

APPRAISAL OF THE LEGAL FRAMEWORK FOR PROTECTION OF WOMEN AND CHILDREN DURING ARMED CONFLICT IN NIGERIA*

Abstract

Throughout history, wars have been accompanied by atrocities, enormous cruelty, and violence, which from the contemporary legal perspective ought to be seen as mass violations of human rights. Every armed conflict takes a cruel toll on all members of society, regardless of their gender, age, skin color, nationality, or ethnic origin. In situations of Armed Conflict, Women and Children constitute the vast majority of civilian casualties, as they are the most vulnerable. The aim of this research is to appraise the legal framework that protects Women and Children during Armed Conflict in Nigeria. The research adopted a doctrinal method of research to achieve the research aim, which entails the use of both primary and secondary sources such as textbooks, Journals, articles, seminar papers, relevant statutes, case laws, robust consultation, comparison, and overview of books, journals articles in order to buttress the salient points of the researcher. Additionally, an analytical approach was adopted which involves critical thinking skills and the evaluation of facts and information relative to the research being conducted. The findings revealed that some of the challenges in the protection of Women and Children during Armed Conflict are the Lack of Clear Policies to Protect Civilians, the Breakdown of Law and Order during Armed Conflict, Non-Compliance by Armed Conflict, Lack of Funding, Lack of Political Will and lack of enforcement mechanism and Laws are not made specifically for war times. Some of the recommendations are: The Federal Government of Nigeria should put in mechanisms to ensure the training programs for Institutions engaged in the Protection of Women and Children during Armed Conflict and the domestic institutions that are mandated to handle humanitarian situations such as the National Emergency Management Agency and other non-governmental organizations should be adequately funded to boost their morale and acquire the necessary equipment to do their work. Ultimately, the protection of women and children in armed conflict is not only a legal obligation but a moral imperative. Strengthening Nigeria's legal framework, enhancing enforcement mechanisms, and conducting training programs for civilians and non-civilians are essential steps toward creating a system that genuinely safeguards the rights and dignity of the most vulnerable members of society during times of war.¹

Keywords: Armed Conflict, Protection of Women and Children, Legal Framework, Appraisal Nigeria

1. Introduction

Armed conflicts in Nigeria have had devastating consequences on civilian populations, with women and children being the most vulnerable and disproportionately affected. In response to these realities, various legal frameworks at both international and national levels have been established to provide protection for women and children during situations of armed conflict. These include international humanitarian law, human rights instruments, and domestic legislation aimed at preventing abuses and ensuring accountability. However, the effectiveness of these legal frameworks in Nigeria remains a subject of critical concern due to persistent violations, weak enforcement mechanisms, and emerging security challenges. This topic therefore appraises the existing legal framework for the protection of

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women and children during armed conflict in Nigeria, with a view to assessing its adequacy, implementation, and overall impact on safeguarding their rights and dignity.

2. Legal Framework for Protection of Women and Children during Armed Conflict

The requisite laws that protect women and children during the armed conflict will be examined in this subsection for a broad appreciation of this research.

National Laws

It is important to mention that some relevant national laws that are imperative for the topic of research will be examined in this subsection.

Constitution of the Federal Republic of Nigeria 1999 (As Amended): Every Nigerian has rights, duties, liabilities, and privileges entrenched under various existing laws. However, certain rights are constitutionally guaranteed under Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria, these rights are referred to as Inalienable rights.² Successive constitutions of Nigeria since independence in 1960 have continued to include provisions for human rights protections.³ This commitment to human rights has been attributed to the historical emergence of the Nigerian nation.⁴ Kayode Eso in *Ransom Kuti v Attorney General of the Federation*,⁵ stated that ‘a fundamental right is a right which stands above the ordinary laws of the land and which is antecedent to the political society. It is a precondition to a civilized existence.’

In the Constitution of the Federal Republic of Nigeria, 1999 (as amended), Chapter Four provides for the fundamental human right.⁶ It is important to x-ray the following provisions below: Right to life;⁷ Right to dignity of the human person;⁸ Right to personal liberty;⁹ Right to a fair hearing;¹⁰ Right to private and family life;¹¹ Right to freedom of thought, conscience, and religion;¹² Right to freedom of expression and the press;¹³ Right to peaceful assembly and association;¹⁴ Right to freedom of movement;¹⁵ Right to freedom from discrimination¹⁶ and Section 43 provides right to acquire and own immovable property.¹⁷ Section 33 of the Constitution of the Federal Republic of Nigeria provides that every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offense of which he has been found guilty in Nigeria.¹⁸ Section 33 (2) provides that ‘a person shall not be regarded as having been deprived of his

² D. Adu, and E. Randle, ‘Nigeria: Fundamental Human Rights Under The 1999 Constitution (As Amended)’, Mondaq (Lagos, 15 August 2022). <<https://www.mondaq.com/nigeria/human-rights/1221232/fundamental-human-rights-under-the-1999-constitution-as-amended>> accessed June 19, 2025

³ A. O. Nwafor, ‘Enforcing Fundamental Rights in Nigerian Courts – Processes and Challenges’, *African Journal of Legal Studies*, (2019) (4), 11.

⁴ *Ibid.*

⁵ (1985) 2 NWLR (Pt 6) 211.

⁶ Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁷ *Ibid.* Section 33

⁸ *Ibid.* Section 34.

⁹ *Ibid.* Section 35.

¹⁰ *Ibid.* Section 36.

¹¹ *Ibid.* Section 37.

¹² *Ibid.* Section 38.

¹³ *Ibid.* Section 39.

¹⁴ *Ibid.* Section 40.

¹⁵ *Ibid.* Section 41.

¹⁶ *Ibid.* Section 42.

¹⁷ *Ibid.* Section 43.

¹⁸ Constitution of the Federal Republic of Nigeria, 1999 (as amended). Section 33 (1).

life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary:¹⁹

- (a) for the defence of any person from unlawful violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- or
- (c) for the purpose of suppressing a riot, insurrection, or mutiny.’

