



ACCESS TO JUSTICE PROJECT REPORT

June-December 2016



UNHCR
The UN Refugee Agency

Introduction

This report summarises UNHCR's [Access to Justice Project](#) commenced in 2016. With protection needs across the North East States of Nigeria remaining high, specific interventions aimed at providing Access to Justice are essential to address the gap in the [protection](#) response for internally displaced persons [requiring legal assistance and counselling](#), across a full spectrum of issues flagged through UNHCR protection monitoring and screening activities. The violence, displacement and breakdown of social cohesion have left communities and families in desperate need. Civilians have faced [grave violations of human rights](#) and humanitarian law, including death, injuries, sexual violence and exploitation, detention, forced displacement, attacks on civilian sites and forced recruitment.

Children have witnessed or experienced [extreme violence](#) and [displacement](#). Child Protection agencies estimate over 20,000 unaccompanied and separated children across the three States of Emergency. The Office of the National Security Advisor (ONSA) estimates 8,000 children may have been recruited and used by Boko Haram in both combat and support roles. Children were also recruited by Civilian Joint Task Force and vigilante groups

Over [7,000](#) women and girls have been subjected to Boko Haram related sexual violence, (UNHCR Vulnerability Screening Report Round II) including forced marriage, rape, abduction and slavery. Women and girls who are released, face rejection, stigmatization even violence in the communities they return to. Their children are seen as 'Boko Haram' babies and they remain ostracized. Reports of SGBV in camp settings and host communities are alarmingly high, as are reports of sexual exploitation and abuse, including by men in uniform.

Detention of men, women and children associated with Boko Haram either directly or due to their connections continues to be an area of [significant concern](#). Women in newly accessible areas have reported hundreds of adult men and adolescent boys missing or detained by the military following release of their villages from Boko Haram control. Women and children associated with Boko Haram are held for [screening](#) and/or [rehabilitation](#) in facilities which are effectively detention centres.

There is a significant back log of counter terrorism cases which remain unprocessed due to the lack of adequate resources, lack of legal framework and policy guidelines on prosecution. There are hundreds of cases where the evidence of association with armed groups is not strong enough to secure a conviction in the [criminal justice system](#). Whilst these cases remain outstanding, the suspects remain in detention. It is unclear how many of these cases there are, although some estimates put these in the thousands. It is also not clear whether humanitarian monitoring of detention [facilities and conditions](#) is taking place, whether any or all of these suspects have been granted access to legal advice or even if their families have been told where they are being held.

In addition to these human rights issues, IDPs lack access to [basic legal services](#) to assist them in the daily conduct of their affairs. The most commonly occurring issues for IDPs are loss of civil documentation, the need to register births and deaths, [probate and inheritance matters](#), matrimonial

Vulnerability Screening Round III

KEY FIGURES FOR NEWLY ACCESSIBLE AREAS

and family disputes requiring arbitration. Inevitably, criminal cases not relating to the insurgency, processed through the state court system will need legal representation. As returns of IDPs to their places of origin gather pace, communities divided by the conflict are at risk of disputes over [land](#), [housing and property rights](#) creating the potential for future violence.

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Access to Justice

There are a number of specific obstacles acting as a barrier to the provision of access to justice for IDP's, including [lack of institutional support](#), a [lack of funding](#) and [inadequate legal frameworks](#), which compounded the existing shortcomings in service provision.

The Federal Court has concurrent jurisdiction to the State courts in Nigeria and is based in Abuja with courts across all 36 states. There are corresponding zonal offices of the Federal Ministry across the regions, including in [Borno](#), [Adamawa and Yobe](#). At the beginning of the conflict, court buildings and personnel as well as police officers and stations were targeted by Boko Haram with result that the Federal Government was forced to reduce its presence in the affected areas. At this point in time, it has proved difficult to incentivise Federal staff to return to work in deprived areas which continue to have significant security issues. Funding issues also complicate matters further with the huge needs outstripping already stretched funding for the justice sector.

