

Title Page



Victim's Perspectives' Towards Rape, Sexual Violence and Abuse of Women during Internal Armed Conflicts in Nigerian

Student Declaration



I declare that while registered as a candidate for the research degree, I have not been a registered candidate or enrolled student for another award of the University or other academic or professional institution.

I declare that no material contained in the thesis has been used in any other submission for an academic award and is solely my own work

Mfoniso Katherine Ogunleye

Signature of Candidate

Type of Award: Doctor of Philosophy

School: Business, Arts, Humanities, & Social Science (BAHSS)

Abstract

This thesis examines victim's perspectives on rape, sexual violence, and abuse of women during internal armed conflicts in Nigeria. This is achieved through a critical analysis of empirical interviews, analytical review of NGO statements, rapporteur reports on judicial response to conflict-related rape and abuses. As a critique of the Nigerian judicial responses, the research assesses and identifies discrepancies and practices with the aim of ideally resolving these through proposed policy and reforms. The originality of this research rests upon analysis of the empirical interviews of professionals and accounts given by victims to NGOs. This is cross-referenced with evaluation of past historical positions on conflict-related rape. In addition, this study examines Nigerian criminal legal system in comparison with International Law of Armed Conflict. The research reveals several discrepancies between theoretical and practical law in these areas, such as the partial or entire failure to implement the criminal legal framework for the protection of women during internal armed conflicts in Nigeria. This study argues that these discrepancies emanate from challenges, including the lack of a comprehensive definition of rape, conditions set (as in the Penal Code for prosecution of rape crimes), and strict implementation of the legislation. Cultural and religious practices are also identified as impediments to victims' willingness to report crimes of rape, coupled with institutional ineffectiveness of the Nigerian security systems. It further argues that unless the proposed recommendations are addressed, there will be continuous human right abuses perpetrated against women during internal armed conflicts in Nigeria.

Table of Contents

Student Declaration	ii
Abstract.....	iii
Acknowledgements.....	Error! Bookmark not defined.
Abbreviations	xii
PART ONE HISTORICAL AND CONTEMPORARY REALITIES.....	15
1. Introduction.....	16
1.1. Conceptualisation of rape and sexual abuse	16
1.2. Overview of thesis	17
1.3. Historical realities of war crimes	18
1.4. Collapse in security during internal conflict.....	21
1.5. Social and community effect on conflict-related rape	22
1.6. Consequences of cultural and religious influences on rape victims....	23
1.7. Political economy of rape.....	24
1.8. Summary	26
2. Empirical Background of Events.....	27
2.1. Aims and objectives of this research	27
2.2. Rationale	27
2.3. Global trend of instrumentalization of women in conflict.....	29
2.4. Historical timeline on war criminality.....	31
2.5. Assessment of human rights abuses in Nigeria as empirical realities.	35
2.6. History of Niger Delta oil conflict.....	36
2.7. Niger Delta minority ethnic groups and oil conflict in Nigeria.....	37
2.8. Relationship between oil wars and rape in the Niger Delta.....	39
2.9. Boko Haram insurgency in Nigeria	40

2.10.	Summary.....	43
3.	Methodology	44
3.1.	Introduction.....	44
3.2.	Originality and relevance of research	45
3.3.	Differences between quantitative and qualitative study	46
3.4.	Rationale for using qualitative research in relation to this project	47
3.5.	Aims of qualitative research.....	49
3.6.	Emic perspectives.....	50
3.7.	Ethical issues and limitations of qualitative methods	52
3.8.	Dual role and over-involvement	53
3.9.	Challenges and possible hindrances in a qualitative approach	54
3.10.	Research ethics	56
3.10.1.	Privacy and confidentiality	56
3.10.2.	Informed consent	57
3.10.3.	What constitutes undue intrusion, distress or harm?	58
3.11.	Qualitative methodology.....	59
3.11.1.	Epistemology and school of analysis	59
3.11.2.	Grounded theory as a research method	60
3.11.3.	Triangulation in research methods.....	62
3.12.	Theoretical perspectives	63
3.12.1.	Social interactionism	64
3.12.2.	Functionalist perspective	64
3.12.3.	Conflict Perspective	65
3.12.4.	Phenomenology	65
3.12.5.	Ethnomethodology	68
3.13.	Use of qualitative approach in study of sexual violence in conflicts	70

3.14.	Exploring of methods best suited to studies of sexual violence	73
3.15.	Rationale for semi-structured interview method	74
3.16.	Summary	76
4.	Incidents of Sexual Abuse in Armed Conflict	78
4.1.	Introduction	78
4.2.	Account of past sexual violence against women in armed conflicts....	79
4.3.	Rape as a tactic in armed conflicts	84
4.4.	The Rape of Nanjing (1938) and Comfort Women in the Japanese Imperial Army	88
4.5.	Bangladesh' War of Independence (1971)	89
4.6.	Second Congo War (Great War of Africa) (1998-2003).....	90
4.7.	Conflicts in Nigeria.....	91
4.7.1.	The movement for the survival of the Ogoni people	92
4.7.2.	Wilbros rape in Choba	94
4.7.3.	Odi Massacre and rape	95
4.7.4.	Chibok kidnapping.....	97
4.7.5.	Baga massacre and kidnapping	98
4.8.	Summary	99
5.	History of Recognition of Rape as a War Crime	100
5.1.	Introduction.....	100
5.2.	The role and rationale of this chapter	101
5.3.	Timeline on recognition of rape in conflicts.....	103
5.4.	Post-World War II trials.....	107
5.5.	Change in war tactics during conflicts and instrumentalization of women and children.....	109

5.6.	The development of gender crimes under international law and legal frameworks against gender violence in armed conflicts	110
5.7.	The response to sexual violence during armed conflict	112
5.8.	Legal definition of armed conflicts in international humanitarian law, ICC, and ICTY	114
5.8.1.	General principles.....	114
5.8.2.	Internal armed conflicts	116
5.8.3.	Internationalised armed conflicts	116
5.8.4.	Non-international armed conflicts	117
5.8.5.	International armed conflict	118
5.9.	Principles of armed conflict.....	118
5.9.1.	The concept of honourable conduct	118
5.9.2.	Principle of military necessity	119
5.9.3.	Principle of chivalry.....	120
5.10.	Laws of armed conflicts.....	121
5.11.	Transformation of law and international legal frameworks against gender violence	128
5.11.1.	The Rome Statute of the ICC.....	128
5.11.2.	Declaration on the Protection of Women and Children in Emergencies and Armed Conflict	130
5.12.	Practice of Nigerian and international prosecutors during Nigerian internal armed conflicts.....	132
5.12.1.	Applying legal frameworks	132
5.12.2.	Women’s rights violation in Nigeria’s tripartite legal system as an obstacle towards gender equality	135

5.13.	Prevention of sexual exploitation and abuse of women and children during conflicts	140
5.14.	Prosecution of sexual abuse and convictions in Nigeria	141
5.15.	The interpretation of rape under Sharia	142
5.16.	Rape under the Criminal Code of Southern Nigeria	147
5.17.	Corroboration as a Vital Element in Rape Prosecution	155
5.18.	Summary.....	161
6.	Obstacles and Impediments Encountered by Female Rape Victims During Conflicts in Nigeria	163
6.1.	Introduction.....	163
6.2.	Internal armed conflict	165
6.3.	Interviewees' assessment of the increase in conflict-related rape cases in Nigeria	168
6.4.	Vulnerability during internal armed conflicts	176
6.5.	Kidnapping and perceived veracity.....	183
6.6.	Conclusion.....	197
7.	Influence of Social Constructions.....	199
7.1.	Influence of societal perceptions on responses to conflict-related sexual abuse and rape	199
7.2.	The role of cultural perceptions in the abuse of women in conflicts ..	204
7.3.	Proposed societal responses.....	206
7.4.	Summary	209
PART TWO LEGAL DOCTRINE AND LAW IN ACTION RESPONSES		210
8.	Nigerian Government's Response to Rape and Abuse of Women During Internal Armed Conflicts.....	211
8.1.	Introduction.....	211

8.2.	Assessments of the security situation of Nigeria during internal armed conflicts	215
8.3.	Respondents were required to evaluate government responses to violence in Nigeria	221
8.4.	Concerns on the lack of witness protection for rape victims	228
8.5.	Summary	233
9.	International and National Legislation on the Rape and Abuse of Women During Conflicts in Nigeria	235
9.1.	Introduction.....	235
9.2.	To what extent are rules of engagement a practical reality in Nigerian conflicts?	236
9.3.	Are the existing legal principles in Nigeria adequate to protect women and children during internal conflicts?	248
9.4.	Summary	253
PART THREE POSSIBLE REFORMS BASED ON QUALITATIVE ANALYSIS OF INTERVIEWS		255
10.	Conclusion and Recommendations.....	256
10.1.	Introduction	256
10.2.	Overview of the research	257
10.3.	Obstacles and complications for female rape victims.....	264
10.4.	Assessment of increased conflict-related rape cases in Nigeria ...	265
10.5.	Assessing issues of vulnerability during internal conflict	267
10.6.	Evaluations of societal opinions on the increase in kidnapping as a weapon in internal conflicts	268
10.7.	Societal perception on conflict-related rape in Nigeria	272
10.8.	Religious perceptions and the abuse of women in conflict.....	276

10.9.	Nigerian government responses to conflict-related rape	277
10.10.	Concerns on lack of witness protection for rape victims.....	280
10.11.	How can government stem the ideology or truncated perception towards women?	282
10.12.	Nigerian government responses to rape and abuses of women during internal armed conflicts.....	284
10.12.1.	Assessment of the Nigerian criminal legal system during internal armed conflicts.....	284
10.12.2.	The evaluation of legal responses to violence in Nigeria	287
10.13.	International and national legislation on the protection rape and sexual abuse of women during internal conflicts in Nigeria	293
10.13.1.	ROE practical reality in Nigerian conflicts	293
10.13.2.	Are the existing legal principles in Nigeria adequate to protect women, prosecute and obtain conviction?	295
10.14.	Summary.....	296
10.15.	Contributions	297
10.16.	Limitations.....	302
10.17.	Suggestions for further research.....	303
10.18.	Recommendations	303
	References.....	305
	Appendix.....	420

Acknowledgement

Firstly, I would like to express my sincere gratitude to my supervisors Prof. Dr Michael Salter and Dr Susan Twist for their continuous support, patience, motivation, and immense knowledge during my Ph.D. study. Their guidance helped me throughout my research and writing of this thesis. I could not have imagined having a better advisor and mentor for my Ph.D. study.

Besides my supervisors, I would like to thank the rest of my thesis committee: Dr Bogusia Puchalska Research Degree Tutor and Helen Louise Codd Professor of Law & Social Justice Lancashire Law School.

I will like to appreciate my Son Charles Mofolunsho Ekanem for being a constant joy and support throughout my study. Also, my sincere gratitude to my family: my parents Late Hon. (Sir) Samuel & Lady Bessie Nkom. J.P. for supporting me throughout my life. My sisters Emem, Martha, Pepetua; brothers Nsemeke and Ita. I will also like to appreciate someone special in my life who is my best friend and confidant Tunde Femi Etta. My appreciation won't be complete without mentioning a good friend in the person of Oye Oshoremor who was by me during the tough moments. Thank you all for believing in me.

Abbreviations

ACHPR	African Commission on Human and Peoples' Rights
AI	Amnesty International
BPD	Borderline Personality Disorder
CAT	Convention Against Torture
CCL10	Control Council Law No. 10
CEDAW	Convention on the Elimination of Discriminations Against Women
CSW	Commission on The Status of Women
COWAN	Country Women Association of Nigeria
ECOSOC	Economic and Social Council
DRC	Democratic Republic of Congo
DNA	Deoxyribo Nucleic Acid
EFCC	Economic and Financial Crimes Commission
FOMWA	Federation of Muslim Women's Association
FIDA	International Federation of Women Lawyers
GCC	Gulf Cooperation Council
GEAP	Gender Equity Action Planners
GTI	Global Terrorism Index
GHON	Grassroots Health Organization of Nigeria
HIV/AIDS	Human Immune Virus/Acquired Immune Deficiency Syndrome
HRW	Human Rights Watch
IAC	International armed conflict
ICC	International Criminal Court
ICRC	International Committee of the Red Cross

ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IMT	International Military Tribunal
INC	Ijaw National Congress
IMTFE	International Military Tribunal for the Far East
LOAC	Law of Armed Conflicts
MST	Military Sexual Trauma
MAD-V	Movement against Domestic Violence
MEND	Movement for the Emancipation of the Niger Delta
MOSOP	Movement for the Survival of the Ogoni People
NDPR	Niger Delta Peoples Republic
NHRC	National Human Rights Commission
NRC	Nigerian Red Cross
NCICC	Nigerian Coalition on the International Criminal Court
NGOs	Non-Governmental Organizations
NIAC	Non-International Armed Conflicts
OAU	Organization of African Unity
OTP	Office of the Prosecutor
OSV	Other Situations of Violence
PTSD	Post-traumatic stress disorder
ROE	Rules of Engagement
SARC	Sexual Assault Referral Centre
SOTHAWACA	Society to Heighten Awareness of Women and Children Abuse
SCSL	Special Court for Sierra Leone

UN	United Nations
UNICEF	United Nations Children's Emergency Fund
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
UNSC	United Nations Security Council
VBIEDs	Vehicle-Borne Improvised Explosive Devices
VAW	Violence Against Women
WID	Women in Development
WHO	World Health Organisation
WWII	World War II

PART ONE
HISTORICAL AND CONTEMPORARY REALITIES

1. Introduction

1.1. Conceptualisation of rape and sexual abuse

The issue of rape and sexual abuse during conflicts has been cited in most instances of war during the past century including World Wars I and II.¹ However, rape in recent conflicts has been identified as becoming increasingly widespread, irrespective of the gravity or classification of the conflict (e.g. international or non-international).² Human Rights Watch (HRW) reported extensively on issues of rape and sexual abuse within non-international armed conflicts, drawing attention to the complexities that these atrocities have caused for victims' rights, and redress.³ The UN Development Fund for Women (UNIFEM) refers to rape as the hallmark of modern and continuing, intra-state conflicts,⁴ affirming in its reports that rape abuses in conflict are increasingly dynamic and constantly changing in their features.⁵

This chapter sets the underpinning arguments concerning the historical and contemporary realities of rape during war. Its focal point is on the global consequences of rape: past, present, and future. This chapter further confirms arguments raised during empirical interviews about prejudices linked to religious and socio-cultural phenomena concerning the abuse of women during internal armed conflicts. This chapter forms a vital link with subsequent chapters by laying

¹ Tanaka Toshiyuki, and Toshiyuki Tanaka. 2016 Hidden Horrors: Japanese War Crimes in World War II. 13 June 1996.

² Hossain M and Others, 'Men's and Women's Experiences of Violence and Traumatic Events in Rural Cote d'Ivoire Before, During and After a Period of Armed Conflict' (2014) 4(2) *Bmj Open* E003644.

³ Human Rights Watch 1995. The Human Rights Watch. Global Report on Women's Human Rights. Human Rights. New York: Human Rights Watch, 1995.

⁴ Unifem & Dpko UN Department of Peacekeeping Operations, 2010. Addressing Conflict-Related Sexual Violence: An Analytical Inventory of Peacekeeping Practice, UN, New York.

⁵ Pratt, M., Werechick, L. January 2004 Sexual Terrorism: Rape as a Weapon of War in Eastern Democratic Republic of Congo.

the groundwork from a historical background on conflict-related rape. It also showcases the recognition of rape as a crime, legal doctrines in action, and findings from empirical research.

1.2. Overview of thesis

Chapter one sets to reveal the global impacts of rape and sexual abuse during internal conflicts. It is linked to chapter two, which discusses the empirical background of events of the instrumentalization of women. Chapter three discusses the methodology embraced in this study, deliberating on the rationales for different methods, indicating the most suitable methodology that can best elucidate the research topic. It establishes links and associations to subsequent chapters. Chapter four discusses accounts of past incidences of sexual violence against women in conflicts, outlining cases of rapes and abuses from the World Wars to current incidences in Nigeria. Chapter five exposes the historical absence of recognition of rape as a crime and deliberates on the genesis of International Criminal Tribunals as applied for Rwanda and the former Yugoslavia. These two War Crime Tribunals instituted primary recognition and prosecution of rape as war crime. In addition to this, Chapter 5 further uncovers how rape was ignored as an existential, distinctive crime despite substantial evidences. It indicates that national courts could have been able to integrate international law into domestic legislation and prosecute rape as a crime but have not consistently done so.

Chapters six to ten analyse data from empirical interviews, present findings, and make recommendations. These sections examine the different themes outlined during the research. Chapter six examines obstacles and impediments encountered by female rape victims during conflicts in Nigeria. It deliberates on

the barriers that victims encounter while trying to access legal provisions that protect women from harm. Chapter seven deals with societal influences, perceptions, and responses to conflict-related sexual abuses and rape. Chapter eight investigates Nigerian government responses to rape and abuse of women during internal armed conflicts. It assesses the security system in Nigeria, the legal position on the protection of women during conflicts, and gaps in existing legislation.

Chapter nine examines national, regional, and international legislation on the protection of women against rape and sexual abuse during conflicts. It deliberates on how Nigeria has been able to incorporate international legislation into its national law. Furthermore, it reveals the extent of the practicability of existing legal principles during conflicts within the country. In addition, identifies the gaps and needs to review existing laws. Chapter ten outlines the findings and recommendations in the form of the modification of existing laws and proposing new laws that will strictly address the problems identified.

1.3. Historical realities of war crimes

Atrocities of rape and sexual abuses associated with war date back to ancient history.⁶ There are numerous reports of such phenomena dating to the Biblical era, with moral implications.⁷ Ancient Greek writers, including Thucydides, cited non-compliance with the laws of war by the Spartans in their conflict with Athens,⁸

⁶ Shorter Edward, on writing the history of rape. *Signs: Journal of Women in Culture and Society*. 1977. Volume: 3. Issue: 2. Page: 471,482. University of Chicago Press.

⁷ Washington, Harold C. *Violence and the Construction of Gender in the Hebrew Bible: A New Historicist Approach* 1. *Biblical Interpretation*. 1997. Volume: 5. Issue: 4. Page: 324, 363. Brill.

⁸ *History of the U. N. War Crimes Commission* (noting that at Nuremberg and in subsequent war crimes tribunals conducted by American and British officials, all courts applied the principle that superior orders did not exonerate subordinates from criminal liability).

but the modern interpretation of rape as a war crime is a rather recent development.⁹

Tamara Tompkins argued about grievous experiences of rape victims in the case of war crimes committed during the Nanking war in China 1937, during the Vietnam War (particularly the period 1967-68), and the Bosnia War (1992).¹⁰ Supporting arguments raised by Susan Brown Miller who indicated that rape by soldiers is deliberate and could have been part of prosecuted crimes in historical tribunals because of existent evidence.¹¹ Excessive brutality of any kind during war is viewed as an infringement of international treaties and conventions on international human rights law.¹² This is a violation of international humanitarian law stemming from The Hague¹³ and Geneva Conventions.¹⁴ Joyce Gutteridge pointed-out that The Hague Conventions of 1899 and 1907 comprised formal declarations of the laws of war, and regulations against war crimes in international law.¹⁵ Likewise, Article 3 of the 1949 Geneva Convention and the second Additional Protocol of 1977 were rules set up to regulate 'Internal Conflicts' with unlawful combatants.¹⁶ Guy Roberts argued that there was no precise definition

⁹ Tamara L. Tompkins. 'Prosecuting Rape as a war crime: speaking the unspeakable' (1995) 845-90

¹⁰Ibid.

¹¹Susan Brown Miller, *Against our will: Men, women and rape* (Open Road Media 2013).

