

The HLP Rights of Conflict Affected Women in Northeast Nigeria

Alexandra Hartman



Photo: Hajer Naili/NRC

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Cover photo: A woman recently displaced by the Boko Haram insurgency. Like several hundred other displaced persons in this camp located in Maiduguri, Northeast Nigeria, she lives in a makeshift shelter made up of plastic and bed sheets.
Credit: Hajer Naili/NRC



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TABLE OF CONTENTS

I. INTRODUCTION	7
Brief background on NRC, ICLA and the DWHLP programme	7
Conflict in Northeast Nigeria	8
The impact of the conflict on women	9
Methodology	9
II. LEGAL FRAMEWORKS SHAPING DISPLACED WOMEN'S HLP RIGHTS	10
Historic land tenure systems	11
<i>Nigerian domestic law, shari'a law, and customary practices</i>	11
<i>Shari'a law</i>	13
<i>Customary practices prior to the conflict</i>	14
<i>Variations in customary practice by ethno-linguistic group</i>	15
III. DISPLACED WOMEN'S HLP RIGHTS	17
The value of women	18
Household power dynamics and housing, land and property rights	18
<i>Marriage</i>	18
<i>Inheritance</i>	19
Meeting basic needs and managing relationships	19
Accessing housing, land and property rights through male relatives	20
Women on their own (widows, single mothers, women outside of the social network)	21
<i>Challenges</i>	21
<i>Opportunities</i>	23
Changing gender norms as a result of the conflict	23
IV. CAPACITY TO RESPOND TO CHALLENGES AND CHANGES	25
Preventing backlash	26
Generating buy-in	16
Looking for durability	26
ANNEX 1 – Summary of Data Collected	28
NOTES	30

I. Introduction

BRIEF BACKGROUND ON NRC, ICLA AND THE DWHLP PROGRAMME

Since 2010, conflict between the Nigerian government and Boko Haram militants has brought violence and destruction to Northeast Nigeria and led to the displacement of over two million people.¹ The Norwegian Refugee Council (NRC) is an independent humanitarian organisation assisting people affected by conflict and forced displacement in 31 countries around the world. In the Northern Nigerian states of Yobe, Borno and Adamawa NRC implements water and sanitation programmes, education and livelihoods support, and information, counselling and legal assistance (ICLA). In Nigeria, NRC's ICLA team provides information, counselling and legal assistance on housing, land and property (HLP), they also train stakeholders on HLP, and conduct research into the barriers conflict-affected populations face as they exercise their legal rights and advocates on their behalf.

Around the world women face obstacles exercising their equal right to HLP as well as tenure security. Both de jure restrictions on women's property rights and de facto norms and practices limit women's equal legal rights.² Women's experiences during conflict and crisis compound this inequality. This report on displaced women's housing, land and property rights (DWHLP) is part of ICLA's global effort to document the situation of women's HLP rights during displacement in their own words and from their perspective and to address the lack of specific remedies available to women and men in response to this issue.

The report finds that both local customary and religious institutions create the conditions for women and men to perceive women to be of a lesser value within the household in Northeast Nigeria. As a result, women exercise many fewer rights over HLP compared with men. While women are not forbidden from owning property, in practice, participants in this research report that only relatively wealthy women do so and that this is beyond the reach of most women.

The research also shows that the social norms that structure relationships within the household are critical for women's enjoyment of HLP rights. Women enjoy rights through their husbands and fathers, and if they have positive relationships then they are better able to participate in decision-making and are less vulnerable. Women on their own, including divorced women, are vulnerable within the current property rights framework.

The research also shows that social norms that shape relationships between men and women, including whether women have the right to work outside the household, or participate in household decisions, are changing rapidly. It is not yet sure whether changes in norms as a result of the conflict and displacement will be permanent, but it is clear that both the conflict and the humanitarian intervention are changing power dynamics and women's enjoyment of HLP rights. Future interventions should consider how to prevent backlash, generate

buy-in, and find durable shifts towards a more inclusive property rights system for women and men.

CONFLICT IN NORTHEAST NIGERIA

The Nigerian population is evenly divided between Christians and Muslims and conflict over religious identity, as well as control over political institutions and property, has led to intermittent violence in the North.³ Most Nigerians living in the northern federal states now identify as Muslim. While Islam has long been a source of political identity, the increasing local and international salience of political religion in the twentieth and twenty-first centuries, as well as conflict over access to power, has created political friction that blossomed into violence between Boko Haram, a revivalist Islamic group, and the Nigerian State. The current displacement crisis followed a crackdown on the group in 2009, which in turn led to violence between armed fighters affiliated with Boko Haram and members of the Nigerian security forces.

Since the beginning, the conflict has led to over two million people displaced in Borno, Adamawa, Yobe states. Suicide bombings, kidnappings and other violence against civilians have all increased displacement. The well-publicised kidnapping of over 250 girls from a school in Chibok in Borno state in 2014 and Boko Haram's subsequent surge in territorial control led to an increased engagement by Nigerian security forces. In 2015, following a sustained attack on the northern city of Maiduguri, the security forces retook 11 of the 14 districts that had fallen outside of state control and declared an end to the conflict. However, violence has continued with high levels of insecurity in Borno, Adamawa, and Yobe states. Attacks against Nigerian military targets, as well as civilians, continue.

An IDP settlement in Maiduguri, Northeast Nigeria. Credit: Anja Riiser



At the time of this research, 1.8 million people remained displaced in Northeast Nigeria, with 1.4 million displaced in Borno state, 178,000 in Adamawa, and 136,000 in Yobe as of June 2018.⁴ In addition to people still displaced, the International Organisation of Migration (IOM) reported that by April 2018, 1.3 million people had sought to return from their displacement both inside and outside Nigeria to their place of origin. Given the volatile security situation, the durability of these returns is not clear and many people may effectively remain in a situation of secondary displacement.⁵

THE IMPACT OF THE CONFLICT ON WOMEN

The conflict has affected Nigerian women and girls differently than Nigerian men and boys. While most active participants in the conflict are men, armed groups have specifically targeted civilian women and use them as symbols in their armed struggle against the Nigerian State.⁶ Boko Haram's tactics have incited widespread fear of abduction and sexual violence against women. Female suicide bombers and the fear of potential female terrorists has also characterised Boko Haram's violence. The death of male family members and family separation due to displacement are additional factors that shape how the conflict has affected women and girls from Northeast Nigeria.