The [Federal Government of Nigeria](#) was prosecuting all criminal offences that arose from the insurgency or are related to it through its anti-terrorism legislation, the [Terrorism \(Prevention\) Act 2011](#) through the Federal courts. An amended Prevention of Terrorism Act is in development at this time, its intention is to provide a more substantial legal framework for dealing with particular legal challenges thrown up by the conflict and insurgency. In October 2016 the [Honourable Attorney General](#) of the Federation released a fiat in which authority to prosecute federal cases at state level was given, although this has not been operationalised as yet. As a result, the cases- or case files are located in Abuja whilst the suspects are detained in locations across Nigeria including FCT and Bauchi (not in Borno due to the security risk).

At the present time there are a large number of cases, relating to minor and serious offences, which remain [unprosecuted](#). This level of detention without due process is a major issue for the federal system, with both Government and Judiciary and security agencies



17,483

of HH Lacking legal documentation



9,323

of HH witnessed killing or physical violence



8,953

of HH have undergone multiple displacement



8,814

of HH have experienced Safety/Security Incidents in their current site



1,581

of incidents of SGBV

making the disposal of these cases a priority. The Office of National Security is also implementing a **de-radicalization** programme in an effort to deal with the large numbers of detained men and women who are associated with Boko Haram to rehabilitate them with a view to re-integrating them into society

The infrastructure of the State justice system in the three most affected States of **Borno, Adamawa and Yobe** has also been severely degraded over the last six years. Court buildings, Police Stations and Prisons were burnt down or destroyed along with, in some cases the files they contained during the height of the insurgency. Whilst **State High Courts and lower Courts** have continued to function they have had limited resources and support, notwithstanding their limited jurisdiction on federal matters.

As insurgency and counter insurgency operations are on-going, areas populated by civilians wishing to access basic services are controlled solely by the military and other security agencies, making the return to civilian community based policing an impossibility. In any case, levels of trust between civilian communities and those enforcing law and order – either the Police, CJTF or the military have deteriorated where **exploitation and abuses** have occurred and **freedom of movement** is restricted. A further obstacle to the provision of legal services to IDPs is a lack of lawyers willing or able to provide pro bono services in affected areas, particularly Borno state. This is for two reasons:

- 1. Lawyers** who had come to the North East States to work left when the insurgency made it too dangerous for them to stay. In fact across the North East during the insurgency, lawyers, judiciary and court officials were targeted by Boko Haram, with some fatalities as a result. Some lawyers from outside of the region still view the **North East as dangerous** and do not consider it possible to work there, those lawyers who are assigned cases in Borno in particular are from outside of the state and will require reimbursement for their travel and accommodation expenses, even if their time is pro bono.
- 2. Lawyers** in the North East states remained in their homes throughout the insurgency, however they were subjected to the same disruption and displacement that affected the rest of the native population. Thus some will have been displaced and may have fled to other areas whilst some will suffer from the **emotional trauma** of events that occurred over the 6 year period. Those who have not been affected psychologically or materially will have still seen their practices reduced to almost nothing; where civil society was uprooted to make way for military operations, the **consequential loss** to their businesses reflecting the disintegration of the local economy as the insurgency and counter insurgency developed.

Prior to the insurgency the formal justice system was not particularly accessible, less so to those living in rural areas. Going to court requires funds for payment of lawyers, Court fees and travel costs and for many of those living on low incomes or in remote areas, using this system was simply not an option. For this reason, traditional leaders would settle disputes and arbitrate on civil matters in many cases. The Sharia Courts also played an active and prominent role within the justice system. Post insurgency these traditional and religious systems have been disrupted through the fragmentation of communities forced to flee their homes. A key challenge for development agencies will be to strengthen and rebuild these systems.

UNHCR Activities

In order to provide a response to some of the most pressing legal needs identified by UNHCR through monitoring and screening activities, in early June 2016, UNHCR commenced its 'Access to Justice' project with a legal expert based in Abuja and another legal expert based in Maiduguri. Support in the field is provided by the protection team.