In *Kalu v. State*,²⁰ the Supreme Court in Nigeria stated that the right to life in Nigerian law is not absolute but qualified. Ajomo commenting on this provision said thus: ²¹

Life is sacrosanct and deliberate killing is abhorred in all societies the world over. What this provision means is that everyone is entitled to respect for his or her life and safety. Police officers or soldiers may not resort to lethal force such as firing live ammunition at people unless their own lives or the lives of others are in immediate danger, and less extreme measures are not available to avert the danger. The Constitution however recognizes some exceptions to the rule relating to the preservation of life... ‘The blanket derogation from the right in matters relating to defence of property and killing of a suspect who resists arrest may need to be reviewed if life is to have any real meaning...

In *Aliu Bello and Ors v. A.G. of Oyo State*,²² the Bello case arose as a result of the unlawful execution of one Nosiru Bello. Nosiru had been convicted of armed robbery by the High Court of Oyo State and sentenced to death. He filed an appeal against this conviction but while his appeal was still pending before the Court of Appeal, the A.G. of the State recommended his execution and this was duly carried out. An action for damages was brought by his dependents. The trial court declared the execution illegal and this was confirmed by the Court of Appeal and later by the Supreme Court which also held that the premature execution constituted an infringement of the deceased fundamental right to life.

The second right that is worth consideration in this work is the right to human dignity. Human dignity and human rights issues have not only become of global concern, it has raised remarkable interest aimed at protecting and promoting universal respect for, and observance of human rights and dignity.²³ Human rights and dignity have continually been shown at the international, regional and national levels.²⁴ Indeed the issue of human dignity and human rights, in the recent past has penetrated the international discourse to become an active item in international relations and collapsed the barrier of state sovereignty.²⁵ Section 34 (1) of the Constitution of the Federal Republic of Nigeria provides that: ²⁶

¹⁹ Ibid. Section 33 (2).

²⁰ 1998 13 NWLR (pt 583) 531 SC.

²¹ M. A. Ajomo, ‘Fundamental Rights under the Nigerian Constitution’, In C. Akpamgbo (Ed.), *Perspectives in Human Rights Lagos: Federal Ministry of Justice of Nigeria*. (Nigerian Institute of Advanced Legal Studies, 1992), 79-109.

²² (1986) 5 NWLR (pt 45) 828;(1986) 12 SC 1.

²³ O.V.C. Okene, V. N. Akani, Kingsley, ‘Human Dignity and Human Rights: The Nigerian Question’, *Maiduguri Law Journal*, (2019) (17).

²⁴ D. J. O’Byrne, *Human Rights: An Introduction* (Pearson Education Singapore, 2005).

²⁵ J. Haleem, ‘Domestic Application of International Human Rights Norms’ *Australian Law Journal*, (1988), 1-7.

²⁶ Constitution of the Federal Republic of Nigeria, Section 34 (1).

- Every individual is entitled to respect for the dignity of his person, and accordingly -
- (a) no person shall be subject to torture or to inhuman or degrading treatment;
 - (b) no person shall be held in slavery or servitude; and
 - (c) no person shall be required to perform forced or compulsory labour.

In *Mogaji v Board of Customs & Excise*,²⁷ Adefarasin CJ held that it was a violation of the constitutional prohibition of inhuman or degrading treatment to organize a raid with the use of guns, horse-whips and tear gas in a market in the course of a purported search of contraband goods and to injure custodians of such goods. Also, in *Alaboli v Boyle*, the beating, pushing and submersion of the applicant's head in a pool of water by the first respondent was held to constitute inhuman and degrading treatment. Also, section 42 (1) of the constitution is imperative for this study which provides that:²⁸

- A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: -
- (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject; or
 - (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions.

The Nigerian Constitution contains provisions guaranteeing fundamental rights and freedoms for all individuals, including women and children, regardless of their circumstances. These include the right to life, dignity, non-discrimination, and access to justice, which are applicable during armed conflict. These national laws, along with other policies and mechanisms, form part of Nigeria's legal framework for the protection of women and children during armed conflict. However, challenges remain in the effective implementation and enforcement of these laws, highlighting the need for continued efforts to strengthen legal protections and ensure the rights and welfare of women and children in conflict-affected areas.

Child Rights Act 2003: The Child Rights Act, promulgated in 2003, was basically an attempt to compile all laws and issues concerning children, into one legal document.²⁹ In 2003, Nigeria adopted the Child Rights Act to domesticate the Convention on the Rights of the Child.³⁰ The Children's Rights Act of 2003 expands the human rights bestowed to citizens in Nigeria's 1999 constitution to children.³¹ Although this law was passed at the Federal level, it is only effective if State assemblies also codify the law.³² The bill was first introduced in 2002 but did not pass because of opposition

²⁷ (1982). 3 S.C. 552.

²⁸ Constitution of the Federal Republic of Nigeria, Section 42 (1).

²⁹ N. A. Igu, and O. Nosike 'An Examination of the Child Rights Protection and Corporal Punishment in Nigeria', *Nnamdi Azikiwe University Law Journal*, (2017) (7) (5).

³⁰ D. Ogunniyi, 'The Challenge of Domesticating Children's Rights Treaties in Nigeria and Alternative Legal Avenues for Protecting Children', *Journal of African Law*, (2018) (62) (3), 447-470.

³¹ A., Olayinka 'Legal Impediments on the Practical Implementation of the Child Right Act 2003', *International Journal of Legal Information*, (2010) (37), 388.

³² H. Nwaechehu, and A.O., Olasehinde, 'The Child Right Act 2003 and The Challenges in The Nigerian Society, Any Hopes for The Nigeria Child?' *Port Harcourt Journal of Business Law*, (2021) (8) (1).

from the Supreme Council for Sharia.³³ The act was officially passed into law in 2003 by Former President Chief Olusegun Obasanjo as the Children's Rights Act 2003, in large part because of the media pressure that national stakeholders and international organizations put on the National Assembly.³⁴ Section 1 of the Act provides that 'in every action concerning a child, whether undertaken by an individual, public or private body, institutions or service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration'³⁵ Section 2 (1) of the Act provides that 'a child shall be given such protection and care as is necessary for the well-being of the child, taking into account the rights and duties of the child's parents, legal guardians, or other individuals, institutions, services, agencies, organizations or bodies legally responsible for the child.'³⁶

Also, 'every person, institution, service, agency, organization, and body responsible for the care or protection of children shall conform to the standards established by the appropriate authorities, particularly in the areas of safety, health, welfare, number, and suitability of their staff and competent supervision.'³⁷ Section 11 of the Act provides that:³⁸

Every child is entitled to respect for the dignity of his person, and accordingly, no child shall be-

- (a) subjected to physical, mental, or emotional injury, abuse, neglect, or maltreatment, including sexual abuse;
- (b) subjected to torture, inhuman or degrading treatment or punishment;
- (c) subjected to attacks upon his honor or reputation; or
- (d) held in slavery or servitude, while in the care of a parent, legal guardian or school authority, or any other person or authority having the care of the child.

