



Armed Conflict and the Protection of Civilians Under International Humanitarian Law in Nigeria

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ABSTRACT

The article examines the historical development, sources and principles of international humanitarian law (IHL) relative to the protection of civilians in armed conflicts. It also ascertains the criteria for assessing the existence of armed conflicts. It further elucidates the IHL applicable to the protection of civilians in Nigeria. Finally, it identifies the challenges that the armed conflict between the Nigerian Armed Forces and the Boko Haram Non-State Armed group poses for IHL to adequately protect civilians in Nigeria. This is to be done with a view to examining armed conflict and the protection of civilians under IHL in Nigeria.

To achieve this goal, the article relies on both primary and secondary sources of information. The primary source comprises judicial decisions, domestic law, international customary law, general principles and treaties. The secondary source consists of textbooks, journal articles, newspaper publications and the Internet. It is hopeful that the findings will benefit researchers, students, institutions and will contribute to the knowledge in the academic world.

1. Introduction

Since time immemorial, the effects of armed conflicts on civilians remain dreadful, physical trauma, emotional injury, destruction of property and violation of their rights.¹International humanitarian law (IHL) was born in order to curtail the pain of victims particularly civilians in situations of armed conflict and to restrain the strategies which are injurious to them during military operations.²The multiplication of 'asymmetrical conflicts' is highly destructive to civilians as the non-state armed groups embark on tactics of violating IHL through the pretense of appearing as protected persons, using civilians as human cover and intentionally fighting from the midst of civilians thus, making it difficult for the combatants to observe the rules of engagement.³The Boko Haram Non-State Armed Group has assassinated innocent noncombatants, enlisted teenage fighters, kidnapped a great number of women, girls and boys, compulsorily took them as wives and used some for prostitution services.⁴Conversely, the Nigerian Security Forces have falsely imprisoned and murdered many people outside the ordinary course of legal proceedings, maltreated and denied persons of their freedom, abused and defiled women.⁵The government of Nigeria is under obligation to adequately provide 'security and welfare for its citizens' including civilians in armed conflict.⁶As a State party to the Geneva Conventions and their Additional Protocols, the government must enhance humane treatment for all the civilians who do not involve in the conflict or are no more involving in it.⁷Common article 3 having attained the status of 'jus cogens as a minimum of customary international law' is binding on parties to the conflict irrespective of their formal recognition.⁸One of the most intimidating challenges is not the failure of the IHL to promote effective protection of civilians but the unwillingness of the parties in the conflict to conform to the rules of IHL.⁹In the light of the foregoing, this thesis seeks to examine Armed Conflict and the Protection of civilians under International Humanitarian Law in Nigeria.

¹ Nils Melzer, *International Humanitarian Law: A Comprehensive Introduction* (ICRC, August 2016) 12 <<https://www.icrc.org/en/publication/4231-international-humanitarian-law-comprehensive-introduction>> accessed 10 June 2024.

² Nils Melzer, *International Humanitarian Law: A Comprehensive Introduction* (ICRC, August 2016) 12 <<https://www.icrc.org/en/publication/4231-international-humanitarian-law-comprehensive-introduction>> accessed 10 June 2024

³ Camilla Waszink, 'Protection of Civilians under International Humanitarian Law: Trends and Challenges' (2011) 5 *Norwegian Peace-building Resource Centre (NOREF) Report* (August 2011) <http://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/reclaiming_background.pdf> accessed 18 August 2024.

⁴ Amnesty International (AI), 'Nigeria: Willingly Unable: ICC Preliminary Examination and Nigeria's Failure to Address Impunity for International Crimes' (10 December 2018) 4 <<https://www.amnesty.org/en/documents/afr44/9481/2018/en/>> accessed 03 May 2024.

⁵ Amnesty International (AI), 'Nigeria: Willingly Unable: ICC Preliminary Examination and Nigeria's Failure to Address Impunity for International Crimes' (10 December 2018) 4 <<https://www.amnesty.org/en/documents/afr44/9481/2018/en/>> accessed 03nMay 2024

⁶ Constitution of the Federal Republic of Nigeria (as Amended) 1999, s 14 (2) (b)

⁷ U O Umzurike, *Introduction to International Law* (3rd edn, Spectrum Books Limited 2005) 225

⁸ U O Umzurike, *Introduction to International Law* (3rd edn, Spectrum Books Limited 2005) 226

⁹ Camilla Waszink, 'Protection of Civilians under International Humanitarian Law: Trends and Challenges' (2011) *Norwegian Peace-building*

2. Clarification of Concepts

For proper understanding, there is need to clarify the following concepts: international humanitarian law, armed conflict, international armed conflict, non-international armed conflict, combatants, civilians, protection of civilians, civilian objects, military objects and non-state armed group

2.1. International Humanitarian Law

International humanitarian law is the law of armed conflicts which steps in for the common good to protect individuals who do not or are no more taking part in warfare and to restrain military operations that are injurious to mankind.¹⁰

2.2 Armed Conflicts

An armed conflict arises when a sovereign authority uses armed force or threat against another State or when a non-state armed group rebelled against a de jure government or between such groups in a State.¹¹

2.3 International Armed Conflict

International armed conflict occurs when a fight is proclaimed or armed conflict between two or more States, even if the condition of armed violence is not acknowledged by one of them or partial or total occupation of the territory of a State, even if the said occupation meets with no armed resistance.¹²

The International Criminal Tribunal of the former Yugoslavia (ICTY) established that 'international armed conflict exists whenever there is a resort to armed force between States'.¹³

2.4 Non-International Armed Conflict

A non-international armed conflict begins when a non-state armed group rebelled against a de jure government or when such groups fight themselves in a State.¹⁴ The intensity of the conflict and the organization of the parties are the two criteria to determine whether the situation of the armed confrontation amounts to a NIAC under international humanitarian law.¹⁵

2.5 Intensity of Violence

The *Boskoski* Trial Judgment enumerated indicators to examine the 'intensity' of the conflict as follows: the protracted nature of the hostilities; inclusion of the United Nations Security Council in the conflict; total civilians displaced; the kind of weapons and combatant instrument employed; the level of property destroyed; total casualties; the aggregate of armed forces involved in the confrontations; and peaceful initiatives.¹⁶

Resource Centre (NOREF) **Report** (August 2011) 2

<http://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/reclaiming_background.pdf> accessed 18 August 2024.

¹⁰ICRC, International Humanitarian Law Answers to your Questions (2014) 4 <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0703.pdf> accessed 10 June 2024.