In order to develop a framework to build the capacity of national and local agencies to provide legal assistance, UNHCR has developed a strategic approach:

- Engaging with the Federal Ministry of Justice to develop justice sector reform as it relates to the IDP context.
- Engaging with Government agencies to facilitate legal representation for IDPs who have been detained without charge.
- Identifying and prioritizing target groups using screenings and ongoing protection monitoring (Rapid Assessment Screenings in newly accessible areas , Rounds I, II & III vulnerability screening)
- Strategic partnership with legal services providers to implement activities in the field.
- Mapping existing national and local justice sector actors and their activities
- Facilitating training for legal service providers
- Developing and harmonizing materials for use by legal service providers
- Coordinating at Federal level to promote Access to Justice through advocacy and awareness raising
- Identifying funding streams outside of standard streams of protection funding
- Enhancing coordination between field, state and federal level actors and both national and international agencies.

This strategic approach has four main pillars: **Advocacy, Co-ordination, Capacity Building and an Operational Response** through partnership with NGOs, INGO's and national agencies.

Advocacy

- Since June 2016 UNHCR has been collaborating with the Justice Sector Reform Team and the Complex Casework Group at the Federal Ministry of Justice on the provision of access to justice to IDPS. The Ministry of Justice has engaged with UNHCR to identify specific areas of concern allow for targeted provision of support. The aim of this is to have the Federal Government agency involved at the ground level in respect of the IDPs in line with their Governments own initiative (Buhari plan for the North East -PCNI) and to ensure that interventions are sustainable, practical and impactful.
- Developing a strategic framework for providing access to justice for IDPs and other persons of concern through recommendations made at Roundtable held in Maiduguri and Abuja)
- In Borno meetings with the State Commissioner of Police, Nigerian Union of Journalists, Hon. Chief Justice of Borno State, meeting with the representative of the GOC 7th division, Nigerian Army and National Identity Management Commission to discuss issues such as access to detained persons and the need for national identity documentation.

- In Yola, UNHCR co-hosted a meeting with FIDA which was attended by Director Citizens' Rights, Ministry of Justice; Supervisor Protection Monitor – NHRC, Chairman, Muslim Lawyers Association (MULAN), Secretary General, NBA Damaturu and the Director Public Prosecution; UNHCR also briefed the Permanent Secretary on main points of discussion with the justice sector stakeholders.

Coordination of Justice Sector Stakeholders

In order to map the current level of service provision and coordinate potential activities in the legal sector UNCHR has had coordination meetings with

- NBA (national and state level), FIDA, (National and State level), Legal Aid Council, Institute of Peace and Conflict resolution (IPCR)
- NRC, IRC, ICRC, Civilians in Conflict (CIVIC), other Nigerian NGO's and INGO's.
- Justice Sector Donor Co-ordination Group in Abuja (UNODC, ICRC, GIZ, J4A, DfID, Swiss Embassy)
- Vice Presidents Office, Rule of Law advisor and Senior Special Advisor to the President to discuss potential areas of collaboration and support.

Capacity Building

- **5** trainings were held, with: CJTF and prison officers on the needs and protection of IDP prisoners;
- training on basic concepts of IDP protection for female police and female prison officers
- training for **25** host community representatives of Protection Action Groups (PAGs) to capacitate them to handle disputes;
- **25** Bulamas of various host communities on topics related to conflict resolution in areas of domestic/family issues, these were held by NBA lawyers in cooperation with IRC.



Operational response



Legal Aid workshop Abuja @UNHCR 2016

In Borno, partnership between UNHCR and the Maiduguri Branch of Nigerian Bar Association (NBA) from early 2016 has led to a number of joint activities:

Launch of legal protection project in partnership with NBA

Legal protection for internally displaced persons in Maiduguri – a project implemented by the Nigerian Bar Association (NBA) in Borno State with support from and in coordination with the United Nations High Commissioner for Refugees (UNHCR) commenced on 27th July with a launch event organized in Maiduguri. The main goal of the project was to strengthen access to justice for IDPs as well as to provide pro bono legal services to the most vulnerable IDPs in Borno state.

