

## Bakassi Population (IDPS) in Ekpiri-Ikang and the Right to Work

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**Abstract.** This study examined the right to opportunity to employment of the choice of Bakassi population (IDPs) in Ekpiri-Ikang in Cross River State, Nigeria. Research method is qualitative and the study adopted Human Needs Theory (HNT). The study revealed that the Internally Displaced Persons (IDPs) are fishermen and fisherwomen and were practising the occupation in Bakassi Peninsula before they were resettled in Ekpiri-Ikang. It was also found that there is neither sea, nor river, creek, channel or stream within or nearby the Ekpiri-Ikang environment where the IDPs can practise their occupation. It was further discovered that Nigeria has neglected to secure to the IDPs right to access to other employments to enable them achieve adequate standard of living and live a life of dignity. That the neglect is a contravention of the socio-economic rights conferred on the IDPs by the Constitution for which they can seek redress before an appropriate High Court. And the failure has the tendency to raise dissident citizens from the population, activate structural conflict and make youths become willing hands for enlistment into violent crimes. It therefore recommended that Nigeria should train and equip the IDPs to engage in alternative or other related sources of economic activities to enable them achieve adequate standard of living.

**Keywords:** Work, Worker, Right to work, Social Security and Bakassi population in Ekpiri-Ikang.

### 1. Introduction

Work, whether paid or unpaid means the use of physical or mental energy or both in the performance or exchange of a duty or task for the production of goods and services that cater for human needs. Right to access to work is the right of every human being to the opportunity to gain his or her living by work freely chosen by him or her and to take the necessary

measures to safeguard the work. It embraces a minimum of social security in the event of unemployment, employment injury, sickness, disability, old age, widowhood and other lack of livelihood in circumstances beyond the control of the worker. Social security is a system adopted by a community or States to take primary responsibility of protecting and providing social or economic assistance to its population that are challenged by poverty, sickness, unemployment, employment injury, disability, widowhood or old age financed by the employer and employee's assessment. Bakassi populations in Ekpiri-Ikang are Nigerians. Their main occupation is fishing. They were fishing in Bakassi peninsula now part of the territory of Cameroon. They were displaced by the forces and operations of the Judgment of International Court of Justice delivered in 10 October 2002, and Green Tree Agreement (GTA) of 12 June 2006. The populations as internally displaced persons (IDPS) were resettled in Ekpiri-Ikang in Cross River State in Nigeria in 2007. The displacement and resettlement of the population dislocated them from their fishing business. The Bakassi populations (IDPS) have equal and competing right with their fellow non-displaced citizens. The Ekpiri-Ikang, however, is landlocked, thus the IDPs cannot practise their fishing occupation in the area. They therefore have the right to be trained and equipped to engage in alternative sources of domestic economy or livelihood. It is the primary duty and responsibility of the Nigerian Government to provide the Bakassi population the forgoing right. Since 2007 till date Nigerian Government has failed and or neglected to train and equip the population to undertake other sources of livelihood or venture.

### 2. Statement of the Problem

From 2007 when the Bakassi population (IDPs) was resettled in Ekpiri-Ikang in Cross Rive State, Nigeria

and dislocated from their fishing business, Nigerian government has till date neglected to train and equip them to undertake similar or other sources of livelihood. The neglect has its legal implication. It is a contravention of the economic right of the population which is a necessary component of right to life enshrined in section 33 of the Constitution of the Federal Republic of Nigeria 1999. It has also severe social and economic consequences on the IDPs and Nigeria. It signifies that the Bakassi population has remained and will remain unemployed for a very long time. Unemployment breeds poverty, hunger, frustration, and dissident citizens. The unemployment will provoke structural or institutional conflict or violent extremism including terrorism. The deprivation will instill in the Bakassi population a sense of social, political, economic or historical wrong. This will propel the population, especially the youths, to embrace violent crimes, including terrorism, as a means to redress the injustice. When conflict is structural or rooted in institutional arrangement it is always difficult to curtail. Until the unmet employment and adequate food needs of Bakassi population are satisfied by the Nigerian government the population will remain a barrel of violent crimes waiting to explode. The population will one day seek redress to the wrong or injustice done to them by way of violent extremism. The impact of this will sound in human tragedy and property cost. It will also severely affect the peace, social order and stability of the country.

### 3. Objective Of The Study

The general objective of the study is to examine the rights of Bakassi population (IDPS) in Ekpiri-Ikang to gain their living by work freely chosen by them without discrimination.