¹² The terms "sexual contact" "sexual act" and "committing sexual acts" shall be used in this document to describe the physical acts through which crimes of rape or sexual assault are committed, to identify the physical conduct, without making assumptions about whether it was sought or unsought, therefore identifying it as either legal or criminal activity. The use of this term is to allow a description in the text of the physical acts which occurred, while reflecting the reality that rape and sexual violence is not "sexual intercourse" (a term which implies agreement by the participants). The use of this term allows a clear differentiation to be made between conduct which is criminal, and conduct which is protected behaviour under human rights law, when it is actively wanted and agreed to by the participants. For a comprehensive overview of the issues, see "Sexuality and human rights," a discussion paper published by the International Council on Human Rights Policy, 2009.

¹³ Best, Geoffrey. *Peace conferences and the century of total war: the 1899 Hague Conference and what came after* International Affairs. 1999. Volume: 75. Issue: 3. Page: 619, 634. Wiley Online Library

¹⁴Gutteridge, Joyce AC. *Geneva Conventions of 1949*. The Brit. YB Int'l L. 1949

¹⁵ Ibid.

¹⁶Roberts, Guy B. *New Rules of Waging War: The Case against Ratification of Additional Protocol I*, the Va. J. Int'l L. 1985. Volume: 26 Page: 109. Hein Online.

of war crimes at that time, basically because the word then referred to a range of diverse offences.¹⁷

War crimes, according to the UN, are the defilement of national, international laws and customs concerning the causes and conduct of wars and events associated with them.¹⁸ The UNSC describes war crimes as including three principal types of actions: crimes against peace, crimes against the laws and customs of war, and crimes against humanity. These are cited in Article 6 of the August 1945 Charter of the Nuremberg Tribunal,¹⁹ which further referred to crimes against peace as violations under laws governing the legitimacy of war.²⁰ This is defined as:

‘Planning, preparation, initiation, waging of a war of aggression, or a war in violation of international treaties. Also the agreements or assurances, or the participation in a plan to conspire for the achievement of any of the fore-going.’²¹

Similarly, Hans Erhard argues that the laws governing the conduct of war drove the prosecution of crimes against the laws of war. This was defined in the Nuremberg Tribunal Charter as:

‘Murder, ill-treatment or deportation to slave labour; or for any other purpose of civilian population of or in occupied territory, murder or

¹⁷ Ibid.

¹⁸United Nations War Crimes Commission 1948 History of the United Nations war crimes commission and the development of the laws of war.

¹⁹Finch, George A 1947 The Nuremberg Trial and international law. The American Journal of International Law Volume 41 Issue 1.

²⁰ ‘Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, December 20, 1945, 3 Official Gazette Control Council for Germany 50-55.’ (1946)

²¹ Erhard, Hans. The Nuremberg Trial against the major war criminals and international law. The American Journal of International Law .1949 Volume: 43. Issue: 2. Page: 223, 245. JSTOR.

ill-treatment of prisoners of war... or devastation not justified by military necessity.'²²

Also, it is believed that violations of these laws of war could include other acts, such as the use of banned weapons or the misuse of the flag of surrender, which were not explicitly mentioned in the Charter.²³

1.4. Collapse in security during internal conflict

Violence against women is a universal phenomenon that affects the lives of millions of women of all socio-economic and educational backgrounds.²⁴ Marie Vlachová argues that conflict-related abuse cuts across cultural and religious barriers, impeding the rights of women.²⁵ This violence, Anne-Marie de Brouwer claims, is a result of the collapse in regulations during war and peacetime.²⁶ Violence against women takes a dismaying variety of forms, including domestic abuse, forced marriages, female circumcision, and rape, amounting to violations of the fundamental human rights of women.²⁷

Stiglmayer argued in support of Vlahova that the mass rape in Bosnia brought gender insecurity into the international limelight.²⁸ She revealed the new tactics engaged in war as rape, integrated as both a weapon and a strategy. Rape, she recalls, was accepted as a weapon when it attacks women's physical and emotional sense of security while launching assault through their bodies. As a

²²Charter, Nuremberg. Charter of the International Military Tribunal. Annex to the Agreement for the Prosecution & Punishment of Major War Criminals of the European Axis, London.1945 Page: 7 -8.

²³ Ibid.

²⁴ Vlachová, Marie 2005 Women in an insecure world: violence against women: facts, figures and analysis. DCAF, Geneva, Switzerland (2005).

²⁵Ibid.

²⁶ Anne-marie de Brouwer, Sandra Ka Hon Chu 2009. The men who killed me: Rwandan survivors of sexual violence. Vancouver, B.: Douglas & McIntyre, 2009.

²⁷Watts, Charlotte. Violence against women: global scope and magnitude. The Lancet. Volume 359, ISSUE 9313, P1232-1237, April 06, 2002.

²⁸Alexandra Stiglmayer. 'Mass rape: The war against women in Bosnia-Herzegovina. 'U of Nebraska Press

strategy of war, she noted its employment as a sanctioned and systematically pursued subject of political objectives, ranging from terror and dominance to genocide.²⁹ The specific use of rape during war remains diverse, involving both combatants and non-combatants. As stated earlier, rape has been recognised as a political tool, which has been used against women to gather information by intimidation, humiliation, and compliance.³⁰

The rape of women in the Bosnian war was cited as a typical illustration of the use of rape as a strategy for ethnic cleansing.³¹ The fear of being raped facilitated the intentional, systematic and brutal removal of one ethnic group (Bosnia Muslims) by another.³² These atrocities place states and communities at risk. This affected social cohesion and condemned the people to a life of fear.³³ Rape during the Rwandan war was accompanied by more intensive genocidal violence, but it was essentially similar as a deliberate assault to displace an ethnic group.³⁴

1.5. Social and community effect on conflict-related rape

Globally, cultural specificity and tradition are occasionally given as defences for social practices that perpetuate violence and the oppression of women.³⁵ It has been established that sexual assault evokes negative reactions from its victims and people around them. This study supports this assertion, based on the outcomes of interviews regarding personal experiences and testimonies of

²⁹Puechguirbal, Nacline. Women and war in the Democratic Republic of Congo. *Signs journal of woman in culture and society*. Pub Year: 2003.

³⁰Koo, Katrina Lee 2002 confronting a disciplinary blindness: Women, war and rape in the international politics of security. *Australian Journal of Political Science*, 2002.

³¹Todd A. Salzman. 'Rape camps as a means of ethnic cleansing: Religious, cultural, and ethical responses to rape victims in the former Yugoslavia' (1998) 20(2) *Hum Rights Q* 348.

³²McEvoy-Levy, Siobhán 2007 *Human rights culture and children born of wartime rape*. Bloomfield 2007: 1-20

³³ *Ibid.*

³⁴Mullins, Christopher, 'We are Going to Rape You and Taste Tutsi Women': Rape During the 1994 Rwandan Genocide (November 2009). *The British Journal of Criminology*.

³⁵WHO Global Consultation on Violence and Health. *Violence: a public health priority*. Geneva, World Health Organization, 1996 (document WHO/EHA/ SPI. POA.2).

victims (Chapter 7), upholding the argument that rape affects social relationships with partners as well as with friends and family.³⁶

Brown-Miller, a feminist scholar, express the idea that victims shy away from men, given their tendency to be potentially violent, while most feel very vulnerable,³⁷ which she maintained was an impediment to their recovery.³⁸ She also identified the financial implications posed by the assault on victims and families,³⁹ while expressing the difficulty to financially attribute monetary value to sexual assault (e.g. for the purposes of compensation),⁴⁰ a fault she ascribed to society.

1.6. Consequences of cultural and religious influences on rape victims

Cultural and religious influences affect the ways in which conflict-related rapes occur and are perceived in societies.⁴¹ Allen expressed the idea that religion contributes to intensify, extend, and expand (as in the case of Boko Haram militants in Nigeria), and can also maintain violent situations in conflicts.⁴² He maintained that the attention given to religion and its role in conflicts was assessed as an important part of the process of bringing conflicts successfully to

³⁶Crome, S., & McCabe, M. P., 'The impact of rape on individual, interpersonal, and family functioning. *Journal of Family Studies*, 1 (1), 58-70' (1995).

³⁷Brownmiller, Susan. (1978). *Against Our Will: Men, Women and Rape*. The Family Coordinator. 27.

³⁸Littleton, H., & Breitkopf, C. R., 'Coping with the experience of rape. *Psychology of Women Quarterly*, 30, 106-116.' (2006).

³⁹Mayhew, P. (2003) 'Counting the Costs of Crime in Australia,' *Trends & Issues in Crime and Criminal Justice*, No. 247. Canberra: Australian Institute of Criminology.

⁴⁰Laing, L., & Bobic, N. *Addressing Gender-Based Violence: A Critical Review of Interventions*. The World Bank Research Observer, Vol. 22, No. 1 (spring, 2007), pp. 25-51. Published by: Oxford University Press

⁴¹Castelli, E. A. *Reverberations: On violence, special issue of scholar and feminist*. The Scholar & Feminist Online, Issue 2.2 winter 2004.

⁴²War crime trials.

Allan B, 'Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia. Minneapolis: University of Minnesota press.' (1996).

an end.⁴³ Allan further stated that conflicts of religious orientation, like those of Sri Lanka⁴⁴, Syria,⁴⁵ and Iraq,⁴⁶ had been noted to be the most brutal, producing horrors including generalised violence against civilians, mass rape, and genocide.⁴⁷

Anthias and N. Yuval-Davis argued in support of this view, and drew attention to the point that religious ideology rests upon superiority of a race and their targeting of an inferior race.⁴⁸ Other issues they noted include the sterilisation of women as a strategy,⁴⁹ a method which the Chinese adopted against Tibetan women.⁵⁰ On the other hand, Roland Littlewood pointed out that Armenian women immolated themselves and their children, fearing rape and torture, while Kashmiri women committed suicide to prevent further atrocities being perpetuated against them.⁵¹

1.7. Political economy of rape

Sexual violence occurring during war is often considered an unfortunate spin-off from the conflict, and in most cases is blamed on individual soldiers rather than being perceived as part of a coherent, premeditated military strategy.⁵² This situation continued until after the Bosnia War in the 1990s, when rape was

⁴³ Puechguirbal, Nacline 2003 women and war in the Democratic Republic of Congo. Signs journal of woman in culture and society.

⁴⁴ "Liberation Tigers of Tamil Eelam defeated; Sri Lanka liberated from terror." Ministry of Defence. 18 May 2009.

⁴⁵ Wolfe, Lauren. 2013 International, Violence against women Syria has a massive rape crisis. The Atlantic.

⁴⁶ Farr, Kathryn. 2009 "Extreme war rape in today's civil-war-torn states: A contextual and comparative analysis." Gender Issues

⁴⁷ Allan B, 'Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia. Minneapolis: University of Minnesota press.' (1996).

⁴⁸ Schleunes, Karl A, The twisted road to Auschwitz: Nazi policy toward German Jews, 1933-1939.

⁴⁹ Kerr, Blake. Sky burial: An eyewitness account of China's brutal crackdown in Tibet. 1997. Shambhala Publications.

⁵⁰ Ibid.

⁵¹ Littlewood, Roland. Military rape Anthropology today. 1997. Page: 7 Other Pages: 16. JSTOR

⁵² Turshen, Meredith. The political economy of rape. Chapter of Caroline and Fiona Clark -victims, perpetrator or actors? Gender, armed conflicts and political violence. London.2001

revealed as a modern military tactic and was codified accordingly by the International Criminal Court (ICC) as a war crime.⁵³ Christopher Cremer debated that the abduction and rape of women and girls during war was employed as a tactic to weaken the enemy's economic assets (during wartime, women assume a more important economic role, including in production), depriving communities of labour and reducing their capacity to function economically.⁵⁴

During conflicts, there are transferrals of properties from the weak to the strong, such as lands, personal belongings, and labour power; the ultimate control of assets depends upon the victor. Concerns for women who were victimised and impoverished by conflicts have been overshadowed by their value to men, because women's asset value resides in their productive or reproductive labour powers, and also their ability to access and possess valuable assets, such as land and livestock.⁵⁵ Harsch related this situation to the Mozambique Civil War (1976-1992), which he claimed cost Mozambican families at least one member each, or acquaintances that were either killed, mutilated, or disappeared.⁵⁶ Hanlon estimated that it cost the country \$15 billion (US).⁵⁷ Children were orphaned and others separated from their families.⁵⁸ Thousands of girls were kidnapped for their labour value in the sexual service of combatants, cooking, and performing domestic chores.⁵⁹

⁵³ Ibid.

⁵⁴ Cremer, Christopher. *Civil war is not a stupid thing. Accounting for violence in Developing countries*. Hurst and Company. London.2006

⁵⁵ A. A. Abreu, "Mozambiquean women experience violence in Turshen M. and Twagiramariya; C. what women do in war time. *Gender and conflict in Africa*. Zed books. London.1998.

⁵⁶Harsch E. *Mozambique: Out of the ruins of war*, Africa Recovery Briefing paper. 8 May1993.

⁵⁷J. Hanlon., 'Peace without profit. How the IMF black. *Rebuilding in Mozambique*.' (1996) James Hurry Oxford.

⁵⁸Harsch E., 'Mozambique: Out of The Ruins of War, Africa Recovery Briefing Paper. 8 May' (1993).

⁵⁹ A. A. Abreu." *Mozambique women experience violence in Turshen M. and Twagiramariya; C; C. what women do in war time. Gender and conflict in Africa*. Zed books. London. 1998.

1.8. Summary

This chapter presents the underpinning discussion for the historical and contemporary realities of conflict-related rape. Firstly, it examines global views on conflict-related rape, while evaluating rape as the hallmark of current intra-state conflicts. It also reflects on the effect of religious and socio-cultural perceptions, identified as the driving force underlying the commission of commit the crime of rape, as observed in the case of Boko Haram in Nigeria.

Furthermore, this section links subsequent chapters by laying the foundation for the historical background of past rape cases in conflicts. On the other hand, it highlights the recognition of rape as a crime and the extent to which legal doctrine addressed these issues.

Additionally, it traces the conceptualisation of rape atrocities as crimes, and how they have evolved in nature in recent years, considering how scholars have disputed the deliberate integration of rape as a war strategy. Furthermore, the efforts made over the decades to criminalise the crime of rape have been discussed as well as the consequences of the collapse in security during conflict. The chapter additionally highlights how rape was integrated as a strategy in conflict.

Finally, the political economy of rape as a strategy employed to weaken an enemy's economic assets was examined. It points out the deprivation of victim's communities in terms of labour force and functionality, with a specific example being the Mozambique Civil War, which cost the country millions in economic loss as well as the lives of family members.

2. Empirical Background of Events

2.1. Aims and objectives of this research

This study aims to achieve this by addressing the following objectives:

- To undertake a descriptive study of existing criminal legislation on protection of women and children during armed conflicts in Nigeria.
- To critically review the disparity between legal doctrines in books and law in action, with particular reference to the Criminal Code of the South and the Penal Code of Northern Nigeria.
- To assess the impact of societal perception on responses to conflict-related rape in Nigeria, and how religion and socio-cultural beliefs influence decision-making.

2.2. Rationale

The United Nations Development Programme (UNDP), in several of its reports over the past decade, has recounted incidents where Nigerian security forces engaged in internal combat with militias. These reports mentioned that both sides to the combat revolutionised the techniques of war by introducing rape as a palpable and substantive aspect of military strategy.⁶⁰ These situations have been known to escalate astronomically in the last couple of years, with reported rape incidents from both sides.⁶¹ These situations justify the need to critically examine the Nigerian criminal system along with its responses to conflict-related rape crime, in order to propose radical reforms, therefore validating the essential rationale for conducting the research.

⁶⁰UNDP, 'sexual Violence in Conflict'. 19 June 2018. www.un.org/sexualviolenceinconflict.

⁶¹ Ibid.

This study takes into consideration the sophisticated, more coordinated nature of internal conflicts in Nigeria. It also assesses the current adoption of women as a weapon/bait, with little response from the Nigerian government.⁶² Also, this research establishes, based on reports by Amnesty International, that rape is now endemic in Nigeria.⁶³ Additionally, serious concerns are raised by Amnesty International as to whether the government fails in its obligatory role under international law.⁶⁴

Rape, under Nigerian criminal law, is clearly a serious crime.⁶⁵ However, despite this atrocity, no prosecution has been recorded regarding conflict-related rape crime, thereby showcasing the Nigerian legal system as a merely symbolic system of rules.⁶⁶ Consequently, this study notes that it has become imperative to critically evaluate whether the existing legal response in Nigeria is effective and appropriate. This study supports ideas recommended by Eze-Anaba Itoro, and suggests that it could be best achieved through an assessment of its Southern Criminal Code and Northern Penal Code, underlining the flaws and gaps with consideration to definitions and enforcement of the legislation in comparison with internationally accepted criminal regulations.⁶⁷

Jeanne Ward similarly states that the growing global concern about the increase of sexual abuse during internal conflicts reflects changes in conventional war

⁶²J. J. Forest. 'Confronting. The Terrorism of Boko Haram in Nigeria (No. Jsou-12-5). Joint Special Operations Univ Macdill Afb Fl.' (2012) J. J. Forest. 'Confronting. The Terrorism of Boko Haram in Nigeria (No. Jsou-12-5). Joint Special Operations Univ Macdill Afb Fl.' (2012) J. J. Forest. 'Confronting. The Terrorism of Boko Haram in Nigeria (No. Jsou-12-5). Joint Special Operations Univ Macdill Afb Fl.' (2012).

⁶³ Amnesty International. 'Nigeria: Rape - The Silent Weapon. *Rape of Women and Girls. Amnesty International*

⁶⁴Knut Dörmann, *Elements of War Crimes under the Rome Statute of the International Criminal Court: Sources and Commentary* (Cambridge University Press 2003).

⁶⁵ Chineze J. Onyejekwe. 'Nigeria: The Dominance of Rape' (2008) 10(1) *Journal of International Women's Studies* 48.

⁶⁶ *Ibid.*

⁶⁷Itoro Eze-Anaba. 'Domestic Violence and Legal Reforms in Nigeria: Prospects and Challenges.' (2007) 14(21) *Cardozo JI & Gender*.

strategy and the turn against the female civilian population in internal conflicts.⁶⁸

This emerging revolutionary tactic of conflicts has induced combatants to engage in more daring plans of action to achieve their goals.

This chapter further examines the impact of a global trend of instrumentalization of women, stressing the historical timeline of war criminality. It assesses human rights abuses in Nigeria as empirical realities and traces the history and development of conflict-related rape.

2.3. Global trend of instrumentalization of women in conflict

During warfare, there are rules and regulations regulating combat, which also apply in internal armed conflicts.⁶⁹ It has been pointed out by Morris Greenspan that these regulations are practical, and reflect all the rules that govern soldiers during combats.⁷⁰ These laws are applicable in battles to convey equilibrium and protect the civilian population.⁷¹ However, despite these regulations, there is still use of force in violation the law of armed conflict.⁷² In addition, this research debates against the ambiguity of the phrase 'military necessity.' According to Burrus Carnahan, it is a legitimate objective of the military employing force as required by states to achieve victory during war, and to weaken the military forces of the enemy.⁷³

⁶⁸Jeanne Ward and Mendy Marsh. 'Sexual Violence against Women and Girls in War and Its Aftermath: Realities, Responses and Required Resources' (Symposium on Sexual Violence in Conflict and Beyond 2006) 23.

⁶⁹ Morris Greenspan. 'The modern law of land warfare. Berkeley.' University of California Press, 1959.

⁷⁰ Ibid.

⁷¹ Supra see 9

⁷²Dietrich Schindler and Jifí Toman. *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents* (Brill 1988).