The event gained significant interest from stakeholders in Maiduguri. As a result the 27th and 28th of July were declared non-sitting days at the local Courts by the [Hon. Chief Judge, Justice Kashim Zannah](#) to enable Judges of the High Court, Magistrates, Upper/Sharia Court Judges, Court Registrars and Lawyers to participate in the program. The Attorney General, the Director of Women's Affairs, the Chairman of SEMA, the Grand Khadi of Borno state, the Chairman of Borno NBA as well as representatives of UNHCR and UNOCHA were among speakers offering welcoming remarks to the audience of over 150 representatives of the legal profession in Maiduguri. The project launch was followed by a discussion held on July 28th 2016. More than 110 justice sector professionals including Sharia Court and Magistrates Court Judges attended the event. In his opening remarks the Chairman of the NBA presented the detailed objectives, geographic coverage and implementation methodologies of the legal protection project. The audience was also briefed

on the outcomes of the monitoring of police stations and prison facilities in Maiduguri which were carried out in early June by NBA members to identify IDP cases in need of legal aid. The Chairmen of the NBA Borno branch highlighted the main challenges related to prosecution of IDP cases identified through this monitoring process.

UNHCR Protection Officer (SGBV) offered participants a presentation on special considerations of handling SGBV survivors as complainants and witnesses. UNHCR Senior Protection Assistant initiated discussion on the importance of Kampala Convention as an international instrument on protection of IDP protection. The need of domestication of the convention was emphasized and ongoing work on this direction in the National Assembly was acknowledged. UNHCR Legal Expert (Abuja) identified the need for a strategic framework to provide access to justice, highlighting the importance of national and state level collaboration and bilateral partnership

Legal representation and advocacy assistance

- Visits to Maiduguri prison and police stations conducted by the NBA to visit IDP detainees.
- Legal representation in Court- 187 cases requiring court representation have been identified and either dealt with or are in the process of being dealt with by NBA

Media programme

- Radio broadcasts for IDPs in Kanuri, Hausa and English on rights to legal representation in criminal proceedings, as well as on a wide range of topics including civil documentation and housing, land and property rights. **6** programmes have aired to date.

Civil Documentation

- NBA assisted **26** IDPs to obtain police extracts and court affidavits on the loss of documents. These cases are on the final stage of providing IDPs with the replacement of lost documents.
- **50** IDPs have received declaration of age, a document necessary to restore lost ID card
- **UNHCR and NBA** are in the key stages of developing a programme with the National Identity Management Commission in order to set up a system of providing IDPs with the crucial documentation they require inside the camps. Once implemented, this system will address the issue of lost documents and help IDPS overcome the challenge of how to access basic services without the necessary ID.

Mobile Legal Clinics

 **108**

individuals received group consultation in Bakasi camp, Maiduguri

 **150**

individuals received group consultation in Gubio camp, Maiduguri

 **500**

individuals received group consultation in Rehabilitation center, Maiduguri

 **250**

individuals received group consultation (report attached in the end of the present section)

RoundTable on Access to Justice in Abuja September 2016



Legal Aid round table Abuja @UNHCR 2016

On the 27th September participants gathered in Abuja to discuss Access to Justice for IDPs at a joint FMOJ and UNHCR Roundtable. This was the first such event on the issue to which all stakeholders from the Justice Sector [at Federal, National and State level](#) were invited to participate. Over 60 guests attended including those from Adamawa and Borno States as well as those from Abuja.

