legal awareness of citizens.

#### IV. WHAT ARE LEGAL CHALLENGES THAT PREVENT ABUSED FEMALES FROM GETTING ACCESS TO LEGAL JUSTICE AND HOW CAN NIGERIA OVERCOME THEM?

Some provisions of the aforementioned Nigerian laws, including the 1999 Nigerian Constitution, VAPP,<sup>143</sup> and CRA<sup>144</sup> signal positive steps to provide legal justice access to female victims of gender based violence on a national scale. However, the next step is to ensure that the laws are enforced to provide legal access to abused female victims. The VAPP is a relatively new law and needs to stand the test of time, but it and the other two laws are riddled with legal barriers to female access, including pluralistic conflicts and traditional normative influences, economic incapacity and illiteracy, and geographic restrictions. Lacunas and ambiguities in some provisions of laws also undermine access to legal justice.

Optimistically, female victims of GBV at the IDP camps have some legal recourse to the High Court of the Federal Capital Territory in Abuja<sup>145</sup> for harm suffered from any of the prohibited offenses listed in part 1 of VAPP. The VAPP prohibits many gender based violence practices, including female

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140. *See id.* (asserting that lack of funding is not the main cause of high illiteracy problems in Northern Nigeria).

141. *Id.*

142. *See, e.g., Paralegal Toolkit, supra* note 2.

143. *See* VIOLENCE AGAINST PERSONS (PROHIBITION) ACT (2015).

144. *See* NIGERIAN CHILD RIGHTS ACT (2003).

145. *See* VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, pt. II §27.

circumcision;<sup>146</sup> forced financial dependence and economic abuse;<sup>147</sup> forced isolation or separation from family and friends;<sup>148</sup> depriving a person from his or her liberty;<sup>149</sup> emotional, verbal and psychological abuse;<sup>150</sup> rape;<sup>151</sup> and harmful traditional practices.<sup>152</sup>

*A. Pluralistic Conflicts, Traditional Influences on State Statute, and Wife Beating*

Traditional norms and practices influence some state statutes that discriminate against females and girls. For example, section 55 of the Penal Code of Northern Nigeria (where Boko Haram mainly operates) legalizes corrective beating for wife, pupil, child, and servant as long as this does not cause grievous harm.<sup>153</sup> Under the Penal Code, it is not an offense for a husband to assault his wife, if he does not cause her grievous harm and if they are both subject to natural law or custom in which such correction is recognized as lawful.<sup>154</sup> But optimistically, section 45 (2) of VAPP provides for eliminating any pluralistic conflict and provides that if there is conflict with any other statute, VAPP's provision will supersede. This is a good step in right direction because it implies that section 2 of the VAPP which prohibits inflicting physical violence on a female will supersede the gender discriminatory provision of section 55 Penal code.

*B. Pluralistic Conflicts, Traditional Influences on Federal Laws, Forced Marriage, and Legal Age*

Apart from influencing state statutes, traditional norms and practices also influence federal statutes. This includes the 2015 VAPP, which has an ambiguous provision that creates uncertainty as to whether it bans under-age female marriage. The ambiguous VAPP provision in Part I, section 20 prohibits "harmful traditional practices" and in Part IV, section 46, it

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146. *See id.* at § 6.

147. *Id.* at § 12

148. *Id.* at § 13.

149. *Id.* at § 10.

150. *Id.* at pt. I §14.

151. *Id.* at § 1.

152. *Id.* at § 20

153. *See* THE 1960 PENAL CODE OF NORTHERN NIGERIA, 53 LFN, ABUJA § 55, [http://oceansbeyondpiracy.org/sites/default/files/Nigeria\\_Penal\\_Code\\_Act\\_1960.pdf](http://oceansbeyondpiracy.org/sites/default/files/Nigeria_Penal_Code_Act_1960.pdf) (allowing a husband to beat his wife for purposes of correcting his wife and it does not amount to grievous harm upon any person). *See also* Gamawa, *supra* note 34.