⁷³ B. Carnahan. "Lincoln, Lieber and the laws of war: the origins and limits of the principle of military necessity' *American Journal of International Law* (1998) 92 AJIL 213-31.

In recent battles, women have been implicated in combat;⁷⁴ these occurrences change the taxonomy of conflicts and crimes committed into more complex terms.⁷⁵ This is in support of the widely accepted fact that civilians are increasingly becoming targets in conflict.⁷⁶ They are more frequently used as protective shields to facilitate guerrilla warfare, and to be captured, tortured,⁷⁷ raped,⁷⁸ and even executed, in order to undermine enemies' morale.⁷⁹ This was also deliberated by Alexander Rofe in his analysis of the origin of the laws of warfare in the Bible; he argued that war has always been a controversial issue that has befallen mankind,⁸⁰ and he maintained that it was, in most cases, organised and often prolonged discord, which was difficult to ignore, accompanied by extreme violence with social and economic destruction.⁸¹

Richard Smalley, in a similar study, described war as the sixth of the ten biggest problems that have confronted mankind for decades.⁸² Other researchers have shown increasing interest in warfare as an inescapable, integral aspect of human nature.⁸³ Supporting them are notable scholars like Maedi and Desmond Keegan, who stated that war was inevitable under certain socio-cultural or ecological

⁷⁴ Laura Smith-Spark, Women's bodies have become part of the terrain of conflict (Amnesty International. BBC News.8 Dec 2004.

⁷⁵ Ibid.

⁷⁶ Janie Leatherman, Sexual Violence and Armed Conflict (Polity Cambridge 2011) (ISBN: 978-0-7456-4188-1). 176pp.

⁷⁷ Onyejekwe, Chinese J. (2008). Nigeria: The Dominance of Rape. *Journal of International Women's Studies*, 10(1), 48-63.

⁷⁸ Amnesty International. 'Nigeria: Rape - The Silent Weapon. Rape of Women and Girls. Amnesty International'. 28 November 2006.

⁷⁹ Supra See 11.

⁸⁰ Alexander Rofe. "The Laws of Warfare in the Book of Deuteronomy: Their Origins, Intent and Positivity." *Journal for the Study of the Old Testament* 10 32 23-44.

⁸¹ Ibid.

⁸² Richard E. Smalley. 'smalley Institute Grand Challenges'. American Institute of Physics (2008).

⁸³ Ofer Zur. 'The Psychohistory of Warfare: The Co-Evolution of Culture, Psyche and Enemy' (1987) 24(2) *J Peace Res* 125
Ofer Zur. 'The Psychohistory of Warfare: The Co-Evolution of Culture, Psyche and Enemy' (1987) 24(2) *J Peace Res* 125
Ofer Zur. 'The Psychohistory of Warfare: The Co-Evolution of Culture, Psyche and Enemy' (1987) 24(2) *J Peace Res* 125.

circumstances.⁸⁴ Patrick Keegan argued that war was not linked to any single type of political organization or society, but rather a universal phenomenon whose form and scope was defined by the society that wages it.⁸⁵

2.4. Historical timeline on war criminality

In the recent past, rape and acts of sexual violence against women during conflicts went unrecognized and unchallenged.⁸⁶ This is evidenced by recent war crime tribunals, in which rape went largely unchallenged, and has been identified as one reason why soldiers, militants, and corrupt officials view rape as a fringe benefit of war.⁸⁷ Non-sexual violent atrocities committed during conflicts were deemed to be severe, leading to the promulgation of the Lieber Code,⁸⁸ with rules and regulations governing war crimes as capital offenses.⁸⁹ Walter Zapotoczny reaffirmed the concern raised by the Hague Convention on non-prosecutions during World War II trials in his analysis of the Rape of Nanking.⁹⁰ It was identified during this study that the Chinese prosecutor for the IMT of 1946 only charged the Japanese for “atrocities committed” at Nanking, with no specific mention of the incidences of rape that occurred.⁹¹ The particular gravity of rape in the case of Nanking was only addressed in a later debate in 1972, during the development

⁸⁴ A. Maedl. ‘Rape as Weapon of War in the Eastern DRC: The Victims’ Perspective.’ (February 2011) Volume 33, Number 1pp. 128-147 | 10.1353/Hrq.2011.0005John Desmond Patrick Keegan. *The Face of Battle, Soldiers, a History of Men in Battle*.

⁸⁵ Ibid.

⁸⁶Quincy Wright. “The law of the Nuremberg trial.” 41(38.) *Am J Int’l L.*1947), *International Criminal Law* 239.

⁸⁷Bernard Victor Aloysius Röling and Christiaan Frederik Rüter, *The Tokyo Judgment: The International Military Tribunal for the Far East (IMTFE), 29 April 1946-12 November 1948*, vol 2 (APA-University Press Amsterdam 1977).

⁸⁸ Francis Lieber, who was then a professor at Columbia College in New York, revised by a board of officers and promulgated by President Lincoln, formed the origin of the project of an International Convention on the Laws of War presented to the Brussels Conference in 1874, which stimulated the adoption of the Hague Conventions on Land Warfare of 1899 and 1907.

⁸⁹ D. Schindler and J. Toman. ‘The Laws of Armed Conflicts’ (1988), pp. 3-23. Henry Dunant Institute Geneva.

⁹⁰ Zapotoczny, Walter, 2008, ‘The Rape of Nanking: Reasons and Recrimination,’ <http://www.wzaponline.com/TheRapeofNanking.pdf>.

⁹¹ Ibid.

of diplomatic rapprochement between China and Japan in reference to historical war crimes.⁹² The fact that rape was not mentioned establishes that there was essentially a cover-up of rape crimes during the trials.

Reviewing conventional war crimes atrocities, extensive evidence relating to violence and other conventional war crimes were presented before the WWII tribunals. This demonstrated cases of torture, murder, rape, and other cruelties of the most inhumane and barbarous character freely adopted by the Japanese Imperial Army and Navy extensively documented (including during the occupation of Manchuria from 1935).⁹³ Nevertheless, despite compelling eyewitness accounts, and documentary and photographic evidence, Japanese revisionists continue to absolutely reject charges that war crimes were committed by the Japanese forces during the war. The fact that modern political interests prevent atonement and redress for historical crimes (including rape) that do not directly impinge on contemporary life and national socio-economic interests indicates the complex nature of rape and concern to this research.

Furthermore, it has been noticed that, though not categorised in the Nuremberg Charter, some evidence from a review indicates that acts of sexual violence were reported before the International Military Tribunals after WWII, yet even with glaring proof the tribunal did not take these evidences into consideration.⁹⁴ Indeed, analysis indicates that certain crimes were prioritised for prosecution by the tribunal, particularly the complicity of Nazi politicians, and particular massacres and torture ordered by commissioned officers, high-ranking generals,

⁹² Takashi Yoshida, *the making of the " Rape of Nanking": history and memory in Japan, China, and the United States* (Oxford University Press 2009).

⁹³ Tanaka, Toshiyuki, and Toshiyuki Tanaka. 'Hidden horrors: Japanese war crimes in World War II.' (2016) Boulder, CO: Westview Press.

⁹⁴ Charter of the International Military Tribunal for the Far East (IMTFE). Article 5 Links: www.Coup.Com//uk/orc/bin/9780199203109/resource/case.

and admirals.⁹⁵ In the context of WWII and indeed contemporary war crimes there are generally officers present, observing, directing, or actually committing the crimes.⁹⁶

Regrettably, during the Tokyo Trials, acts of sexual violence and rape were not positioned at a level that would permit rape to be treated as a stand-alone crime.⁹⁷ The tribunal however summed the acts of sexual violence under the residual umbrella of Inhumane Treatment.⁹⁸ This caused a blur, whereby rape was lost in the barbaric morass of overall crimes, and became a passing reference in a tale of horror.⁹⁹ Ultimately, no one could distinguish whether rape during conflict could be prosecuted as a separate substantive crime standing on its own merits under international law.¹⁰⁰

The study further identifies that the only way forward was the introduction of the Allied Control Council Law no. 10.¹⁰¹ The Control Council law was established to provide uniformity in the legal basis for the prosecution of war criminals and offenders by international military tribunals. One of the important provisions of the Control Order was the swapping of war criminals to the jurisdiction of crime for prosecution.

⁹⁵The comfort women: sex slaves of the Japanese Imperial Forces /By: Hicks, George L. Published: (1995).

⁹⁶ Ibid.

⁹⁷Charter of the International Military Tribunal for the Far East (IMTFE). Article 5. IMTFE was a military trial convened on April 29, 1946, to try the leaders of the Empire of Japan for joint conspiracy to start and wage war (categorized as "Class A" crimes), conventional war crimes ("Class B") and crimes against humanity ("Class C").

⁹⁸ Supra See 30

⁹⁹ All Japanese Class A war criminals were tried by the International Military Tribunal for the Far East (IMTFE) in Tokyo. The prosecution team was made up of justices from eleven Allied nations: Australia, Canada, China, France, Great Britain, India, the Netherlands, New Zealand, the Philippines, the USSR and the USA. The Tokyo trials lasted two and a half years, from May 1946 to November 1948. Other war criminals were tried in the respective victim countries. War crime trials were held at ten different locations in China.

¹⁰⁰ Ibid.

¹⁰¹ Paust, Jordan L., et al. 'International criminal law.'(2000). Durham NC: Carolina Academic Press.

Furthermore, the study identified a positive side which states that criminals who were not tried by the London Charter could be tried under Control Order 10, which stated penalties for crimes committed during conflicts.¹⁰² Also the description of Control Council Law no. 10 was the ‘Punishment of Persons Guilty of War Crimes, Crimes against Peace and Against Humanity.’¹⁰³ Theodor Meron acclaimed the Council Law no. 10 for bequeathing the crime of rape and sexual violence a firm foothold, as precise *de jure* offenses under international humanitarian law.¹⁰⁴ Rape and sexual violence were thereafter endowed with codification for the first time as independent war crimes within the statutes of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda.¹⁰⁵

These two historic international instruments, according to MacKinnon, were the foundation upon which crimes of rape and sexual violence are now prosecuted,¹⁰⁶ and the basis for holding rape and sexual violence as crimes of genocide.¹⁰⁷ This was the first time that acts of sexual violence were put on equal footing with all other offenses.¹⁰⁸ On a regional basis, the African Charter was instituted to accommodate incidences of war crimes in Africa by incorporating the instrument into national law.¹⁰⁹

¹⁰² ‘Article 111 of LII (legal information institute). Law Cornell, edu.’ (2011—10-24)

¹⁰³ ‘London Agreement of 8 August 1945’. BEVANS, Charles I. *Treaties and other international agreements of the United States of America (1776-1949), 1931-1945*. Department of State (Ed.). Volume III: Multilateral. Washington: Department of State Publication, 1969. 1430 p. p. 1238-1247.

¹⁰⁴ Theodor Meron. “Rape as a crime under international humanitarian law.” 87.3 (1993): 424-428. *The American Journal of International Law*.

¹⁰⁵ “Defining Rape Internationally: A Comment on Akayesu.” Pp. 237-246 in *Are Women Human?* 2006. The Belknap Press of Harvard University Press (Catherine A. MacKinnon).

¹⁰⁶ *Ibid.*

¹⁰⁷ The International Tribunal for Rwanda (ITR) sentencing Judgement against Jean Paul Akayesu. ICTR, *The Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4-T, Trial Chamber 1, 2 September 1998; <http://www.icty.org>

¹⁰⁸ *Ibid.*

¹⁰⁹ Ouguergouz, Fatsah 2003 *The African Charter of Human and People’s Rights: A Comprehensive Agenda for Human Dignity and Sustainable Democracy in Africa*

2.5. Assessment of human rights abuses in Nigeria as empirical realities

Nigeria has been a country subjected to numerous tribal and regional tensions since it gained its independence from the UK in 1960.¹¹⁰ Benjamin Nwabueze cited several reports concerning human rights violations by the police and the military in Nigeria.¹¹¹ Therefore, it is not surprising that recent developments in Nigeria by militants have resulted in the deterioration of human rights, as reported by Amnesty International.¹¹²

Olaide Aro in his analysis of Boko Haram insurgencies in Nigeria stated that issues of unrest recounted in the Northern Nigeria were initiated by sectarian Islamic extremists (attacks linked to the religious sect Boko Haram). These attacks were associated with incredible damage to life and property, with children and women being the main targets.¹¹³ He criticized the Nigerian security forces for their method of response, citing it as an unconstitutional approach to violent events.¹¹⁴ Reno, in his critique of the politics of insurgency in collapsing states, argued that the issues of abuse in conflicts have gone un-investigated, and that justice systems have remained under-resourced.¹¹⁵ This spawned the rationale for assessment of the Nigerian judicial system in the current study, with empirical

¹¹⁰Benjamin Obi Nwabueze. 'A constitutional history of Nigeria. Longman, 1982, University of Virginia.

1982 - Law - 272 pages' Addison-Wesley Longman Ltd.

¹¹¹'Human Rights Watch: world report 2013.'This 23rd annual World Report summarizes human rights conditions in more than 90 countries and territories worldwide in 2012. Wwww. hrw. org/world-report/2013

¹¹² Amnesty International. 'State of The World's Human Rights. Annual Report Deteriorated' (2012)

¹¹³Olaide I. Aro. "Boko Haram Insurgency in Nigeria: Its Implication and Way Forwards Toward Avoidance of Future Insurgency." (2013) 3.11 International Journal of Scientific and Research Publications 1-8.

¹¹⁴William Reno. "The Politics of Insurgency in Collapsing States." Development and Change' ((2002)) 33.5837-858.

¹¹⁵ Ibid.

interviews to elucidate the views of citizens on the accusation of human rights abuses in Nigeria.

2.6. History of Niger Delta oil conflict

To understand the origin of conflicts in Nigeria, it is necessary to briefly discuss the root cause of the conflicts. The Federal Republic of Nigeria comprises 36 states and its Federal Capital Territory, Abuja. Nigeria is blessed with two main river systems, the Niger and the Benue Rivers, which converge and empty into the Niger Delta, one of the world's major river deltas and the largest mangrove swamp in Africa.¹¹⁶ The Niger Delta is a massive, rich coastal plain in Southern Nigeria, where the River Niger joins the Atlantic Ocean in the Gulf of Guinea. The resultant mangrove swamp accounts for the rich and fertile vegetation of the Niger Delta.¹¹⁷ The Delta provides an environment for a vast biodiversity, supporting a high populace density who depend upon its rich resource base.¹¹⁸ The occupants were mainly ethnic minorities with a long history of self-determination. The discovery of crude oil in this region in 1956 accounted for most of Nigeria's oil and gas production, and a significant percentage of its national revenue.¹¹⁹

This oil discovery, Odiya claims, had an adverse effect on the region,¹²⁰ mainly in terms of the economic, environmental, and political situation. Despite the enormous wealth generated by oil production in the Niger Delta, the region stayed

¹¹⁶LD Wright, 'River Deltas,' *Coastal Sedimentary Environments* (Springer 1978) 5

¹¹⁷ Cyril I. Obi. 'Oil Extraction, Dispossession, Resistance, And Conflict in Nigeria's Oil-Rich Niger Delta

¹¹⁸ "'The Human and Physical Characteristics of Nigeria' "The Human and Physical Characteristics of Nigeria." Geographical Alliance of Iowa.

¹¹⁹Robert O. Dode. "'The political economy of resource curse and the Niger Delta crisis in Nigeria: Matters arising.'" *European Journal of Sustainable Development* (2012) 1.2235.

¹²⁰ Samson I. O, Lucky. Odiya. 'Oil Exploitation and Conflict in the Niger-Delta Region of Nigeria '(2009) *J Hum Ecol* 25-30.

one of the most underprivileged parts of Nigeria,¹²¹ and the main reason for several militant groups(youths) emerging and fighting in the region.¹²²

2.7. Niger Delta minority ethnic groups and oil conflict in Nigeria

The Niger Delta region is very populous, and was once referred to as the Oil Rivers because of its extensive palm oil production.¹²³ This is considered one of the richest regions in Africa as earlier discussed, with abundant natural and agricultural resources.¹²⁴ However, according to Thomas Pakenham, the manner in which its resources have been managed by successive regimes over the decades was the genesis of the problems confronting Nigeria generally, as well as the Niger Delta region in particular.¹²⁵ As a result of oil exploration,¹²⁶ the region was prone to numerous health hazards, socio-economic difficulties, and environmental degradation.¹²⁷ This degradation prompted the community to accuse the multinational companies operating within the area of renegeing on their promise of infrastructural development within the community.¹²⁸ In addition, Teddy Jike cited corruption within the Nigerian government as a major obstacle to development. This involves high-ranking officials owning major stocks in the oil company, leading to misappropriation of funds, and deprivation developments

¹²¹ Cyril I. Obi. 'Oil Extraction, Dispossession, Resistance, and Conflict in Nigeria's Oil-Rich Niger Delta '

¹²²Cyril Obi. 'Nigeria's Niger Delta: Understanding the complex drivers of violent oil-related conflict' (2009) 34(2) Africa Development

¹²³ Thomas Pakenham. 'The Scramble for Africa: The White Man's Conquest of the Dark Continent from 1876 to 1912' is a comprehensive history of the colonisation of African territory by European powers between 1876 to 1912. pp. 197-199.

¹²⁴ Supra 121

¹²⁵ Ibid.

¹²⁶ M. Watts. 'Petro-Insurgency or criminal syndicate? Conflict and violence in the Niger Delta' (2007) pp. 637-660.

¹²⁷ Bloomberg L. P. 'Business week' (2013).

¹²⁸V. Teddy Jike. "Environmental degradation, social disequilibrium, and the dilemma of sustainable development in the Niger-Delta of Nigeria." *Journal of Black.* (2004) 34.5686-701.

within the communities.¹²⁹ This, he argued, gave rise to an upsurge of militia groups and rebels who engage in rebellious acts, causing disruption and instability in the region.¹³⁰

Reflecting on past civil wars in Nigeria, it can be surmised that all civil conflicts had causes related to rich natural resources,¹³¹ and the struggle to control them.¹³² The Niger Delta region is the main revenue generator for the Nigerian economy,¹³³ yet its lucrative resources have not been reflected in any significant transformation in the Delta region. Despite its abundance of natural resources; the people living in the oil-producing region were worse off.¹³⁴ Hassan Ejibunu supported Jike's arguments that misappropriation of funds forms the basis of the proliferation of militia groups within the region, with the aim of securing their share of the "nation's wealth."¹³⁵ The first to emerge among these militia groups were the Movement for the Survival of the Ogoni People (MOSOP),¹³⁶ followed by the Ijaw National Congress (INC),¹³⁷ who claimed they were struggling for self-determination. Later the Movement for the Emancipation of the Niger Delta (MEND)¹³⁸ emerged, fighting for resource control. The third militia group relates to the various bands of criminal cult gangs, sponsored and supported by political

¹²⁹*Land Use Act - Nigeria Law.* www. Nigeria-law. Org/Land Use Act.

¹³⁰Elbadawi, I. and Sambanis, N. 'How much war will we see? Estimating the incidence of civil War in 161 countries. 'Washington DC: World Bank.

¹³¹ Smillie, I., Gberie, L., and Hazleton, R. 'the heart of the matter: Sierra Leone, diamonds and Human security.' Ottawa: Partnership for Africa.

¹³²D. Morris 2006. 'The chance to go deep: US energy interests in West Africa. American Foreign Policy Interests,' 28 (3), 225-238.

¹³³ Robert O. Dode. "'The political economy of resource curse and the Niger Delta crisis in Nigeria: Matters arising.'" European Journal of Sustainable Development' (2012) 1.2235.

¹³⁴ Ibid.