The above provision of Section 11 is an awesome provision in the sense that it further complements the provision of the Constitution that still provides the dignity of the human person, but the uniqueness of the above provision is the peculiarity of the provision to children.

The Nigerian Constitution contains provisions guaranteeing fundamental rights and freedoms for all individuals, including women and children, regardless of their circumstances. These include the right to life, dignity, non-discrimination, and access to justice, which are applicable during armed conflict. These national laws, along with other policies and mechanisms, form part of Nigeria's legal framework for the protection of women and children during armed conflict. However, challenges remain in the effective implementation and enforcement of these laws, highlighting the need for continued efforts to strengthen legal protections and ensure the rights and welfare of women and children in conflict-affected areas.

³³ L. Oluwaseun, and H., Ajayi, 'Parents and Children's Awareness and Knowledge of Child Rights Act and Its Application on Children in Nigeria', *Annual Journal of Technical University of Varna Bulgaria*, (2020) (4) 1), 1-11.

³⁴ M. Ladan, 'An Overview of the Child Rights Act, 2003', *Social Science Research Network*, (2021) (9).

³⁵ Child Right Act, 2003. Section 1.

³⁶ *Ibid.* Section 2 (1).

³⁷ *Ibid.* Section 2 (1).

³⁸ *Ibid.* Section 3 (1).

Criminal Code and Penal Code: The Criminal Code and Penal Code of Nigeria play significant roles in the protection of women and children during armed conflict, providing legal frameworks to address crimes against these vulnerable groups. These legislative instruments outline specific offenses and penalties related to violence, exploitation, and abuse, offering avenues for justice and redress for victims. The roles of these Acts include:

Provisions Addressing Crimes Against Women: Both the Criminal Code and the Penal Code contain provisions criminalizing various forms of violence against women, including rape, assault, and domestic violence.³⁹ These laws establish penalties for offenders and outline legal mechanisms for the prosecution of crimes against women, ensuring accountability for perpetrators and access to justice for victims. The provisions of the Criminal Code and Penal Code are applicable to acts of violence against women during armed conflict, offering legal avenues for addressing such crimes and holding perpetrators accountable.

Protection of Children from Abuse and Exploitation: The Criminal Code and the Penal Code include provisions aimed at protecting children from abuse, exploitation, and neglect. These laws prohibit offenses such as child trafficking, child labor, and sexual abuse of minors, establishing legal safeguards to ensure the welfare and well-being of children. In the context of armed conflict, these provisions serve to protect children from various forms of exploitation and abuse, including recruitment as child soldiers, forced labor, and sexual violence.

Legal Framework for Prosecution and Redress: The Criminal Code and the Penal Code provide a legal framework for the prosecution of crimes against women and children, ensuring that perpetrators are brought to justice and victims receive redress for the harm they have suffered. These laws establish procedures for reporting crimes, conducting investigations, and adjudicating cases in accordance with due process and the rule of law. In cases of armed conflict, the provisions of the Criminal Code and Penal Code remain applicable, enabling the prosecution of crimes committed against women and children and the provision of legal remedies for victims.

Challenges and Limitations: Despite the existence of legal provisions, challenges remain in the effective implementation and enforcement of the Criminal Code and Penal Code, particularly in conflict-affected areas where security concerns and institutional weaknesses may hinder access to justice for women and children. Additionally, cultural norms, social stigma, and inadequate resources may pose barriers to reporting crimes and seeking redress, further complicating efforts to address violence and abuse against women and children during armed conflict. The codes serve as crucial legal instruments in the protection of women and children during armed conflict, providing mechanisms for the prosecution of crimes and the safeguarding of their rights. However, concerted efforts are needed to address challenges and strengthen the implementation of these laws, ensuring effective protection for vulnerable populations in conflict-affected areas.

African Charter on Human and People's Rights (Ratification and Enforcement Act) 2004: The purpose of the African Charter on Human and People's Rights is to ensure the protection of human and peoples' rights under conditions laid down by the present Charter; Interpret all the provisions of the present Charter at the request of a State Party, an institution of the OAU or an African

³⁹ Criminal Code Act, Cap. C38, Laws of the Federation of Nigeria (LFN) 2004; Penal Code Act, Cap. P3, LFN 2004.

Organization recognized by the OAU.⁴⁰ Nigeria has ratified and domesticated the African Charter on Human and Peoples' Rights.⁴¹ It was the first country in Africa to incorporate the African Charter wholesale into its national laws.⁴² Nigeria operates a dualist system wherein treaties are not applied domestically unless incorporated through domestic legislation.⁴³ This is by virtue of Section 12(1) of the Nigerian Constitution 1999 which states that: 'No treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly'.⁴⁴

The African Charter is the only comprehensive human rights treaty that has been domesticated in Nigeria; hence the African Charter (Ratification) Act 1983 is the domesticating law.⁴⁵ The domestic authority of the African Charter in Nigeria can be gleaned from the long title of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act of 1983.⁴⁶ Its long title goes thus: 'An Act to enable effect to be given in the Federal Republic of Nigeria to the African Charter on Human and People's Rights made in Banjul on the 19th day of January 1981 and for the purposes connected therewith'.⁴⁷ Section 1 of the Ratification and Enforcement Act corroborates the Long Title by stating that:

As from the commencement of this Act, the provisions of the African Charter on Human and Peoples' Rights which are set out in the Schedule to this Act shall, subject as there under provided, have the force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria⁴⁸

The Nigerian Supreme Court confirmed in the case of *General Sani Abacha v. Chief Gani Fawehinmi*,⁴⁹ that the Charter is part of Nigerian law and courts must enforce it. However, Article 28 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act provides that: 'Every individual shall have the duty to respect and consider his fellow beings without discrimination and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance'.⁵⁰

⁴⁰ M. Adigun, 'The implementation of the African charter on human and peoples' rights and the convention on the rights of the child in Nigeria: the creation of irresponsible parents and dutiful children?', *The Journal of Legal Pluralism and Unofficial Law*, (2019) (51) (3).