The Roundtable began with four brief presentations were given to provide contextual reference to the discussions with time for question and answers sessions included after each presentation. The presentations were as follows:

- A presentation by UNHCR with an outline of UNHCR's protection mandate and role within the context of IDPS in Nigeria was followed by a brief run-down of the activities that UNHCR has implemented in the North East to date. The presentation was followed by a question and answer session in which the concepts of protection, vulnerable persons and refugees were discussed as well as UNHCR's role and the resultant limits of its mandate as far as justice, security and rule of law are concerned.
- The next presentation was from the Federal Ministry of Justices Complex Casework Group (CCG) on the role of the Ministry in prosecuting cases involving suspected terrorists and the challenges faced in bringing these type of cases to Court. The FMOJ drew attention to the [legislative framework](#) within which the Nigerian Government has anchored its counter terrorism response. The Federal Ministry of Justice acknowledged the large number of cases that remain [unprosecuted](#) due to logistical difficulties such as obtaining and preserving evidence of suspected crimes committed in the North East when there is no forensic evidence gathering mechanism and the lack of trained lawyers to deal with the sheer volume of cases.

- A presentation by the [Director General of the Legal Aid Council](#) gave an overview of the work of the Legal Aid Council in providing Legal Aid Services with reference to its legislative mandate. THE Q & A session following it provoked some heated debate about the capacity of the Legal Aid Council to respond to provide vital services. The DG responded to criticism that the LACON has as its primary mandate the provision of pro bono legal services which it is failing to provide, by reminding the Roundtable that funding and capacity were two critical factors affecting this outcome.
- The final presentation was from the [Chairman of the NBA Borno branch](#). Since July 2016 UNHCR has been supporting the NBA in Borno to provide pro bono services to IDPs in Borno. The Barrister noted the difficulties of providing Access to Justice in Borno State for a number of reasons; physical denigration of police stations and courts; prohibitively high financial cost; lack of freedom of movement for IDPs, lack of witnesses, insufficient court opening times, lack of access to areas where conflict is ongoing; the fear of violence and severe psychosocial trauma suffered by IDPs as a result of the insurgency; the lack of state funding caused by the need to prioritise resources for emergency humanitarian relief and the destruction of the local economy. He outlined the [grave obstacles facing legal services providers](#) in the context of the ongoing insurgency and the catastrophic effect it has had on the justice infrastructure in that region. He cited those of his colleagues who had been [killed](#), targeted specifically because they were justice sector actors, including judges, lawyers and court officials

After the initial presentations, break- out sessions were scheduled for participants to discuss the issues in depth and the space to discuss them openly. The outcome of each session was a short list of implementable solutions to the main obstacles identified in the justice sector within the context of the particular thematic area. Each group nominated a lead presenter to deliver these solutions to the plenary session scheduled to follow.

The four themes were:

1. Performance: the role of institutions and systems in facilitating Access to Justice for IDPS
2. Accessibility: co-ordinating the delivery of services to provide Access to Justice to IDPs
3. Security and Protection
4. Sustainability or durable solutions

After detailed and insightful discussions, day one concluded.

The second day of the Roundtable was convened by the Honourable Attorney General of the Federation and Minister of Justice through his representative the Special Advisor on Justice Sector Reform, [Ms Juliet Ibekaku](#) and the UNHCR Representative to Nigeria and ECOWAS, [Ms Angele Dikongue- Atangana](#). Both guests delivered speeches to the plenary urging on the efforts of justice sector stakeholders in prioritising Access to Justice for IDPs.

The Roundtable concluded with the adoption of 20 recommendations by the plenary to take forward to provide a framework for access to justice for IDPS.

These recommendations were taken to the Federal Ministry of Justice for further feedback and now form the platform for UNHCR's projected activities with the both Federal and State ministries in 2017

Conclusion

Overall the last six months has made significant progress in providing Access to Justice but needs are high and capacity is low. In the absence of any other Access to Justice programmes for IDPs, there are limited options despite the severity of the situation. More must be done to try and meet the needs of this displaced population with efforts by both the international community and the Government of Nigeria.

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UNHCR will continue to work with the Federal Government, the Ministry of Justice and the Justice Sector Reform Teams, as well as with the State Governments of the affected States and their Ministries of Justice, as well as all other partners to promote a strategic response to the specific needs of internally displaced persons, refugees, and other persons of concern.



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