¹³⁵Hassan T. Ejibunu. "Nigeria's Niger Delta crisis: root causes of peacelessness." EPU research papers '(2007) 7.71-41

¹³⁶Movement for the Survival of the Ogoni People. Ogoni: Oral Intervention on the Human Rights Situation of States and Territories threatened with Ex'Aug 07, 2006.

¹³⁷Pita Agbese. 'Federalism and the minority question in Nigeriall' (2003) Federalism in Africa 237.

¹³⁸Elias Courson, Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and Petro-insurgency in the Niger Delta (Nordiska Afrikainstitutet 2009).

godfathers.¹³⁹ These gangs are responsible for crude oil bunkering, and kidnapping for ransom. They also engaged in raping, assassination, acts of brigandage, and piracy.¹⁴⁰ This illustrates a link between the influx of militia groups in Nigeria and the rise of human right abuses related to a struggle for access to and control of resources.¹⁴¹

2.8. Relationship between oil wars and rape in the Niger Delta

The Niger Delta is one of the most fortunate regions in Africa, blessed with both natural resources and manpower.¹⁴² However, the circumstances in which its resources have been managed over time have been the reason for the problem within the region.¹⁴³ Darryl Robinson claimed that the exploration of oil had an impact on the civilization of the human race greater than any other natural resource in history.¹⁴⁴ Nwilo and Badejo reasoned that the dependence on crude oil wealth led Nigeria to insatiable corruption, economic exploitation, and environmental degradation.¹⁴⁵ The latter, particularly associated with oil drilling, caused enormous consequences to the land and the waterways due to the introduction of toxic chemicals into the water system. Oil drilling further reduces the flow of oxygen and the rate of photosynthetic activities, which constitute the marine ecosystem, thereby affecting the livelihoods of indigenous people.¹⁴⁶

¹³⁹Ewokor Chris. 'The Niger Delta Avengers: Nigeria's Newest Militants' (2016) 2 BBC Africa, Nigeria.

¹⁴⁰Ayo Peters. 'Understanding Kidnapping as a Political Act. A Case of the Niger Delta' (2016)

¹⁴¹Akpobibibo Onduku. 'Environmental Conflicts: the case of the Niger Delta' (2001) A paper presented at the One World Fortnight Programme, University of Bradford, UK.

¹⁴²Hassan T. Ejibunu. "Nigeria's Niger Delta crisis: root causes of peacelessness." EPU research papers '(2007) 7.71-41.

¹⁴³ Cyril Obi. 'Nigeria's Niger Delta: Understanding the complex drivers of violent oil-related conflict' (2009) 34(2) Africa Development

¹⁴⁴ D. Robinson. 'Ogoni: the struggle continues. Geneva world council of churches.' (1996).

¹⁴⁵ Nwilo, P. C and Badejo, O. T. 'Oil spill problem and management in Niger Delta.' (2005) Paper presented at international oil spill conference miami, Florida.

¹⁴⁶ Zabbey. 'Impact of extractive industries on the biodiversity of the Niger Delta region Nigeria.' (2004) Paper presented at the national workshop on the coastal and marine biodiversity management calabar, cross rivers state 7-9 September abbey.

Julia Baird reinforced this argument by stating that Nigeria had the highest number of oil spillages compared to other oil-producing countries. This spillage comes with no penalty regimes attached, with disregard for the environment and human damages.¹⁴⁷ This provoked the rise of militia groups in the struggle to fight for resource control.¹⁴⁸

2.9. Boko Haram insurgency in Nigeria

Jamā'at Ahl as-Sunnah li-Da'wah wa'l-Jihād are a militia and an Islamic extremist sect located in Northern Nigeria, popularly known as Boko Haram. The group, was grafted upon a nativist Islamic ideology rejecting Western education as a sin, which runs contrary to the beliefs of Islam.¹⁴⁹ This militia group rose to the limelight in 2002 in north-east Nigeria, triggering growing concern among the authorities.¹⁵⁰ Adesoji disputed that terrorism was not peculiar to Nigeria, but that the frequency and intensity of Boko Haram's violent activities, particularly the use of suicide bombing and unprovoked attacks on innocent civilians, was cause for concern.¹⁵¹

In a similar situation, Okoli pointed out that these activities of Boko Haram escalated Nigeria's profile on the list of countries associated with global terrorism.¹⁵² Aghedo and Osumah identified that widespread insecurity and ubiquitous bomb scares were crippling both political and socio-economic

¹⁴⁷Baird, Julia. "Oil's shame in Africa." *The Daily Beast*. Newsweek. July 18 (2010).

¹⁴⁸ D. Robinson. 'Ogoni: The Struggle Continues (Geneva: World Council of Churches, 1996)' (1996)

¹⁴⁹Tonwe, Daniel A. and Eke, Surulola J. 'state fragility and violent uprisings in Nigeria,' *African Security Review*, Vol. 22, No.4, pp. 232-243. 2013.

¹⁵⁰John Thompson. 'Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma.' (May 9th, 2014) *Canada Free Post*.

¹⁵¹Abimbola Adesoji. "The Boko Haram Uprising and Islamic Revivalism in Nigeria," (2010) Vol. 45 No. 2, pp. 95-108 *Africa Spectrum*,

¹⁵²Okoli, Al Chukwuma, and Philip Iortyer. "Terrorism and humanitarian crisis in Nigeria: Insights from Boko Haram insurgency." *Global Journal of Human* (2014) 14.1 Social Science 39-49.

activities in Nigeria, damaging the image of the country, with threats extending to Southern Nigeria.¹⁵³ They related that the Nigerian security response to the Boko Haram uprising remained unsuccessful as of 2012, as the militia group continued to execute its threats with impunity.¹⁵⁴

These activities have triggered fiery debates among scholars on how the government should respond to these terrorism threats,¹⁵⁵ thus justifying the enactment of the Nigerian Terrorism Prevention Act 2011. This law has many shortcomings, including its lack of consideration of the protection of women and children in terrorist attacks, and it does not address sexual abuse and rape against women, which remain under the purview of conventional criminal law.¹⁵⁶

The problem with Boko Haram insurgencies, Johnson reasons, was that its primary grievances were religiously motivated, and therefore less pecuniary than those of other Niger Delta militants, whose core grievance was their demand for a fair share of oil royalties.¹⁵⁷ This means that the grievances of the Niger Delta militants could be easily negotiated and tactically managed, while those of Boko Haram were more culturally and religiously deep-rooted. Islam has been viewed as an intrinsically antagonistic religion towards others, with rigid and inflexible laws and ideology.¹⁵⁸

This study, therefore, reveals that Boko Haram's attacks were mostly religiously motivated targeting prominent places, such as places of worship, markets and

¹⁵³ Aghedo, Iro, and Oarhe Osumah. "The Boko Haram uprising: How should Nigeria respond?" (2012) 33.5 Third World Quarterly 853-869.

¹⁵⁴ Ibid.

¹⁵⁵ Global Terrorism Index Report 2014 - Measuring and Understanding. The Impact of Terrorism. Institute for Economics and Peace Published on 16 Nov 2014.

¹⁵⁶ 'Nigerian Terrorism Prevention Act 2011' (2011).

¹⁵⁷ T Johnson. 'Boko Haram'. 2 September 2011. http://www.efr.org/africa/boko-haram/p25739?cid¼nlc-public-the_-world_this_week-link7.

¹⁵⁸ Bernheimer, Teresa, and Andrew Rippin. Muslims: their religious beliefs and practices. Routledge, 2013.

shopping centres, and government institutions, seeking to inflict maximum damage on people of other religions.¹⁵⁹ It further discloses that the group signified a unique problem compared to other rebellious groups in the country.¹⁶⁰ Okpaga et al. also uncovered that the Boko Haram militia group was more sophisticated, coordinated, alarmingly daring, and genocidal in its drives.¹⁶¹ They discovered that, unlike the other rebel groups, Boko Haram deploys violence against both government and private residents, especially Christians in the North, and foreigners for a more global effect.¹⁶²

2013 marked a significant development in Boko Haram's tactical operations by their incorporating kidnapping and suicide bombing as their latest advanced tactics. Other militia groups such as MEND and the Niger Delta Avengers emulated them by adding kidnapping to their modus operandi.¹⁶³ Boko Haram have been known to carry out a succession of kidnappings, focusing on the instrumentalization of women and children.¹⁶⁴ Stewart recounts mass attacks steered by Boko Haram, perpetuated against police facilities,¹⁶⁵ and suicide by vehicle-borne improvised explosive devices (VBIEDs). They also engage in the bombing of churches and markets, particularly targeting women and girls, as tactics to attract government attention for their demands.¹⁶⁶ This study thereby questions the efficacy of the country's legal and judicial system, and sets the pace

¹⁵⁹ Human Rights Watch. 'Boko Haram: widens terror campaign'. 2012. Page: 6. www.hrw.org/news/2012/01/23/Nigeria-boko-haram-widens-terror-campaign.

¹⁶⁰ Ibid.

¹⁶¹ Okpaga, Adagba, Ugwu Sam Chijioke, and Okechukwu Innocent Eme. "Activities of Boko Haram and insecurity question in Nigeria.' (2012) 19(77) Arabian Journal of Business and management Review

¹⁶² Ibid.

¹⁶³ Judith Burdin Asuni. "Understanding the armed groups of the Niger Delta." (2009) New York: Council on Foreign Relations 215-219

¹⁶⁴ The Guardian 19 April 2013 'French family seized in Cameroon by suspected Boko Haram Islamists freed' via <http://www.theguardian.com/world/2013/apr/19/french-family-kidnapped-cameroon-freed> accessed 9/1/2014.

¹⁶⁵ S. C. Stewart. "Nigeria's Boko Haram Militants remains a regional threat", Stratfor Global Intelligence' (2012).

¹⁶⁶ YouTube. A Message to the World' via <http://www.youtube.com/watch>. 30 September 2012

for the relevance of empirical interviews to further elucidate and support the need for radical reform to existing law.

2.10. Summary

This chapter highlights the aims, objectives and rationales for this study. It traces the historical timeline of war criminality and instrumentalization of women. It therefore forms a link with subsequent chapters, creating a sequence with the aim to find a lasting solution for the laxity of the Nigerian criminal system.

It further explains the empirical reality of human rights abuses in conflicts from World War II, to those in Africa, and specifically in Nigeria. This chapter further discusses the impact of the instrumentalization of women in conflict, citing the different Nigerian militia groups and their *modus operandi*.

Finally, this chapter reveals the change in tactics to include the use of women as combatants, and the employment of terrorism activities for maximum effect. It therefore uncovers the ineffectiveness in the security system and judicial enforcement of Nigerian criminal law, which this study has identified as a precursor to urgent review and reform.

3. Methodology

3.1. Introduction

This chapter presents the rationale for the socio-legal methodology adopted in this research, particularly the choice of qualitative interview technique. To respond to the research questions, it is vital that the methods¹⁶⁷ (range of techniques that are used to collect data) and methodology¹⁶⁸ (research strategy) can withstand scrutiny. This thesis uses Empirical socio-legal approach as well as Black Letter Law. The latter entails a critical qualitative analysis of legal materials that supports the hypothesis. The black letter or doctrinal approach is used to assess laws, conventions and resolutions and to rationalise case decisions. The scope of this thesis combines qualitative research of a doctrinal nature.

Qualitative research is the study of a specific issue which is central to the researcher. This research engages the exploration of legal rules under international law,¹⁶⁹ as well as existing literature. This process allows assessment of the implications of rules, and the principles which underpin them. This thesis adopts the empirical socio-legal approach to enable an understanding of how the law works in practice, and its impact on people, communities, and organisations.

Empirical socio-legal methodology was chosen to emphasise the use of participants' perception to elucidate their generated thoughts, assumptions, and preconceptions. Banakar *et al.* proposed that the empirical socio-legal method

¹⁶⁷Michael Salter and Julie Mason, 'Writing Law Dissertations: An Introduction and Guide to the Conduct of Legal Research' (2007) Pearson 31.

¹⁶⁸Eileen Meier. "Prosecuting Sexual Violence Crimes. During War and Conflict: New Possibilities for Progress." 83.' (2004) 10 Int'l Legal Theory

¹⁶⁹Ian Parker (ed), 'Qualitative Research' in Peter Banister, Erica Burman, Ian Parker, Maye Taylor, Carol Tindall (eds)., vol 2 (Qualitative Methods in Psychology: A Research Guide. 1994)

relied on expressions of subjectivity and interpretation of participants' experiences in social contexts.¹⁷⁰ This research study supports the adoption of socio-legal empirical approach as a better option to appreciate participants' thoughts. It enabled in-depth qualitative data collection specifically related to the circumstances in question and the rationale behind the information.

3.2. Originality and relevance of research

The originality of this research is founded on the assessment of the Nigerian criminal framework from the victims' perspective. Another problem revealed by this study is the fact that only a small number of researchers have examined the use of women as weapons during internal conflicts in Nigeria.¹⁷¹ Even among studies that tentatively addressed the subject, they failed to focus on rape,¹⁷² and how victims perceive their vulnerability due to the lack of efficiency of the Nigerian criminal justice system. Part of the problem relates to the fact that rape-law reforms in Nigeria are mainly related to rape in a domestic context. Sadly, there is almost no holistic research evaluating criminal and penal codes, particularly the disparity in definitions and criteria for prosecution of rape crimes in conflicts.

Thirdly, there is a failure to identify lapses in the procedures used by the Nigerian security system and difficulties encountered by rape victims in seeking justice. This is not to say that past studies were not important; rather, this study stresses, as revealed in subsequent chapters, the importance of evaluating the efficacy of Nigerian criminal law based on experiences and testimonies of victims. This will

¹⁷⁰ Banakar, Reza, and Max Travers. 'Theory and method in socio-legal research.' (2015.) Bloomsbury Publishing.

¹⁷¹ Eileen Meier. "Prosecuting Sexual Violence Crimes during War and Conflict: New Possibilities for Progress." 83. (2004) 10 Int'l Legal Theory. Zenn, J., & Pearson, E. 'Women, Gender and the evolving tactics of Boko Haram. Journal of Terrorism Research, 5(1).'

¹⁷² Shedrach Gaya Best and Dimieari Von Kemedi. 'Armed groups and conflict in rivers and plateau states, Nigeria' (2005) Nicolas Florquin and Eric Berman 13; Zenn, Jacob, and Elizabeth Pearson. "Women, Gender and the evolving tactics of Boko Haram." (2014) 5.1 Journal of terrorism research.

enable us to understand some of the key challenges encountered by rape victims and how the law may be able to bridge these gaps. Fourthly, ever since the rise of Boko Haram, there has been a shift in conventional war strategy to terrorist acts. Therefore, this is a strong justification for an assessment of the Terrorism Prevention Act 2011 (as amended in 2013) to include rape and sexual abuse of women, which is currently overlooked in the Act. Such assessment is necessary not only to evaluate the current Terrorism Prevention Act, but to merge the existing criminal code with its implementation in lower courts.

3.3. Differences between quantitative and qualitative study

Qualitative study aims at understanding contributors' life experiences (in a natural setting) and the generation of concepts from information provided by participants. The method further provides a more realistic sense of the world that cannot be experienced in the numerical or statistical analysis presented in quantitative methods. There is flexibility in data collection, while also providing a holistic view of the phenomena under investigation. Qualitative method further enables the capability to interact with participants in their own language and on their own terms. It is broadly focused, process-oriented, and provides descriptive knowledge based on primary and unstructured data. In the context of the current study, data samples (life experiences and observations) are obtained from victims or professional individuals and organisations within Nigeria. The method enabled in-depth, non-standardised interviews from victims and observers, reports from fieldwork, documents, photographic evidence, and videos of incidents of rape in Nigeria. Analysis ranges from thematic content (Chapter 8), to ethnographic exploration (Chapter 3). This intensifies the reliability and authenticity of the research.

On the other hand, quantitative research mainly focuses on a search for explanations, testing hypotheses, predictions, and control. Approaches in a quantitative study are narrowly focused, mainly product oriented, context-free and are often conducted in artificial settings. There is an inability to control the study environment in which respondents provide answers. Also, quantitative method provides limited outcomes, mainly focusing on original research questions and the structured format, without encouraging the evolving and continuous investigation of a research phenomenon. In addition, there are issues of internal and external validity, reliability, and the generalisation of the study results to the entire study population and other contexts. However, when both methods are combined, they could be mutual and overlapping, therefore compensating for their weaknesses.

3.4. Rationale for using qualitative research in relation to this project

To better understand empirical socio-legal methodology, there is a need to identify the origin of qualitative research methods. Qualitative research methods originated from the study of societies, cultures, and social behaviour, and how cultures influence the ways in which people perceive, interpret, and act in the world. Empirical methodology was introduced by anthropologists in the early twentieth century, who emphasised the fact that empirical methods clarified the rationales behind preconceived ideas in some cultures, how these beliefs and attitudes fashions people's perceptions toward a phenomenon. This supports the relevance of adopting qualitative methods in evaluating rape cases from the perspectives of first-hand participants.

Malinowski, Meads, Park, and Burgess all embraced qualitative empirical methodology because it centres on facts as interpreted, focuses on natural settings, and provides victims with confidence and stability during interviews. Similarly, it allows for a logical progressive sequence of critical evaluation of events. As a result, it offers a vital link within the thesis between part I of this thesis (Historical and Contemporary Realities), part II (Law in Action Responses) and part III (Possible Reforms Based on Qualitative Analysis of Interviews), which well suits the overall aims of this research, which is evaluating the efficacy of the Nigerian criminal justice system.

Quantitative and qualitative research both adopted empirical methods to interpret the works of social and legal processes. However, they deviate on interpretations, analysis, and the very definition of what counts as relevant data. Similarly, qualitative research methods permit the raising of relatively open-ended research questions, while providing in-depth multiple possible answers. Data from qualitative studies are usually collected through three main methods: direct observations, in-depth interviews, and analysis of documents. These methods were significant to the current study; however, due to ethical considerations from the issuing university, interviews with rape victims were not permitted. Rather, a review of past reports on interviews, discussions, observations of victims by other researchers and interviews of persons associated with victims were adopted as part of data for the study. By adopting empirical socio-legal methodology, this thesis critiques the Nigerian criminal system, based upon responses from empirical interviews. This method enabled me to determine whether there were any discrepancies between what the system is and what it ought to be. Following such assessment there are questions on the results, and how the identified discrepancies are to be interpreted and resolved.

3.5. Aims of qualitative research

The aim of adopting qualitative research is to identify the best approach to elucidate ideas obtained, and to illustrate views and perceptions surrounding a phenomenon without distorting the information. Different qualitative research approaches are available, all of which reveal common characteristics and procedures. However, variations occur in data collection methods and analysis.¹⁷³

Qualitative methods involve direct interactions with individuals on a one-to-one basis or in a group setting (as in focus groups), observations, and action research.¹⁷⁴ They provide an avenue to interact and engage with participants in a social, interpersonal context, while enabling researchers to include or exclude questions that will further enhance the study, depending on the direction of flow of conversation.¹⁷⁵ Furthermore, qualitative method permits flexibility into various factors such as the preconceptions, culture, and beliefs of participants. It also unveils how these facts influence participants' perceptions about events and difficulties. In the context of the current study, qualitative data has primacy as it forms the theoretical framework derived directly from the interview discussions. It is context-bound and focuses on an emic perspective,¹⁷⁶ namely how people think.¹⁷⁷ Preconceptions, opinions and consequences of event are inferred from qualitative methods.¹⁷⁸ Also, description, analysis and interpretations are key

¹⁷³ Ritchie, Jane, and Liz Spencer. "Qualitative Data Analysis for Applied Policy Research." (2002) 573.2002 The Qualitative Researcher's Companion 305-329.

¹⁷⁴ Ibid.