⁴¹ Ibid.

⁴² G. G. Otuturu, 'Casualization of Labour: Implications of the Triangular Employment Relationship in Nigeria', *Beijing Law Review*, (2021) (12) (2).

⁴³ E. Egede, 'Bringing Human Rights Homes: An Examination of the Domestication of Human Rights Treaties in Nigeria' (2007) (51) *Journal of African Law.*, p. 249.

⁴⁴ Constitution of the Federal Republic of Nigeria, (1999).

⁴⁵ E. Ekhatior, 'Improving Access to Environmental Justice under the African Charter: The Roles of NGOs in Nigeria' (2014) (22) *African Journal International Comparative Law*, p. 63.

⁴⁶ E. O. Ekhatior 'Impact of the African Charter on Human and Peoples Rights on Domestic Law: A Case Study of Nigeria' (2015) (4) (2), *Common Law Bulletin*, pp.253-270, available at <<https://www.tandfonline.com/doi/full/10.1080/03050718.2015.1049633> accessed on June 19, 2025

⁴⁷ African Charter on Human and People's Rights (Ratification and Enforcement) Act, 2005.

⁴⁸ African Charter on Human and People's Rights (Ratification and Enforcement) Act, Section 1

⁴⁹ (2000) SC No 45/1997.

⁵⁰ Ibid. Article 28.

Article 19 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act, provides that: All people shall be equal. They shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.⁵¹

Furthermore, Article 29 (7) provides that the individual shall also have the duty:⁵²

To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society.

Violence against Persons (Prohibition) Act 2015: The Violence against Persons (Prohibition) Act (VAPP) was passed into law in May 2015.⁵³ The Act was a result of agitations for the protection of persons against the different forms of violence.⁵⁴ Violence, both at the home front and in the larger society, is fast becoming a trend in recent-day Nigeria.⁵⁵ In Nigeria, 28 percent of all women, almost a third of all women in the country, have experienced physical violence.⁵⁶ It was the need to protect citizens from violence such as these that led to the enactment of the VAPP Act, 2015.⁵⁷ The Violence against Persons (Prohibition) Act is an improvement on the penal and criminal code in relation to violence; it also makes provision for compensation to victims as well as the protection of their rights.⁵⁸

Section. 1(1) of the VAPP Act provides a novel definition of Rape. 'A person commits rape whenever he or she intentionally uses any part of his/her body or thing to penetrate the vagina, anus or mouth of another person, provided the other person did not consent or the consent was obtained by fraud or by any other unlawful means.⁵⁹ The aforesaid is in contrast to conventional rape which as provided in the Criminal code is restricted to non-consensual penetration of the virginal by the penis.'⁶⁰

The infraction of Section 1(1) of the VAPP Act is punishable with life imprisonment.⁶¹ However, this is not a mandatory sentence. This is born out of paragraphs (a)–(c) of Section 1(2), which gives the judge discretion to impose sentences less than life imprisonment.⁶² Where the offender is below 14 years, he may be sentenced to a maximum of 14 years imprisonment.⁶³ Offenders who are 14 years

⁵¹ Ibid. Article 19.

⁵² Ibid. Article 29(7).

⁵³ C. Onyemelukwe, 'Legislating on Violence against Women: A Critical Analysis of Nigeria's Recent Violence against Persons (Prohibition) Act, 2015', *DePaul J. Women, Gender and L*, (2016) (5).

⁵⁴ M. Ladan, 'An Overview of the Violence against Persons (Prohibition) Act 2015', *Social Science Research Network*, (2021) (8).

⁵⁵ O. J. Uniga, and Y. D. Fwa 'Effective Implementation of the Violence Against Persons Prohibition (VAPP) Act, Curbing the Impunity of Perpetrators of Gender Based Violence (Gbv) and Promoting Socio-Economic Development in Nigeria', *IJMSSPCS Online Journal*, (2021) (4) (2).

⁵⁶ A. N., Nwazuoke, 'A Critical Appraisal of the Violence against Persons (Prohibition) Act, 2015', *Journal of Law, Policy and Globalization*, (2016) (47).

⁵⁷ G. O. Akolokwu, and L.O. Nwauz, 'An Inquiry into The Effectiveness of the Legal Framework for the Protection of Women in Nigeria: A Focus On Domestic Violence in The Era of the Violence Against Persons (Prohibition) Act 2015', *Sacha Journal of Human Right*, (2017) (7) (1).

⁵⁸ G. A. Arowolo, 'Protecting women from violence through legislation in Nigeria: Need to enforce anti-discrimination laws', *International Journal of Discrimination and the Law*, (2020) (20) (4).

⁵⁹ Violence Against Persons Act, Section 1(1).

⁶⁰ Criminal Code Act Cap (38) Laws of the Federation of Nigeria (LFN) 2010, Section 35(7) and the Penal Code Act Cap P3. (LFN) 2010, Section. 282.

⁶¹ Violence against Persons Act, Section 1(1).

⁶² Ibid. Section 1 (2) (a) – (c).

⁶³ Ibid. Section 1 (2) (b).

and above are liable to a minimum of 12 years imprisonment.⁶⁴ In the case of gang rape, the offenders are jointly and severally liable to a minimum of 20 years' imprisonment.⁶⁵ It is important to mention at this point that throughout history, sexual violence has been widespread in armed conflict, and often viewed as an unavoidable consequence of warfare.⁶⁶ Sexual violence persists as a devastating phenomenon with damaging consequences for victims, women, men, boys and girls as well as their families and whole communities.⁶⁷ Additionally, such violations remain vastly under-reported, and underestimated in terms of prevalence and consequences.⁶⁸ The humanitarian response to the diverse needs of victims remains insufficient.⁶⁹