METHODOLOGY

The information for this report comes from field research conducted in Borno, Adamawa and Yobe states, as well as a desk review of existing literature. NRC staff members conducted 16 focus group discussions with displaced people, host community members, returnees, men and women, as well as 18 key informant interviews with local authorities and members of civil society in January 2019.

A few limitations should be noted. Security conditions limited access to research sites. The report nevertheless aims to incorporate a wide range of voices on displaced women's HLP rights from both men and women identifying as members of various ethno-linguistic groups and in varied positions in relation to local power structures. The report relies on individual perspectives of sensitive topics and questions. The variation in research participants means that individuals naturally presented different points of view on the issues raised during the data collection. This reflects both the diverse experiences of the participants in the research, the group dynamics between researchers and participants, and the complex and polemic nature of the topics discussed during the research.

Within this inclusive framework, the research seeks to privilege women's own understanding of their situation and gives space to their own articulation of their priorities, interest and needs in their own words. As mentioned, the women who participate in the research are those who were interested in participating when approached by NGO staff and who were living in areas that were accessible at the time of research. It is important to note that women living other areas, including those where insecurity is higher, may face different challenges. It is also important to note that to understand displaced and conflict-affected women's HLP rights, men's perspectives are critical. As a result, the research incorporates men's views on women's HLP rights where this is relevant.

II. Legal frameworks shaping displaced women's HLP rights

International and regional legal frameworks that protect displaced women's HLP rights⁷

ICCPR, ICESCR & CERD⁸

The International Covenant on Economic, Social and Cultural Rights (Nigerian accession 29 July 1993), the International Covenant on Civil and Political Rights (Nigerian accession 29 July 1993) and the International Convention on the Elimination of all forms of Racial Discrimination (Nigerian accession 16 October 1967) provide important protections for HLP rights. Perhaps most critically, General Comment 4 of the ICESCR identifies the right to adequate housing, defined as: 1) legal security of tenure; 2) the availability of adequate services, especially water and sanitation; 3) affordability; 4) habitability; 5) accessibility; 6) a location that provides access to employment opportunities, education and health services and social facilities; and 7) cultural adequacy.⁹ CERD provides protection from discrimination in enjoying tenure security.

CEDAW

Nigeria ratified the Convention Elimination of Discrimination Against Women (CEDAW) on 13 June 1985. The convention provides clear international legal protections for women in their enjoyment of legal rights and enshrines the principle of non-discrimination of women.

Cairo Declaration of Human Rights in Islam

The Cairo Declaration of Human Rights in Islam (1990) provides for human rights protections according to Islamic jurisprudence for the members of the Organisation of Islamic Cooperation (of which Nigeria is a member) including equal protection of property rights for all persons and equality before the law.¹⁰

The Pinheiro Principles

The Pinheiro Principles are an international instrument that sets out principles of restitution and property ownership in the context of displacement. Principles 3 and 4 are particularly relevant for women, including non-discrimination and equality of men and women.¹¹ The principles take particular note of the potential for discrimination when women are not understood to be the head of the household (or joint head of the household) and advocate for joint ownership where applicable and possible.

African Charter on Human and Peoples' Rights (*Banjul Charter*) & the Protocol on the Rights of Women in Africa (*Maputo Protocol*)

The Banjul Charter (Nigerian ratification August 1982) and the Maputo Protocol (Nigerian ratification 2004) are two regional instruments that support women's equal access to HLP rights by enshrining non-discrimination. In particular, Article 15 of the Maputo Protocol calls for women's equal access to water and land and Article 16 calls for access to adequate housing. Article 19 calls for "women's access to and control over productive resources such as land and guarantee their right to property" and "women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women."¹²

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (*Kampala Convention*)

Nigeria has signed and ratified the Kampala Convention, which provides guidelines for States' support to IDPs within their borders. The articles provide clear guidance on State responsibilities toward IDPs, including the requirement to protect them from forced displacement because of violations of their human rights.¹³ Article 9 in particular identifies the fact that women will often require special assistance.¹⁴

HISTORIC LAND TENURE SYSTEMS

Prior to the introduction of Islamic land tenure systems, historians report a mix of customary land management systems in Northern Nigeria. The area included in the study was part of the Kanem Empire's expansion to Bornu in the 1300s. Although Islam had been present in the region for several centuries, its dominance was uneven. It is thought that prior to Fulani incursions that brought more orthodox Islamic laws,¹⁵ communal land ownership and group-based rights characterised land tenure systems.¹⁶ Over time the influence of Fulani political institutions in the 15th century reinforced the importance of both shari'a law and a hierarchal bifurcated property rights system comprising a land-allocating class and community members, where control of over land was tied to access to political authority.¹⁷ Existing customary institutions in Kanuri areas of Northern Nigeria (recognised and incorporated under British colonial rule) derive their names from the administrative structures of this period.¹⁸

The British took control of the territory Bornu Emirate in 1903. The Lands and Native Rights Ordinances of 1910, amended in 1916, gave all use and ownership rights over lands in Northern Nigeria to colonial authorities.¹⁹ Rights included the ability of the colonial authorities to grant rights of occupancy, to charge rents, and to approve all legal land sales (alienation of grants).²⁰ Although women had limited HLP rights during this period, colonial courts did adjudicate claims brought by women trying to exercise property rights over family and houses in Southern Nigeria. In some instances, courts found in favour of women's claims, but frequently confirmed the inability of women to exercise property rights equal to those of men.²¹

Nigerian domestic law, shari'a law, and customary practices

Following independence, the Nigerian State implemented property rights reforms that aimed to integrate the various sources of rights that existed across

its territory, ranging from customary rules, religious laws, and English colonial institutions. The Land Tenure Law of 1962 identified lands in Northern Nigeria as “native” and gave power over property rights to the Minister for Lands and Surveys.²² The 1978 Land Act vested control over land in the Governor of each Nigeria’s federal states, with significant powers granted to local governments.²³

The right to privately acquire and own immovable property is protected by Article 43 of the 1999 Nigerian Constitution. Subsurface rights remain with the state (Article 45). Private property is protected from dispossession except for reasons prescribed by the law, and in such cases an individual is entitled to both compensation and a legal process (Article 44(1)). The 1999 Constitution guarantees equal rights, obligations and opportunities to all citizens and prohibits discrimination on the basis of sex.²⁴ While this appears to satisfy Nigeria’s obligations under the Convention for the Elimination of all forms of Discrimination Against Women (CEDAW), in practice the situation is more complex. Customary rules and practices are used to resolve disputes and govern everyday life throughout the country, but they are not formally incorporated into statutory law. In many instances, individuals cannot enjoy de jure protections provided by statutory law given the de facto legal system operating at the local level. This is particularly true for women seeking exercise HLP rights.