¹⁷⁵ J. Riley. 'Getting the Most from Your Data: A Handbook of Practical Ideas on How to Analyse Qualitative Data.' (Technical and Educational Services. Bristol, UK).

¹⁷⁶ Johnson R. Burke. "Examining. The Validity Structure of Qualitative Research." ' (2007) 118.2 Education 282-293.

¹⁷⁷ Conrad Phillip Kottak, *Mirror for Humanity: A Concise Introduction. To Cultural Anthropology* (Mcgraw-Hill. Higher Education 2005).

¹⁷⁸ Ritchie, Jane, and Liz Spencer. "Qualitative Data Analysis for Applied Policy Research." (2002) 573.2002 The Qualitative Researcher's Companion 305-329.

aspects of the qualitative method in understanding experiences.¹⁷⁹ This enables interaction between the researchers and participants leading to the generation of concepts that reveal the essence of the phenomena.¹⁸⁰

3.6. Emic perspectives

Emic viewpoints concern the uniqueness of cultures or experiences obtained from within social groups.¹⁸¹ In the context of this research, it was accomplished during interview from group discussions through system of group dynamics.¹⁸² The views of the participants were intersubjective (stressing the relationship between people, events, and culture),¹⁸³ and determining such relationships in social reality. Emic perspectives provide insights on what transpires in the minds of rape victims, their perspectives, and the interpretation of cultural influence on the law. This approach therefore enables researchers to interpret participants' experiences rather than imposing an external framework that might distort the information the victims are trying portray.¹⁸⁴ Emic perspectives are based on the premise that individuals do best in describing their circumstances and feeling in their own words, while relating to environmental factors.¹⁸⁵

Researchers are given an opportunity by this approach to understand issues from the participants' native point of views. In addition, emic standpoints permit observation of several or similar situations in a parallel manner.¹⁸⁶ On the other

¹⁷⁹ Ibid.

¹⁸⁰ Supra see 227

¹⁸¹Chapman, T. and Kinloch, V. "Emic perspectives of research handbook of research on teaching the English language arts (2011) 379-385.

¹⁸² Ibid.

¹⁸³Robert D. Stolorow, Barth, F. (2010). *Trauma and Human Existence: Autobiographical, Psychoanalytic and Philosophical Reflections: The Analytic Press, New York and London, 2007*, Psychoanalytic Inquiry Book Series. *Clinical Social Work Journal*. 38. 10.1007/s10615-009-0208-2.

¹⁸⁴Robert B. Arundale. "Face as a research focus in interpersonal pragmatics: Relational and emic perspectives." (2013) 58 *Journal of Pragmatics* 108-120.

¹⁸⁵ R. Stolorow. 'Trauma and Human Existence.' (2007) *The Analytic Press, New York*

¹⁸⁶ G. Hofstede. 'Hofstede's Culture Dimensions' (Jul 27, 2016) *SAGE Journals*.

hand, the researcher's own views are considered etic or outsider views.¹⁸⁷ The etic approach eliminates the negative¹⁸⁸ impacts of misconceptions, misinterpretations against individuals (victims) by social structures.¹⁸⁹ In this context, particular emphasis has been placed on the harmful psychological and socio-cultural consequences of prejudicial stereotypes concerning rape victims.¹⁹⁰

Qualitative research has its strengths as well as its drawbacks. This method provides an easier way to gain a better understanding of the subject and offers perspective on the questions inquired during the research process.¹⁹¹ It is an understanding of why abused women react in the way they have. Secondly, qualitative research is thought to be cheaper in cost, as it requires a smaller sample scale, i.e. the research focuses on a smaller sample of the said population.¹⁹² Additionally, qualitative methods provide the researcher with extended access to participants by telephone. They offer the ability to discuss vital or sensitive issues (such as rape and sexual abuse) with participants without the unwillingness of face-to-face fear and, in other cases, access to dangerous or politically sensitive sites (conflict zones) or issues.¹⁹³

The possible deficiencies of qualitative methods are centred on the fact that assumptions cannot be made outside the scope of the samples. Also, the process of transcription of the audio recorded interviews must be congruent with the

¹⁸⁷ Morris, Michael W., et al. "Views from inside and outside: Integrating emic and etic insights about culture and justice judgment." (1999) 24.4 *Academy of Management Review* 781-796

¹⁸⁸ Blair H. Sheppard, Roy J. Lewicki and John W. Minton, *Organizational justice: The search for fairness in the workplace*. (Lexington Books/Macmillan 1992).

¹⁸⁹ Erich Goode, *Deviant behaviour* (Routledge 2015).

¹⁹⁰ Ibid.

¹⁹¹ Linda T. Carr. "The strengths and weaknesses of quantitative and qualitative research: what method for nursing." (2004) 20.4 *Journal of advanced nursing* 716-721.

¹⁹² Ibid.

¹⁹³ Jessica Corner. "In search of more complete answers to research questions. Quantitative versus qualitative research methods: is there a way forward." 16.6 *Journal of Advanced Nursing* 718-727.

methodological design and theoretical underpinnings of each investigation.¹⁹⁴ Though qualitative approach is said to be controversial, contradictory, and complicated, this process relies on inferences, which in most cases influence the acceptability of the results.¹⁹⁵

3.7. Ethical issues and limitations of qualitative methods

This study confirmed the ethical arguments on confidentiality and privacy in interviews as significant hindrances.¹⁹⁶ The empirical methods encourage probing into unforeseen areas in order to obtain additional information.¹⁹⁷ Hence, it is impossible for researchers to attest complete disclosure of confidentiality information on the nature of the interview because of the difficulty to provide such from the onset of the study. This means there is a struggle to withhold disclosure of the nature of the interview in fear of anticipation of participant's refusal to consent and, consequently, the likelihood of forestalling difficulties to maintain full confidentiality and privacy.¹⁹⁸ This was also argued by A. L. Valley et al., who upheld the opinion that supports the impossibility of full disclosure, and recommended the use of a model of continuous consent, rather than consent occurring once prior to interview.¹⁹⁹

Furthermore, it is assumed that during interviews of sensitive issues such as sex and rape, there are possibilities of distress to participants;²⁰⁰ however, there were no direct contact with rape victims during this study. Suppressed anger, fear or

¹⁹⁴ Ibid.

¹⁹⁵ Janice M. Morse, *Critical issues in qualitative research methods* (Sage 1994)

¹⁹⁶ Chapman, T., and Kinloch, V., "Emic Perspectives of Research." *Handbook of Research On Teaching The English Language Arts* (2011) 379-385

¹⁹⁷ Ibid.

¹⁹⁸ Supra 12 above

¹⁹⁹ Valley, A., Lees, S., Shagi, C., Kasindi, S., Soteli, S., Kavit, N., & Hayes, R. J., 'How informed is consent in vulnerable populations? Experience using a continuous consent process during the MDP301 vaginal microbicide trial in Mwanza, Tanzania.' (*BMC medical ethics*, 11(1), 10. 2010)

²⁰⁰ Corbin, J., & Morse, J. M. The unstructured interactive interview: Issues of reciprocity and risks when dealing with sensitive topics. *Qualitative inquiry*, (2013) 9(3), 335-354.

flashbacks were detected as direct interferences during interviews.²⁰¹ Other drawbacks during interviews were concerns of dual roles by researchers either having to “take sides” during interviews to protect victims, or acting as both a researcher and a therapist.²⁰² This role could potentially be exploited by unscrupulous researchers to obtain more information from victims.²⁰³

3.8. Dual role and over-involvement

A dual role, or what may be deemed “over-involvement,” on the part of the researcher is to a certain extent a common phenomenon.²⁰⁴ This role can take several forms. Firstly, in a situation where an interviewer might be teacher/researcher, carer/therapist, or journalist etc.,²⁰⁵ there are specific issues that arise concerning taking sides in interviews, and protecting vulnerable groups. Similarly, situations occur in which participants are unenthusiastic about discussing painful issues, but they are prepared to do so if they feel that the study is worthwhile.²⁰⁶ Secondly, instances occur where researchers try to protect participants from harm by bolstering their self-esteem, thereby causing potentially misjudgement on the described events.²⁰⁷ This situation misleads participants into giving false information (e.g. social desirability bias, such as lying to gain more sympathy).²⁰⁸

²⁰¹ Ibid.

²⁰²M. Kaar. ‘A critical investigation of the merits and drawbacks of in-depth interviews’ (2007).

²⁰³ Ibid.

²⁰⁴ Adler P. Adler P. ‘Membership roles in field research.’ Newbury Park, CA: Sage.

²⁰⁵Peter Allmark et al. ‘Ethical issues in the use of in-depth interviews: literature review and discussion’ (2009) 5(2) Research ethics review 48.

²⁰⁶ Borys, Debra S., and Kenneth S. Pope., ‘A national study of psychologists, psychiatrists, and social workers.’ “*Dual relationships between therapist and client.*” 20.5th edn, Professional Psychology: Research and Practice 2009) 283.

²⁰⁷ Ibid.

²⁰⁸ Ibid.

In addition, a dual role can be appropriately exploited by the interviewer, using counselling techniques to draw out information from the participants.²⁰⁹ Apart from the above, the researcher may become sentimentally over-involved with participants due to the nature of the case in question (rape).²¹⁰ In summary, qualitative researchers must leverage the increased subjective, interpersonal rapport they build with participants in so far as this does not undermine the academic quality of their methodology and their ethical responsibilities to participants themselves.

3.9. Challenges and possible hindrances in a qualitative approach

While it is beyond the remit of this study to undertake an exhaustive ontological and epistemological analysis of qualitative methodology, it is important to note some of the salient critiques of this paradigm. This section briefly discusses some of the hindrances encountered in adopting qualitative approaches. Qualitative methods are intrinsically challenging because of the possibilities of deviating from the original aims of the research when dealing with the changing nature of the circumstances in question.²¹¹ The inferences and conclusions derived from information obtained depends on the characteristics, criteria, and experience of the researcher. Also, there are issues arising from inability to investigate causality between different research phenomena.²¹²

²⁰⁹ Ibid.

²¹⁰ Hart, Nicola, and Anne Crawford-Wright., *“Research as therapy, therapy as research: Ethical dilemmas in new-paradigm research.”* (27.2nd edn, British Journal of Guidance and counselling 205-214.)

²¹¹ H. Russell Bernard, *Research methods in anthropology: Qualitative and quantitative approaches* (Rowman Altamira 2011).

²¹² Ibid.

Qualitative methods also exhibit the difficulty inherent in explaining differences in the quality and quantity of information obtained from different respondents, therefore possibly arriving at different, non-consistent conclusions. Qualitative research methods require a high level of experience from the researcher to obtain target information from the respondent. Furthermore, there could be lack of consistency and reliability, because the researcher can employ different probing techniques while the respondent chooses to tell some particular stories and ignore others.²¹³

Qualitative research is an enquiry process of understanding social or human problems based on holistic approaches.²¹⁴ It entails reporting detailed opinions of evidence obtained in its natural setting. However, one of the most common criticisms of qualitative approach is its limitation in discovering new knowledge that cannot be quantified.²¹⁵

In addition, reflexivity (shared preconceptions), transferability (inadequate or insufficiently varied samples and what the findings concern), and interpretation (a theoretical framework, analysis and transparent systematic procedures) are major concerns to the validity of a qualitative study.²¹⁶

²¹³ Alexei V. Matveev. 'The advantages of employing quantitative and qualitative methods in intercultural research: Practical implications from the study of the perceptions of intercultural communication competence by American and Russian managers' (2002) 1 Bulletin of Russian Communication Association Theory of Communication and Applied Communication 59

²¹⁴John Creswell. 'Research design: Qualitative, quantitative, and mixed method approaches I by John W. Creswell.- 2nd ed '

²¹⁵Kirsti Malterud. Qualitative research: standards, challenges, and guidelines. (2011).358.9280. The lancet 483-488.

²¹⁶ Ibid.

3.10. Research ethics

3.10.1. Privacy and confidentiality

Anonymity and confidentiality are long-established principles in conducting interviews.²¹⁷ However, there are possibilities of investigators delving into areas unanticipated during discussions. These unanticipated avenues of exploration can create the danger of voyeurism and the temptation to focus on the most sensational elements during interviews.²¹⁸ They also risk a breach of interviewees' privacy and reasonable expectations of disclosure; additionally, in cases where participation is anonymous, whilst individuals are not identified by the public, they may be recognised by their peers who were part of the study.²¹⁹ Therefore, researchers have noted instances where they have had to breach confidentiality clauses in the public interest.²²⁰

Richards et al. proposed the use of pseudonyms or initials where possible.²²¹ On the other hand, they highlighted instances where some participants wished to be identified.²²² However, arguments against Richard's proposal²²³ suggest that participants ought to be informed of the fact that it is impossible to assure complete confidentiality, especially with narrative or life stories, even if pseudonyms were used.²²⁴ Additionally, the identification of conflicts of interest occurs where the researcher is known to the participant; subsequently, emphasis

²¹⁷ Orb, A., Eisenhauer, L., & Wynaden, D. 'Ethics in qualitative research.' (2011) *Journal of nursing scholarship*, 33(1), 93-96.

²¹⁸ Rylance, G. Privacy, dignity, and confidentiality: interview study with structured questionnaire. *Bmj*, (2009) 318(7179), 301-301. G. Rylance. 'Privacy, dignity, and confidentiality: interview study with structured questionnaire. *Bmj*, 318(7179), 301-301. '(1999).

²¹⁹ *Ibid.*

²²⁰ *supra* 23

²²¹ Schwartz LJ Richards HM. 'Ethics of qualitative research: are there special issues for health services research. *Family Practice*. 2002; 19(2):135-9.'

²²² *Ibid.*

²²³ Josephine Ensign. 'Ethical issues in qualitative health research with homeless youths' (2003) 43(1) *J Adv Nurs* 43.

²²⁴ Ensign J. 'Ethical issues in qualitative health research with homeless youths. *J Adv Nurs* 2003; 43(1):43-50.'

should be placed on the importance of setting boundaries in such circumstances.²²⁵ In the current study context, victims may know the researchers or reporters, which can change the dynamics of the discussion. This situation may go in either direction. The respondent (in this case rape victims) may exploit familiarization by giving an inaccurate account of the incidents. On the other hand, the respondents may decide, due to shame or stigma, to refuse to cooperate, or to give false information.

3.10.2. Informed consent

Informed consent is vital in empirical research involving human participants. It is a legal requirement and an ethical justification for action that affects others. Informed consent can also be viewed as the key to respecting participants' independence.²²⁶ It is essential to participants' granting of permission, in full knowledge of the possible consequences that may arise in due course.²²⁷ It is essential that such consent be given by participants with full knowledge of the possible risks or benefits.²²⁸ Information on the aims and objectives of the study are clarified to all participants, stating the reasons and rationale for such studies. Most participants fail to understand the objective of conducting research, and may perceive that there are financial benefits to the research, whether for themselves or researchers. These justifications warrant giving respondents a clear understanding of the nature of research, including likely benefits and possible harms. Additionally, participants should be able to freely decide whether to participate, and to subsequently withdraw consent; such rights can cause

²²⁵Rylance, G. Privacy, dignity, and confidentiality: interview study with structured questionnaire. *Bmj*, (2009) 318(7179), 301-301.

²²⁶ O. O'Neill. 'Some limits of informed consent' (2003) 29(1) *J Med Ethics* 4.

²²⁷ Corti, L., Day, A., & Backhouse, G. 'Confidentiality and informed consent: Issues for consideration in the preservation of and provision of access to qualitative data archives. In *Forum Qualitative Sozialforschung/Forum:*' (2002).

²²⁸ *Ibid.*

unpredictable situations and problems for researchers while conducting studies, but are essential safeguards for participants.²²⁹

The interviews that I conducted during the fieldwork for this thesis, participants were informed about the sensitive and critical nature of the study. The sensitive nature of the topic had the potential of disrupting the interviews with the risk of withdrawal.²³⁰ Therefore, it is ethically correct for participants to be made aware of the privacy and confidentiality rules before the interviews.²³¹ However, this cannot be entirely assured in all cases, as earlier mentioned, because of fear of withdrawal from study. Hence, researchers are advised to use the model of continuous or process consent, where the researcher reaffirms consent throughout the research process. Respondents are given further information as the interview progresses to forewarn them of the changes in intensity of the questions.

3.10.3. What constitutes undue intrusion, distress or harm?

Interviews with reference to topics of a sexual nature or rape are sensitive and can be considered to amount to “an undue intrusion” on the part of the interviewee,²³² and can cause emotional stress for participants. Therefore, this can amount to a reason why researchers are advised to set up therapeutic benefits against possible harm during interviews, even though there are doubts about the positivity of the therapeutic benefits.²³³ However, this phase was not relevant in the current study, because rape victims were not directly interviewed.

²²⁹ Ibid.

²³⁰ Supra see 276.

²³¹ Ibid.

²³² Corbin, J., & Morse, J. M. The unstructured interactive interview: Issues of reciprocity and risks when dealing with sensitive topics. *Qualitative inquiry*, (2013) 9(3), 335-354.

²³³ Lee, R. M., & Renzetti, C. M. “the problems of researching sensitive topics.’ (1990) 33 *American Behavioural Scientist*, 510-528.

3.11. Qualitative methodology

3.11.1. Epistemology and school of analysis

Qualitative research is a method of social enquiry that focuses on the ways people interpret and make sense of their experience and the world in which they live.²³⁴ The method enables exploring the complexity of human behaviour beyond the scope of numbers and statistics. Qualitative enquiry is an essential means of eliciting evidence from diverse individuals.²³⁵ Qualitative enquiry focuses on the social world. It is a form of social investigation which looks at how individuals make sense of their experiences and the world in which they live.²³⁶ Because of its flexibility and fluidity, qualitative research is suited to understanding the meanings, interpretations and experiences of individuals. This method further allows the researchers to hear the voices of those who, due to their social positions (e.g. rape victims), are often silenced, or marginalised within the society. The in-depth nature of qualitative methods allows the research participants to express their feelings and experiences in their own words. This is possible, as indicated by Atkinson, through several particular theoretical tools,²³⁷ which were critical to the overall aim of this study to achieve its goals, including grounded theory and triangulation, social interactionism, phenomenology, and ethnomethodology.²³⁸

²³⁴ Denzin, Norman K., and Yvonna S. Lincoln. '*Handbook of qualitative research*' (2004) Sage publications, Inc.

²³⁵ John Creswell. 'Research design: Qualitative, quantitative, and mixed method approaches I by John W. Creswell. - 2nd Ed, *Qualitative inquiry and research design: Choosing among five approaches* (Sage 2013).

²³⁶ Ibid.

²³⁷ Paul Atkinson and Sara Delamont. 'Rescuing narrative from qualitative research' (2006) 16(1) *Narrative Inquiry* 164.

²³⁸ Ibid.

3.11.2. Grounded theory as a research method

Glaser and Strauss were the forerunners of revolutionising qualitative method.²³⁹

Grounded theory is a systematic method involving the study of problems that arise from the empirical world, while trying to understanding events as they unfold. These events can pursue unanticipated directions of inquiry during the study.²⁴⁰ This approach aims at conceptualising empirical data.²⁴¹ Grounded theory is considered qualitative, as no statistical computation is involved, which makes it quite suited for studying uncharted or dynamic phenomena such as sexual abuse in conflicts. Grounded theory enables researchers to justify processes employed in empirical study and direct their methodological strategies to these processes accordingly.

Grounded theory fits into my research as it commences with a systematic approach to collecting and analysing data, to develop a theoretical framework revealing the phenomena under investigation. Kathy Charmaz proposed that grounded theory permits researchers to minimize the impacts of preconceived ideas they hold about the research problem.²⁴² I view that grounded theory has the possibility to encourage bias on the part of researchers, as it permits and indeed depends on the instrumentality of researchers' perceptions during analysis, consequently enabling the exertion of subjective views.