The specific objectives include:

- to identify the various International, regional and local instruments that recognize the right of the IDPS in Ekpiri-Ikang to gain employment.
- to assess the obligation of Nigeria Government to ensure that the IDPS exercise their right to work freely chosen by them in the light of the various instruments.
- to evaluate the level of performance by the government of its duty to ensure that the IDPS exercise their right to Opportunity to employment.
- to determine the enforceability of Government obligation by means of judicial process.

## 4. Theoretical Framework

Many theories have been developed by scholars to explain the occurrence of conflict. Some of these theories are Frustration-aggression theory developed by John Dollard and his associates in 1939; the system theory propounded by David Easton in 1973 and Human needs theories. Of these theories the analysis and explanation of the right of Bakassi population (IDPS) in Ekpiri-Ikang to opportunity to employment of their choice without discrimination seems appropriate and justified under Human needs theory.

### 4.1 The Human Needs Theory

The assumption of human needs theory is that conflict and aggression are bound to occur in circumstances where primordial and inherent or universal basic human needs such as food, water, shelter, security, identity, recognition, development and distributive justice among others go unmet. The assumption of human needs theory is similar to that of frustration-aggression and Relative-deprivation theory. The denial or deprivation of these universal basic human needs no doubt is the root cause of intractable and protracted conflicts across the globe. Aggression and conflicts would become potent instruments of vendetta in the hands of groups or people who have a sense of denial or deprivation of their basic universal needs by the government and individuals. Feeling of injustice arising from basic needs denial is often expressed jointly by the victims. The neglect or failure by the Government or Authority concerned to redress the injustice will activate structural violent or conflict. (Shechan 2003: 119)

Human needs theory has been criticized on the basis that the theory is incapable of precise definition, cannot be prioritized, parties to conflicts cannot collectively identify their needs and that the theory is inapplicable in violent situations and irrelevant in conflict management. (Ibid)

The Bakassi population (IDPs) were in 2007 resettled in Ekpiri-Ikang requiring Institutional arrangements to be made to provide them with means of livelihood. The human needs theory is thus adopted to explain and apply same to the institutional arrangement that should be made to address the employment needs of the IDPS. (Ibid)

## 5. Conceptual Clarification

For a profound understanding of this Work the following terms, Work, Worker, Social security, Right to work, and Bakassi Population in Ekpiri-Ikang will be conceptually clarified.

### 5.1 Work

The term “work” (or labour) means making efforts, using one’s physical or mental energy or both, or engaging in the performance of a duty, task or the like in order to achieve a purpose other than leisure, entertainment and pleasure. On the right of a worker to his wage or compensation, “work” connotes physical or mental energy or both exerted by the worker as controlled or required by the employer primarily for the benefit of the employer and the business (Black: 1990: 1605). Whether paid or unpaid “work” means the use of physical or mental energy or both in the performance or discharge of a duty or task for the production of goods and services that cater for human needs. With regard to profession, vocation or occupation, “work” means the carrying out of a duty or obligation in exchange for wage or salary. In every culture or civilization the production and distribution of goods and services are carried out by certain institutions within an economic system, while work remains the central organ of the economy (Giddens and Sutton 2013: 259)

By section 34(1) of the Constitution of the Federal Republic of Nigeria 1999, and Article 5 of African Charter on Human and People’s Rights 1981, “Work”, “Labour” or “Employment” does not include subjecting any individual to any form of inhuman or degrading punishment and treatment, forced or compulsory labour, or being held in slavery or servitude.

### 5.2 Worker

The terms “worker”, “workman”, “employee” and “servant” are synonymous and often used interchangeably by Courts and in Nigerian statutes (Emiola 2000:13). The Courts have given different interpretations to the term “Worker” In *Iyere v Bendel feed and floor mill ltd* (2009: 1233) the Supreme Court of Nigeria defined an “employee” as follows:

*... an employee, except where a different meaning is given in the employment, means an individual who has entered into or works under, or where the employment has ceased, worked under, a contract of employment....*

In *A.C.B ltd & ors v Apugo* (1995:84) it was held that a servant is an agent who works under the supervision and direction of his employer. In *Union*

*Bank of Nigerian Ltd v Ajagu*, (1990:328) Uwaifo J.C.A (as he then was) noted

A servant may be defined as any person employed by another to do work for him on the terms that he, the servant is to be subject to control and directions of his employer in respect of the manner in which his work is to be done...