A displaced woman seating in front of her makeshift tent and confectioning a traditional Nigerian hat that she will sell in order to earn an income. Credit: Hajer Naili/NRC



Shari'a law

Several pieces of domestic legislation provide for the use of Islamic legal principles in Nigeria. These include the 1968 Area Court Act, the 1971 Area Court Civil Procedure Rules, Section 260 and Section 275 of the 1999 Nigerian Constitution (establishing the Shari'a Court of Appeal for the Federal Capital Territory of Abjua and the right of other federal states to set up similar appeals courts should they wish to do so) and the 2000 Borno State Shari'a Administration Justice Act. This legislation provides a statutory legal basis for Islamic jurisprudence, especially in matters of family law and inheritance.

Within Islamic jurisprudence, three Quranic verses in the fourth sura are frequently cited as providing guidance on property rights matters in Nigeria. These verses, together with the writings of Islamic jurists provide an inheritance framework that clearly favours men. These verses are the following:

Allah chargeth you concerning (the provision for) your children: to the male the equivalent of the portion of two females, and if there be women more than two, then theirs is two-thirds of the inheritance, and if there be one (only) then the half. And to each of his parents a sixth of the inheritance, if he have a son; and if he have no son and his parents are his heirs, then to his mother appertaineth the third; and if he have brethren, then to his mother appertaineth the sixth, after any legacy he may have bequeathed, or debt (hath been paid). Your parents and your children: Ye know not which of them is nearer unto you in usefulness. It is an injunction from Allah. Lo! Allah is Knower, Wise.

And unto you belongeth a half of that which your wives leave, if they have no child; but if they have a child then unto you the fourth of that which they leave, after any legacy they may have bequeathed, or debt (they may have contracted, hath been paid). And unto them belongeth the fourth of that which ye leave if ye have no child, but if ye have a child then the eighth of that which ye leave, after any legacy ye may have bequeathed, or debt (ye may have contracted, hath been paid). And if a man or a woman have a distant heir (having left neither parent nor child), and he (or she) have a brother or a sister (only on the mother's side) then to each of them twain (the brother and the sister) the sixth, and if they be more than two, then they shall be sharers in the third, after any legacy that may have been bequeathed or debt (contracted) not injuring (the heirs by willing away more than a third of the heritage) hath been. [...]

They ask thee for a pronouncement. Say: Allah hath pronounced for you concerning distant kindred. If a man die childless and he have a sister, hers is half the heritage, and he would have inherited from her had she died childless. And if there be two sisters, then theirs are two-thirds of the heritage, and if they be brethren, men and women, unto the male is the equivalent of the share of two females. Allah expoundeth unto you, so that ye err not. Allah is the Knower of all things.

These verses provide a general framework for women's inheritance, which is clearly specified, although dependent on their position with regard to other relatives and the number of children they have. Some scholars argue that Islamic jurisprudence provides a greater inheritance share to men because of the responsibility they must take for female family members.²⁵ Another argument is that Islamic law provides for inheritance, where other legal frameworks and local (customary) practices may specifically exclude women. The system nevert-

heless discriminates against people on the basis of sex and stands in tension with secular Nigerian law and women's equal rights guaranteed under international law.

Customary practices prior to the conflict

Customary rules, norms and practices around HLP rights in Northern Nigeria vary by geographic location and ethno-linguistic group. As in many countries, the relationship between statutory (written) law, religious law, and customary laws, including norms, rules and practices perpetuated by community-level authorities is varied and complex. The majority of individuals who participated in the research identify as members of the Kanuri, Shuwa Arab, Hausa, and Fulani ethno-linguistic groups. The research reveals that even between communities, the degree to which women exercised HLP rights prior to the conflict depends on the norms within that community and variation between families. In some cases, gender norms that restrict other aspects of women's lives, including freedom of movement, work outside the home, education, made it challenging for them to exercise HLP rights.

Within statutory law, the 1978 Land Use Act gives a key role to customary institutions, designating "chiefs" and "leaders of the community" as playing a role in property transactions and compensation according to "customary rules."²⁶ Yet the relationship between customary practices and statutory law (to say nothing of Islamic law), is not always so clear cut. In some cases, the tension between customary practices, where women are unable to inherit real property, and Nigerian law, has made its way into the statutory court system. For example in *Ukeje v Ukeje* (2014) the Nigerian supreme court upheld a ruling that women had the right to inherit housing, land and property and that customary systems that failed to recognise this right were acting in contradiction of Nigerian law.²⁷ While this is a potential avenue to challenge discriminatory customary institutions, whether this represents a practical method of implementing change is unclear.²⁸

The structure of local governance systems in Northeast Nigeria trace back to ninth century Kanem empire. British colonial authorities used these existing governance systems to exercise control over their territory and these structures remain in place. Within the study area, the most senior customary leader is the Shehu, or Supreme Emir. Serving beneath him are Emir or Mai, and then Lawans, village leaders, and Bulamas, ward leaders. District heads, a position between Emirs and village leaders, known as Haikimi, was inserted during British colonial rule.²⁹ Previous research shows that once property matters move outside the family unit, the Bulama and Lawan are the most important customary leaders involved in HLP rights issues.³⁰

In interviews and focus group discussion, participants report that prior to the current conflict, customary law restricted the rights women could exercise over HLP. While they might have enjoyed some limited management and decision-making rights within their own households, ownership rights remain the purview of men. Although some wealthy women do own property, people's perception is that for most ethno-linguistic groups in the study area, customary law explicitly discourages women's property ownership. With regard to ownership, a lawyer in Maiduguri explained:

The Land Use Act and the 1999 Constitution of the Federal Republic of Nigeria which is federal act and also supreme allows individuals regardless of gender to own property in any location so long as they have complied with the requirement of the law. The challenge usually faced however is that some states have not adopted these laws to be their laws and end up relying

*on customary laws/ Islamic which however gives restrictions to women as to ownership of property.*³¹

Frequently men and women used both customary and religious institutions as reasons to justify women's inferiority, both generally, and in their access to HLP rights. There is some variation in women's ability to exercise HLP rights despite this institutional framework. In situations where women have access to education and material resources, they can enjoy rights that are similar, if not equal to men's. One participant explained: "It is the provision of the Shari'a law that determines inheritance, but buying with your money – no one stops a woman from purchasing or accessing housing, land or property that way."³²

The material constraints faced by many displaced and conflict-affected people mean that customary and religious practices constrain women's enjoyment of HLP rights. Research suggests that this is particularly true in cases where families practice purdah or seclusion, which place extreme restrictions on women's education, economic activity and freedom of movement in the absence of a male guardian. These norms made it very difficult for women to enjoy HLP rights similar to men prior to the conflict.