Furthermore, 'a person who inflicts physical injury on another by means of any weapon, substance or object commits an offence and is liable on conviction to a term of imprisonment not exceeding 5 years or a fine of 100 thousand naira or both.'⁷⁰ Section 4(1) of the VAPP Act makes it an offence punishable with imprisonment not exceeding two years or fine not exceeding N200,000 or both for any person to intentionally place another in fear of physical injury.'⁷¹ Section 14 of the VAPP Act creates the offence of Verbal, Emotional and Psychological Abuse. The penalty does not exceed imprisonment for 1 year or a fine, not in excess of N100, 000 or both.⁷² It is arguable that most of the offences created by the VAPP Act could cause Emotional and Psychological Discomfort, and this is true with offences such as Rape, inflicting Physical Injury, eviction or false imprisonment.⁷³ Thus, the question that the Courts must decide is the level of Emotional and Psychological Discomfort is sufficient to fall within the offence established in Section 14 of the VAPP Act.⁷⁴ Political Violence has been defined by s. 46 of the VAPP Act as 'any act or attempted act of violence perpetrated in the course of political activities, such as elections, and includes any of the following acts (a) thuggery (b) Mugging (c) Use of force to disrupt meetings or (d) the use of dangerous weapons that may cause bodily harm or injury.' It is obvious that this definition is not exhaustive.⁷⁵

National Emergency Management Agency (Establishment) Act (1999): The National Emergency Management Agency (Establishment) Act was passed into law in March 1991. This legislation provides for the establishment of the National Emergency Management Agency (NEMA), which is responsible for coordinating humanitarian assistance and disaster response efforts, including those related to armed conflict and its impact on women and children. Section 6 of the Act⁷⁶ outlines the functions of the agency which includes the formulation of policies, plans, and guidelines for disaster

⁶⁴ Ibid. 1 (2) (c).

⁶⁵ E. J. Wood, 'Conflict-related sexual violence and the policy implications of recent research', *International Review of the Red Cross*, (2014), 96 (894), 457-478.

⁶⁶ N. Dyani, 'Protocol on the Rights of Women in Africa: Protection of women from sexual violence during armed conflict', *African Human Rights Law Journal*, (2006) (6).

⁶⁷ S. McKay 'The Effects of Armed Conflict on Girls and Women, Peace and Conflict' *Journal of Peace Psychology*, (1998) (4) (4), 381-392

⁶⁸ J. Leatherman, 'Sexual Violence and Armed Conflict: Complex Dynamics of Re-Victimization', *International Journal of Peace Studies* (2007) (12) (1), 53-71.

⁶⁹ Ibid.

⁷⁰ Violence against Persons Act, Section 2 (1).

⁷¹ Ibid. Section 4 (1).

⁷² Ibid. Section 14.

⁷³ A.N. Nwazuoke, 'A Critical Appraisal of the Violence Against Persons (Prohibition) Act, 2015', *Journal of Law, Policy and Globalization*, (2016) (47).

⁷⁴ Ibid.

⁷⁵ Violence Against Persons Act, Section 46.

⁷⁶ National Emergency Management Agency (Establishment) Act (1999).

management; the coordination of disaster response activities; the provision of relief assistance to affected populations; and the establishment and maintenance of emergency response mechanisms which plays a crucial role in coordinating disaster response and humanitarian assistance efforts, including those related to armed conflict.

International Conventions and Protocols

This subsection will examine the relevant international convention that is imperative for the protection of women and children during armed conflict.

Geneva Convention of 1949: Some belligerents in World War II had abused the principles contained in earlier conventions, an International Red Cross conference in Stockholm in 1948 extended and codified the existing provisions.⁷⁷ The conference developed four conventions, which were approved in Geneva on August 12, 1949: the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, the Convention Relative to the Treatment of Prisoners of War, and the Convention Relative to the Protection of Civilian Persons in Time of War.⁷⁸ The Geneva Conventions and their Additional Protocols are at the core of international humanitarian law, the body of international law that regulates the conduct of armed conflict and seeks to limit its effects.⁷⁹ They specifically protect people who are not taking part in the hostilities (civilians, health workers and aid workers) and those who are no longer participating in the hostilities, such as wounded, sick and shipwrecked soldiers and prisoners of war.⁸⁰ The Conventions and their Protocols call for measures to be taken to prevent or put an end to all breaches. They contain stringent rules to deal with what are known as ‘grave breaches’.⁸¹ Those responsible for grave breaches must be sought, tried or extradited, whatever nationality they may hold.⁸² This Geneva Convention relates to the protection of civilians in times of war; civilians in areas armed conflict and occupied territories are protected by the articles of the Fourth Geneva convention.⁸³

Some specific provisions include:

Articles 13 and 32: ‘Civilians are to be protected from murder, torture, or brutality and from discrimination on the basis of race, nationality, religion, and political opinion.’⁸⁴ Article 14 provides that ‘hospitals and safety zones may be established for the wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven.’⁸⁵ Article 18 provides that ‘Civilian hospitals and their staff are to be protected.’⁸⁶ Article 24 provides for the care of children who are apprehended and separated from their families.⁸⁷ Article 25 provides that ‘the international committee of Red cross’s central tracing and protection agency is also authorized to transmit family

⁷⁷ L. Cameron, B. Demeyere, J. Henckaerts, E. La Haye and H. Niebergall-Lackner ‘The updated Commentary on the First Geneva Convention – a new tool for generating respect for international humanitarian law’, *International Review of the Red Cross*, (2015) (97) (900), 1209–1226.

⁷⁸ American Red Cross ‘Summary of the Geneva Conventions of 1949 and Their Additional Protocols’, *International Humanitarian Law*, (2011) (9).

⁷⁹ *ibid.*

⁸⁰ J. James-Elyode, ‘Enforcement of international humanitarian law in Nigeria’, *African Human Rights Law Journal*, (2003) (3).

⁸¹ *Ibid.*

⁸² G. Schwarzenberger, *The Law of Armed Conflict*. (London: Stevens and Sons, 1968).

⁸³ *Ibid.*

⁸⁴ Fourth Geneva Convention of 12 August 1949. Articles 13 and 32.

⁸⁵ *Ibid.* Article 14.

⁸⁶ *Ibid.* Article 18.