¹¹ ICTY, *Prosecutor v Dusko Tadić (aka 'Dule')*, Appeals Chamber, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1, 2 October 1995 para.70 <<http://www.icty.org/x/cases/tadic/acdec/en/51002.htm>> accessed 29 March 2024

¹² Geneva Conventions of 1949, Common Article 2

¹³ICTY, *Prosecutor v Tadić*, Opinion and Judgment, 7 May 1997 para.562

¹⁴ ICTY, *The Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, IT-04-82-T para.194, Judgment of 10 July 2008 <www.icty.org> accessed 10 May 2024

¹⁵ ICTY, *The Prosecutor v. Dusko Tadić*, IT-94-1-AR72 para.562, Appeals Chamber, Decision, 2 October 1995 <<http://www.un.org>> accessed 12 February 2024

¹⁶ ICTY, *The Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, IT-04-82-T, para.177 Judgment of 10 July 2008 <http://www.icty.org/x/cases/boskoski_tarculovski/tjug/en/080710.pdf> accessed 10 May 2024

2.6 Organization

For the assessment of the level of organisation of an armed group the *Boskoski* Trial Chambers have recommended five benchmarks as follows: the presence of a command organization and penalizing guidelines;¹⁷ power to strategize and take actions;¹⁸ power to enlist fresh intake and effectively disseminate information;¹⁹ correctional orders and ‘mechanisms’;²⁰ the power to dialogue and bring the conflict to an end.²¹

2.7 Combatants

Combatants are ‘all members of the armed forces of a party to the conflict, except medical and religious personnel’.²² The Nigerian Armed Forces comprise the Nigerian Army, the Nigerian Navy and the Nigerian Air Force referred to as ‘Army’, ‘Navy’ and ‘Air Force’ respectively.²³ The Nigerian Police, Medical and Religious Personnel, Civil Defence Workers and Administrative Personnel are not Combatants, but they enjoy a protected status.²⁴

2.8 Civilians

For the purpose of this study, civilians mean non-combatants who do not or are no more involving in armed conflict such as children, women, the elderly, the disabled, journalists, religious personnel, teachers, medical personnel, Humanitarian workers, humanitarian assistance.²⁵ Civilians are ‘persons who are not members of the armed forces and the civilian population comprise all persons who are civilians’.²⁶

2.9 Protection of Civilians

Protection of the Civilian is defined as:

all activities that seek to promote the safety, physical integrity, and dignity of the civilian population, especially of vulnerable groups; the prevention of war crimes and other acts of violence against civilians; and the safeguarding of access to humanitarian aid and the promotion of full respect for the rights of the civilians, in accordance with human rights and international humanitarian law.²⁷

2.10 Civilian Objects

Civilian objects are ‘all objects that are not military objectives’.²⁸ Civilian objects ‘are protected against attack, unless and for such time as they are military objectives’.²⁹

2.11 Military Objectives

Military objectives are ‘limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage’.³⁰

¹⁷ ICTY, *The Prosecutor v. Ljube Bošković and Johan Tarčulovski*, IT-04-82-T, para.199 Judgment of 10 July 2008 <http://www.icty.org/x/cases/boskoski_tarculovski/tjug/en/080710.pdf> accessed 10 May 2024

¹⁸ ICTY, *The Prosecutor v. Ljube Bošković and Johan Tarčulovski*, IT-04-82-T, para.200 Judgment of 10 July 2008 <http://www.icty.org/x/cases/boskoski_tarculovski/tjug/en/080710.pdf> accessed 10 May 2024

¹⁹ ICTY, *The Prosecutor v. Ljube Bošković and Johan Tarčulovski*, IT-04-82-T, para.201 Judgment of 10 July 2008 <http://www.icty.org/x/cases/boskoski_tarculovski/tjug/en/080710.pdf> accessed 10 May 2024

²⁰ ICTY, *The Prosecutor v. Ljube Bošković and Johan Tarčulovski*, IT-04-82-T, para.202 Judgment of 10 July 2008 <http://www.icty.org/x/cases/boskoski_tarculovski/tjug/en/080710.pdf> accessed 10 May 2024

²¹ ICTY, *The Prosecutor v. Ljube Bošković and Johan Tarčulovski*, IT-04-82-T, para.203 Judgment of 10 July 2008 <http://www.icty.org/x/cases/boskoski_tarculovski/tjug/en/080710.pdf> accessed 10 May 2024

²² Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Volume I, Rule 3 (Cambridge, Cambridge University Press, 2005) 11

²³ Armed Forces Act Cap A20 Laws of the Federation of Nigeria 2004, s 1 (1)

²⁴ I E Sagay, ‘Evaluation/Assessment of the Level of Implementation of International Humanitarian Law in Nigeria’ in Adekunle E Ajala & Itse E Sagay (eds), *Implementation of International Humanitarian Law in Nigeria* (The Regional Delegate of ICRC, 1997) 60

²⁵ ICRC, IHL Bibliography: Protection of Persons (1st Quarter 2017) 11

²⁶ CIHL, Rule 5

²⁷ Foreign & Commonwealth Office, ‘Research Analysts Paper: Protection of Civilians- Developments since 2009’ (September 2015) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479097/RA_Newsletter_Nov_2015_Protection_of_civilians.pdf> accessed 30 September 2024

²⁸ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law Rules* Volume I Rule 9 (ICRC Cambridge University Press 2005) 32

²⁹ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law Rules* Volume I Rule 10 (ICRC Cambridge University Press 2005) 35

³⁰ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law Rules* Volume I Rule 8 (ICRC Cambridge University Press 2005) 29; Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict 1999, Article 1(f) <http://portal.unesco.org/en/ev.php URL_ID=15207&URL_DO=DO_TOPIC&URL_SECTION=201.html> accessed 010 May 2024

2.12 Non-State Armed Groups

Organized armed groups have 'a command-and-control structure, possess and use a variety of weapons and control that give them the capability to conduct regular military operations'.³¹

3. Review of Empirical Literature

The counter-insurgency operations of Nigerian Armed Forces against Boko Haram remain one of the African's fatal conflicts.³² Since 2009 civilians have suffered protection crises as a result of the NIAC in Nigeria.³³ How to fill the lacuna between the protections the law accorded civilians and the systematic violations of the IHL on the ground appears difficult to deal with.³⁴

3.1 Classification of the Armed Conflict

The armed violence occurring since July 2009 between Nigeria Armed Forces and Boko Haram non-state armed group has been classified as a non-international armed conflict (NIAC).³⁵ The intervention of the Multinational Joint Task Force which comprised military forces from Cameroon, Chad, Niger, and Nigeria in support of the Government of Nigeria since 2014 has not changed the status of the armed conflict as non international.³⁶ It operates under an African Union Peace and mandate supported by the United Nations Security Council.³⁷

3.2 History and Causes of the Conflict

The origin of Boko Haram is traced to 2000 as a small Sunni Islamic sect in Nigeria recommending a strict enforcement of Islamic law.³⁸ When the founder Mohammed Yusuf was killed in police custody in 2009, Abubakar Shekau became the next leader of Boko Haram.³⁹ Shekau's indiscriminately attacked on Muslim civilians and introduction of the use of child suicide bombers caused division in the group.⁴⁰ [Sheikh Abu Musab al-Barnawi the son of Mohammed Yusuf was announced by SIS publication al-Naba as the new leader of Boko Haram on the 3rd of August 2016.](#)⁴¹ Barnawi relinquished attacks against Muslim civilians and started targeting government and security force.⁴² Barnawi received recognition as IS-WA's new *wali* ("governor") by the Islamic State leadership thereby replacing Shekau who condemned Barnawi as nonconformist.⁴³ Boko Haram was named "Wilayat Gharb Afriqiyya" or "Wilayat Gharb Afriqiyyah," which means the Islamic State of West Africa on the 7th of March 2015 by Shekau in an audio message purportedly pledged allegiance to [ISIS](#), the Islamic militant group which controls areas of [Iraq](#) and Syria.⁴⁴ The Amir the leader of Boko Haram is the head of the Shura the council of elders with seven members and each one of them leads a ministry across the administration of the group.⁴⁵ Commanders