Variations in customary practice by ethno-linguistic group

There is very limited specific literature on the rights of women within the ethno-linguistic groups residing in the study area and included in the study. In general, the literature on Northern Nigeria generally, and Northeast Nigeria specifically, notes the numerous restrictions places on women's ability to exercise legal rights and decision-making independently of male members. "Controlling for other predictors of women's decision-making power, members of all other ethnic groups in Nigeria demonstrated greater participation in household decision-making than the Hausa/Fulani/Kanuri women."³³ Country-level studies that focus on levels of support for intimate partner violence (IPV) amongst Nigerian women show evidence of power imbalances between women and men in the region. Both Hausa/Fulani women and women from other "northern minorities" provide the highest levels of support to the idea that a husband is justified in beating his wife.³⁴ There is a limited focus on the differences between these groups.³⁵ Although the study does not permit a detailed analysis by ethno-linguistic group, the below presents some key issues came up in discussions of women's HLP rights in different groups.

Existing research on household decision-making amongst the Kanuri people notes the degree to which members of this ethno-linguistic group practice seclusion. Seclusion is a set of norms that limits women's economic integration and general freedom of movement without explicit permission from a male guardian, usually a father or husband. One consequence of seclusion is an increase in women's vulnerability to exploitation and abuse should family-based institutions break down.³⁶ Key informant interviews affirmed high rates of seclusion amongst Kanuri compared with other groups, noting that the other groups such as Shuwa Arabs, Fulani and Hausa engaged in these practices, but to lesser degrees.³⁷ At the same time, existing literature does note that practices of seclusion are far from uniform and that labour shortages in the twentieth century may have actually eroded the practice among Kanuri women, at least for a time in late twentieth century.³⁸

While members of the Kanuri and Hausa groups historically derive their livelihoods from agriculture, members of the Fulani and Shuwa Arab ethno-linguistic groups are historically known as nomadic pastoralists. Members of Fulani and Shuwa Arab households do not generally practice the same kinds of seclusion as the Kanuri or Hausa.³⁹ Because members of these groups are generally

perceived not to be land owners (even though in practice many derive their livelihoods from agriculture), the question of women's HLP rights is perceived to be less relevant than discussions of women's ownership of animals.⁴⁰ While the anthropological literature on women's property rights in Shuwa Arab and Nigerian Fulani households is limited, historically women are understood to have control of milking rights over the household's herd of cows and goats⁴¹ and the responsibility of marketing the milk in local markets.⁴²

Key informants also identified perceptions of inter- and intra-group marriage as a key difference between members of these ethnic groups. The perception is that members of pastoralist ethno-linguistic groups, such as the Fulani and Shuwa Arabs, practice clan endogamy, with female members of the group marrying within the extended family network.⁴³ In contrast, women from Kanuri and Hausa ethnic groups are perceived to marry outside their groups more frequently.⁴⁴ Historically, anthropologists identified Hausa as practicing clan exogamy, noting that this practice shifted toward endogamous marriage as the religious/cultural norms of Fulani grew important in region.⁴⁵ The degree to which women marry outside of their extended family is beyond the scope of this research, but historic practices may continue to exert an influence through cultural norms around inheritance, in particular the degree to which a women's marriage outside of her extended family would move land outside of family control, increasing cultural norms that restrict women's inheritance rights.⁴⁶

III. Displaced women's HLP rights

This research finds that women face many obstacles to enjoying equal HLP rights during conflict and in displacement in Northeast Nigeria. First, as discussed in the previous section, even before the conflict, local institutions created the conditions for women and men to perceive women to be of a lesser value. When asked about enjoying rights in displacement, women and men both often acknowledged that women and men were unequal and this was because of existing customary and religious institutions and social norms that participants perceive as linked to those institutions. Some participants thought that change would be welcome, but not all agreed.

Second, the research finds that given women's role as care-givers within the household, many parts of the displacement experience, not only the enjoyment of HLP rights, are mediated by women's intimate relationships with family members. These relationships include those between a woman and her parents (who she may turn to for help), a woman and her husband (who is her guardian after her marriage), and between a woman and her children, who will shape her rights to HLP when her husband or father dies. Not only these relationships, but other personal ties, such as the relationship between an internally displaced person and the family that hosts them, play a critical role in women's experience during displacement.

Third, the research finds that there is some evidence that social norms around acceptable behaviour for women and men and specifically behaviours that shape property rights, are changing. Participants in the research had starkly different views about whether a woman on her own, as opposed to with her husband or family, faced greater or lesser challenges in enjoying her HLP rights because of the conflict. Some women felt that because of the displacement they had opportunities for autonomy not previously available to them, especially when women who had previously lived in seclusion no longer did so. Others thought that women on their own remained very vulnerable and that the conflict had brought new challenges to women.

If norms around engaging in independent livelihoods activities, freedom of movement, and decision-making have changed as a result of the conflict, it is not at all clear whether these changes will stick as the conflict shifts into a new phase, or hopefully draws to a close. How changes touch women from different ethnic groups and socio-economic classes also requires more research and evidence. The research shows that displacement and violence has set in motion changes to the rules, norms and processes that govern everyday life for women and for men in Northeast Nigeria and it may present opportunities for some women to embrace new freedoms should they choose to do so.