⁸⁷ *Ibid.* Articles 24.

news and assist with family reunification, with the help of Red cross and Red Crescent national societies.’⁸⁸ Article 27 provides that ‘the safety, honour, family rights, religious practices, manners and customs of civilians are to be respected.’⁸⁹ Article 55 provides that ‘medical supply and objects used for religious worship are to be allowed passage.’⁹⁰ If supply of medical and religious objects is not possible, they are to facilitate relief shipments by impartial humanitarian organizations, such as ICRC, Red cross or other impartial humanitarian relief organizations authorized by parties to the conflict, to continue their activities.⁹¹ Article 79 to 135 provides that if security allows, civilians must be permitted to lead normal lives; they are not to be deported or interned except for the imperative reasons of security. If internment is necessary, conditions should be at least comparable to those set forth for prisoners of war.⁹² Interestingly, Article 132 provides that ‘Children, pregnant women and mothers with infants and young children, the wounded and sick and those who have been interned for a long time are to be released as soon as possible.’⁹³

Fundamentally, all four Geneva conventions contain an identical article 3, extending general coverage to ‘conflicts of international character’.⁹⁴ In this case of armed conflict not of an international character occurring in the territory of one of the high contracting parties, each party to the conflict shall be bound to apply; as a minimum, the following:⁹⁵ ‘Persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed hors de combat (out of fight) by sickness, wounds, detention or any other cause; shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion, faith, sex, birth or wealth or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; Taking of hostages; Outrages upon personal dignity, in particular, humiliating and degrading treatment; the passing of sentences and the carrying of executions, without previous judgment pronounced by a regularly constituted court; affording all the judicial guarantees which are recognized as indispensable by civilized peoples.’ Article 3 (2) provides that:⁹⁶

The wounded, sick and shipwrecked shall be collected and cared for. An important humanitarian body such as the international committee of the Red Cross, may offer its services to the parties to the conflict; the parties to the conflict should further endeavour to bring into force, by means of special agreements, all parts of the provisions of the present convention. The application of the preceding provisions shall not affect the parties to the conflict.

Additional Protocols II to the Geneva Convention: In the two decades that followed the adoption of the Geneva Conventions, the world witnessed an increase in the number of non-

⁸⁸ Ibid. 25.

⁸⁹ Ibid. Article 27.

⁹⁰ Ibid. Article 55.

⁹¹ Ibid. Article 59.

⁹² Ibid. Articles 75 to 135.

⁹³ Ibid. Article 132.

⁹⁴ N., Melzer, *International Humanitarian Law a Comprehensive Introduction*. (International Committee of the Red Cross, Geneva, 2016).

⁹⁵ Fourth Geneva Convention of 12 August 1949. Article 3 (1).

⁹⁶ Ibid. Article 3 (2).

international armed conflicts and wars of national liberation.⁹⁷ In response, two Protocols Additional to the four 1949 Geneva Conventions were adopted in 1977.⁹⁸ They strengthen the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts and place limits on the way wars are fought and Protocol II was the first-ever international treaty devoted exclusively to situations of non-international armed conflicts.⁹⁹ Protocol II elaborates on the protections of victims caught up in high-intensity internal conflicts such as civil wars; it does not apply to such internal disturbances such as riots, demonstrations and isolated acts of violence.¹⁰⁰ Protocol II expands and complements the non-international protection contained in Article 3 to as all Geneva conventions of 1949.¹⁰¹ Article 4 provides that ‘persons who do not take a direct part or who has ceased to take part in hostilities are entitled to respect; in all circumstances, they are to be treated humanely.’¹⁰² Protocol II, specifically prohibits violence to the life, health, and physical or mental well-being of people; in particular, it prohibits acts of murder and cruel treatment, terrorism, hostage taking, slavery, outrages on personal dignity, collective punishment and pillage and these protections are considered guarantees for all persons.¹⁰³ Article 4 equally provides that ‘children are to be evacuated to safe areas when possible and reunited with their families.’¹⁰⁴ Article 5 provides that ‘persons interred or detained during internal conflicts are assured of the same humane treatment as specified by the Geneva Convention.’¹⁰⁵ Impartial humanitarian relief organizations such as the ICRC are to be permitted to continue their humanitarian activities.¹⁰⁶

United Nations Convention on the Rights of the Child 1989: The Convention was adopted by the UN General Assembly on 20 November 1989 and entered into force in September 1990.¹⁰⁷ The Convention outlines in 41 articles the human rights to be respected and protected for every child under the age of eighteen years.¹⁰⁸ Non-discrimination, Best interest of the child, right to life, survival and development, right to be heard.¹⁰⁹ Article 1 of the Convention provides that ‘for the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.’¹¹⁰ Article 6 (1) of the Convention provides that ‘States Parties recognize that every child has the

⁹⁷ K. Balarabe *Africa and the Domestic Implementation of the Geneva Conventions and Additional Protocols: Problems and Solutions*. (Cambridge Press, 2022).

⁹⁸ J. James-Elyode, ‘Enforcement of international humanitarian law in Nigeria’, *African Human Rights Law Journal*, (2003) (3).

⁹⁹ *Ibid.*

¹⁰⁰ J. Pictet, *Development and Principles of International Humanitarian Law*. (Martinus Nijhoff: Netherland 1985)

¹⁰¹ *Ibid.*

¹⁰² Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). Article 4.

¹⁰³ A. Oshoma, ‘Legal Classification of Conflict in Nigeria (Boko Haram Case Study)’, *Social Science Research Network*, (2021) (8).

¹⁰⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, Article 4.

¹⁰⁵ *Ibid.* Article 5.

¹⁰⁶ *Ibid.* Article 15.

¹⁰⁷ N. Fairhall, and K. Woods ‘Children’s Views on Children’s Rights: A Systematic Literature Review’ *The International Journal of Children’s Rights*, (2021) (29), 835–871.

¹⁰⁸ D. Reynart, M. Bouverne-De Bie, and S. Vandeveldel ‘A Review of Children’s Rights Literature since the Adoption of the United Nations Convention on the Rights of the Child’, *Childhood*, (2009) (16) (4), 518-534.