³¹ Annyssa Bellal, 'The War Report: Armed Conflicts in 2017' Geneva *Academy of International Humanitarian Law and Human Rights* (Geneva Academy (eds.) (March 2018) 24 <https://www.geneva-academy.ch/our-projects/our-projects/armed-conflict/detail/30-the-war-report>> accessed 28 September 2024

³² John Campbell & Asch Harwood, 'Boko Haram's Deadly Impact' (20 August 2018) para. 1 Council on Foreign Relations (CFR) <<https://www.cfr.org/article/boko-harams-deadly-impact>> accessed 10 May 2024

³³ Lauren Ploch Blanchard & Katia T. Cavigelli, 'Boko Haram and the Islamic State's West Africa Province' (28 June 2018) Congressional Research Service (CRC) para.1 <<https://fas.org/sgp/crs/row/IF10173.pdf>> accessed 10 October 2024

³⁴ Eva Svoboda and Emanuela-Chiara Gillard, 'Protection of Civilians in Armed Conflict Bridging the Gap between Law and Reality' (2015) Humanitarian Policy Group (HPG) <<https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9876.pdf>> accessed 08 October 2024

³⁵ RULAC, 'Nigeria: A Non-International Armed Conflict Involving Boko Haram and Troops from Benin, Cameroon, Chad and Nigeria' (18 December 2018) <<http://www.rulac.org/news/nigeria-a-non-international-armed-conflict-involving-boko-haram-and-troops>> accessed 12 October 2024

³⁶ RULAC, 'Non-International Armed Conflict in Nigeria' (4 February 2019) para.1 *Geneva Academy* <<http://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-nigeria#collapse4accord>> accessed 21 October 2024

³⁷ Chiara Redaelli, 'Nigeria: A Non-International Armed Conflict involving Boko Haram and Troops from Benin, Cameroon, Chad' (18 December 2019) para. 5 RULAC, *The Geneva Academy of International Humanitarian Law and Human Rights Law* <<http://www.rulac.org/news/nigeria-a-non-international-armed-conflict-involving-boko-haram-and-troops>> accessed 2 October 2024

³⁸ John Campbell & Asch Harwood, 'Boko Haram's Deadly Impact' (20 August 2018) para.1 Council on Foreign Relations (CFR) <<https://www.cfr.org/article/boko-harams-deadly-impact>> accessed 10 October 2024

³⁹ Lauren Ploch Blanchard & Katia T. Cavigelli, 'Boko Haram and the Islamic State's West Africa Province' (28 June 2018) para.6 Congressional Research Service (CRC) <<https://fas.org/sgp/crs/row/IF10173.pdf>> accessed 10 October 2024

⁴⁰ Lauren Ploch Blanchard & Katia T. Cavigelli, 'Boko Haram and the Islamic State's West Africa Province' (28 June 2018) para.6 Congressional Research Service (CRC) <<https://fas.org/sgp/crs/row/IF10173.pdf>> accessed 10 October 2024

⁴¹ CNN 'Boko Haram Fast Facts' (19 October 2019) <<https://edition.cnn.com/2014/06/09/world/boko-haram-fast-facts/index.html>> accessed 3 October 2024

⁴² Lauren Ploch Blanchard & Katia T. Cavigelli, 'Boko Haram and the Islamic State's West Africa Province' (28 June 2018) para.6 Congressional Research Service (CRC) <<https://fas.org/sgp/crs/row/IF10173.pdf>> accessed 10 October 2024

⁴³ Lauren Ploch Blanchard & Katia T. Cavigelli, 'Boko Haram and the Islamic State's West Africa Province' (28 June 2018) para.6 Congressional Research Service (CRC) <<https://fas.org/sgp/crs/row/IF10173.pdf>> accessed 10 October 2024

⁴⁴ CNN 'Boko Haram Fast Facts' (19 October 2019) <<https://edition.cnn.com/2014/06/09/world/boko-haram-fast-facts/index.html>> accessed 3 September 2024

⁴⁵ RULAC, 'Non-International Armed Conflict in Nigeria' (Monday 4th February 2019) <<http://www.rulac.org/browse/conflicts/non-international-armed->

have executive powers and sub-commanders direct and lead foot-soldier operations, called maaskars.⁴⁶ Boko Haram still controls the Sambisa Forest, the Mandara Mountains and the islands of Lake Chad.⁴⁷

The United Nations has estimated 70 per cent of 500 million small arms and light weapons (SALW) circulating in West African to be domiciled in Nigeria and they found their way into the hands of non-state actors threatening the lives and properties of the civilians.⁴⁸ The hostile counter-insurgency operations declared by the President Muhammadu Buhari against the group led to intentional attacks on civilians and civilian objects.⁴⁹ The critical economic and political conditions, ethnic, religious or communal interest have motivated Boko Haram to rebel against the government in warfare.⁵⁰ Bad governance, corruption, inequality, poverty, lack of social amenities, power and education all fueled the conflict.⁵¹

3.3 Parties and Spill over of the Conflict

The parties to the non-international armed conflict are the Boko Haram non-state armed group, the Nigerian Armed Forces and the Multinational Joint Task Force (MNJTF) made up of the deployment of forces and assets by Nigeria, Cameroon, Chad and Niger.⁵² As a result of spill over of the conflict, by 2014 Cameroon, Niger and Chad were also involved in the armed conflict, in support of the Nigeria armed forces, thus continuing the qualification of the situation as a NIAC.⁵³ The fragmentation of Boko Haram into different factions did not affect the classification of the conflict as a single NIAC.⁵⁴

3.4 War Crimes Allegations, Investigation and Prosecutions

Nigeria endorsed the Rome Statute of the International Criminal Court on the 27th September 2001.⁵⁵ Under the Rome Statute, the International Criminal Court has jurisdiction over crimes committed on Nigerian territory or by Nigerian nationals from 1st of July 2002 onwards.⁵⁶ The Federal Ministry of Justice has presented a bill to incorporate the Rome Statute of the International Criminal Court to the National Assembly but has not been adopted.⁵⁷ More than 1,500 Boko Haram alleged to have committed various crimes were prosecuted in a military base in Kainji Niger State between October 2017 and July 2018.⁵⁸ The formal examinations of evidence were full of inconsistency due to lack of translators, insufficient legal defense and lack of actionable witnesses.⁵⁹

3.5 Effects of the Conflict on Civilians

The conflict has displaced 2.4 million people and over seven million people at risk of starvation.⁶⁰ From June 2011 through June 2018, the Nigeria Security Tracker (NST) documented 2,021 incidents involving Boko Haram, in which 37,530 people were killed.⁶¹ On March 1, 2018 Boko Haram attacked a