154. THE 1960 PENAL CODE OF NORTHERN NIGERIA, 53 LFN, ABUJA § 55.

includes “forced marriage” within the meaning of prohibited traditional practices.<sup>155</sup> Part IV, section 46, the interpretation section, defines “harmful traditional practices” to mean “all traditional behavior, attitudes or practice which negatively affect the fundamental rights of women, girls, or any person and includes harmful widowhood practices, denial of inheritance or succession rights, female genital mutilation or female circumcision, forced marriage and forced isolation from family and friends.”<sup>156</sup>

Further, Part IV section 46 defines the meaning of forced isolation, but omits to define the meaning of forced marriage. The section also omits to define legal age of marriage and to resolve the aforementioned controversy that the Nigerian Constitution has created with its ambiguous provision that allows under-age girl marriages.<sup>157</sup> The omission and lacuna raises several vital questions that are relevant for future research. What is the meaning of forced marriage? Does the usage of “forced marriage” imply traditional meaning of forced marriage which is when an under-age girl marries without consent of her family and the bride groom’s family? Are we to assume that VAPP agrees with the traditional meaning of a valid marriage which is when an underage girl marries with the consent of her family, the bridegroom’s family and the groom? Or should we assume that the inclusion of forced marriage within the meaning of banned traditional practices implies a ban of all child marriages?

Are we also to assume that the Nigerian legislature adopts the traditional view of marriage which will be considered forced marriage under the Child Rights Act which bans under age marriage? Given the aforementioned<sup>158</sup> Senate Committee approval of the controversial Constitutional provision that legitimizes child marriages, it may be safe to assume that they may adopt such a traditional view.

Since VAPP did not expressly ban all child marriages as gender-based

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155. VIOLENCE AGAINST PERSONS (PROHIBITION) ACT (2015), pt. I § 20; pt. IV § 46.

156. *Id.* at pt. IV §46.

157. *See id.* Section 29 (1) of the Nigeria Constitution stipulates that any citizen of Nigeria of full age may renounce their citizenship when they attain full age. It then adds that full age means the age of 18. But then, section 29 (4) (b) adds a controversial clause that “any woman who is married shall be deemed to be of full age”. The majority of Nigeria Senate Committee voted in favor of the keeping the controversial and ambiguous 29(4) (b) provision of the Constitution that permits under age girl child marriage. Their vote was indicative of the good workings of the Nigeria’s democratic process, but was also demonstrative of the negative effects of traditional influences on legal and political process

158. *Supra*, notes 59 to 62.

violence and did not expressly stipulate the legal age of marriage, one may assume that the legislature did not intend to ban all forms of girl marriage. Therefore, there is an urgency to clarify the ambiguous provisions. Rectifying the lacunas and ambiguities are vital because under Nigerian traditional marriage norms, the only consent required for underage marriages are from the underage girl's family, the groom and the groom's family.<sup>159</sup>

Apart from the legislature, how will the courts determine the legal age of marriage to prevent underage forced child marriages? It seems that VAPP and the Nigerian Constitution have left it open for the courts to interpret and decide on a case by case basis.

Nevertheless, optimistically, the CRA expressly bans under age marriage and sets it at eighteen years. Since the enactment of CRA, girl marriage fell nationwide by 9 percent, but it is still prevalent in Northern states with IDP camps that refuse to domesticate it.<sup>160</sup> However, Nigeria's federalism system requires that in order for each of the two statutes—VAPP and CRA—to be implemented in a state, they must be adopted and passed in the state. As of September 2017, 525 of Nigeria's 36 states have domesticated the 2003 Child Rights Act.<sup>161</sup> Eleven states have not yet domesticated it and more than 11 states have passed some form of GBV statute.<sup>162</sup> However, Borno, Yobe and Adamawa, the most fragile states with excessive gender based violence, have not yet done so.<sup>163</sup> There is an urgency for them to pass and adopt the CRA and VAPP.

### C. *Economic Incapacity of Victims, Unawareness, and Illiteracy*

Chapter IV and section 19(d) of the 1999 Nigerian Constitution do not expressly protect an indigent victim's right to access to free legal aid within the justice system. Instead the two Constitutional provisions provide for fair hearing and human rights for all victims, including females of GBV.<sup>164</sup> However, section 38(1)(a) of VAPP provides that indigent victims, including female victims of gender based violence have the right to access free legal,

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159. See Rita Ozoemena et al., *supra* note 90.

160. Sinclair, *supra* note 3 (stating that in the In Yola state of Northern Nigeria, at least one in five girls are married before 18 and a fifth marry before age fifteen).

161. Ifijeh, *supra* note 36 (stating that as of 2017, eleven states that have not domesticated the Child Rights Act are Northern states and they include: Adamawa, Bauchi, Borno, Gombe, Kaduna, Kano, Katsina, Kebbi, Sokoto, Yobe, and Zafara, and on. On June 29, 2016, Enugu was the last southern state to domesticate the act).

162. *Id.* See *infra* Table 3.