¹⁰⁹ *ibid.*

¹¹⁰ Convention on the Rights of the Child, 1989. Article 1.

inherent right to life.¹¹¹ Article 6 (2) provides that States Parties shall ensure to the maximum extent possible the survival and development of the child.¹¹²

Article 9 (1) provides that ‘States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child’s place of residence.’¹¹³

International Covenant on Civil and Political Rights (ICCPR) 1976: This Covenant was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 23 March 1976.¹¹⁴ By May of 2012, the Covenant had been ratified by 167 states. It elaborates further the civil and political rights and freedoms listed in the Universal Declaration of Human Rights.¹¹⁵ The ICCPR is considered a seminal document in the history of international law and human rights, forming part of the International Bill of Human Rights, along with the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR).¹¹⁶ The International Covenant on Civil and Political Rights (hereinafter referred to ICCPR) is the core of the legally binding human rights protection at the universal level. ICCPR is an international human rights treaty, providing a range of protections for civil and political rights. It is open for ratification to all states so it has universal relevance.¹¹⁷ The Covenant consists of a preamble, which links the full implementation of equal rights for all members of the human family and 53 articles.¹¹⁸ The preamble calls some equally fundamental general political requirements, necessary for the promotion of full equality between men and women in the exercise of their human rights. It also proclaims the ideal of free human beings enjoying civil and political freedom and everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.¹¹⁹

The substantive articles of the ICCPR are analyzed in separate chapters; they can be categorized in five categories: Protection on individual’s physical integrity; Procedural fairness in law; Protection based on gender, religious, racial or other forms of discrimination; Individual freedom of belief, speech, association, freedom of press, right to hold assembly; Right to political participation.¹²⁰ The Covenant compels governments to take administrative, judicial and legislative measures in order to

¹¹¹ Ibid. Article 6 (1).

¹¹² Ibid. Article 6 (2).

¹¹³ Ibid. Article 9 (1).

¹¹⁴ J. Temperman, ‘The International Covenant on Civil and Political Rights and the “Right to be Protected against Incitement’’, *Journal of Law, Religion and State*, (2019) (10).

¹¹⁵ N. Maisley, ‘The International Right of Rights? Article 25(a) of the ICCPR as a Human Right to Take Part in *International Law-Making*’, *European Journal of International Law*, (2017) (28), (1).

¹¹⁶ A. Umejiaku, ‘Advocating for the Protection of Rights of Children and Women in Nigeria: An Appraisal’, *Journal of Legal Studies*, (2020) (26) (40), 48-65.

¹¹⁷ A. Haxhiraj, ‘The Covenant on Civil and Political Rights’ *Juridical Tribune*, (2013) (3) (2), pp.308-309.

¹¹⁸ L. C. Keith, ‘The United Nations International Covenant on Civil and Political Rights: Does it make a Difference in Human Rights’ (1999) (36) (1), *Journal of Peace Research* pp.95-118.

¹¹⁹ Ibid.

¹²⁰ J. D. Abiodun ‘Impediments to Human Rights Protection in Nigeria’, *Annual Survey of International & Comparative*, (2012) (18) (6).

protect the rights enshrined in the treaty and provide an effective remedy.¹²¹ Article 2 (1) of the ICCPR provides that:¹²²

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3 of ICCPR provides that ‘the State's Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.’¹²³ Furthermore, Article 5 of ICCPR provides that:¹²⁴

Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Article 17 of ICCPR provides that:¹²⁵

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Finally, Article 26 of ICCPR provides that:¹²⁶

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth or other status.

Universal Declaration of Human Rights 1948: The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights.¹²⁷ Drafted by representatives with different legal and cultural backgrounds from all regions of the world, it set out, for the first time, fundamental human rights to be universally protected.¹²⁸ The UDHR was adopted by the newly established United Nations on 10 December 1948, in response to the ‘barbarous acts

¹²¹ R. Liss ‘A Right to Belong: Legal Protection of Sociological Membership in the Application of Article 12(4) of the ICCPR’, *New York University Journal of International Law and Politics (JILP)*, (2014) (46), 1097-1191

¹²² International Convention on Civil and Political Rights (ICCPR), 1976., Article 2(1).

¹²³ Ibid. Article 3.

¹²⁴ Ibid. Article 5.

¹²⁵ Ibid. Article 17.

¹²⁶ Ibid. Article 26.

¹²⁷ U. E. Ofodile ‘The Universal Declaration of Human Rights and The African Child Today: Progress or Problems?’, *AM. U. INT’L L. REV.*, (2010) (2) (5).

¹²⁸ C. Hanne, ‘Born Free and Equal: The History of the Universal Declaration of Human Rights’, *Advances in Social Sciences Research Journal*, (2020) (7) (6).

which outraged the conscience of mankind' during the Second World War.¹²⁹ Its adoption recognized human rights to be the foundation for freedom, justice, and peace.¹³⁰ Article 1 of the UDHR provides that 'all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'¹³¹ Also, the UDHR provides in Article 2:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status¹³²

Article 7 of UDRH further provides that:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.¹³³

Article 16 (1), (2), and (3) UDHR provides that:

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.¹³⁴

Article 20 of UDHR provides that 'everyone has the right to freedom of peaceful assembly and association.'¹³⁵

Convention on the Elimination of all Forms of Discrimination against Women 1979: For years, women were discriminated against in the world for different reasons such as physical and emotional limitations, for instance they were paid less for jobs and deprived of many top-level positions.¹³⁶ The Convention on the Elimination of all forms of Discrimination Against Women (hereinafter referred to as CEDAW) is one of the most important efforts on defending women's right in the world. The law was adopted in 1979 by United Nations General Assembly and it is stated as an international bill of rights for women.¹³⁷ The law includes a preamble and 30 articles, which tries to give a comprehensive explanation on different types of discrimination against women and sets up a schedule for national

¹²⁹ S. Abdul-Mumin 'Universal declaration of human rights and cultural diversity in Nigeria' (A Paper presented at Second ISA Forum of Sociology, 2012).

¹³⁰ J.A. Dada, 'Human Rights Protection in Nigeria: The Past, the Present, and Goals for Role Actors for the Future', *Journal of Law, Policy and Globalization*, (2013) (14).

¹³¹ UDHR. Article 1.

¹³² Ibid. Article 2.

¹³³ UDHR. Article 7.

¹³⁴ Ibid. Article 16 (1), (2) and (3).

¹³⁵ Ibid. Article 20.

¹³⁶ A.C. Byrnes, 'The Convention on the Elimination of All Forms of Discrimination Against Women and the Committee on the Elimination of Discrimination Against Women: Reflections on Their Role in the Development of International Human Rights Law and as a Catalyst for National Legislative and Policy Reform', *UNSW Law Research Journal*, (2010) (17).