[conflict-in-nigeria#collapse1accord](#)> accessed 14 September 2024

⁴⁶ RULAC, Non-International Armed Conflict in Nigeria' (Monday 4th February 2019) <<http://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-nigeria#collapse1accord>> accessed 14 September 2024

⁴⁷ RULAC, Non-International Armed Conflict in Nigeria' (Monday 4th February 2019) <<http://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-nigeria#collapse1accord>> accessed 14 September 2024

⁴⁸ Vanguard, 'Nigeria Accounts for 70% of Illicit Weapons in W/Africa' (3 August 2016) <www.vanguardngr.com/2016/08/nigeria-accounts-for-70-illicit-weapons-> accessed 10 October 2024

⁴⁹ Lauren Ploch Blanchard & Katia T. Cavigelli, 'Boko Haram and the Islamic State's West Africa Province' (28 June 2018) para.1 Congressional Research Service (CRS) <<https://fas.org/sgp/crs/row/IF10173.pdf>> accessed 10 October 2024

⁵⁰ Crisis Group, Curbing Violence in Nigeria (II): The Boko Haram Insurgency, (3 April 2014) 1 <<https://www.crisisgroup.org/africa/west-africa/nigeria/curbing-violence-nigeria-ii-boko-haram-insurgency>> accessed 31 November 2024

⁵¹ Crisis Group, 'Curbing Violence in Nigeria (II): The Boko Haram Insurgency', (3 April 2014) 1 <<https://www.crisisgroup.org/africa/west-africa/nigeria/curbing-violence-nigeria-ii-boko-haram-insurgency>> accessed 31 November 2024

⁵² Nigeria Humanitarian Crisis Analysis 2019 (4 December 2018) 1 <<https://www.sida.se/globalassets/sida/eng/how-we-work/humanitarian-aid/hca-2019/hca-nigeria-2019.pdf>> accessed 26 October 2024

⁵³ Sari Arraf, 'Nigeria: A Focus on the Boko Haram Insurgency' in Annysal Bellal (eds) *the War Report Armed Conflicts in (2017)* 100. *The Geneva Academy of International Humanitarian Law and Human Rights (2017)* 51 <<https://www.geneva-academy.ch>> accessed 25 November 2024

⁵⁴ Chiara Redaelli, 'Nigeria: A Non-International Armed Conflict involving Boko Haram and Troops from Benin, Cameroon, Chad' (18 December 2019) para. 4 RULAC, *The Geneva Academy of International Humanitarian Law and Human Rights Law* <<http://www.rulac.org/news/nigeria-a-non-international-armed-conflict-involving-boko-haram-and-troops>> accessed 2 October 2024

⁵⁵ Amnesty International (AI), 'Stars on their Shoulders, Blood on their Hands: War crimes committed by the Nigerian military' (2015) 30. <www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF> accessed 24 September 2024.

⁵⁶ *ibid* 30.

⁵⁷ ECOWAS-ICRC, 'Implementing IHL in West Africa Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation: 2017 Report' (21 August 2018) 15 <<https://www.icrc.org/en/document/implementing-ihl-west-africa>> accessed 12 October 2024

⁵⁸ HRW, 'World Report of 2019: Nigerian Events' of 2018' para.10 <<https://www.hrw.org/world-report/2019/country-chapters/nigeria>> accessed 08 November 2024

⁵⁹ HRW, 'World Report of 2019: Nigerian Events' of 2018' para.10 <<https://www.hrw.org/world-report/2019/country-chapters/nigeria>> accessed 08 November 2024

⁶⁰ John Campbell & Asch Harwood, 'Boko Haram's Deadly Impact' (20 August 2018) para.1 Council on Foreign Relations (CFR) <<https://www.cfr.org/article/boko-harams-deadly-impact>> accessed 10 October 2024

⁶¹ John Campbell & Asch Harwood, 'Boko Haram's Deadly Impact' (20 August 2018) para.5 Council on Foreign Relations (CFR) <<https://www.cfr.org/article/boko-harams-deadly-impact>> accessed 10 October 2024. The Nigeria Security Tracker (NST), a project of the Council on Foreign Relations' Africa program, documents and maps violence in Nigeria that is motivated by political, economic, or social grievances

displacement camp in Rann, Borno State, killing abducted aid worker [Saifura Hussaini Ahmed Khorsa while midwife Hauwa Mohammed Liman was executed](#) after a deadline for negotiations expires, the Nigerian government says on October 16.⁶²

3.5.1 Systematic Violations of IHL by Boko Haram

On the 14 April 2014 Boko Haram kidnapped about 276 girls from Chibok girls.⁶³ On February 19, 2018 Boko Haram also kidnapped 110 students of Dapchi in the northeast Nigerian, released 104 and detained Leah Sharibu on ground that she refused to deny Jesus Christ.⁶⁴ Boko Haram attacked Rann, a border town in Borno state, northeast Nigeria on 28 January 2019 and 60 people were killed.⁶⁵ April 13, 2018 UNICEF says Boko Haram has kidnapped more than 1000 children in northeast Nigeria since 2013.⁶⁶ Boko Haram enlisted 1,092 Children in 2017 out of which 738 were boys and 353 girls, 1 unknown sex).⁶⁷ 2,199 children were denied of freedom by Boko Haram.⁶⁸

3.6 Challenges the Conflict Poses for IHL to Protect Civilians in Nigeria

Article 2 (4) of the Charter of the United Nations 1945 prohibited the use of threat or force by a state against one another.⁶⁹ Article 51 of the Charter granted the right to self-defence against armed attack either individually or collectively with the consent of the United Nations Security Council.⁷⁰ But, the Charter neither defined what constituted self-defence nor anticipated the degree by which acts of terror would be unleashed on people in the future.⁷¹ The Common article 3 contains no definition of the term "armed conflict" and does not provide conditions governing its application.⁷² As there is no set of criteria contained in the Geneva Conventions outlining conditions for the recognition of armed conflict, the characterization of a situation using only the common Article is problematic.⁷³

3.6.1 Implication of Violations of the Common Article 3 and Additional Protocol II

when the Common article 3 and the Protocol were endorsed, punishments were not prescribed for breaches.⁷⁴ However, violations of the Geneva Conventions constitute 'war crimes'.⁷⁵

(<https://www.cfr.org/nigeria/nigeria-security-tracker/p29483>)

⁶² CNN, 'Boko Haram Fast Facts' (19, October 2018) <<https://edition.cnn.com/2014/06/09/world/boko-haram-fast-facts/index.html>> accessed 07 September 2024

⁶³ CNN, 'Boko Haram Fast Facts' (19, October 2018) <<https://edition.cnn.com/2014/06/09/world/boko-haram-fast-facts/index.html>> accessed 07 September 2024

⁶⁴ CNN, 'Boko Haram Fast Facts' (19, October 2018) <<https://edition.cnn.com/2014/06/09/world/boko-haram-fast-facts/index.html>> accessed 07 September 2024