163. See *supra* notes 86-87 and accompanying text.

164. See CONSTITUTION OF NIGERIA (1999), § 36.

social, psychological, medical and other related services from governmental and non-governmental agencies.<sup>165</sup> To address public unawareness and illiteracy problems, section 38(1) (b) provides that such victims should be informed of the availability of legal services.<sup>166</sup> Further, section 38 (1) (d) encourages victims to report offences while section 38(1) (e) encourages and protects victims that file complaints.<sup>167</sup> Section 38(1)(e) also protects them from punishment, expulsion and disinterment.<sup>168</sup> However, Nigeria should rectify the lacuna in section 38 which fails to provide strategies for financing all these free programs for indigents.

#### *D. Geographic Restrictions*

Nigeria should also rectify the lacuna in Section 27 of VAPP, which omits to expand and facilitate geographic access to the courts for female victims at remote IDP camps with prevalent GBV.<sup>169</sup> As aforementioned,<sup>170</sup> the provision worsens the geographic problems because it provides that only the High Court of the Federal Capital Territory, Abuja shall have jurisdiction to hear and grant cases under the VAPP.<sup>171</sup> Abuja, the Federal Capital Territory (FCT) and the location of the High Court, is far from the remote and fragile regions where female GBV victims reside.<sup>172</sup> Therefore, such geographic restrictions combined with economic incapacity undermine their ability to access the court in FCT. This raises a question: can national assembly amend the VAPP to expand jurisdictional authority and grant other state courts the right to hear cases under VAPP? There is an urgency for Nigeria to remove the barriers, including making formal court systems accessible to victims in remote areas and granting more courts jurisdictional authority to hear GBV cases under VAPP.

#### V. CONCLUSION AND IMPLICATIONS FOR SOME ORGANIZATIONS

Nigeria has made progress in enacting the VAPP and CRA, which provide access to the justice system for abused indigent females. Nigeria has also made progress in training its military forces, including using female security to overcome the abuse of male security powers at IDP camps. But statutes

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165. VIOLENCE AGAINST PERSONS (PROHIBITION) ACT (2015), §38 (Nigeria).

166. *Id.*

167. *Id.*

168. *Id.*

169. *See supra* notes 133-134 and accompanying text.

170. *Id.*

171. *Id.*

172. *Id.*

alone will not provide under-age girls with access to the justice system. They cannot automatically and rapidly ban traditional influences in the legal system because traditional and religious norms are deeply entrenched in the customs and practices of judges in the justice system. It will take a gradual and sensitizing long-term process of training and dialogue amongst relevant members of the community, including traditional leaders, key representatives, and judges in formal and informal legal systems to see the value of gender equality and rule of law.

To strengthen female access to legal and socioeconomic justice, Nigeria should use gradual, holistic, preventive/reactive and multidisciplinary approaches to overcome traditional, socioeconomic and psychological challenges. With assistance from the donor community, Nigeria should also strengthen medical and mental health support to abused females. To address the long-term socio-psychological impact of shame and trauma on female victims, Nigeria should also develop a national and global GBV survivor's network to provide access to justice in the legal, social, psychological, educational, business, and employment service spheres.<sup>173</sup>

The global community should increase the system of accountability and coordination for financial sustainability of legal and social services at the IDP camps. It should support CWAE, J4A, UNICEF, NBA and other efforts to provide access to justice for females. Furthermore, the services should not only be for female victims, but should also include males because both males and females can be vulnerable victims and reluctant participants of Boko Haram weapons of mass destruction. Not all females are victims and not all males are predators, so both females and males should have equal access to socioeconomic systems that protect their community from harm. Such coordination and accountability will enable long term sustainability and financial viability of the socioeconomic services to all male and female victims. Within this context, some questions that are open for future research include, how donors can strengthen such accountability, coordination and access to the inaccessible fragile regions? How can they ensure accountability and transparency in the use and dissemination of donations? Can they help service providers develop long term sustainable financial mechanism? Given Nigeria's federalism, should donors provide financial assistance to federal, state or local governments? Should they mediate disputes? Should they provide more military support? Should they provide technological assistance, such as cell phones and online education? Should

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173. Nigeria should also develop a database that coordinates and confirms the accuracy of all the statistical data of all the monitoring organizations. It should also have a database that builds upon the sex offender database that the Lagos state government of western region of Nigeria has developed to record and track sex offenders.

they share experiences of other good practices in other nations?

Nigeria should also implement paralegal training programs for some females of fragile regions, especially IDP camps to strengthen legal awareness and improve access to legal justice for GBV. Street law is also a solution to legal illiteracy and inadequate access to legal justice for GBV in some fragile conflict regions.