Grounded theory allows simultaneous data collection with other researchers and sharing of information, while remaining open to varied explanations or understandings of the facts. It also focuses on data analysis to construct theories

²³⁹Strauss, A. L., & Corbin, J. M. '*Basics of qualitative research: Grounded theory procedures and techniques* (2nd ed.). Thousand Oaks, CA: Sage. '(1998).

²⁴⁰ Ibid.

²⁴¹ Supra see 288.

²⁴²Kathy Charmaz. "Grounded theory methods in social justice research." (2011) 4 The Sage handbook of qualitative research 359-380.

rather than viewing only the product of inquiry.²⁴³ Information gathered from the field is coded for easy analysis relative to the research questions. These codes are compared, modified, and merged until explanations for the phenomenon are revealed.²⁴⁴

Coding in qualitative research is vital during this study, as grounded theory enables the generation of concepts from information obtained from interviews.²⁴⁵ Coding further establishes existing circumstances, life experiences, and interpretations, while offering an opportunity to examine a wide range of issues within a specific context.²⁴⁶ Furthermore, coding enables concepts and categories to accurately represent interviewees' responses,²⁴⁷ linking responses and analysis to research questions. Thematic content coding method was adopted for this study.²⁴⁸ Thematic coding permits the development of concepts, while also providing answers to research questions.²⁴⁹ Grounded theory is not, however, without its criticisms.

Thomas James argument supported my concern that concepts permit preconceptions in data collection and analysis.²⁵⁰ He clarified further that grounded theory lacked similarity with open and creative interpretations.²⁵¹ In confirmation of Thomas James's criticism, this study identified that most participants tend to "exaggerate" their experiences in return for sympathy, based

²⁴³ Ibid.

²⁴⁴Supra See 291.

²⁴⁵ Strauss, A. L., & Corbin, J. M. Basics of qualitative research: Grounded theory procedures and techniques1 (2nd Ed.). Thousand Oaks, CA: Sage. 1998.

²⁴⁶ Ibid.

²⁴⁷Tehmina Basit. "Manual or electronic? The role of coding in qualitative data analysis." '(2003) 45.2 Educational research 143-154.

²⁴⁸Barroso J. Sandelowski M. 'Classifying the findings in qualitative studies. '13 Qual Health Res 905-923.

²⁴⁹ Ibid.

²⁵⁰James Thomas and Angela Harden. 'Methods for the thematic synthesis of qualitative research in systematic reviews' (2008) 8(1) BMC medical research methodology.

²⁵¹ Ibid.

upon existing preconceived ideas.²⁵² Female respondents were observed to be more sympathetic towards rape victims, and some were biased in their responses, thereby posing a challenge to the validity of the information provided by those respondents. This placed responsibility on the researcher to isolate facts from the conversation.²⁵³ Men, due to their own internalisation of social constructs such as cultural or religious views, believed most victims were to be blamed for their experiences.²⁵⁴

3.11.3. Triangulation in research methods

To clarify the rationale for the adoption of qualitative methods in this study, I had to review previous studies to ascertain other researchers' preferences and the rationale for adopting those methods. Denzin²⁵⁵ and Olsen²⁵⁶ proposed the use of multiple methods, therefore suggesting mixed methods as a suitable technique to establish credibility of data gathered in qualitative ways. The triangulation approach adopted by the current study is to establish reports obtained from other sources, which were used to enhance information obtained during interview. They were adopted as complementary methods rather than rival methods.²⁵⁷ Denzin et al. reinforced the use of triangulation by defining it as the process by which several methods are used in a study of one phenomenon.²⁵⁸ The accuracy

²⁵² Thomas, James, and Angela Harden. "Methods for the thematic synthesis of qualitative research in systematic reviews." *Ibid.* 8.145.

²⁵³ *Ibid.*

²⁵⁴ Kirsti Malterud. "Qualitative research: standards, challenges, and guidelines." (2011) 358.9280. *The Lancet* 483-488.

²⁵⁵ Norman K. Denzin. "Triangulation 2.0." (2012) 6.2 *Journal of Mixed Methods Research* 80-88.

²⁵⁶ Wendy Olsen, "*Triangulation in social research: qualitative and quantitative methods can really be mixed.*" (20th edn, *Developments in sociology* 2004)) 103-118.

²⁵⁷ Todd D. Jick. 'Mixing qualitative and quantitative methods: Triangulation in action' (1979) 24(4) *Adm Sci Q* 602.

²⁵⁸ Norman K. Denzin. 'Interpretive interactionism. *Applied social research methods series*' (1989)

of this method is judged by confirming that the different data collected produced an identical result.²⁵⁹

In other to understand the importance of triangulation, there is need to trace the origin of the technique back to Campbell and Fiske, who established the idea of multiple operations,²⁶⁰ and that the technique had its origin from ancient Greek mathematics.²⁶¹ Triangulation was distinguished by Denzin into four categories: triangulation of data, investigation, theories, and methodological triangulation.²⁶² In his argument against triangulation, Sarantakos²⁶³ stated that triangulation was not always suitable in every research; the desirability of triangulation depended upon the particular project's research questions and aims. This argument forms a vital link with the current study, because data triangulation was only adopted for statistically evaluation of sexual abuse casualties during conflicts.²⁶⁴ However, data triangulation differs from mixing methods, whereby the researcher approaches the same problem in different ways or from different perspectives.²⁶⁵

3.12. Theoretical perspectives

Sociologists have proposed three primary theoretical perspectives; the symbolic interactionist perspective, the functionalist perspective, and the conflict perspective.²⁶⁶ These may underpin phenomenological and ethno-methodological studies, as explained below.

²⁵⁹ Ibid.

²⁶⁰ Campbell, Donald T., and D. W. Fiske. "Convergent and discriminant validation by the multigrain- multimethod matrix." *Psychological Bulletin*, 56: 81 -105.' (1959).

²⁶¹ N. K. Denzin. 'Triangulation 2.0.,' (2012) 6(2) *Journal of Mixed Methods Research*, 80-88.

²⁶² Ibid.

²⁶³ Sotirios Sarantakos, (1998). *Working with social research* (2nd ed.). London MacMillan Press Limited).

²⁶⁴ V. A. Thurmond. 'The point of triangulation.' (2011) 33(3), *Journal of nursing scholarship*, 253-258.

²⁶⁵ Martyn Hammersley, *What's wrong with ethnography? Methodological explorations* (Psychology Press 1992).

²⁶⁶ Mooney LA, Knox D, Schacht C. 'Understanding Social Problems.' (2007.) 5th Edition. USA.

3.12.1. Social interactionism

Social or symbolic interactionism is a process of understanding meanings of situations about individuals based on their social interactions, and it is vital in qualitative research. This school of analysis relies on the facts that people's interpretations of events are affected by their experiences and the way in which they build meaning to such events.²⁶⁷ Symbolic interaction, in current research contexts, analyses society by addressing the meaning interpreted by people on events and how it affects their reactions. It is assumed that people act based on what they believe,²⁶⁸ and how they interpret one another's behaviour or perceptions, and this interpretation forms social bonds.

The symbolic aspect of social interactionism is connected to functionalist and conflict perspectives, and how aspects of society such as institutions and social groups influence society itself. Symbolic interactionism further suggests that our identity or perception is shaped by social interaction; we develop our self-concept by observing how others interact with us and label us. This symbolic perspective could be linked to responses from victims' testimonies (as presented in Chapter 7 of this thesis), which portrays self-blame by victims as a result of societal condemnation based on cultural conditioning.

3.12.2. Functionalist perspective

According to the functionalist perspective, society is a system that connects other parts of the humanity, working together in harmony to maintain a state of balance and equilibrium. For example, each of the social institutions contributes important

²⁶⁷David Silverman, ed. *Qualitative Research* (4th edition). London: SAGE, 2016. 277-293.

²⁶⁸ *Ibid.*

functions for society. Family provides a context for nurturing, and socializing; education offers a way to convey skills and knowledge; politics provides a means of governing the society; and religion provides moral guidance.²⁶⁹ The functionalist perspective emphasizes the interconnectedness of society by focusing on how each part influences and is influenced by other parts.

3.12.3. Conflict Perspective

Conflict perspective states that society is composed of different groups and interests competing for power and resources. For example, as discussed in Chapter 5 and mentioned in Chapter 7, feminist theories have argued that we live in a patriarchal society, a hierarchical system of organization controlled by men.²⁷⁰ In the context of this study, I argued in supports of Sara Weir, that perceptions, religion, and cultural beliefs play a major part in the responses obtained during interviews, and also the fact that African cultures are patriarchal, and specifically rigid in nature. This is reflected in responses provided by men who defended atrocities committed against women (Chapter 8).²⁷¹

3.12.4. Phenomenology

Phenomenology is the philosophical approach that describes events, their common meanings for several individuals, and how they are perceived in reality.²⁷² It focuses on the participants' experiences, description of these

²⁶⁹ Ibid.

²⁷⁰Sara Weir and Constance Faulkner, *Voices of a new generation: A feminist anthology* (Pearson College Division 2004).

²⁷¹Karl Marx. 'Das Kapital: kritik der politischen ökonomie' (1867) 1885 Verlag von Otto Meisner, Germany 1894George Herbert Mead. 'Major Theorists of Symbolic Interactionism:' (2011) George Herbert Mead. 'Major Theorists of Symbolic Interactionism:' (2011) George Herbert Mead. 'Major Theorists of Symbolic Interactionism:' (2011).

²⁷²E. Husserl. 'A General Introduction to Pure Phenomenology. Trans. W. R. Boyce Gibson. New York: Collier Books. From the German original of 1913, originally titled *Ideas pertaining to a Pure Phenomenology and to a Phenomenological Philosophy*, First Book. Newly translated with the full title by Fred Kersten. Dordrecht and Boston: Kluwer Academic Publishers, 1983. Known as *Ideas I.*' (1963)

experiences, and common phenomena amongst them. Phenomenology draws heavily on the works of the German philosopher Edmund Husserl (1859-1938), who explored philosophical techniques which could provide certainty to the advancement of humanity.²⁷³ His purpose was to reduce individuals' experiences about a phenomenon to a description by universal principles. These approaches consist of collective experiences and how these individuals interpret their experiences.

Eagleton, another philosophical scholar, argued in favour of group expectations, relying on analysing daily human behaviour to provide one with a greater understanding of nature.²⁷⁴ He further pointed out that people can be understood through the unique ways they mirror the societies in which they live. However, Giorgi argued against this, stating that it was difficult for researchers to solely interpret participants' experiences without introducing their own ideas.²⁷⁵ Moustakas argued against philosophical bias as a hindrance to understanding individual interpretation of a phenomena.²⁷⁶

Phenomenology was categorized into several doctrines by Immanuel Kant, including transcendental constitutive phenomenology, naturalistic constitutive phenomenology, and existential phenomenological doctrine. Kant proposed that human experiences of things is comparable to the way they are felt or perceived, while his doctrine on naturalistic constitutive phenomenology focuses on how consciousness constitutes part of nature.

²⁷³Terry Eagleton. 'An introduction to literary theory' (1983).

²⁷⁴Clark Moustakas, *Phenomenological research methods* (Sage 1994).

²⁷⁵Amedeo Giorgi, *The descriptive phenomenological method in psychology: A modified Husserlian approach*. (Duquesne University Press 2009).

²⁷⁶ Clark Moustakas, *Phenomenological research methods* (Sage 1994).

In existential phenomenological doctrine, actual human existence is explored, including experience of freedom of choice and action in concrete situations.²⁷⁷

Heidegger opposed his mentor Edmund Husserl's phenomenological approach. He proposed that phenomenology was based on an observation and analysis of human beings, investigating the fundamental nature of reality. This normally translates into gathering in-depth information of perceptions through inductive qualitative methods, including interviews, discussions, and participant observations, of individuals who have experienced similar phenomena.

It further established the rationale for the representation of the perspective of the participant (adopted in my thematic analysis chapter). The analysis (as described in Chapters 7 and 8) are thematic, with detailed descriptions and summaries of the victims' testimonies.²⁷⁸ This focuses on experiences from individuals' perspectives, taken for granted assumptions and ways of perceiving them.²⁷⁹ In the context of this study, it addresses issues of hindrances and problems encountered by rape victims. This method focuses on interpreting the events based on victims' standpoints rather than from external views. The approach enables the clarification of what victims have experienced, and how victims perceive their vulnerability. It also interprets the way the laws have responded inadequately to their respective circumstances.²⁸⁰ Phenomenology, like other approaches, is not without challenges.

²⁷⁷David N. Livingstone and RT Harrison. 'Immanuel Kant, subjectivism, and human geography: a preliminary investigation' (1981) *Transactions of the Institute of British Geographers* 359.

²⁷⁸ Clark Moustakas, *Phenomenological research methods*. Sage Publications, (Thousand Oaks California, 1994).

²⁷⁹Jonathan A. Smith, "Reflecting on the development of interpretative phenomenological analysis and its contribution to qualitative research in psychology." (1.1st edn, *Qualitative research in psychology* 2004) 39-54.

²⁸⁰ *Ibid.*

As discussed earlier, phenomenology is the understanding of common experiences by several individuals.²⁸¹ Researchers are expected to identify broader assumptions of the phenomena in question. Also, it was identified during this study that philosophical ideas are abstract. In addition, participants selected for such study must all have similar experiences so that the researcher can forge a common understanding. The approach of identifying individuals with similar experiences can prove difficult. Also, being able to group personal experiences to enable interpretations are challenging. Phenomenology overlaps with other qualitative approaches, including ethnography²⁸² and symbolic interactionism,²⁸³ but seeks to describe rather than explain, and is free from hypotheses or preconceptions.²⁸⁴

3.12.5. Ethnomethodology

Grounded theory examines individuals who share similar experiences. However, these individuals are not always found in the same surroundings. Therefore, there is need to develop an approach that will incorporate shared patterns of these participants from different locations. These patterns are religion, beliefs, and the behaviour of these individuals. Ethnography is a philosophical study that focuses on cultures shared by individuals.²⁸⁵ Hence ethnography focuses on common phenomena, cultures, and beliefs of individuals in similar contexts.²⁸⁶ It tries to

²⁸¹ Supra 129

²⁸² Joseph A. Maxwell. "Designing a qualitative study." *The SAGE handbook of applied social research methods* 2 214-253.

²⁸³ Norman K. Denzin. *Symbolic interactionism and cultural studies: The politics of interpretation*. (2008.) John Wiley & Sons.

²⁸⁴ Jonathan A. Smith. 'Reflecting on the development of interpretative phenomenological analysis and its contribution to qualitative research in psychology' (2004) 1(1) *Qualitative research in psychology* 39

²⁸⁵ Marvin Harris, *Cultural materialism: The struggle for a science of culture* (AltaMira Press 2001).

²⁸⁶ Michael Agar. 'The Professional Stranger: An Informal Introduction to Ethnography. Academic Press. American Heritage Dictionary. 2000. Houghton Mifflin.' (1996.).

make meaning of cultural perceptions and behaviours of individuals and how they are affected by these factors.²⁸⁷

Harold Garfinkel, an American sociologist, established and developed ethnomethodology as a field of inquiry in sociology.²⁸⁸ His concept originated in his attempt to understand the mind-set of a set of jury during a court cases while trying to understand the decisions of jurors, by employing an ethnographic approach.²⁸⁹ He tried to identify methods people use to understand the societies in which they live and how they condition people's natural attitudes. Garfinkel further sought to identify ways of addressing problems that arise in the ways in which participants conduct themselves together. He noted that society's character was not directed by an imposed standard of prudence, but rather it arises from interactions within the society.

Also, Harry Wolcott indicated that ethnography was not the study of cultures but rather the study of the social behaviour of certain individuals with similar phenomena within an identifiable group.²⁹⁰ This demonstrates that long sharing of cultures forges an integral connection which develops into a pattern over a long period.²⁹¹ Likewise, Psathas, in his discussion of ethnomethodology,²⁹² identified it as an approach that seeks to bring about an understanding of how practice is embedded in ordinary experiences.²⁹³ In the context of this study, this approach accounts for victims' techniques in negotiating their everyday circumstances. It

²⁸⁷ Ibid.

²⁸⁸H. Garfinkel. 'Seeing *Sociologically: The routine grounds of social action*,' (2006) Boulder CO, Paradigm Publishers.

²⁸⁹Douglass Mann. 'Society as Symbols or Constructs. *Understanding Society: A Survey of Modern Social Theory*.' (Pp. 210-212) 2008 Ontario, Canada: Oxford University Press.

²⁹⁰Harry F. Wolcott, *Ethnography: A way of seeing* (Rowman Altamira press 1999).

²⁹¹David M. Fetterman, *Ethnography: Step-by-step*, vol 17 (Sage 2010).

²⁹²George Psathas. "Reflections on the history of ethnomethodology: The Boston and Manchester "Schools." (2008) 39.1 *the American Sociologist* 38.

²⁹³ Garfinkel, Harold (1984) *Studies in Ethnomethodology*. Pp. 288; Polity Press: Oxford.1984.

does not evaluate, rather it stresses that practice is always unique since it must be a part of local culture.²⁹⁴ However, ethnomethodology is not interested in individuals, but it is a dynamic property of societal life.²⁹⁵ Individuals are only perceived as members of a social cohort that populates social scenes, which are the objects of inquiry.

3.13. Use of qualitative approach in study of sexual violence in conflicts

Adopting a qualitative approach to the study of sexual abuse during conflicts is context-bound. It fosters the understanding of phenomena and cultural influences. This study recounts circumstances and facts surrounding specific events or situations (i.e. rape in conflict). A phenomenological approach has been argued to permit understanding of situations, with the possibility of giving meanings to events involving the participants (i.e. rape victims). E. J. Wood, in her study of social processes of civil war, proposes the adoption of multiple approaches, i.e. triangulation, as this draws out vital information relevant to the study,²⁹⁶ as embraced by previous qualitative research on sexual violence. Wood emphasises the merit of adopting qualitative methods during her study on variations in sexual violence. She further emphasises that the method permits comparison within studies and proves this by comparing different patterns of sexual violence categorising rape, coerced undressing, non-penetrating sexual assaults, and sexual mutilation into patterns.²⁹⁷

²⁹⁴ G. Psathas. 'Talk and Social Structure' and 'studies of Work' in *Human Studies*, (1995) 18139-155.

²⁹⁵ Ibid.

²⁹⁶ Elisabeth Jean Wood. "The social processes of civil war: The wartime transformation of social networks." (2016) 11 *Annu Rev Polit Sci* 539-561.

²⁹⁷ Elisabeth Jean Wood. 'Variation in sexual violence during war' (2006) 34(3) *Politics & Society* 307 September 2006.

These different patterns of sexual violence are described by victims. She is able to support the contention that although the phenomenon of rape and sexual violence occurs in all conflicts, it varies and takes distinct forms.²⁹⁸ In the context of this study, this variation was identified to imply the shift in war strategy, as adopted by Boko Haram,²⁹⁹ to instrumentalised women (e.g. in terms of kidnapping, rape, sexual abuse, forced pregnancy, and female suicide-bombers) in conflict, which falls under the broad term of 'acts of terrorism' under Nigerian law and government responses.³⁰⁰

Observing these patterns from previous conflicts, I identified that during the Rwandan conflicts, these patterns included widespread rape, which was termed a form of genocide according to the International Criminal Tribunal for Rwanda.³⁰¹ In other conflicts, sexual violence was also assumed to be limited despite widespread violence against civilians, where such acts were considered generic 'war crimes' (such as in the Syrian³⁰² and Bosnian conflicts).³⁰³

Furthermore, Wood highlights how the qualitative method underlines other war situations. She emphasizes segregation and targeting of women belonging to particular groups by using this approach, and also argues that not all methods can explain variations in sexual violence. In addition, she alludes to sexual

²⁹⁸ Ibid.