THE VALUE OF WOMEN

When asked about women's enjoyment of HLP rights, women and men both discussed the value of women as a key reason why women have differential or lesser access to rights. Value is often framed in terms of principles of Islamic law or customary practice, where men are "better" than women. One male participant explained: "Generally [women enjoy fewer property rights] because women are seen as lesser than men. This inequality persists because such is it so in the custom of the people."⁴⁷ Another female participant put it like this:

*Men's access to housing, land and property is easier and faster compared to women [...]. Men and women are unequal because men and women are guided by provisions as stated in the Islamic law [...] and otherwise because men are naturally seen to be superior to women. The inequality persists because people are adamant about their belief and customs.*⁴⁸

Men in a focus group in Khaddamari put it even more bluntly:

*A woman cannot access housing, land and property without a male relative because a woman is considered half of a man, which is not same with a man. The women are comfortable with this practice because they themselves know that they are weaker than men, so they need men in all their affairs.*⁴⁹

Most participants in the research did agree that they were satisfied with current practices, although the framing of inequality as a religious principle makes it socially deviant to speak against these norms. One female participant reframed a query about satisfaction with women's ability to enjoy property rights by pointing out the role that socio-economic inequality plays in shaping access to rights:

*I honestly think these rules are not fair because they haven't favoured the poor like us to be able to own a house or land [...]. I would change how a woman can enjoy more access to housing, land and property and try to empower the less privileged woman to own her own property.*⁵⁰

HOUSEHOLD POWER DYNAMICS AND HLP RIGHTS

Marriage

The research shows how marriage functions as a critical household-level institution that shapes both power dynamics within families and the practicalities of how women can enjoy HLP rights. Prior to her marriage, women live with their fathers and enjoy any HLP rights through parent-daughter relationships. When they marry, women move into their husband's household. Most participants suggested that women have more authority in their husband's household, but power remains largely unequal. Both men and women describe the husband's role as a decision-maker when it comes to HLP rights within the household. Female participants in a focus group discussion explained: "It is the men that make decisions regarding housing, land and property even if it is owned and purchased by the woman, it is a general practice that women allow men to take the lead and make

decision.”⁵¹ Male participants in a focus group discussion provided a detailed discussion of the hierarchy of HLP decision-making within the family:

*The person who makes the decision is the head of the family which is in this case the father. However, in his absence, the eldest son (if he is an adult) [...]. She (a woman) is not involved in the decision making because she doesn't have the right to interfere, however, in the absence of the father and mother, if she is the eldest child of the family, she can advise the eldest male son of the family who will take the decision, but still she don't have the power to take decision on her own. Also, even if she is the senior child, if there is an adult male child, he can take the decision without consulting her.*⁵²

Not all participants agreed, however, that women take no decisions. Some suggested, instead, that a woman who has good relationships with her family can be involved in decision-making. A female participant in a focus group explained: “It depends on the family setting [...] my parents and siblings show me lots of love and respect and because of that they involve me in everything they want to do.”⁵³

Inheritance

When a marriage ends, either because of death or divorce, inheritance or to a lesser extent divorce institutions take over as the key system that shapes access to women's HLP rights. Generally, divorcees have limited or no rights over real property and must return to their father's household. Widows' circumstances depend on whether a woman has children and her relationships to her deceased husband's family. Most participants frame decisions about inheritance in terms of Islamic law, although some also reference customary norms. Male participants in a focus group in Gongulon explained: “Except by way of gift specifically given out by the deceased before his/her death, the distribution of estates are usually done in accordance to Islamic laws and practices and not otherwise.”⁵⁴ The degree to which Islamic inheritance laws are followed to the letter of the law, however, remains un-quantified in this research and further work is required to understand to what extent Islamic principles are actually implemented. The fact that most women report that they control no real property assets suggests that Islamic inheritance rules are held up as an ideal, but that stricter customary norms where women do not inherit are more common. This is consistent with previous work on women's HLP rights that finds that Islamic law is frequently cited, but less implemented in places like Somalia and Lebanon.⁵⁵

MEETING BASIC NEEDS AND MANAGING RELATIONSHIPS

The link between a women's ability to meet her basic needs (one of the key issues women raised during the research) and maintain the relationships that structure power dynamics within the household came out in many conversations about the challenges that women face and how they manage their HLP rights during conflict. Even when struggling to meet basic needs for themselves and their children, women are still expected to remain the key care-givers in their immediate and extended families. In a focus group discussion in Maiduguri, internally displaced women returning to their previous residence explained: “Women suffer a lot because they have to take care of other women's husbands or her brother or uncle simply because his wife is no more or has left. Women

suffer a lot because they do not have enough shelters and some of them struggle to construct a makeshift house for themselves.”⁵⁶ In a focus group of displaced women in Dalori, participants explained:

Living with relatives is very inconvenient. It is better to beg the Bulama for his assistance for land to live on [...]. You have to be very patient living with relatives, it is better to get your own place no matter how small [...]. If it is the parent's home, if you go with your children, a lot of problems arise, like that of space, food etc [...]. We have a lot of needs and problems: means of livelihood, food, lack of property and we do not get aid in this location, land to live, even though we get little assistance by the Bulama, sometimes we get evicted [...]. Sometimes you are lucky to get patient people [who host us]. When the person is troublesome you have to leave the place for him/her and relocate [...]. One has to be patient.”⁵⁷

Conversations with women emphasized that their ability to meet their basic needs and to enjoy their rights is often predicated on maintaining good relationships with people, both family members, and strangers, including members of the host community.

ACCESSING HLP RIGHTS THROUGH MALE RELATIVES

Women's perspectives on their HLP rights in displacement reflect the importance of family relationships and in particular the role that male family members play a women's ability to enjoy her rights. A female participant in the research in Maiduguri explained: “The customary law does not support women's access to HLP unless with a male go-between.”⁵⁸ Male participants in a focus group in Khadamari explained: “Our customary law denies women access to HLP because of the fact that a woman cannot freely access HLP without the presence of a male relative or guardian.”⁵⁹ Prior to the conflict, enjoying accessing housing, and property, be it a place to live, farm or new property as an investment, would be determined by family relationships. One participant in the research explained: “The customary law generally favours a woman to own property – she just has to meet the male relative that she has and tell him of her intentions to buy land and then the man takes it up from there to facilitate the purchasing.”⁶⁰

Participants noted that the absence of a male guardian shows the vulnerability of the system to bad actors. A key informant described a case where a woman whose husband was ill ended up in a dispute:

What actually happened was that the woman sells bananas and from her sales she was able to buy some land. They told her that the land would not be sold to a woman. So she brought her husband and that was put in her name. Then the man/husband got sick and they needed money. So he was advised to tell the woman to sell the house and use the money for treatment for the husband. Unfortunately for her and without her knowledge she sold the house to a church not knowing that her husband's brother was the actual man who bought the land. The Lawan was supposed to sign in the transaction but he did not. Unfortunately the husband then died and then the question came out that because she did not receive any money from the transaction she wants her property back.”⁶¹

The disruption and displacement caused by the conflict has had a critical impact on the guardianship system, with important implications for the ways that women enjoy HLP rights.