¹³⁷ H. Mansour, 'A Study on the Convention on the Elimination of all Forms of Discrimination against Women' *Management News Letters*, (2012), (2), 775-780.

action to end such discriminations.¹³⁸ The idea of the convention is to provide a basis for realizing equality between women and men through guaranteeing women's equal access and equal opportunities in political and public life. It includes the right to vote in all elections, education, health and employment.¹³⁹

The Convention is an attempt to develop rules and regulations for supporting the rights of women, which includes their cultures, traditions and influential forces shaping gender roles and family relations.¹⁴⁰ It affirms women's rights to acquire, change or keep their nationality of themselves as well as their children.¹⁴¹ Article 1 of CEDAW provides that:

For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.¹⁴²

Interestingly Article 3 provides that:

States Parties shall take in all fields, in particular in the political, social, economic, and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.¹⁴³

Article 5 provides that: States Parties shall take all appropriate measures:

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.¹⁴⁴

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

1984: The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter known as Convention Against Torture or CAT) was adopted by the United

¹³⁸ N. I. Aniekwu 'The Convention on the Elimination of All Forms of Discrimination Against Women and the Status of Implementation on the Right to Health Care in Nigeria', *Human Rights Brief*, (2006) (13) (10).

¹³⁹S. Adewalle, 'The United Nations' Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) And Women's Rights in Nigeria', *Adekunle Ajasin Law Journal*, (2021) (16).

¹⁴⁰ O. Olomola, 'Adoption of the convention on the elimination of all forms of discrimination against women (CEDAW) and women rights in Nigeria – a wild goose chase?', *African Journal for the Psychological Study of Social Issues* (2008) (11).

¹⁴¹ C. Lloyd 'From Taboo to Transnational Political Issue: Violence against Women in Algeria', (2006) (29) (5).

Women's Studies International Forum, pp. 453-462.

¹⁴² Convention on the Elimination of all Forms of Discrimination against Women, Article 1.

¹⁴³ *Ibid.* Article 3.

¹⁴⁴ *Ibid.* Article 5.

Nations in 1984.¹⁴⁵ The Convention against Torture imposes specific obligations to prevent and enforce the prohibition against torture and cruel, inhuman, or degrading treatment.¹⁴⁶ Among other obligations, States parties that have adopted the Convention Against Torture must ensure that ‘any statement which is established to have been made as a result of torture... not be invoked as evidence in any proceedings.’¹⁴⁷ As with the Covenant, the Convention Against Torture provides that the prohibition against torture is a non-derogable obligation,¹⁴⁸ and no order from a superior officer or a public authority may be invoked as a justification of torture.¹⁴⁹ Article 19 (1) provides that ‘the States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.’¹⁴⁹

African Charter on the Rights and Welfare of the Child: This Charter¹⁵⁰ covers the protection of the African child and we shall be referencing Article 22 as it relates to armed conflicts provides ‘that (1) States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child. (2) States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child. (3) States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situation of internal armed conflicts, tension and strife.’¹⁵¹

3. Conclusion and Recommendations

The legal framework for protecting women and children during armed conflict in Nigeria, while robust in theory, continues to face significant challenges in practical implementation and enforcement. Although Nigeria has ratified key international, regional, and national legal instruments—including the Geneva Conventions, Additional Protocols, the Child Rights Act, and the Violence Against Persons (Prohibition) Act—their full domestication into domestic law remains inconsistent. This legal gap weakens the practical application of protections for women and children, leaving them vulnerable to continued human rights violations. Institutional weaknesses and inadequate law enforcement mechanisms present additional barriers to ensuring the safety of women and children in conflict settings. Many security agencies and judicial bodies lack the necessary resources, training, and coordination to effectively implement protective measures. Corruption, bureaucratic inefficiencies, and delays in prosecuting perpetrators of war crimes further undermine the effectiveness of Nigeria’s legal framework. Furthermore, deep-rooted cultural and societal norms continue to perpetuate gender-

¹⁴⁵ C. Heilmen and D. Weissbroth, ‘Defining Torture, Cruel, Inhuman and Degrading Treatment’ (2011) (29) (343), University of Minnesota Law School Journal.

¹⁴⁶ V. V. Tarhule, and Y., Ornguga ‘Curbing Incidences of Torture through Legislation: Focus on the Nigerian Anti-Torture Act, 2017’, *Benue State University Law Journal*, (2018) (9). <<https://www.bsum.edu.ng/w3/files/lawJournal/vol8n1/article2.pdf> > accessed June 19, 2025

¹⁴⁷ Convention against Torture. Article 15.

¹⁴⁸ *Ibid.* Article 2 (3).

¹⁴⁹ *Ibid.* Article 19.

¹⁵⁰ African Charter on the Rights of the Child. Adopted and opened for signature 11th July 1990 and it entered into force 29 November 1999.

¹⁵¹ Article 22 of the African Charter on the Rights of the Child.

based discrimination, limiting access to justice and support services for women and children affected by conflict. The ongoing security crisis in Nigeria, particularly due to insurgent groups such as Boko Haram and armed bandits, exacerbates these challenges. These groups engage in egregious violations, including mass abductions, sexual violence, and the recruitment of child soldiers, all of which are direct contraventions of both national and international legal standards. The unstable security environment restricts the ability of law enforcement agencies, humanitarian organizations, and international bodies to provide effective interventions and relief to affected populations. As a result, many victims of armed conflict are left without adequate legal protection or avenues for redress.

Based on the findings of this research, the following recommendations are imperative for consideration:

- i. The Federal Government of Nigeria should put in mechanisms to ensure the training programs for Institutions engaged in the Protection of Women and Children during Armed Conflict.
- ii. The domestic institutions that are mandated to handle humanitarian situations such as the National Emergency Management Agency and other non-governmental organizations should be adequately funded to boost their morale and acquire the necessary equipment to do their work.
- iii. Mechanisms should be put in place by the Government to collate the necessary information and intelligence needed to protect these women and children, which such information will help the relevant government institutions to act fast before the escalation of the issue.
- iv. A transparent mechanism should be put in place by the Government of Federal Republic of Nigeria to ensure that most of these domestic laws and conventions are implemented by putting in place a neutral body that will boost the enforcement to ensure these humanitarian crises against women and children are averted.
- v. The government of Nigeria should domesticate the Convention on the Elimination of All Forms of Discrimination against Women to enable individual women to access justice at the national court upon any threat or actual violation of their rights under the instrument.

Ultimately, the Federal Government should put strong mechanisms to ensure the security of lives and property, nobody deserves the kind of violation of human dignity and forced recruitment of child soldiers in the North east and should be tackled by putting adequate security measures in place, because the primary duty of government is to protect lives and properties.