⁶⁵ AI, 'Nigeria: Deadliest Boko Haram Attack on Rann Leaves at Least 60 People Murdered' (1 February 2019) para. 1 <<https://www.amnesty.org/en/latest/news/2019/02/nigeria-deadliest-boko-haram-attack-on-rann-leaves-at-least-60-people-murdered/>> accessed 2 September 2024

⁶⁶ CNN, 'Boko Haram Fast Facts' (19, October 2018) <<https://edition.cnn.com/2014/06/09/world/boko-haram-fast-facts/index.html>> accessed 07 September 2024

⁶⁷ ⁶⁷ Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 'Nigeria' (2017) <<https://childrenandarmedconflict.un.org/where-we-work/other-countries/nigeria/>> accessed 25 November 2024

⁶⁸ Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 'Nigeria' (2017) <<https://childrenandarmedconflict.un.org/where-we-work/other-countries/nigeria/>> accessed 25 November 2024

⁶⁹ M O A Ashiru, 'An Examination of Legal Issues in the Israel-Hezbollah Armed Conflict' in I A Olatunbosun (eds), *Legal Issues for Contemporary Justice in Nigeria* (Cedar Productions 2007) 516

⁷⁰ O A Ashiru, 'An Examination of Legal Issues in the Israel-Hezbollah Armed Conflict' in I A Olatunbosun (eds), *Legal Issues for Contemporary Justice in Nigeria* (Cedar Productions 2007) 516

⁷¹ O A Ashiru, 'An Examination of Legal Issues in the Israel-Hezbollah Armed Conflict' in I A Olatunbosun (eds), *Legal Issues for Contemporary Justice in Nigeria* (Cedar Productions 2007) 516

⁷² Anthony Cullen, 'The Parameters Of Internal Armed Conflict In International Humanitarian Law', 12 U. Miami Int'l & Comp. L. Rev. 189 (2005) 194 <<http://repository.law.miami.edu/umiclr/vol12/iss1/5>> accessed 24 November 2024.

⁷³ Anthony Cullen, 'The Parameters Of Internal Armed Conflict In International Humanitarian Law', 12 U. Miami Int'l & Comp. L. Rev. 189 (2005) 194 <<http://repository.law.miami.edu/umiclr/vol12/iss1/5>> accessed 24 November 2024.

⁷⁴ ICRC, *The Law of Armed Conflict-Lesson 10- Non-international Armed Conflict* (June, 2012) 21 <http://www.icrc.org/eng/assets/files/other/law10_final.pdf> accessed 11 October 2024.

⁷⁵ Rome Statute of the International Criminal Court at Rome on 17 July 1998, in force on 1 July 2002, United Nations, Treaty Series, vol. 2187, No. 38544 (published by ICC 2011) article 8 (2) (3) <https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be940a655eb30e16/0/rome_statute_english.pdf> accessed 11 June 2024

3.6.2 IHL Relative to the Weapons Used in the Conflict in Nigeria

Nigeria ratified the [Anti-Personnel Mine Ban Convention, 1997](#) on the 27th September 2001.⁷⁶ The Convention forbids the use of landmines for human destructions.⁷⁷ However, the killing of over 162 people between 2017/2018 by the Boko Haram has rated Nigeria as the 8th highest in the world for the use of landmines.⁷⁸ Boko Haram used 146 person-borne improvised explosive devices.⁷⁹

3.6.3 Involvement of One or More Foreign States in a Non international Armed Conflict

When one or more foreign States joins a non-international armed conflict the status of an armed conflict as international or non-international can be complicated.⁸⁰ A Multinational Joint Task Force (MNJTF) comprising unit from the countries of the Lake Chad Basin (Nigeria, Niger, Chad and Cameroon) was put into action in January 2015 to fight the growing regional threat of Boko Haram,⁸¹ Where one or more foreign States join a conflict and fight on the governmental side of the State party to the conflict like the case of the Multinational Joint Task Force of Chad, Cameroon, Niger and Nigeria in support of the government of Nigeria, the armed conflict retains its non-international character.⁸²

3.6.4 Civilian Joint Task Force in NIAC in Nigeria

In May 2013 the government established a vigilante group, known as the “Civilian joint task force” to arrest suspected Boko Haram members and hand them over to the security forces in Maiduguri.⁸³ To what extent did they involve in the conflicts and implications for the protection of civilians and what are the responsibilities of the task force in terms of compliance with IHL and the potential difficulties of determining their status as either combatants or civilians under IHL?⁸⁴

3.6.5 Amnesty and Non-international Armed Conflict in Nigeria

The President of the Federal Republic of Nigeria Muhammadu Buhari has said that granting amnesty to the Boko Haram insurgents would make them surrender and embrace peace which will in turn stop bloodshed and save resources for the country.⁸⁵ Article 6(5) of Protocol II Additional to the Geneva Conventions relating to non-international armed conflicts (NIACs) and customary international law rule 159 both provide that: apart from the individuals who committed grave breaches of Common article 3 and Additional Protocol II, amnesty should be given to those who merely took part but ceased from taking part and those denied of their freedom.⁸⁶

3.6.6 IHL and Terrorism in Nigeria

Though IHL does not provide a definition of ‘terrorism’, but forbids most acts committed in armed conflict that would commonly be considered ‘terrorist’.⁸⁷ Article 4 of Additional Protocol II forbids ‘acts of terrorism’ against persons not or no more taking part in hostilities.⁸⁸

⁷⁶ ICRC, ‘State Parties to the Following IHL and other Related Treaties’ (15 April 2019) 10

<https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=NG> accessed 22 May 2024

⁷⁷ Convention on the Prohibition of the Use, stockpiling, production and transfer of Anti-Personnel Mines and on their Destruction Oslo, 18 September 1997, entry into force on the 1st of March 1999, article 1 (1) (a) <https://www.un.org/Depts/mine/UNDocs/ban_trty.htm> accessed 11 June 2024

⁷⁸ Ruth Maclean West African Correspondence of the Guardian International, ‘Conflict and Arms’ (23 September 2018) para.1 <<https://www.theguardian.com/global-development/2018/sep/23/boko-haram-landmines-in-nigeria-killed-at-least-162-in-two-years-study>> accessed 4 June 2024

⁷⁹ ⁷⁹ Office of the Special Representative of the Secretary-General for Children and Armed Conflict, ‘Nigeria’ (2017) <<https://childrenandarmedconflict.un.org/where-we-work/other-countries/nigeria/>> accessed 25 November 2024

⁸⁰ ICRC, *Article 3: Conflicts not of an International Character* (ICRC, Commentary 2016) para.402

<<https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D004BA0EC>> accessed 15 December 2024

⁸¹ International Crisis Group (ICG), ‘Cameroon: Confronting Boko Haram’ (16 November 2016) 27 <<https://www.crisisgroup.org/africa/central-africa/cameroon/cameroon-confronting-boko-haram>> accessed 31 November 2024

⁸² ICRC, *Article 3: Conflicts not of an International Character* (ICRC, Commentary 2016) para.404