WOMEN ON THEIR OWN (WIDOWS, SINGLE MOTHERS, WOMEN OUTSIDE OF THE SOCIAL NETWORK)

Challenges

During focus group discussions, women and men spoke of women's specific vulnerability when they are on their own without male relatives and their reliance on the community in order to meet basic needs. In particular, women and men participants mentioned the challenges that widows, divorcees and single mothers and women outside their family network faced given that prior to the conflict these women would be looked upon as violating important norms of behaviour if they stayed alone did not return to their father's house. One participant explained that "those women staying on their own face more challenges than those staying with relatives because they cannot have access to anything and don't have right to anything without any male relative."⁶² A key informant described this case:

A woman who does not have a male guardian faces issues. We know of a case of a pregnant woman with nine children who has no place to stay. Her shelter is being occupied by the military so she is residing in another place. She left her original house about four years ago (where the military are now). There is a neighbour who is residing in his own house, which is right next to hers. He was able to pay and she was not. The military should provide an alternative for her, but they have not. It brings out the fact that she cannot go to the military and talk to them directly as her neighbour did because she is alone. And she was not even given an alternative.⁶³

Divorcees face particular challenges in enjoying HLP rights. While widows with children main remain in their houses, divorcees "go back to her father's house and will have to be guided by the rules and regulations of the house because she no longer has a husband."⁶⁴ Participants in a focus group discussion explained: "A divorced woman is still under the control of her parents because she is just like a little child to be catered for, so, she is not still in a position to take any decision about property rights."⁶⁵ In some situations the conflict has made it difficult for women to find anyone who can act as a guardian when husbands and fathers may have passed away or been displaced to another location. One woman explained:

You see, I am a woman and I am widowed with children to cater for and it is ideal that I get my inheritance (my farm land) so I can generate income from it, to take care of my needs and my children's. But now I don't have someone to provide for me except God and if not for the fear and hope that I have in God I would have gone out of my way to make sure I retrieve my land back [from the person who is occupying it] and also even if I want to take the [him] to the court, I don't have the money to do that. So you see my hands are tied no farmland means there is no food and no money for me.⁶⁶

A key informant describes a case where community members failed to find a guardian who could support another woman traveling on her own:

There was a woman who was afraid to say that a certain place belonged to her or to her husband prior to the displacement because there is an ongoing dispute on that land. There is a male who has threatened to kill her if she comes close to that land again. She is afraid to say that this is her husband's property and to defend her rights against a community member. We cannot find the woman a representative to help her. This is a return area. People who are elders and other people who might be able help might have been killed or have not been able to return [...]. Sometimes the representatives don't want to come up because they incur risk. Because this is a communal setting, everyone knows everyone else. People are not feeling good to come forward and challenge someone else. They are worried about creating enmity. People don't want to get involved in such instances because issues with respect to land involve children and grandchildren so they want to play it safe.

After rainfall in the IDP camp, women try to clear the water in the passage. Credit: Anja Riiser/ NRC



Opportunities

Not all participants agreed that women on their own were worse off than women with guardians. Some participants either observed or experienced the independence that women could obtain on their own without husbands or fathers. This contrasting perspective suggests both that norms around women on their own are malleable and context dependent (or may be shifting as a result of the conflict), and also that financial constraints may be an important factor shaping women's dependence on men. One women leader explained:

I believe that if you are on your own you can always get things done for yourself unlike being with a relative who you have to go through before getting things done. For me as a widow I do things for myself without waiting on anyone I have the liberty to go out and look for means of fending for myself and children.⁶⁷

Female participants in a focus group discussion voiced a similar sentiment: "In some households a widowed or divorced woman can make decisions while others can't [...]. Women that live on their own have more freedom compared to those that live with their male relatives."⁶⁸ Whether financial independence allows women to choose to live on her own and make her own decisions, including those about housing, land and property rights, or women must be on their own before they can become financially independent is not always straightforward. Participants in one focus group discussion explained:

Women who stay with relatives don't tend to have much say in the family affairs. This is because they do not have the means to cater for their needs. This is not the case as for those who care on their own. The reason is that they provide for themselves. They don't need anyone to tell them what to do and what not.⁶⁹

CHANGING GENDER NORMS AS A RESULT OF THE CONFLICT

Participants in the research identified many norms and practices that had changed as a result of the conflict, including norms around access to HLP rights. Participants note that exposure to things like films and mobile phones have made them think differently about the world since the conflict started. Some participants also note that prior to the conflict women did not work outside their homes, and now they do, in part out of necessity. Women in one focus group explained: "Back then, as women, our husbands are meant to cater for our various needs such as food, clothing and money. But now we do these things ourselves as women because our husbands no longer have the means to provide us with these things."⁷⁰ Participants in one focus group stated: "Women now do engage in trading and skill acquisition which they didn't do before."⁷¹ In one group discussion, male participants summarised it this way:

Yes, we would like to change some of the practices of our culture because women always face discrimination generally, not just regarding HLP. Things have changed both positively and negatively [since the conflict]. Negatively is the fact that we have lost our lands and our properties, but the positive part of it is that we are now exposed to the civilized style of living now as a result of coming to the town. We can now go to the cinema to

watch movies, we now can use mobile phones and we can now participate in the Jumma prayer with the congregation in the mosque. Before women do not go to the farm for labour but now they do as women now go to farms to do small labour and get firewood so as to get what to eat. This is a big change. What has changed the most and will stay is that we are now more civilized as we all now can use mobile phones both adults and children as even children now have mobile phones.⁷²