Finally, the Nigerian government should implement self-help vocational education programs for girls that generate honest employment and income for them and reduce their pressure to trade sex for goods and services. For safety, cell phones should be made available to IDPs.

*A. What are the implications for donor assistance to remove the aforementioned legal barriers to access to legal justice?*

On July 2016, UN High Commissioner for Refugees assisted the Nigerian Bar Association in Borno State to implement a project to increase access of internal displaced persons to legal justice. The project involved stakeholders from various justice institutions including Sharia and Magistrate court judges. They discussed ways to overcome barriers to access to legal justice for persons at internal displaced camps, including victims, witnesses, and complainants of gender based violence. Table 1 summarizes their proposed solutions and proposed actions to overcome the barriers. It covers Nigeria's measures to strengthen access to legal justice for internal displaced persons, including victims, witnesses, and complainants of gender based violence. Table 1 also includes the implementation plans of organizations, including the Nigerian Bar association, UNHCR, other organizations to combat the barriers and strengthen such access. More than 110 justice institutions (e.g. Magistrate and Sharia court judges, court registrars, and lawyers as well as prosecutors) attended the 2016 meeting to strengthen access to legal justice for victims of gender based violence who are witnesses and complainants. The goals of the meeting included improving accountability and monitoring of police stations and prison institutions, and providing permits to internal displaced person in camps. The meetings attendees also discussed the importance of the 2012 African Union Kampala Convention for the Protection and Assistance of Displaced Persons, which requires governments to protect the human rights of displaced people. Nigeria has ratified it, but for the treaty to be effective in Nigeria, the country's national assembly should enact the treaty into law through a domestication process.

## APPENDIX

***Table 1: Nigeria's Progress with Removing Barriers to Access to Justice for Internal Displaced Persons, including Female Victims, Witnesses and Complainants of Gender Based Violence in Maiduguri, Borno State.***<sup>174</sup>

| <b>BARRIERS TO ACCESS TO LEGAL JUSTICE AND END RESULTS</b>   | <b>SOLUTIONS PROPOSED</b>   | <b>PROPOSED ACTION FOR NIGERIAN AUTHORITIES, UNHCR, AND OTHER HUMANITARIAN ORGANIZATION</b>  |
|--|---|--|
| <ul style="list-style-type: none"> <li>· Delayed issuance of exit movement permits to IDPs by IDP camp officials</li> <li>· Results in delays to appearance in court and trial, as well as IDPs' ability to exercise freedom of movement outside IDPs camps</li> </ul> | <ul style="list-style-type: none"> <li>· Issue the exit permits promptly</li> <li>· Train camp officials on the vitality of prompt appearance in court</li> </ul> | <ul style="list-style-type: none"> <li>· The National Emergency Management Agency (NEMA) and the Borno State Emergency Management Agency should facilitate prompt processing of such movement passes for IDPs</li> </ul> |
| <ul style="list-style-type: none"> <li>· IDPs lack permanent addresses</li> <li>· Results in courts' difficulty contacting IDPs to inform them of upcoming appearances, including serving</li> </ul>   |   | <ul style="list-style-type: none"> <li>· Inform the Nigerian authorities and request that they address this issue</li> </ul>   |

174. UN REFUGEE AGENCY, PROMOTING ACCESS TO JUSTICE FOR INTERNAL DISPLACED PERSON SETTLEMENTS IN MAIDUGURI, BORNO STATE (July 27-28, 2016), [http://www.globalprotectioncluster.org/\\_assets/files/field\\_protection\\_clusters/Nigeria/files/report-legal-project-launch\\_en.pdf](http://www.globalprotectioncluster.org/_assets/files/field_protection_clusters/Nigeria/files/report-legal-project-launch_en.pdf).