<<https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA4907>>

⁸³ Peoples Daily, Boko Haram, Security Agents and Violation of Humanitarian Law (I) (Thursday April 3 2014) <www.peoplesdailyng.com/wp-content/uploads/2014/03/Boko.haram-attack.jpg> accessed 14 June 2024

⁸⁴ Camilla Waszink, ‘Protection of civilians under International Humanitarian Law: Trends and Challenges’ (August 2011) 6 <https://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/reclaiming_background.pdf> accessed 20 November 2024

⁸⁵ The Vanguard, Amnesty to Boko Haram ‘ll save resources, lives – Presidency (1 April 2018) <<https://www.vanguardngr.com/2018/04/amnesty-boko-haram-ll-save-resources-lives-presidency/>> accessed 29 November 2024

⁸⁶ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law Volume I Rules* (Cambridge University Press 2005) 611

⁸⁷ ICRC, *International Humanitarian Law Answers to your Questions* (ICRC, February 2015) 80

<<https://www.icrc.org/en/publication/0703-international-humanitarian-law-answers-your-questions>> accessed 09 October 2024

⁸⁸ AP II 4(2) (d)

3.6.7 Asymmetric Warfare in Nigeria

In asymmetrical conflicts non-state armed group embarks on tactics of violating IHL and the combatants respond by relaxing its own implementation of the rules.⁸⁹The acts of systematic violations of IHL remain the characteristic of typical asymmetric warfare with suicide and car bombings, targeted assassinations, armed ambushes, coordinated raids continuing to serve as preferred attack vectors, rape and sexual violence, recruitment of child soldiers, kidnapping as tactic both as a finance- and concession-generating mechanism, hostages both foreign and local, as a means of garnering significant ransom payments which could be used to purchase weapons.⁹⁰

3.6.8 Internment of Civilians in the Conflict

The legal process regulating detention is absent in NIAC.⁹¹Common Article 3 does not provide protection to persons denied of their liberty and Additional Protocol II under articles 5 and 6 only require the parties to NIAC to disconnect women from men but no elaboration on how to regulate it.⁹²Under customary law, children in detention who are not held in shelters with their family must be disconnected from adults.⁹³Customary international humanitarian law forbids denial of freedom, but does not provide parameters for establishing what is 'arbitrary'.⁹⁴

3.6.9 Difficulties in the Application of the Basic Principles of IHL to the Conflict

The principle of distinction has not been easy to observe in the armed conflict because the Boko Haram groups appeared very similar in outfit and speak a common language.⁹⁵

3.6.10 Denial of the Applicability of IHL to the Situations in Northeast of Nigeria

The Office of the Prosecutor of the ICC in 2013 submitted that the amount of intensity and the degree of organization of the parties to the conflict in Nigeria have reached the threshold of a non-international conflict within the scope of article 8(2) (c) and (e) of its Statute.⁹⁶ However, Labaran Maku, who was the Minister of Information and supervising Minister of Defence described the situations in Northeast of Nigeria as terrorism.⁹⁷

3.7 The Contributions of the International Community to Protect Civilians in the Conflict

3.7.1 UN Security Council

The United Nations Security Council Resolution 2349 of 31 March 2017 commended the efforts of Multinational Joint Task Force (MNJTF) against Boko Haram and requested that the \$458 million for humanitarian assistance pledged at the Oslo conference for 2017 be released immediately to mitigate the situations crisis.⁹⁸

3.7.2 UN Office of the High Commissioner for Human Rights (OHCHR)

The Office of the Special Representative of the Secretary-General for Children and Armed Conflict found grave violations of the rights of children in the conflict as follows:

⁸⁹Camilla Waszink, 'Protection of civilians under International Humanitarian Law: Trends and Challenges' (August 2011) 5 <https://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/reclaiming_background.pdf> accessed 20 November 2024

⁹⁰ Ryan Cummings, Boko Haram and the Symmetry of Asymmetric Warfare (December 10, 2014) <<https://theglobalobservatory.org/2014/12/boko-haram-asymmetrical-warfare/>> accessed 01 September 2024

⁹¹ ICRC, 'Strengthening Legal Protection for Victims of Armed Conflicts Draft resolution & Report' 31st International conference of the Red Cross and Red Crescent (Geneva Switzerland 28 November – 1 December 2011) 10

⁹² ICRC, 'Strengthening Legal Protection for Victims of Armed Conflicts Draft resolution & Report' 31st International conference of the Red Cross and Red Crescent (Geneva Switzerland 28 November – 1 December 2011) 11

⁹³ J M Henckaerts & L Doswald-Beck (eds), *Customary International Humanitarian Law, Volume I: Rules* (Cambridge University Press, Cambridge, 2005) Rule 120

⁹⁴ J M Henckaerts & L Doswald-Beck (eds), *Customary International Humanitarian Law, Volume I: Rules* (Cambridge University Press, Cambridge, 2005) Rule 99

⁹⁵ CIVIC, 'When We Can't See the Enemy, Civilians Become the Enemy: Living through Nigeria's Six-Year Insurgency' *Center for Civilians in Conflict* (CIVIC) interview, Abuja (June 2015) 30

665 <<https://civiliansinconflict.org/publications/research/living-nigerias-six-year-insurgency/>> accessed 08 December 2024.

⁹⁶ Katharine Fortin, 'Does the Violence between Boko Haram and Nigerian Security Forces Amount to a Non-International Armed Conflict?' (December 6 2013) <<https://armedgroups-internationalallaw.org/2013/12/06/does-the-violence-between-boko-haram-and-nigerian-security-forces-amount-to-a-non-international-armed-conflict/>> accessed 16 December 2024.

⁹⁷ *ibid*

⁹⁸ United Nations Security Council: S/RES/2349 (2017) of 30 November 2024 <<https://digitallibrary.un.org/record/1298484?ln=en>> accessed 29 October 2024

Boko Haram defiled 116 girls and gave them out to its members for marriage;⁹⁹ Attacked 4 (four) Schools and 1 (one) Hospital in Nigeria and 5 (five) incidents of denial of humanitarian access were verified, 4 were attributed to Boko Haram and one to Nigerian Security Forces.¹⁰⁰

3.7.3 Amnesty International (AI)

Amnesty International confirmed the killing of Saifura Hussaini Ahmed Khurso (in September 2018) and Hauwa Liman out of the three health workers - Saifura Hussaini Ahmed Khorsa, Hauwa Liman and Alice Loksha abducted in March 2018 when Boko Haram fighters attacked the town of Rann which is home to at least 40,000 internally displaced persons in Borno State of northeast Nigeria.¹⁰¹