This overall positive view contrasts with the perspective of other participants who are less open to the changes they see that the conflict has brought about in the general relationship between women and men. Male participants in a focus group explained it like this:

With the coming of civilization and the high level of literacy some women take charge of their own affairs but still the society frowns at that and we do make mockery of such women by calling them ‘Madam Goat’ [...]. Women no longer respect their husbands, they [women] now feel too pompous, they now go to the farm to get firewood, they have also started running small scale businesses and some women are also now fond of begging on the streets! [Since the conflict] family relationships have broken down irretrievably unlike before the conflict started.⁷³

Another participant explained: “Before the crisis the woman respected us a lot, a woman must serve you dinner in a respectful way, now the women are not respecting their husbands [...]. We have so many cases of divorces.”⁷⁴

This mother and her three children were recently displaced by the Boko Haram insurgency. Like several hundred other displaced persons in this camp located in Maiduguri, Northeast Nigeria, they live in a makeshift shelter made up of plastic and bed sheets. The children don’t attend school and the mother is unable to provide for the family. Begging has been one way to survive. Credit: Hajer Naili/NRC



IV. Capacity to respond to challenges and changes

The research presented here reveals that while women's ability to enjoy HLP rights in displacement is varied and shaped by numerous factors. Women do not enjoy the same rights as men. The research suggests that religious, customary and household level institutions reinforce these power dynamics and prevent women from exercising many personal rights, not only those related to HLP.

At the same time, the situation in Northeast Nigeria is changing rapidly. In some circumstances, the research shows that women are starting to exercise rights that they had not previously enjoyed, although the extent of the change requires further, more systematic assessment. What is the role of humanitarian community in such a complex context? How should humanitarian actors today, and development actors in the future, engage with local institutions and norms in order to support communities that have survived violent conflict?

Answering this question is particularly complex given that humanitarian interventions have played a role in changing norms around the enjoyment of property rights. One participant in the research explained:

Before the conflict the woman has to seek her husband's consent before she leaves the house. Now the woman can go out at any time without informing him, often to participate in some NGO intervention. So men don't have power and control over the family. Men want to have absolute control over what happens in the house. Now some men have a situation where women behave in a particular way that is not behaving in tandem with what the men want. This leads to men want to divorce their wives. This is very critical for us.⁷⁵

Another participant in the research explained:

One of the reasons that the NGO partners are changing people's relationships is that they are now registering women as beneficiaries. So now women are able to access services. This has to do with food distribution and shelter. When a man has a shelter and he registers as a head of a household to be recipient of food aid and wants to take an additional wife, the first wife may disagree. But she cannot if her access to aid is dependent on her husband. So now humanitarian partners have decided to register women.

It is beyond the scope of this research to explore the impact of such interventions and in particular to understand whether the changes will lead to durable shifts in relations between women and men and women's ability to enjoy HLP rights.

However, the research does lead several recommendations about ongoing and future efforts to support women to enjoy their housing, land and property.

PREVENTING BACKLASH

It is critical to note that fundamental shifts in power dynamics between men and women may also be accompanied by backlash and that measures to protect against such an outcome should be put in place. Interventions that include men may help to mitigate negative effects of rapid norm change unfolding in the study area. Additional research in practices that appear harmful to women (for example the practice of taking second wives against a first wife's preference) can also help outside actors understand behaviours that at first appear simply discriminatory but may actually result from specific coping mechanisms.

GENERATING BUY-IN

Seeking support from the institutions that generate and maintain the social norms that structure gender relations and HLP rights is also key to both securing more equal rights for women in the future and to preventing intra-household and community-level conflict. Programmes that help both men and women understand new choices about access to education, livelihoods, and property rights are critical to help all members of the household adjust to the new realities brought by the conflict and displacement.

LOOKING FOR DURABILITY

The research shows that existing institutions provide multiple obstacles to women exercising their HLP rights under both Nigerian and international law. This poses a significant question for humanitarian actors working in Northeast Nigeria on the potential trade-off between making changing and identifying sustainable solutions. To what extent should future programming work to find sustainable, and therefore durable, solutions to a range of problems conflict-affected populations face if this programming reinforces existing inequalities between social groups? Is it possible to work within existing local power structures when those structures do not include women and might even be hostile to women's attempts to exercise their legal rights? There is no straightforward answer to this question. Instead, careful analysis of existing institutions and the interests of the various actors, including both displaced and conflict-affected men and women and boys and girls, is required to understand how to develop and implement sustainable programming that also seeks to change local power dynamics so that women too can enjoy equal access to their legal rights.

ANNEX 1

Summary of Data Collected

Key informant interviews

	<i>Place</i>	<i>Type</i>	<i>Date</i>
KII1	Maiduguri	Male teacher	08.01.2019
KII2	Maiduguri	Female community leader	08.01.2019
KII3	Maiduguri	Female returnee	10.01.2019
KII4	Maiduguri	Male CJTF leader	10.01.2019
KII5	Maiduguri	Male worker	10.01.2019
KII6	Maiduguri	Female university teacher	10.01.2019
KII7	Maiduguri	Female host community	10.01.2019
KII8	Maiduguri	Female member of judiciary	11.01.2019
KII9	Maiduguri	Female NGO worker	11.01.2019
KII10	Maiduguri	Female NGO worker	11.01.2019
KII11	Maiduguri	Female lawyer	11.01.2019
KII12	Dalori	Female leader	12.01.2019
KII13	Dalori	Male veterinarian	12.01.2019
KII14	Khaddamari	Male returnee	13.01.2019
KII15	Khaddamari	Female returnee	13.01.2019
KII16	Khaddamari	Female leader	13.01.2019
KII17	Maiduguri	Female NGO staff	17.01.2019
KII18	Maiduguri	Male NGO staff	21.01.2019

Focus groups

	<i>Place</i>	<i>Type</i>	<i>Date</i>
FG1	Maiduguri	Female returnees	10.01.2019
FG2	Gongulon	Female host community	11.01.2019
FG3	Gongulon	Female IDPs	11.01.2019
FG4	Gongulon	Male returnees	11.01.2019
FG5	Gongulon	Female returnees	11.01.2019
FG6	Dalori	Female IDPs	11.01.2019
FG7	Gongulon	Male host community	12.01.2019
FG8	Dalori	Female IDPs	12.01.2019
FG9	Dalori	Female IDPs	12.01.2019
FG10	Dalori	Male IDPs and host community	12.01.2019
FG11	Khaddamari	Female host community	12.01.2019
FG12	Dalori	Male IDPs	12.01.2019
FG13	Khaddamari	Male IDPs and host community	13.01.2019
FG14	Khaddamari	Female returnees	13.01.2019
FG15	Khaddamari	Male host community	13.01.2019
FG16	Khaddamari	Female IDPs	13.01.2019