And in *Francis Dola v Cecilian John*, (1973:58) the Court Stated that a servant is a person subject to the control of his employer as to the manner in which he shall do his work. It might thus be correct to state that absence of control or such power means the non-existence of the master and servant relationship. (*Atedoghu v Alade* 1957:185)

Section 2 of Labour Act Cap L.I.L.FN 2004 defines a “Worker” as:

*any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work, or is expressed or implied or oral or written, and whether it is a contract of service or a contract personally to execute any work or labour...*

This definition was adopted by the Supreme Court in the case of *S.S.C ltd v Afropak (Nig) ltd*, (2008:49) where the Court stated that:

*Where the contract allows the contractor to work for people other than the employer, on the other hand, these are persons referred to as independent contractors or self-employed.*

### 5.3 The Right to Work

The right to access to work is the right of every human being to the opportunity to gain his living by work freely chosen or accepted by him, to just and favourable conditions of work, to safe and healthy conditions of work, to protection against unemployment, and the right to form trade union and join trade union of his choice for the promotion and protection of his economic and social interests. The right includes equality of opportunity to promotion in employment and to rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays. And it include the right to technical and vocational guidance and training programmers, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding political and economic freedoms to the worker (ICESCR 1966, Art. 6), (UDHR 1948 Art. 23(2) 25 (1) ), (Kalin 2008). In *Olga Tellis & 2 Ors v Bombay Municipal Corporation & Ors* (2007:262) the

Supreme Court of India defined the right to life guaranteed in Article 21 of Indian Constitution to include the right to work or to livelihood. This is because no man can live without the means of livelihood. The sweep of the right to life conferred by Article 21 is wide and far reaching. In **Francis Coralie v Union Territory of India, (1978,597)** the Supreme Court of India articulated that Socio-Economic rights are essential parts of the right to life conferred by Article 21 of the Constitution. The Court held:-

The right to life includes the right to live with human dignity and all that goes with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter, ... the magnitude and components of this right would depend upon the extent of economic development of the country, but it must, in any view of the matter, include the bare necessities of life ...

It is submitted that by the above interpretation the Court has expanded the ambit of Article 21 of the Indian Constitution on the right to life to accommodate other connected, and essential rights such as Socio-Economic rights. (Fagbohun 2010: 243)

#### 5.4 Social Security System

Social security is a system or measure adopted by a community or State to take primary responsibility of protecting and providing social or economic assistance or the means of sustenance to its population that is challenged by poverty, sickness, unemployment, employment- injury, disability, widowhood or old age financed by the employers and employees assessment (Mclean & MC Millan 2003)

#### 5.5 Bakassi Population in Ekpiri-Ikang

The Bakassi Population resettled in Ekpiri-Ikang in Cross River State, Nigeria, are citizens of Nigeria. They were residing in Bakassi Peninsula (then forming part of the territory of Nigeria) as their ancestral homes and were engaged in fishing business as their major source of income in the peninsula. The population was displaced by two main events occurring consecutively, the judgment of International Court of Justice (ICJ) on the Bakassi case delivered 10 October 2002, and the Green Tree Agreement (GTA) of 12 June, 2006. (Ntui 2015). They were resettled by the Federal Government of Nigeria in 2007 (Ibid)

The Bakassi Population in Ekpiri-Ikang are internally displaced persons (IDPs). Internally displaced

persons (IDPs) are defined by Guiding Principles on Internal Displacement 1998 (Introduction) as follow:- Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

The Bakassi people in Ekpiri-Ikang are IDPs in that as citizens of Nigeria they sought refuge within the internationally recognized border of Nigeria. The displacement and resettlement dislocated the population from their source of income – the fishing business and rendered them vulnerable (Ntui 2015).

#### 6. Rights of the IDPs to the Opportunity to Works

The right to the opportunity to work is the right of every human being to be exercised without discrimination of any kind. The right is a component of the right to adequate standard of living. Every human being enjoys the right to the opportunity to adequate standard of living for the health and well-being of himself and his family and this includes, essential food, adequate clothing, basic shelter and adequate housing, essential medical services and necessary social services (ICESCR 1966, Art. 6), (UDHR 1948 Art. 23(2) 25 (1) ), (Kalin 2008:103)

Citizens of Nigeria enjoy the right to the opportunity to engage in economic activity of their choice. This is because Nigeria as a State exists to provide basic or universal human needs to the fullest extent to her citizens. The State according to Aristotle “came about as a means of securing life itself, it continues in being to secure the good life” (Saynder 1981). The right to the opportunity to work enables human beings to achieve adequate standard of living for the health and well-being of themselves and their families(UDHR 1948.Art.25(1)) The right ranks as a fundamental or basic right in that it is intrinsically linked with the right to life or human survival. To deny a human being his source of livelihood is to arbitrarily deprive him of his life. This is because the right to life guaranteed in section 33 of the Constitution includes the right to work or means of livelihood.