3.7.4 Human Rights Watch (HRH)

The Human Rights Watch has reported on the confrontation between the armed forces and Boko Haram as follows:¹⁰²In August, the US finalized the sale of \$593 million 12 A-29 Super Tucano light attack aircrafts, laser guided rockets, unguided rockets and other equipment to fight Boko Haram. The UK secretary of state for foreign and commonwealth affairs pledged \$259 million over five years in an emergency assistance package to provide food, medical treatment, and education assistance in Northeast of Nigeria. In June, twin suicide bomb attacks and grenade explosions by suspected Boko Haram fighters killed 31 people and injured 48 others during Muslim religious celebrations in Damboa, Borno State.¹⁰³ The US provides training to the Nigerian military, and in June, announced \$102 million in humanitarian assistance for people affected by the northeast conflict.¹⁰⁴UK expanded provision of protective equipment and training to Nigerian soldiers and deliver a £13 million (\$14.7 million) program to educate 100,000 children living in conflict zones.¹⁰⁵In September, Germany, Nigeria, Norway and the United Nations co-hosted a high-level conference on the Lake Chad Region in Berlin that raised over \$2 billion in support, and \$467 million in concessional loans for humanitarian, peacebuilding, and development activities in Cameroon, Chad, Niger, and Nigeria. The European Union also announced the release of €138 million (\$157 million) to assist vulnerable communities in the region affected by prolonged violence, insecurity, and environmental degradation.¹⁰⁶

3.7.5 UNICEF

On the 15th September 2017 the President of the CJTF, Mr. Lawan Jaffar, and the UNICEF Country Representative Mohamed Fall on behalf of the UN Country Task Force, in the presence of the Borno State Deputy Solicitor General, Barrister Abdullahi Hussaini Izge signed a memorandum to end child recruitment.¹⁰⁷A total of 894 children, including 106 girls, were released from the ranks of the Civilian Joint Task Force (CJTF) in Maiduguri, north-east Nigeria on the 10th day of May 2019.¹⁰⁸A total of 1727 children and young people have been released since the agreement and recruitment of children by the CJTF has stopped.¹⁰⁹Boko Haram had recruited more than 3,500 children between 2013 and 2017 and others have been abducted, maimed, raped and killed.¹¹⁰

⁹⁹ Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 'Nigeria' (2017) <<https://childrenandarmedconflict.un.org/where-we-work/other-countries/nigeria/>> accessed 25 November 2024

¹⁰⁰ Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 'Nigeria' (2017) <<https://childrenandarmedconflict.un.org/where-we-work/other-countries/nigeria/>> accessed 25 November 2024

¹⁰¹ Amnesty International (AI), 'Nigeria: Boko Haram killing of Aid Worker Hauwa Liman is a War Crime' (16 October 2018) <<https://www.amnesty.org/en/latest/news/2018/10/nigeria-boko-haram-killing-of-aid-worker-hauwa-liman-is-a-war-crime/>>

¹⁰² HRW, Nigeria Events of 2017: World Report 2018 <www.hrw.org/world-report/2018/country-chapters/nigeria> accessed 3 October 2024

¹⁰³ HRW, 'Nigerian Events of 2018: World Report' (2019)para.8 <<https://www.hrw.org/worldreport/2019/country-chapters/nigeria>> accessed 08 October 2024

¹⁰⁴ HRW, 'Nigerian Events of 2018: World Report' (2019) para 28 <<https://www.hrw.org/worldreport/2019/country-chapters/nigeria>> accessed 08 October 2024

¹⁰⁵ HRW, 'Nigerian Events of 2018: World Report' (2019) para. 29 <<https://www.hrw.org/worldreport/2019/country-chapters/nigeria>> accessed 08 October 2024

¹⁰⁶ HRW, 'Nigerian Events of 2018: World Report' (2019)para. 32 <<https://www.hrw.org/world-report/2019/country-chapters/nigeria>> accessed 08 October 2024

¹⁰⁷ UNICEF, 'Civilian Joint Task Force in Northeast Nigeria Signs Action Plan to End Recruitment of Children' (15 September 2017) <www.unicef.org/media/media_100837.html> 27 October 2024

¹⁰⁸ UNICEF, 'Nearly 900 Children Released from Armed Group in North-east Nigeria' (10 May 2019) para.1 <<https://www.unicef.org/nigeria/press-releases/nearly-900-children-released-armed-group-north-east-nigeria>> accessed 26 October 2024

¹⁰⁹ UNICEF, 'Nearly 900 Children Released from Armed Group in North-east Nigeria' (10 May 2019) para.5 <<https://www.unicef.org/nigeria/press-releases/nearly-900-children-released-armed-group-north-east-nigeria>> accessed 26 October 2024

¹¹⁰ UNICEF, 'Nearly 900 Children Released from Armed Group in North-east Nigeria' (10 May 2019) para.7 <<https://www.unicef.org/nigeria/press-releases/nearly-900-children-released-armed-group-north-east-nigeria>> accessed 26 October 2024

3.7.6 International Committee of the Red Cross (ICRC)

In 2018, the ICRC provided food assistance and essential household items for 1,160,000 people in the northeast of Nigeria; 10,280 children under five years who had malnutrition were treated in ICRC-supported facilities; 460,000 persons in areas of hostilities received good portable water; 54,880 IDPs and returnees were given temporary shelters; assessment of 24,000 detainees in 29 places in Nigeria; and 22,970 babies were born with the support of ICRC.¹¹¹

4. IHL Applicable to the Protection of Civilians in NIAC

The Common Article 3, Additional Protocol II and rules of customary international law are applicable to protect the Civilians in the NIAC in Nigeria.¹¹² International humanitarian law binds all Parties to the conflict, State and non-State.¹¹³ International human rights law complements international humanitarian law to protect the rights civilians both in peace and in times of armed conflict.¹¹⁴ Under the R2P (Responsibility to Protect) binding on all States, Nigeria is under obligation to protect its populations including civilians from crimes against humanity, war crimes and other international crimes and in cases of its unwillingness and inability to protect, the international community could step in to provide protection and assistance.¹¹⁵

5. Nigerian Domestic Framework Governing the Protection of Civilians under IHL

Nigeria has ratified the [1949 Geneva Conventions](#) and the [1977 Additional Protocols](#) and is therefore a State party.¹¹⁶ The Geneva Conventions of 1949 has been domesticated as the Geneva Conventions Act of 1960 (currently as Cap G3 LFN 2004) which prescribed death penalty for grave breaches committed against persons or property protected by the Conventions under article 50 of the first Geneva Convention, article 50 of the Second Geneva Convention, article 130 of the third Convention and article 147 of the fourth Geneva Convention.¹¹⁷ These grave breaches include: Willful killing, torture, or inhuman treatment, including biological experiments, willfully causing great or serious injury to the body or health, and extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly.¹¹⁸ A term of imprisonment not exceeding 14 years has been prescribed for any other great breach outside the crimes listed above.¹¹⁹ The president of the Federal Republic of Nigeria may by order reduce imprisonment for not more than 7 years for that person committing any other breach of the Conventions.¹²⁰ Nigerian Red Cross Society Act, Cap N130 LFN 2004 provides for conditions of use of the emblem of the Red Cross and Red Crescent and sanctions for abusive use of the emblem and perfidy.¹²¹ The Constitution of the Federal Republic of Nigeria (as amended) 1999 protects the right to life and prohibits the cruel and degrading treatment of any human being.¹²² Nigeria has ratified the African Charter on Human and People's Rights on the 22nd June 1983.¹²³ It domesticated it as African Charter on Human and People's Rights (Ratification Enforcement) Act, Chapter 10 LFN 1990.¹²⁴ Human beings are inviolable and every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.¹²⁵ Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery,