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|---|---|--|
| <ul style="list-style-type: none"> <li>· Lack of financial resources among IDPs</li> <li>· Results in the inability to afford legal representation, court fees, and transportation to court</li> </ul>  | <ul style="list-style-type: none"> <li>· Provide financial assistance to indigent IDPs involved in litigation using a dedicated fund</li> <li>· Hold forums to increase awareness among IDPs of their legal rights and availability of legal aid services</li> <li>· Provide court-appointed lawyers to IDPs who are in litigation</li> <li>· Provide resources to facilitate trial of gender based violence cases in the courts</li> </ul> | <ul style="list-style-type: none"> <li>· Legislative reform to exempt IDPs from various legal fees</li> <li>· Ensure adequate funding for victims of GBV who are suing their abusers to comply with § 38(1) (a) of VAPP, which entitles victims of GBV to legal aid assistance from the government.</li> </ul> |
| <ul style="list-style-type: none"> <li>· Fragmented social networks of IDPs due to their residence in IDP camps</li> <li>· Results in courts having difficulty contacting witnesses to testify and the inability of IDPs to afford bail conditions because they lack of guarantors to finance the cost of their bail</li> </ul> | <ul style="list-style-type: none"> <li>· Reduce the complexity of the bail process, including reducing fees imposed on indigent IDPs</li> </ul>   | <ul style="list-style-type: none"> <li>· Train judges on the financial and social realities of IDPs and the effects thereof on bail</li> </ul>   |
| <ul style="list-style-type: none"> <li>· Illiteracy among IDPs and lack of proficiency in state languages, English and</li> </ul>   | <ul style="list-style-type: none"> <li>· Provide interpreters who can facilitate communication during court proceedings</li> </ul>  | <ul style="list-style-type: none"> <li>· Hire and train interpreters who can assist IDPs with courtroom translation and</li> </ul>   |

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|--|---|---|
| <p>Hausa</p> <ul style="list-style-type: none"> <li>· Results in poor communication and understanding between the parties during legal proceedings</li> </ul>  |   | <p>interpretation</p>   |
| <ul style="list-style-type: none"> <li>· High volume of cases involving IDPs</li> <li>· Results in slower process of hearing and resolving cases</li> </ul>  | <ul style="list-style-type: none"> <li>· Defense and prosecuting attorneys to take call all witnesses on the same day and prepare to try cases more quickly</li> </ul>                                  | <ul style="list-style-type: none"> <li>· Train judges in faster courtroom management</li> <li>· Increase awareness among IDPs about their right to access the legal justice system</li> </ul> |
| <ul style="list-style-type: none"> <li>· Victims at IDP camps who experience GBV and accompanying trauma need a multidisciplinary group of professionals to assist them, including lawyers, and medical and mental health professionals in order to heal and seek justice</li> </ul> | <ul style="list-style-type: none"> <li>· Establish special IDP courts to hear cases arising out of IDP camps that are equipped to handle the complexity of such a multidisciplinary approach</li> </ul> |   |

**Table 2: Selected federal laws addressing GBV and child rights in Nigeria**

| FEDERAL STATUTE   | RELEVANT PROVISIONS  |
|---|--|
| <p>The 1999 Constitution of the Federal Republic of Nigeria, Chapter 11</p> | <ul style="list-style-type: none"> <li>· Section 15 stipulates that states should promote national integration and prohibit discrimination on grounds of place of origin, sex, religion, status, ethnic or linguistic association</li> <li>· Section 16 provides that state should control the economy in such a way as to guarantee the maximum freedom, welfare and happiness of all citizens based on social justice and equality of opportunity and status</li> <li>· Section 17 provides that the state provide equal rights, obligations and opportunities before the law and also equal pay for equal work without discrimination based on sex or any other basis whatsoever</li> </ul> |
| <p>The Violence Against Persons (Prohibition) Act, 2015</p>                 | <ul style="list-style-type: none"> <li>· Prohibits many forms gender based violence including sexual, psychological, physical, socioeconomic and harmful traditional practices</li> <li>· Section 1 prohibits rape</li> <li>· Section 6 prohibit female circumcision</li> <li>· Section 13 prohibits forced isolation from family or friends</li> <li>· Section 20 prohibits harmful traditional practices, and should be read in conjunction with section 46, which includes forced marriage as one of the prohibited traditional practices</li> <li>· Section 27 grants sole jurisdiction to hear cases under the statute to the High Court of the Federal Capital</li> </ul>                |