²⁹⁹ Zenn, Jacob, and Elizabeth Pearson. "Women, Gender and the evolving tactics of Boko Haram." (2014) 5.1 *Journal of terrorism research*.

³⁰⁰ Oluwaseun Bamidele. "Boko Haram Catastrophic Terrorism: An Albatross to National Peace, Security and Sustainable Development in Nigeria." (2015) 14.1 *Journal of Sustainable Development in Africa* 32-44.

³⁰¹ Christopher W. Mullin. "We Are Going to Rape You and Taste Tutsi Women': Rape During The 1994 Rwandan Genocide.' Vol. 49, No. 6 (November 2009), Pp. 719-735. *The British Journal of Criminology*.

³⁰² Lauren Wolfe. "Syria has a massive rape crisis." 'All across the war-torn country, regime soldiers are said to be sexually violating women and men from the opposition, destroying families and, in some cases, taking lives. (2013) 3. *The Atlantic*.

³⁰³ Danise Aydelott. "Mass rape during war: Prosecuting Bosnian rapists under international law." (2003) 7 *Emory Int'l L Rev* 585.

patterns during WWII, in which an ethnographic approach was adopted.³⁰⁴ She indicates that while women from other ethnic groups were raped during the Soviet invasion of Romania and Hungary, the German women were particularly targeted and gang-raped, often in front of their families, due to their religious background and race.³⁰⁵

Likewise, M. Bastick, in her analysis of sexual violence in armed conflict, highlights the possibilities of adopting this approach.³⁰⁶ She categorises them by forms and settings of sexual violence using the profiles of victims, motives, and consequences of such violence.³⁰⁷ Bastick states that the act of sexual violence during conflicts was an act of dominance grounded in a complex web of cultural preconceptions and gender roles. In the context of the current study, it emphasised cultural perception as a motivating factor in violence and the use of sexual violence as a strategy to advance military objectives.³⁰⁸

An additional study was conducted using this approach based on the experience of female survivors of sexual violence in the eastern region of the Democratic Republic of Congo.³⁰⁹ Kelly et al. characterised the experience of sexual violence (SGBV) using a combined technique of survey, randomised sampling selection, and focus-group qualitative research. Kelly assisted in exposing the effects of

³⁰⁴Wood, E. J. (2006). Variation in Sexual Violence during War. *Politics & Society*, 34(3), 307-342. <https://doi.org/10.1177/0032329206290426>.

³⁰⁵Atina Grossmann. 'A question of silence: The rape of German women by occupation soldiers' (1995) 72 October 43

³⁰⁶Quenivet, Noelle. (2017). *Sexual Violence in Armed Conflict*.

³⁰⁷ 'Megan Bastick, Karin Grimm and Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector* (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2007), p. 8.'

³⁰⁸ supra see 117

³⁰⁹JT Kelly et al. 'Experiences of female survivors of sexual violence in eastern Democratic Republic of the Congo: a mixed-methods study' (2011) 5(1) *Conflict and health* 25.

war, violence, and social structure, including community responses to rape and attitudes towards justice seeking by victims.³¹⁰

In conclusion, the application of mixed techniques is identified as a suitable approach in this study to further triangulate the most significant findings, explore the researched phenomena and their consequences. Focus groups and narrative data contextualise and support the quantitative analysis by expanding on the experience of the women and their opinions.³¹¹

3.14. Exploring of methods best suited to studies of sexual violence

Due to ethical considerations from the issuing authority of my institution, there were no direct contacts with rape victims. Rather, analysis of previous reports of interviews and focus group discussions with victims were used as primary data. Unstructured interview methodology was adopted for this project to provide a logically sequential, comprehensive analysis of the Nigerian criminal legal framework based upon testimonies from victims' perspectives. This method enables the flow of analysis from concepts to practice, and thereafter, to formulate proposals for reform.

David Morgan considers the use of focus group discussion as one of the most effective research methods to explore human social realities.³¹² This study supports Morgan's argument on focus groups as they provide an effective way to obtain more information and additional possible views from different participants.³¹³ Furthermore, group discussion capitalises on communication

³¹⁰ Ibid.

³¹¹ Susan Brownmiller, *against our will: Men, women and rape* (Open Road Media 2013).

³¹² David L. Morgan, *Focus groups as qualitative research*, vol 16 (Sage publications 1996).

³¹³ Ibid.

between the researcher and participants in order to generate facts.³¹⁴ Although group interviews are often used for expediency, as a quick and convenient way to collect data from several people simultaneously, they are highly effective in their own right as a research method driven by group interaction (dynamics) to elicit information that would otherwise be inaccessible to researchers.³¹⁵ This method particularly examines information about people and their experience, not only what they think, but how and why they think that way.³¹⁶

The idea behind focus groups, as a process, is to explore and clarify views in ways less easily accessible by other methods. Group dynamics sometimes play a major role in encouraging participants to work alongside others in similar circumstances.³¹⁷ This takes the discussion into a new and often unexpected direction, enabling researchers to tap new information. Like other forms of methods, the downside of group dynamics is the articulation of group norms, which can silence individual voices of dissent and compromise the confidentiality of the session (and thus the full and frank disclosure offered by participants), as well as intensifying social desirability bias (e.g. participants may wish to avoid or offer responses that could offend or gratify other group participants, respectively).³¹⁸

3.15. Rationale for semi-structured interview method

Qualitative interviews have been extensively adopted for data collection across all disciplines in social science.³¹⁹ Unstructured interviews are much favoured,

³¹⁴Nicholas Bateson. 'Familiarization, group discussion, and risk taking' (1966) 2(2) J Exp Soc Psychol 119.

³¹⁵ Ibid.

³¹⁶ Supra see 363.

³¹⁷Margaret E. Hartford, "Group Dynamics: Research and Theory. Dorwin Cartwright, Alvin Zander," Social Service Review 27, no. 4 (Dec. 1953): 437-438.

³¹⁸ Ibid.

³¹⁹Norman M. Bradburn and others, improving interview method and questionnaire design: Response effects to threatening questions in survey research (University Microfilms 1992).

where the discussions are not planned in detail but rather are tailored in the direction of responses provided by participants.³²⁰ Hence, they are regarded as non-directional interviews. In the context of this study, the effectiveness of unstructured interviews is dependent upon the skills and communication of the interviewer. The discussion is propelled in the direction led by interviewees.³²¹ Also, the interview is based on the ability to structure the questions clearly, listen attentively, pause and probe, as well as to encourage interviewees to gain confidence and trust to speak freely.³²² Semi-structured interviews are appropriate where the research question is specific and more focused on a certain topic. This approach elicits the subjective perceptions of individuals, thereby giving meaning to their experiences.³²³

This method was very suited to the data collection of this study. However, the interpersonal skills of the researcher are vital to manage this method. The ability to establish rapport is an important attribute that enables researchers to assess the personality and give added strength to the discussion.³²⁴ Patton suggests three basic approaches to conducting in-depth interviews³²⁵:

- Informal conversation interviews, including chats, make participants free and comfortable to provide information.
- General guided approach ensures all relevant topics are deliberated upon.³²⁶

³²⁰ David Silverman, *Doing qualitative research: A practical handbook* (SAGE Publications Limited 2013).

³²¹ Ibid.

³²² Supra see 369.

³²³ David Silverman. "Qualitative research." Edited by London. Thousand Oaks" New Delhi. 2016. Sage.

³²⁴ Norman M. Bradburn and others, *improving interview method and questionnaire design: Response effects to threatening questions in survey research* (University Microfilms 1992)

³²⁵ Michael Quinn Patton, *how to use qualitative methods in evaluation*. Volume 4 of Program evaluation kit 176 pages. Sage, 1991.

³²⁶ Ibid.

- Standardised open-ended interview minimises variation in questions. However, this method is usually appropriate where two or more researchers are involved in data collection for a single study.

Likewise, during interviews, there are possibilities of false answers or errors in information on the part of respondents.³²⁷ This could be because of bias, thereby compromising the accuracy of the study.³²⁸ Constraints in interviews occur as a result of respondents' induced bias. Faulty memory sometimes misdirects respondents to provide inaccurate responses.

Exaggeration and dishonesty are tendencies usually exhibited by respondents to encourage sympathy. Therefore, it is the duty of the researcher to be alert, disregarding inconsistency by confirming the information with other sources. In addition, there may be a misunderstanding of the rationale for the study by respondents, with most respondents perceiving the rationale of the interview to make personal gains. Clear explanation of the objectives of the study is recommended at the onset of the study.

3.16. Summary

In this chapter, I have explained the rationale for adopting a qualitative methodology and how I have applied it to undertake my evaluation of the perception of interviewees towards the efficacy of the Nigerian criminal framework. I have described the various steps necessary for attaining this goal by discussing the rationale for adopting the qualitative method. I have also identified the differences between qualitative and quantitative studies while justifying the most suitable methods. This led me to argue that a qualitative

³²⁷ Norman M. Bradburn and others, improving interview method and questionnaire design: Response effects to threatening questions in survey research (University Microfilms 1992).

³²⁸ Ibid.

method is best suited for this research, as opposed to quantitative methods, which are often based on observable phenomena via statistical or computational techniques. This study further examines some philosophical approaches adopted during empirical studies. These steps are the evaluation of norms and examination of empirical practices, by distinguishing the differences between qualitative and quantitative research. Ethical issues concerning the limitations of qualitative approaches are also explained, with regard to the interpretation of results and the need for reform suggestions.

The preceding section has examined some of the main challenges of this approach and how this research intends to address them in subsequent chapters. This research aims at resolving the discrepancies between law in theory and law in practice. The following chapters (4 and 5) examine some of the main challenges of this study and how this research will address them in subsequent chapters (7 and 8).

4. Incidents of Sexual Abuse in Armed Conflict

4.1. Introduction

Sexual abuse of women during conflicts has been recognized as a global issue.³²⁹ Rape of women during conflicts has been debated by many scholars from many fields and many ideological perspectives, including feminists. This has been a long-standing part of history, starting from the biblical era, where women were found to bear the brunt of conflicts,³³⁰ to current conflicts in which women have been incorporated as combatants and offenders of the law.³³¹

Turchik et al. recalls that these barbaric acts against women were often viewed as means of dominance against the opponents rather than as a crime against women themselves.³³² They indicated that children and, in most cases, men have not been spared from these barbaric acts.³³³ To understand the ramifications of rape on victims, this chapter reflects on historical incidents of sexual abuses during wars. It highlights how these acts were perpetuated and the overall effects on the outcomes of wars.³³⁴

This chapter therefore examines historical realities of past war crimes (4.2), focusing on how the rape of women has been integrated as a tactic of war in Section 4.3. It further examines the particular cases of Nanking, the Bangladesh War of Independence, and the Second Congo War in Sections 4.4-4.6 before

³²⁹Christine Chinkin. "Rape and sexual abuse of women in international law." (1994) 5.3 European journal of international law 326-341.

³³⁰ Susan Brownmiller, *Against Our Will: Men, women and rape* (Open Road Media 2013).

³³¹ Elizabeth Pearson. 'Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons.' (October 16, 2014).

³³² Turchik, Jessica A., and Katie M. Edwards. "Myths about male rape: a literature review." *Psychology of Men & Masculinity* '(2012) 13 2 211.

³³³ Ibid.

³³⁴ JT Kelly et al. 'Experiences of female survivors of sexual violence in eastern Democratic Republic of the Congo: a mixed-methods study' (2011) 5(1) *Conflict and health* 25.

cataloguing the major incidences in Nigeria (4.7), identifying the origin of ongoing internal conflicts in Nigeria.

4.2. Account of past sexual violence against women in armed conflicts

The twentieth century was indisputably a century of unprecedented violence, with a net rise in the number and scale of armed conflicts.³³⁵ I also agree with Ferguson's contention that the second half of the twentieth century witnessed the proliferation of more internal conflicts (i.e. civil wars and political violence by non-state actors).³³⁶ This revelation is often relating to the birth, consolidation and collapse of nation states, and the increasing incorporation of civilians as combatants.³³⁷ This situation results in a significant proportion of the population, often women and children, being affected or in constant exposure to abuses and violent attacks.³³⁸

During the analysis of 'women in an insecure world,' it has been revealed that the growing rate of abuses against women has been identified to be progressively challenging and difficult to ignore.³³⁹ This is regardless of the type (internal or international) of conflict. It has been identified that the upsurge of violence against women forms a major obstacle to peace and development.³⁴⁰ This revelation evokes the concern as to how national legislation challenges individual criminal

³³⁵N. Ferguson, 'the War of the World: Twentieth-Century Conflict and the Descent of the West.' *The war of the world*. Published September 21st, 2006 by Penguin Press HC.

³³⁶ Ibid.

³³⁷ 'International review of the Red Cross: Humanitarian debate: Law, policy, action Engaging armed groups'. 30 September 2011. ICRC.

³³⁸ Ibid.

³³⁹Marie Vlachová and Lea Bion, Women in an insecure world: violence against women: facts, figures and analysis (Geneva Centre for the Democratic Control of Armed Forces (DCAF) 2005).

³⁴⁰ Ibid.

responsibility for crimes committed during internal conflicts, and subsequently the best way to deter these abuses from reoccurring.

Another issue of notable concern was how to distinguish the penalties for crimes of human rights violations committed in international conflicts and similar acts committed during internal conflicts. These concerns are discussed in detail in Chapter 5, when examining the history of the recognition of rape as war crime.

The use of women as weapons during conflicts has often led to the changes in the nature and outcome of the conflicts.³⁴¹ This idea was reaffirmed by Garcia-Moreno et al., who acknowledged that the rise in awareness was a result of interest presented by feminist researchers, reinforced by women's movements.³⁴² Violence against women, they described, comprises a series of complicated abuses specifically targeted towards women. These include domestic violence, female genital mutilation, slavery, forced marriage, and rape during armed conflicts.³⁴³

Targeting of women with rape in armed conflicts has been described as part of war strategies in past decades. These acts, Grossmann elucidated, were witnessed in the World Wars, including the Soviet army systematically raping German women,³⁴⁴ and the use of 'comfort women' (sex slaves) by the Japanese Imperial Army in territories they occupied during WWII.³⁴⁵

³⁴¹Naylor, L. (2009). Violence against women. In H. T. Greene & S. L. Gabbidon (Eds.), *Encyclopaedia of race and crime* (pp. 866-868). Thousand Oaks, CA: SAGE Publications, Inc. doi: 10.4135/9781412971928. n355.

³⁴² Ibid.

³⁴³ Claudia Garcia-Moreno Et Al. "Violence against Women." ((2005). *Www. Science mag. Org Science Vol 310 25 November 2005 310.*

³⁴⁴Atina Grossmann. 'A question of silence: The rape of German women by occupation soldiers' (1995) 72 *October* 43-63. Doi: 10.2307/778926.

³⁴⁵George L. Hicks. *The comfort women: Sex slaves of the Japanese Imperial Forces*. Souvenir Press Ltd; 1st Edition (23 Mar. 1995).

This study, in addition, reveals atrocities committed in similar conflicts with high casualties to include Cambodia during the 1970s, Bangladesh in 1971,³⁴⁶ Uganda during the 1980s,³⁴⁷ Haiti (1991-94),³⁴⁸ the Rwandan genocide (1994), Somalia,³⁴⁹ Liberia,³⁵⁰ Algeria,³⁵¹ Burundi,³⁵² Sri Lanka,³⁵³ Sierra Leone (1999),³⁵⁴ and the Democratic Republic of Congo.³⁵⁵ However, there were unofficial reports of sexual violence being employed as a war tactic by government forces and insurgents in countries such as Argentina,³⁵⁶ El Salvador,³⁵⁷ Burma,³⁵⁸ Turkey³⁵⁹ and South Africa.³⁶⁰

William Blum recounts incidents of rape and sexual torture applied during the American invasion of Vietnam³⁶¹ as a method of intimidation. In 1991, during the Kuwait war, similar reports were recalled from women raped by the Iraqi and American soldiers.³⁶² Yuma Totani emphasized that, despite the obvious

³⁴⁶Yasmin Saikia. 'Women, war, and the making of Bangladesh: remembering 1971' (2011). Durham: Duke University Press. 311 pages, ISBN: 9780822350385.

³⁴⁷Matthew R. Smallman-Raynor and Andrew D. Cliff. 'Civil war and the spread of AIDS in Central Africa' (1991) 107(01) *Epidemiology Infect* 69.

³⁴⁸William Blum, *Killing hope: US military and CIA interventions since World War II* (Zed Books 2003)

³⁴⁹Judith Gardner and Judy El Bushra, *Somalia-the untold story: the war through the eyes of Somali women* (CIIR 2004).

³⁵⁰Danny Hoffman. 'The war machines: young men and violence in Sierra Leone and Liberia.' Duke University Press, 2011.

³⁵¹Cynthia Cockburn. 'Gender, armed conflict and political violence' (1999). The World Bank, Washington DC, June 1.

³⁵²Doris E. Buss. 'Rethinking rape as a weapon of war' (2009) 17(2) *Feminist legal studies* 145. *Feminist Legal Studies*, Vol. 17, pp. 145-163, 2009.

³⁵³Albert Lau. 'Southeast Asia and the Cold War.' New York: Routledge. 2012

³⁵⁴Danny Hoffman. 'The war machines: young men and violence in Sierra Leone and Liberia.' Durham: Duke University Press, 2011.

³⁵⁵Baaz, M and Stern, M. 'The Complexity of Violence: A Critical Analysis of Sexual Violence in the Democratic Republic of Congo (DRC), Sida Working Paper on Gender based Violence.' (2010).

³⁵⁶Nicola Henry, *War and rape: law, memory, and justice* (Routledge 2011).

³⁵⁷Philippe Bourgois. 'The power of violence in war and peace Post-Cold War lessons from El Salvador' (2001) 2(1) *Ethnography* 5.

³⁵⁸Shana Swiss and Joan E. Giller. 'Rape as a crime of war: a medical perspective' (1993) 270(5) *JAMA* 612.

³⁵⁹Jonathan Gottschall. 'Explaining wartime rape' (2004) 41(2) *J Sex Res* 129.

³⁶⁰Peter Warwick, *Black people and the South African war 1899-1902* (Cambridge University Press 1983).

³⁶¹William Blum, *Killing hope: US military and CIA interventions since World War II* (Zed Books 2003).

³⁶²Christine Chinkin. 'Rape and sexual abuse of women in international law' (1994) 5 *Eur. J. Int'l L.* 326.

evidence of atrocities committed against women, sexual abuse of women during conflicts was still not treated as a serious offence or crime in some national legislation.³⁶³

It was further disclosed that, even with extensive international legislation and resolutions, the targeting of women during conflict still persists.³⁶⁴ Kelly Askin likewise drew attention to the fact that sexual violence generates terror, panic, and destruction.³⁶⁵ Notwithstanding the protracted history of rape of women during armed conflicts, she noted that the issue of rape was still dismissed by some national governments, treating it as acts of renegade soldiers, hence creating a climate for rampant sexual abuse during conflicts.³⁶⁶

It was not until recent times that the United Nations Security Council (UNSC) not only accepted that rape during armed conflict was a security challenge of our time, but also unanimously implemented specific resolutions recognising rape as an unlawful tactic of war linked to international peace and security.³⁶⁷ Despite this confirmation, statistics on rape are extremely under-reported, with an absence of complete statistics due to misplaced blame and shame on the part of victims, and the deep roots of the historical absence of accountability of crimes committed during wars.³⁶⁸

UN statistics on conflict-related rape reveals that the Democratic Republic of Congo had approximately 1,100 reported rape cases per day, and over 200,000 women were sexually abused since the onset of conflict.³⁶⁹ A similar assessment

³⁶³Yuma Totani, *Tokyo War Crimes Trial* (Wiley Online Library 2008).