The broad essence of the right to the opportunity to gain a living by work is to ensure that human beings and members of their families maintain existence worthy of human person and dignity and to promote social progress and better standard of living in larger

freedom for all human beings in the society. The foregoing objectives gain harmony and credence from the content, tenor and detail of the Charter of the United Nations 1945. One of the purposes of the United Nations as articulated in Article 1(3) is:

*To achieve International co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedom for all without distinction as to race, sex, language, or religion*

The right to employment opportunities of the IDPs finds expression and recognition in several International, regional and municipal instruments. The provisions of these instruments are stated as follows:

### **International Instruments**

#### **Universal Declaration of Human Rights 1948 (UDHR)**

##### **Article 23**

1. Everyone has the right to work to free choice of employment to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, for other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

#### **International Covenant on Economic Social and Cultural Rights 1966 (ICESCR) in Articles 6 and 8:**

enjoins State parties to recognize the right to work which include the right to technical and vocational guidance and training and to form and join trade unions in Articles 6, and 8

Other International instruments include the following:-

International Covenant on Civil and Political Rights 1960 (ICCPR), Articles 3 and 8 (1) (2) (3) (a)

Convention on the Elimination of Racial Discrimination 1965 (CERD), Articles 1(4), 2 (2) 5(e)(1)(11)

Convention on the Elimination of ALL Forms of Discrimination Against Women 1979 (CEDAW), Articles 3, 11(1)(a)

Convention on the Right of the Child 1989(CRC), Article 32

### **Regional Instruments**

**African Charter on Human and Peoples' Rights (1981)** (This has been domesticated as part of the Laws of the Federation of Nigeria (LFN) by the (Ratification and Enforcement) Act Cap 10 LFRN 1990 now Cap A9 LFN 2004)

##### **Article 15**

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

### **Domestic Instruments**

#### **Constitution of the Federal Republic of Nigeria 1999 provides as follows:-**

##### Section 16(1) (d)

without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy.

##### Section 16(2)(d)

The State shall direct its policy towards ensuring-

that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.

##### Section 17 (3)

The State shall direct its policy towards ensuring that:

- all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment.
- conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life;
- the health, safety and welfare of all persons in employment and safeguarded and not endangered or abused;
- there are adequate medical and health facilities for all persons;
- there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever;
- children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect;

The provisions of the foregoing instruments avail both the non-displaced citizens as well as the internally displaced population (IDPs). They stand on the same pedestal in the exercise of the rights and freedoms under the international and municipal instruments. The IDPs are not to be treated with

discrimination in the provision of the rights and freedoms on the basis that they are displaced persons. This assertion finds countenance in the various provisions of the Constitution of the Federal Republic of Nigeria 1999 (CFRN). Section 17 (2) (a) provides that “every citizen shall have equality of rights, obligations and opportunities before the law “ Section 15 (2) provides:-

Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

The reason for the sub-section is to promote national integration or foster better relations within the country. Section 42 of the Constitution recognizes the inherent inequalities of citizens on the basis of their particular community, ethnic groups, places of origin, sex, religion, political opinion or by reason of circumstance of birth and thus gives them equality of rights, obligations and opportunities before the law in order to foster national integration. No citizen of Nigeria shall be subjected to discrimination on the foregoing grounds, but shall be accorded equal treatment with others. (*Anzaku v Governor, Nassarawa State 2005:579*)

Standing on the same platform by the IDPs with the non-displaced fellow citizens in the exercise of rights and freedoms is also supported by the Guiding Principles on Internal Displacement 1998. This is an IDP specific legislation and provide in principles 1(1) and 22(b) as follows;

Principle 1(1) provides:

*Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.*

Principle 22 (b) provides:

*Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights....*

*The right to seek freely opportunities for employment and to participate in economic activities;*