Notes

1. Recent statistics on displacement are available at: <https://www.unhcr.org/nigeria-emergency.html>.
2. Juliette Syn, Housing, Land and Property Rights for Somalia's Urban Displaced Women, Norwegian Refugee Council, 2016.
3. Juliette Syn, Effects of Displacement on Land Tenure Systems in Northeast Nigeria, Norwegian Refugee Council, 2019.
4. 'Nigeria: Displacement Tracking Matrix Round 23,' International Organization of Migration, June 2018.
5. For information about the level of displacement in Nigeria and the size of returns to places of origin, see the Internal Displacement Monitoring Centre (IDMC) Nigeria Country Information, available at: <http://www.internal-displacement.org/countries/nigeria>.
6. Mia Bloom and Hilary Matfess, 'Women as Symbols and Swords in Boko Haram's Terror,' Prism, National Defense University 6(1): 1 March 2016.
7. For a more detailed overview of these instruments see, for example, Juliette Syn, Housing, Land and Property Rights for Somalia's Urban Displaced Women, Norwegian Refugee Council, 2016.
8. Further information on Nigeria's ratification of relevant international treaties available at: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Country-ID=127&Lang=EN.
9. ICESCR; UN CESCR General Comment 3 and 4.
10. For the text of the CDHRI see <https://www.refworld.org/docid/3ae6b3822c.html>.
11. Handbook on Implementing Pinheiro Principles (2005).
12. For further information, see <http://www.achpr.org/instruments/women-protocol/ratification/>.
13. Kampala Convention, Art. 4(4).
14. Kampala Convention, Art. 9(2).
15. L. A. Ega, 'Societal Formation and the Evolution of Land Tenure System in the Zaria Emirate of Northern Nigeria,' Agricultural Administration (13) (1983): 239-248. The conquest is referred to as the jihad under the leadership of Utman Dan Fodio between 1804-1810.
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17. Ibid, page 245. For a description of family-level household land arrangements in a Hausa household in Kano (outside the study region) that provides some detail on the nature of these arrangements in the mid-twentieth century see Joseph H. Greenberg, 'Islam and Clan Organization among the Hausa,' Southwestern Journal of Anthropology 3, no. 3 (1947): 193-211.
18. M. Rasul and S. Robins, Assessment of Dispute Resolution Structures in North-East Nigeria, Norwegian Refugee Council, 2018, available at: <https://www.nrc.no/resources/reports/dispute-resolution-structures-and-hlp-issues-in-north-east-nigeria/>.
19. P. E. Oshio, 'The Indigenous Land Tenure and Nationalization of Land in Nigeria,' Boston College Third World Law Journal (10) 1 (1990), and N. Udoekanem et al. (2014).
20. Ibid, page 183.
21. Adetoun Ilumoka, 'Globalization and the Re-Establishment of Women's Land Rights in Nigeria: The Role of Legal History,' Chicago-Kent Law Review (87)7 (2012).
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23. Ibid.
24. Article 2(a) and Article 15(1) of the 1999 Nigerian Constitution.
25. See, generally, M. Radford, 'The Inheritance Rights of Women under Jewish and Islamic Law,' Boston Colleges International and Comparative Law Review Vol. 23, Issue. 2 (2000).
26. Section 9(3)(b), 1978 Land Use Act.
27. See, for example, Anekwe v Nweke (2014) NWLR (Pt 1412), Ukeje v Ukeje (2014) 11 NWLR (Pt 1341) 185SC.
28. See, for example, E. Obidimma and A. Obidimma, 'Mitigating the Injustice of the Customary Law Relating to Inheritance of Landed Property by Women amongst the Igbo People of Nigeria,' International Journal of Innovative Research and Development Vol. 4, Issue 1 (2015).
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30. M. Rasul and S. Robins, Assessment of Dispute Resolution Structures in North-East Nigeria, Norwegian Refugee Council, 2018.
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34. 78.9% of Hausa/Fulani women interviewed reported that a husband was justified in beating his wife, while 71.6% of women who identified as members of Northern minorities agreed. See K. Oyediran & U. Isiugo-Abanihe, 'Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey,' *African Journal of Reproductive Health / La Revue Africaine De La Santé Reproductive* 9(2) (2005): 38-53.
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39. R. E. Porter, 'Perspectives on trade, mobility and gender in a rural market system: Borno, North-East Nigeria,' *Tijdschrift voor economische en sociale geografie* 79 (1988): 82-92.
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47. KII, Male teacher, Maiduguri, 8 January 2019.
48. KII, Female NGO staff, Maiduguri, 11 January 2019.
49. FGD, Male host community members, Khaddamari, 13 January 2019.
50. KII, Female leader, Dalori, 12 January 2019.
51. FGD, Female IDPs, Dalori, 11 January 2019.
52. FGD, Male host community members, Gongulon, 12 January 2019.
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58. KII, Female community leader, 8 January 2019.
59. FGD, Male host community members, Khaddamari, 13 January 2019.
60. KII, Female leader, Dalori, 12 January 2019.
61. KII, Male NGO staff, Maiduguri, 21 January 2019.
62. KII, Female university teacher, Maiduguri, 10 January 2019.
63. KII, Male NGO staff, Maiduguri, 21 January 2019.
64. FGD, Male host community members, Khaddamari, 13 January 2019.
65. FGD, Male host community members, Gongulon, 12 January 2019.
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67. KII, Female leader, Khaddamari, 13 January 2019.
68. FGD, Female IDPs, Gongulon, 11 January 2019.
69. FGD, Female host community members, Khaddamari, 12 January 2019.
70. FGD, Female IDPs, Dalori, 12 January 2019.
71. FGD, Male IDPs, Dalori, 12 January 2019.
72. FGD, Male host community, Khaddamari, 13 January 2019.
73. FGD, Male host community, Gongulon, 12 January 2019.
74. KII, Male NGO staff, Maiduguri, 21 January 2019.
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