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|---|--|
|   | <p>Territory, Abuja</p> <ul style="list-style-type: none"> <li>· Section 38 protects the right of victims</li> </ul>   |
| <p>The 1999 Constitution of the Federal Republic of Nigeria, Chapter IV</p>   | <ul style="list-style-type: none"> <li>· Section 42 concerns the rights to freedom from discrimination either expressly or by practical application of any law in Nigeria or execution or administrative action on the grounds of community, ethnic group, place of origin, sex, religion, or political opinion</li> </ul>   |
| <p>Criminal Code, Cap. 77 Laws of the Federal Republic of Nigeria (LFN) 1990 and Penal Code Cap. 345 LFN 1990</p>     | <ul style="list-style-type: none"> <li>· Provides protection against the following offenses: assault, battery, counseling and procuring for prostitution, rape, defilement, and reproductive rights abuses</li> </ul>  |
| <p>Trafficking in Person (Prohibition) Law Enforcement and Administration Act 2003 as amended in 2004, Chapter 21</p> | <ul style="list-style-type: none"> <li>· Section 218 prohibits defilement of girls under thirteen (13 years)</li> <li>· Section 219 prohibits permitting defilement of young girls on his premises</li> <li>· Section 221 prohibits defilement of girls under sixteen and above thirteen and of idiots</li> <li>· Section 225 prohibits abduction of girls under eighteen with intent to have carnal knowledge</li> <li>· Section 226 prohibits unlawful detention with intent to defile, or in a brothel</li> </ul> |
| <p>Child Right's Act, No. 26 of 2003</p>  | <ul style="list-style-type: none"> <li>· Section 21 prohibits child marriage with a child who is under 18 years</li> <li>· Section 22 prohibits child betrothal</li> <li>· Section 30 prohibits prostitution or trading a child</li> <li>· Section 47 prohibits abduction of a child</li> </ul>  |
| <p>Terrorism Prevention Act, 2011</p>   | <ul style="list-style-type: none"> <li>· Prohibits and prevents the acts and financing of terrorism</li> <li>· Grants enormous powers to law</li> </ul>  |

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|--|---|
|  | enforcement to arrest, detain,<br>prosecute suspected terrorists with<br>little judicial supervision and review |
|--|---|

**Table 3: Where Federal Law Addressing GBV Operate**

| NAME OF STATUTE                                     | GEOGRAPHIC LOCATIONS IN WHICH THE STATUTE OPERATES  |
|---|---|
| The Violence Against Person (Prohibition) Act, 2015 | Cases under VAPP only justiciable in the High Court of the Federal Capital Territory, Abuja, though individual states may adopt their own versions of the statute as well.  |
| Child Rights Act, 2003                              | Only effective in the states that domesticate it. Eleven of thirty-six states that have not yet adopted the Child Rights Act including Borno, Yobe, Adamawa, Bauchi, Gombe, Kaduna, Kano, Katsina, Kebbi, Sokoto and Zamfara. |

**Table 4. Selected State Statutes that Prohibit GBV**

| <b>NAME OF STATUTE</b>  | <b>STATE THAT ENACTED THE STATUTE</b> |
|---|---------------------------------------|
| A Law to Prohibit Domestic Violence Against Women and Maltreatment No. 10, 2004 | Cross Rivers State                    |
| A Law to Prohibit Girl-Child Marriages and Female Circumcision No. 2 of 2000    | Cross Rivers State                    |
| Ebonyo State Protection Against Domestic Violence Law No. 003 of 2005           | Ebonyi State                          |
| Protection Against Domestic Violence Law of Lagos State 2007                    | Lagos State                           |
| Jigawa Domestic Violence Law 2009   | Jigawa State                          |
| Imo State Violence Against the Persons Law No. 2, 2012                          | Imo State                             |
| Ekiti State Gender Based Violence (Prohibition) Law 2011                        | Ekiti                                 |
| Katsina State Penal Code (1991) Section 283                                     | Katsina                               |
| Inhuman Treatment of Widows and Widows (Prohibition) Law, 2004                  | Edo                                   |
| Prohibition of Female Genital Mutilation  | Edo                                   |
| Malpractices Against Widows and Widowers (Prohibition) Law 2005                 | Anambra State                         |
| Dehumanizing and Harmful Treatment Practices Law of 2003                        | Rivers State in South South Nigeria   |
| Abolition of Female Circumcision Law, No 2 of 2001                              | Rivers State                          |
| Prohibition of Infringement of Widow and Widower Fundamental Rights Law         | Enugu                                 |
| The Gender and Equal Opportunities Act, 2015                                    | Plateau                               |
| The Violence Against Persons Act  | Kogi                                  |
| The Gender and Equal Opportunities Act  | Kogi                                  |
| The Gender and Equal Opportunities Act  | Anambra                               |

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| The Gender and Equal Opportunities Act   | Ekiti     |
| The Gender and Equal Opportunities Act   | Imo       |
| Ondo passed a Bill on harmful traditional practices affecting the health of women and children and related matters                                   | Ondo      |
| Oyo passed a bill protecting the inheritance rights of widows, prohibition of harmful traditional practices against widows and other related matters | Oyo State |
| Rivers passed female circumcision law  | Rivers    |