## 7. National Obligation

The right to work like all human rights imposes three categories of obligations on Nigeria towards the Bakassi Population in Ekpiri-Ikang. These are the obligation to respect, protect and fulfill. Nigeria has the obligation to respect the rights of the internally

displaced persons (IDPs) in Ekpiri-Ikang with regard to work by refraining from interfering either directly or indirectly with the exercise. The obligation to protect the right requires Nigeria to take positive measures to prevent violations of the right or interference with the exercise by third or private parties. The obligation to fulfill means that it is incumbent on Nigeria to provide, facilitate and promote the enjoyment of the right. The obligation implicitly signifies that Nigeria should take appropriate legislative, administrative, judicial, budgetary and other necessary measures to ensure the full realization of the right (UNCESR General Comment No18 2006). The IDPs were in 2007 displaced from their ancestral homes in Bakassi peninsula and dislocated from their traditional fishing business. They were resettled in Ekpiri-Ikang in Cross River State, Nigeria. According to the IDPs, Ekpiri-Ikang is landlocked and this has made it impossible for them to practise their fishing business. The Nigeria government has neglected to train and equip them to engage in other or similar economic activities. (Etiyin et al 2020)

From the foregoing assertions the IDPs cannot practise their fishing business in Ekpiri-Ikang. Principle 3(1) of the Guiding Principles on Internal Displacement 1998 places on Nigeria the primary duty and responsibility to train and equip the IDPs to undertake or explore similar or other economic activities to enable them live.

An important obligation imposed on Nigeria towards the IDPs is to ensure that the rights of the IDPs as enshrined in the various instruments, in particular, in the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) and the Guiding Principles on Internal Displacement 1998 are exercised at minimum essential level. Within the context of Article 6 of the Covenant (ICESCR 1966) and principle 22 (b) of the Guiding Principles 1998, this includes the specific obligation to ensure that the rights of the IDPs to employment opportunities are protected at the basic minimum levels without discrimination on the basis that they are internally displaced or on any other ground. The Guiding Principles on Internal Displacement 1998, Article 29 (1) provides:

*Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.*

## 8. Discharge of National Obligations

From the assertion of the IDPs it is certain that the IDPs cannot and do not practise their fishing occupation in Ekpiri-Ikang because of environmental factors. It is the duty and responsibility of Nigeria to secure to the IDPs the right to access to other employments, especially to the men and women, and the disabled persons of employable age. Nigeria has neglected to discharge this obligation.

### 8.1 Implications of Default in Performance

The failure by Nigerian Government to provide opportunities for employment for the Bakassi population (IDPS) in Ekpiri-Ikang from 2007 till date has grave implications on the IDPS and on the South-South and South-East geographical zones of Nigeria and on Nigeria as a cooperate entity. It means that the population will remain unemployed for long time. Unemployment breeds poverty, hunger, disease, despondency, destitution, frustration and a feeling of vendetta against the government. In April 2018 Mr Asuquo Etim of the Bakassi Population in Ekpiri-Ikang had to appeal to the Cross-River State Government to provide him with casket to bury his wife (Mrs Eno Asuquo Etim) who lost her life during childbirth. He made the appeal on the footing that he had no source of livelihood. (Vanguard 2018).

The failure by the government to provide employment opportunities for Bakassi population will provoke structural or institutional conflict or terrorism. When conflict or terrorism is structural or rooted in institutional arrangement it will be difficult to curb. Unemployment and poverty though have no causal link with conflict and terrorism the interlaced phenomena provide favorable conditions for the growth of terrorism and other violent crimes in Nigeria (Saschan 2003:119)

## 9. Justiciability of Government obligation

Section 16 (1) (d), 16 (2) (d) and 17 (3) of the Constitution of the Federal Republic of Nigeria guarantee the IDPs as citizens of Nigeria social, economic rights. They impose on Nigerian government the obligation to secure to the citizens, including the IDPs, *“the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment.”*

The right to livelihood (or right to work) and the right to live are interlaced. The duo are integrated and inter-dependent. It necessarily follows that to deprive

a man of his work or source of livelihood is to put his life in jeopardy (i.e. to deprive him of his life). (Olga Tellis & ors v Bombay municipal Corpors. & ors 2007:256) In *Baskey v Board of Regents*, (1954:447) Douglas. J stated,  
*the right to work, I have assumed, was the most precious liberty that man possesses. Man has indeed, as much right to work, as he has to live, to be free and to own property. To work means to eat and it also means to live.*

Also in *Munn v Illinois*. (1877:113) Field J. said:  
*“life means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed”*

Sub- section 6(6) (c) of the Constitution provides:  
*The Judicial powers vested in accordance with the foregoing provision of this section-shall not, except as otherwise provided by the Constitution, extend to any issue or question as to whether any law or any judicial decision is in conformity with fundamental act or omission by any authority or person or as to objectives and Directive principles of State policy set out in Chapter 11 of this Constitution.*