¹¹¹ ICRC, 'Latest Update in Northeast of Nigeria' (2018) <<https://www.icrc.org/en/where-we-work/africa/nigeria>> accessed 26 October 2024

¹¹² ICRC, 'Article 3: Conflicts not of an International Character' (Commentary, 2016) para.388 <<https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6C DFA490736C1C1257F7D004BA0EC>> accessed 7 September 2024

¹¹³ ICRC, 'Article 3: Conflicts not of an International Character' (Commentary, 2016) para.388 <<https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6C DFA490736C1C1257F7D004BA0EC>> accessed 7 September 2024

¹¹⁴ Hans-Joachim Heintze, 'On the Relationship between Human Rights Law Protection and International Humanitarian Law' (2004) 793 Vol. 86 No 856 <https://www.icrc.org/en/download/file/20234/irrc_856_3.pdf> accessed 16 October 2024

¹¹⁵ United Nations General Assembly Resolution A/60/1 of 24 October 2005, Outcome Document of the 2005 Global Summit <<http://www.un.org/womenwatch/ods/A-RES-60-1-E.pdf>> accessed 03 September 2024

¹¹⁶ Muhammed Tawfiq Ladan, 'National Framework for the Protection of IDPs in Nigeria' (2013) 19 <www.abu.edu.ng/.../2013-05-180015_3901.docx> accessed 25 September 2024.

¹¹⁷ I E Sagay, 'Evaluation/Assessment of the Level of Implementations of International Humanitarian Law in Nigeria' in Adekunle Ajala & Itse E Sagay, Implementation of International Humanitarian Law (ICRC, 1997) 43

¹¹⁸ I E Sagay, 'Evaluation/Assessment of the Level of Implementations of International Humanitarian Law in Nigeria' in Adekunle Ajala & Itse E Sagay, Implementation of International Humanitarian Law (ICRC, 1997) 43

¹¹⁹ I E Sagay, 'Evaluation/Assessment of the Level of Implementations of International Humanitarian Law in Nigeria' in Adekunle Ajala & Itse E Sagay, Implementation of International Humanitarian Law (ICRC, 1997) 43

¹²⁰ I E Sagay, 'Evaluation/Assessment of the Level of Implementations of International Humanitarian Law in Nigeria' in Adekunle Ajala & Itse E Sagay, Implementation of International Humanitarian Law (ICRC, 1997) 43

¹²¹ ECOWAS-ICRC, 'Implementing IHL in West Africa Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation: 2017 Report' (21 August 2018) 51 <<https://www.icrc.org/en/document/implementing-ihl-west-africa>> accessed 12 September 2024

¹²² SS 33 (1) and 34 (1) (a)

¹²³ African Commission on Human and Peoples' Rights,

'Ratification Table: African Charter on Human and Peoples' Rights 1981' (2019) <<http://www.achpr.org/instruments/achpr/ratification/>> accessed 25 October 2024

¹²⁴ I E Sagay, 'Evaluation/Assessment of the Level of Implementations of International Humanitarian Law in Nigeria' in Adekunle Ajala & Itse E Sagay, Implementation of International Humanitarian Law (ICRC, 1997) 49

¹²⁵ African Charter on Human and Peoples' Rights 1981, article 4

<<http://www.nigerialaw.org/African%20Charter%20on%20Human%20and%20Peoples'%20Rights.htm>> accessed 25 October 2024

slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.¹²⁶In order to arrest the proliferation of small and light weapons in Nigeria, the Firearms Bill 2014 amends the Firearms Act of 1959 to domesticate the ECOWAS Convention on SALW and the ATT.¹²⁷ Section 34(1) of the Child Rights Act 16 July 2003 provides that no child shall be recruited into any of the branches of the armed forces of Nigeria.¹²⁸ Section 34(2) provides that the Government or any other relevant agency or body shall ensure that no child is directly involved in any military operation or hostilities.¹²⁹A draft bill to repeal the Geneva Conventions Act and to enact the Geneva Conventions and Additional Protocols 2007 has been prioritized for 2018 has not been passed to law by the National Assembly.¹³⁰The Bill reduced the penalty for grave breaches of the Geneva Conventions to life imprisonment and retained 14 years imprisonment for other breaches to.¹³¹The Operational Code of Conduct for the Use of Nigerian Armed Forces 1967/1970 provides that: pregnant women be ill-treated or killed; Children must not be molested or killed; Youths and school children must not be attacked; Hospitals, hospital staff and patients should not be tampered with or molested; No property, building etc. will be destroyed maliciously; Churches and Mosques must not be destroyed.¹³²The National Emergency Management Agency (NEMA) including the Ministry of Budget and Financial Planning, the Presidential Committee on the Northeast Initiative (PCNI), North East Development Commission and the Emergency Coordination Centre intervene to minimize disaster arising from armed conflict.¹³³Coordination with the different levels of government is challenging and this makes it more problematic.¹³⁴

¹²⁶ African Charter on Human and Peoples' Rights 1981, article 4

<<http://www.nigerialaw.org/African%20Charter%20on%20Human%20and%20Peoples'%20Rights.htm>> accessed 25 October 2024

¹²⁷ ECOWAS-ICRC, 'Implementing IHL in West Africa Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation: 2017 Report' (21 August 2018) 51

<<https://www.icrc.org/en/document/implementing-ihl-west-africa>> accessed 12 September 2024

¹²⁸ Olakanmi & Co, Children Allied Laws (Lawlords Publication 2008) 24

¹²⁹ Olakanmi & Co, Children Allied Laws (Lawlords Publication 2008) 24

¹³⁰ ECOWAS-ICRC, 'Implementing IHL in West Africa Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation: 2017 Report' (21 August 2018) 51

<<https://www.icrc.org/en/document/implementing-ihl-west-africa>> accessed 12 September 2024

¹³¹ ECOWAS-ICRC, 'Implementing IHL in West Africa Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation: 2017 Report' (21 August 2018) 51

<<https://www.icrc.org/en/document/implementing-ihl-west-africa>> accessed 12 September 2024

¹³² IO Agbede & Yinka Omorogbe, 'Armed Conflict in Africa: The Role and Importance of International Humanitarian Law Today in Adekunle Ajala & Itse E Sagay (eds), Implementation of International Humanitarian Law in Nigeria (The Regional Delegate of ICRC 1997) 86

¹³³ Nigeria Humanitarian Crisis Analysis 2019 (4 December 2018) 3 <<https://www.sida.se/globalassets/sida/eng/how-we-work/humanitarian-aid/hca-2019/hca-nigeria-2019.pdf>> accessed 26 October 2024

¹³⁴ Nigeria Humanitarian Crisis Analysis 2019 (4 December 2018) 3 <<https://www.sida.se/globalassets/sida/eng/how-we-work/humanitarian-aid/hca-2019/hca-nigeria-2019.pdf>> accessed 26 October 2024