From the clear provision of the sub-section, in particular the expression of the wording “except as otherwise provided by the Constitution”, it might be correct to state that the sub-section makes the fundamental objectives and Directive Principles of State Policy enshrined in Chapter 2 of the Constitution justiciable in certain or limited circumstances. The Directive principles are justiciable if read in conjunction with other sections of the constitution that declare Chapter 2 actionable. In the case of *re Olafisoye* (2004:152), the Supreme Court of Nigeria par Tobi J.S.C (as he then was) stated:

*the non-justiciability of section 6(6)(c) of the Constitution provides a leeway by the use of words” except as otherwise provided by the Constitution” This means that if the Constitution otherwise provides in another section, which makes a section or sections of Chapter 11 justiciable it will be so interpreted by the Court.*

The apex Court noted in the case that by the provision of section 6(6) (c) of the Constitution, section 15 (5) as it stands and on its face value, is not justiciable. Reliance should be placed on item 60 (a) of the Exclusive Legislative List of the Second Schedule to the Constitution that provides:  
*“The establishment and regulation of authorities for the Federation or any part thereof-*

*to promote and enforce the observance of the fundamental objectives and Directive Principles in this Constitution.*

The Court held that a community reading of item 60 (a) and section 15 (5) makes Chapter 2 of the Constitution “clearly and obviously justiciable”.

Section 16(1) (d), 16(2) (d) and 17 (3) of the Constitution provide for the Directive Principles of State policy. These principles standing alone are not justiciable before any Court in Nigeria. They, however, form the governance architecture in the country and serve as guide or aid in the understanding and interpretation of the meaning and content of the Constitution. The implication of the obligation imposed on Nigeria by Sections 16(1) (d), 16 (2) (d) and 17(3) of the Constitution is that Nigeria has corresponding duty to interpolate the right to livelihood or the right to work into the meaning and content of Fundamental Rights provisions in Chapter 4 of the Constitution. (*Olga Tellis & 2 ors v Bombay Municipal Corp.* (2003:262)

The rights enshrined in sections 16(1) (d), 16(2) (d) and 17 (3) are socio-economic rights. It follows that the IDPs in Ekpiri-Ikang whose right to practise their fishing business have been violated can challenge the deprivation as a contravention of the right to life conferred by section 33 of the Constitution of the Federal Republic of Nigeria 1999 before any high Court of competent jurisdiction. They can also found their action under Article 15 of the African Charter on Human and People Rights (Ratification and Enforcement) Act Cap A9 LFN 2004. In *Ukaegbu v A-G, Imo State*, (1983:194) the Supreme Court of Nigeria Stated inter alia.

By virtue of subsections (1) and (2) of section 36 every subject of this federation has a right to establish an institution ‘for the dissemination of information, ideas and opinions’ and for this purpose any individual or private agency may establish a university, post-primary as well as primary schools.... The right of the subject to establish a university is guaranteed by the Constitution under section 36 aforesaid. No law can by its provisions validly take away this right unless it can be justified under section 41 of the 1979 Constitution.

Fagbohun (2010:276) has specifically stated thus:  
*It is worthy to note that notwithstanding its broad authority, the Court has over the years succeeded in developing a comprehensive jurisprudence that has properly incorporated the concerns of jurists who are opposed to justifiability of Directive Principles. The*

*Court maintains an alternative social rights jurisprudence tempered by internalized justiciability concerns. The lesson from this is that Directive Principles can be made justiciable in a responsible and transformation oriented way.*

## 10. Conclusion / Recommendations

The root cause of discrimination against the Bakassi Population (IDPS) in Ekpiri-Ikang stems from the displacement from their ancestral homes and dislocation from their fishing business which have rendered them vulnerable. Since Ekpiri-Ikang is landlocked the IDPs cannot practise their fishing business in the area. It thus behoves Nigerian Government to train and equip the IDPs to undertake similar or other means of livelihood. Nigeria has neglected to discharge this central obligation towards the IDPs in Ekpiri-Ikang. On the footing of the foregoing this study therefore recommends that:

- Nigerian government should relocate the IDPs to an area where they can practise their occupation. In the alternative organize skill acquisition programmes to train and equip the IDPs to undertake other sources of economic activities.
- Government should provide free primary, secondary and University education for the children of the IDPs so that they will grow to become responsible citizens of the Nigeria.
- Government should also adopt and execute a national employment programme that will ensure that the children of the IDPs, in particular, the youths, women, and the physically challenged, are employed after their secondary and university education.

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