³⁶⁴Susan Brownmiller, *against our will: Men, women and rape* (Open Road Media 2013).

³⁶⁵ Askin, Kelly Dawn 1997 War crimes against women. Prosecution in international war crimes tribunal. Martinus Nijhoff publishers. Pp.12-13.

³⁶⁶ Ibid.

³⁶⁷ 'The United Nations Parliamentary Hearing' (20-21 November 2008).

³⁶⁸ Ibid.

³⁶⁹ UN Office of the High Commissioner for Human Rights. 'Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law

by Helen Hintjens further exposed that over 500,000 women were raped during the 1994 genocide in Rwanda.³⁷⁰ Likewise, in Bosnia, approximately 20,000 to 50,000 women were raped.³⁷¹ In addition, it has been acknowledged that rape was sometimes employed to deliberately infect women with HIV or render women from the targeted community incapable of bearing children, which constitutes a form of biological warfare.³⁷²

These situations call for a review of war strategies, and the evaluation of the implementation of humanitarian laws.³⁷³ The question of how national laws challenge rape and sexual abuses in internal conflicts is of great concern. Reviewing events after the Nuremberg Tribunals there was a noticeable failure to take rape and sexual abuse seriously. This was the case until the advent of the Rome Statute of the International Criminal Court (ICC),³⁷⁴ and the jurisprudence of both the International Criminal Tribunal for Rwanda (ICTR) and International Criminal Tribunal for the former Yugoslavia (ICTY).³⁷⁵

Carla Del Ponte, a prosecutor at the ICTY trials, in an effort to support the eradication of rape, argued that rape and sexual abuse during conflict had been relegated for too long, without due consideration to victims and the ramifications of these abuses.³⁷⁶ John Hagan supported this view, commending Carla Del

committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, available at: '(2010))

³⁷⁰Helen M. Hintjens. "Explaining the 1994 genocide in Rwanda." *The Journal of Modern African Studies* '(1999) 37.02241-286.

³⁷¹R. Degni-Ségui. 'Report about human rights in Rwanda E/CN.4/1996/68 paragraph 16, Geneva: UN, '(1994))

³⁷²UN Special Representative. 'sexual Violence in Conflict, Ms. Zainab Hawa Bangura www.un.org/en/women/end violence'

³⁷³ Ibid.

³⁷⁴ICC. 'The Office of the Prosecutor (OTP) conducts investigations by gathering and examining evidence, questioning persons under investigation and questioning victims and witnesses, for finding evidence of a suspect's innocence or guilt.' (2016).

³⁷⁵Rome Statute of the International Criminal Court. 'Arts. 7(1) (g), 8(2) (b)(xxii), U. N. Doc. A/CONF.183/9.' (July 17, 1998).

³⁷⁶ John Hagan and Ron Levi. 'Crimes of War and the Force of Law' (2005) 83(4) *Social Forces* 1499.

Ponte in her effort to criminalise rape.³⁷⁷ This was the first attempt to convict rape and sexual abuses as a war crime.³⁷⁸ In addition, this drew attention to the fact that the Yugoslavian Tribunal had set a precedent against the historical silence surrounding sexual violence against women, thus leaving a legacy that denounced sexual violence against women in armed conflicts.³⁷⁹

4.3. Rape as a tactic in armed conflicts

Rape is generally traumatising, and when committed in a conflict situation, is even more devastating to victims who have to deal with the pain and the disruption caused by the conflicts (albeit rape is not acceptable in any circumstances).³⁸⁰ However for rape to be accepted as a 'crime against humanity,' the crime of rape must be in accordance with the classification stated by ICRC.³⁸¹ This means that rape must be committed during armed conflicts or war, by soldiers or combatants, against civilians.³⁸²

Also, in accordance with the definition stipulated by the ICC, the crime of rape must be widespread, systematic, and employed as a means of psychological warfare. This is to humiliate and undermine morale, or as a form of ethnic cleansing.³⁸³ A critic of rape in conflict, Janie Leatherman stated that the term 'sexual violence' referred to numerous crimes committed against a woman. This includes rape in wartime, sexual mutilation, sexual humiliation, forced

³⁷⁷ Hagan, John; Levi, Ron: Crimes of War and the Force of Law, Full: Social Forces: 2005. Pg 1499,1534

³⁷⁸ Ibid.

³⁷⁹ 'Prosecutor v. Tadic, Case No. IT-94-1-T, Sentencing Judgment (July 14, 1997), Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, (Sept. 2, 1998).'

³⁸⁰ Amnesty international. 'state of the world's Human Rights. Annual report deteriorated' (2012).

³⁸¹ 'ICRC (2008), How is the term armed conflict defined in international humanitarian law, Opinion Paper, Geneva'

³⁸² Richard Vernon. 'What is crime against humanity?' (2002) 10(3) Journal of Political Philosophy 231.

³⁸³ Amnesty International's. "Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes against Women in Times of Conflict: Stop Violence against Women" (2004)'; Amnesty international. 'state of the world's Human Rights. Annual report deteriorated' (2012).

prostitution, and forced pregnancy etc.³⁸⁴ However, in past conflicts, it was argued that these crimes were often regarded as ‘spoils of war’ rather than crimes against humanity.³⁸⁵ There are many definitions, but one of the most accepted and often used before the ICC was the definition stated by World Health Organisation (WHO), which defined sexual violence as:

‘any sexual act, attempt to obtain any sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion by any person regardless of their relationship to the victim, in any setting.’³⁸⁶

It was not until recent times that international criminal law recognised violence against women in armed conflicts as specific offences that include rape and other forms of assault involving a sexual organ.³⁸⁷ Article 4(2) (e) of the 1997 Additional Protocol II of the Geneva Conventions incorporates rape among the list of ‘outrages upon human dignity.’ There is an agreement amongst critics that it was a move in the right direction. It places rape as a standalone crime as opposed to previous tribunals, where rape was not recognised as a war crime in its own right.³⁸⁸ Krug debated that despite these definitions and recognitions, there were

³⁸⁴Janie Leatherman, *Sexual Violence and Armed Conflict* (Polity Cambridge 2011). (ISBN: 978-0-7456-4188-1). 176pp.

³⁸⁵ ‘The terms “sexual contact” “sexual act” and “committing sexual acts” shall be used in this document to describe the physical acts through which crimes of rape or sexual assault are committed, to identify the physical conduct without making assumptions about whether it was sought or unsought, therefore identifying it as either legal or criminal activity. The use of this term is to allow a description in the text of the physical acts which occurred, while reflecting the reality that rape and sexual violence is not “sexual intercourse” (a term which implies agreement by the participants). The use of this term allows a clear differentiation to be made between conduct which is criminal, and conduct which is protected behaviour under human rights law, when it is actively wanted and agreed to by the participants.’ For a comprehensive overview of the issues, see *“Sexuality and human rights”* a discussion paper, published by the International Council on Human Rights Policy, 2009.’ (2010.)

³⁸⁶ Krug, E. G. et al., eds. ‘World report on violence and health. Geneva, World Health Organization’ ((2002).)

³⁸⁷ Ibid.

³⁸⁸The Tokyo war crime trials: All Japanese Class A war criminals were tried by the International Military Tribunal for the Far East (IMTFE) in Tokyo. The prosecution team was made up of justices from eleven Allied nations: Australia, Canada, China, France, Great Britain, India, the

no legal provisions to define the use of rape and other forms of sexual violence during conflicts as specific crimes before the commencement of *ad hoc* war crime tribunals.³⁸⁹

The statutes of the ICTR³⁹⁰ and ICTY³⁹¹ therefore formally presented the universally accepted definition for rape in armed conflicts.³⁹² These *ad hoc* courts were established to prosecute cases of genocide, crimes against humanity, and war crimes committed in conflicts in Rwanda and Bosnia.³⁹³ The ICTY was accorded the authority to prosecute persons responsible for the violation of international humanitarian law.³⁹⁴ The conclusion drawn by the Court provided the legally accepted definition of rape in armed conflicts. The criminalisation of sexual violence was formally derived from the decisions of these *ad hoc* tribunals, thus highlighting the essential components of the crime of rape in conflicts to include the following:

- (i) The sexual penetration, however slight;
 - (a) Of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or

Netherlands, New Zealand, the Philippines, the Soviet Union and the United States of America. The Tokyo trial lasted two and a half years, from May 1946 to November 1948. Other war criminals were tried in the respective victim countries. War crime trials were held at ten different locations in China. May 3, 1946 to November 12, 1948.

³⁸⁹ ICRC. "Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)," (8 June 1977.)'

³⁹⁰ 'statute of the International Criminal Tribunal for Rwanda attached to prosecution of persons responsible for Genocide and other serious violations of international humanitarian law committed on the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of the neighbouring states between Jan 1994 to Dec 1994. S. C. Res. 955'

³⁹¹ Ibid.

³⁹² Alex Obote-Odora. 'Rape and Sexual Violence in International Law: ICTR Contribution' (2005) 12 New Eng. J. Int'l & Comp. L. 135.

³⁹³ William A. Schabas, *The UN international criminal tribunals: the former Yugoslavia, Rwanda and Sierra Leone* (Cambridge University Press 2006).

³⁹⁴ 'International Criminal Tribunal for Rwanda, 'The Prosecutor v. Jean-Paul Akayesu (ICTR-96-4-T), Judgement of the Trial Chamber.' (2 September 1998.)'

(b) Of the mouth of the victim by the penis of the perpetrator;

(ii) By coercion, force or by threat of force against the victim or a third person; as indicated in the case of ICTY Trial Chamber Judgment *Prosecutor v. Anto Furundžija* (Case no. IT-95-17/1-T).³⁹⁵

It is noted that in the subsequent trial of the ICTY Trial Judgment of *Prosecutor v. Kunarac et al.* (Case no. IT-96-23-T&IT-96-23/1-T) the definition of rape, though more descriptive, was not as detailed as demanded under international law, in that it 'does not denote other factors which would render an act of sexual penetration non-consensual or non-voluntary on the part of the victim.'³⁹⁶

This study indicates that the ICTR recognised the above definitions into categories to integrate relevant sexual acts as defined in the Furundžija case, positing that:

(i) The sexual activity is accompanied by force or threat of force to the victim or a third party;³⁹⁷

(ii) The sexual activity is accompanied by force which makes the victim particularly vulnerable or negated her ability to make an informed refusal;

(iii) The sexual activity occurs without the consent of the victim³⁹⁸ as reflected in past conflicts.

³⁹⁵ Knut Dormann. 'Elements of war crimes under the Rome Statute of the International Criminal Court' (2003) Sources and Commentary.

³⁹⁶ Suk Chun and Inger Skjelsbæk. 'Sexual violence in armed conflicts' (2010) 1 Policy Brief.

³⁹⁷ Anne-Marie De Brouwer, *Supranational Criminal Prosecution of Sexual Violence: The ICC and the Practice of the ICTY and the ICTR*, vol 20 (Intersentia nv 2005).

³⁹⁸ *Ibid.*

4.4. The Rape of Nanking (1938) and Comfort Women in the Japanese Imperial Army

The rape of Nanking was one of the most egregious atrocities of WWII.³⁹⁹ It occurred during the six-week invasion of China by the Japanese, wherein the country witnessed the employment of an unorthodox strategy to subdue the Chinese by the widespread gang-raping of women and girls.⁴⁰⁰ The United Nations reported multiple systematic rapes of women in military ‘comfort houses.’ There were allegations that soldiers were encouraged by their commanding officers to use the facilities’ ‘comfort women’ rather than civilian brothels. This was deduced by the research as a means of stabilising the group dynamics amongst the soldiers and building internal bonds.⁴⁰¹

Rabe⁴⁰² recounted that over 80,000 women and girls were gang-raped by Japanese soldiers and then stabbed to death.⁴⁰³ Even pregnant women were not spared, and most were eviscerated after the rapes as a means of defiling the Chinese culture and religion. Bob Wakabayashi quoted in his analysis of the Nanking atrocity that Chinese men were forced to rape their own daughters, sons to rape their mothers, and brothers their sisters, while the rest of the family were made to watch.⁴⁰⁴ These atrocities indicated the breakdown of law during conflicts, and subsequently the importance of the establishment of the Nanking War Crimes Tribunal, one of thirteen tribunals established by the Nationalist government.⁴⁰⁵ Nonetheless, full justice was not obtained from these tribunals,

³⁹⁹ Iris Chang, *The rape of Nanking: The forgotten holocaust of World War II* (Basic Books 2012).

⁴⁰⁰ *Ibid.*

⁴⁰¹ ‘United Nations, Preliminary Report Submitted by the Special Rapporteur on violence against women, its causes and consequences, (E/CN.4/1995/42), paras. 288 and 290.’ (1994).

⁴⁰² John Rabe. ‘The Good Man of Nanking. 1937-1938.’ New York,

⁴⁰³ “‘The Rape of Nanking, 1937” Eyewitness to History, www.eyewitnesstohistory.com (2009).

⁴⁰⁴ Bob Wakabayashi Akira Fujiwara. ‘The Nanking Atrocity 1937-1938: Berghan Books.’ ((2007).)

⁴⁰⁵ Yuma Totani, *The Tokyo war crimes trial: the pursuit of justice in the wake of World War II*, vol 299 (Harvard Univ Council on East Asian 2009).

thereby indicating that the international community was slow to embrace the idea that rape was being used as a weapon of war.⁴⁰⁶

This historical event remains a debated political issue, as various facets of it have been doubted by some historical liberals and Japanese nationalists.⁴⁰⁷ The Japanese claim that the massacre has been exaggerated, or even wholly invented for propaganda purposes.⁴⁰⁸ Other wars of notable importance are the Bangladesh War of Independence⁴⁰⁹ and the Great War of Africa.⁴¹⁰

4.5. Bangladesh' War of Independence (1971)

The nine-month Bangladeshi War of Independence resulted in East Pakistan becoming the independent country of Bangladesh. In the conflict, the use of rape as targeted sexual abuse against women was a salient feature.⁴¹¹ Nayanika Mookherjee in her book pointed out how sectarian crimes were at this point perpetuated against Muslim Bengali women,⁴¹² which was noted to be one of the earliest cases in which conflict-related rape was internationally recognised. It was established as having a political-military-strategic function, with a systematic undertone of genocidal rape.⁴¹³ These rapes triggered thousands of unwanted pregnancies, births, abortions, and suicides. In addition, this led to the social ostracism and exclusion of the victims.⁴¹⁴ Alffram mentioned that years of investigation by War Crimes Fact Finding Committee indicted 1,597 people for

⁴⁰⁶ Herbert Bix. 'Hirohito and the Making of Modern Japan, 2000, p.594.'

⁴⁰⁷ Tanaka, Toshiyuki, and Toshiyuki Tanaka. 'Hidden horrors: Japanese war crimes in World War II.' (2016) Boulder, CO: Westview Press,

⁴⁰⁸ Yuma Totani, *Tokyo War Crimes Trial. The Pursuit of Justice in the Wake of World War II* (Wiley Online Library 2008).

⁴⁰⁹ 'Bangladesh War: The article that changed history of Asia. BBC News. 16 December 2011.

⁴¹⁰ Jason Stearns, *Dancing in the glory of monsters: The collapse of the Congo and the great war of Africa*. Public Affairs 2012.

⁴¹¹ Nayanika Mookherjee. 'Remembering to forget': public secrecy and memory of sexual violence in the Bangladesh war of 1971' (2006) 12(2) *Journal of the Royal Anthropological Institute* 433.

⁴¹² *Ibid.*

⁴¹³ *Supra* 75

⁴¹⁴ B. Das. "Rape victims or war heroes: war women in Bangladesh" (28 June 2011).

war crimes against the Bangladeshi women.⁴¹⁵ Seven senior military officials of Bangladesh Jamaat-e-Islami were charged for war crimes,⁴¹⁶ including planning and advising the rape of women in the village of Shohaghpur,⁴¹⁷ which was a new direction in obtaining justice for victims, though not in totality.⁴¹⁸

4.6. Second Congo War (Great War of Africa) (1998-2003)

The Second Congo War was one of the most fatal wars in the history of modern Africa.⁴¹⁹ The conflict witnessed the loss of millions of lives and many displacements,⁴²⁰ with large-scale mass rape perpetuated against women.⁴²¹ This apocalyptic view is sustained by S. Lewis, who catalogued the horrific sexual exploitation perpetrated on infant girls by armed militia groups and rape and sexual abuse of women by the UN peacekeeping forces.⁴²² C. Lynch, also cited the rape of over 2,200 women in a single month in Nord Kivu province.⁴²³ Additional accounts of conflict-related rape and sexual violence have been documented by international non-governmental organisations (NGOs) active in conflict-ridden regions around Africa.⁴²⁴ This has supported the fact that rape and sexual exploitation during conflicts is still on the rise.

David Stearns, a UN rapporteur, described this era as being branded with the advent of ethnic conflicts involving the targeting of civilian populations to

⁴¹⁵ H. Alffram. 'Ignoring Executions and Torture: Impunity for Bangladesh's Security Forces. Human Rights Watch.' (2009).

⁴¹⁶B. Minegar. "Bangladesh war crimes tribunal sentences Jamaat-e-Islami member to death." *Jurist*. (21 January 2013).

⁴¹⁷T. Ahmed et al. "Kamaruzzaman to hang." *BD News 24*. (9 May 2013).

⁴¹⁸ Ibid.

⁴¹⁹ Jason Stearns, *Dancing in the glory of monsters: The collapse of the Congo and the great war of Africa* (Public Affairs 2012).

⁴²⁰ Ibid.

⁴²¹S. Nolen. 'Not Women Anymore...' *The Congo's rape survivors face pain, shame and AID.* (2005.)

⁴²²S. Lewis. 'Protecting the women of Congo.' (16 April.2008) (*The nation*).

⁴²³C. Lynch. 'United Nation says its worker abused women in Congo.' (27 November. 2004) *Washington post*.

⁴²⁴ Jason Stearns, *Dancing in the glory of monsters: The collapse of the Congo and the great war of Africa* (Public Affairs 2012).

eradicate particular ethnic groups and the dislodgement of people dwelling in resource-rich areas.⁴²⁵ In order to achieve their aims, the perpetrators of violence such as in Bosnia and Herzegovina (1992–95),⁴²⁶ Rwanda⁴²⁷ (1994), Kosovo⁴²⁸ (1998–99) and East Timor⁴²⁹ (1975–2002) engaged in acts of rape and other forms of sexual intimidation. These developments witnessed an exponential rise in the records of sexual violence. Subsequently, there was international acknowledgement that systematic sexual violence can serve as a military tactic in conflicts.⁴³⁰ Such acts perpetrated against women have been witnessed in some African countries, including Nigeria.

4.7. Conflicts in Nigeria

The current crisis in Nigeria has its roots in the late colonial administration of the colony and the amalgamation of two unrelated regions with no similarities: the Northern and Southern Protectorates. Nigerian conflicts are a combination of political, economic, cultural, and religious factors.⁴³¹ Yusufu Turaki pointed out that, despite decades of independence, Nigeria was still not fully developed enough to handle its national and political disparities.⁴³²

In reviewing conflict situations in Nigeria, ethnic, religious, and political instability are continuous and growing challenges for this latently rich African nation.⁴³³

⁴²⁵David Shearer. 'Africa's great war 89'. 41(2). *Survival*, Volume 41, 1999 - Issue 2.

⁴²⁶Beverly Allen, *Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia* (U of Minnesota Press 1996).

⁴²⁷ Anne-marie de Brouwer, Sandra Ka Hon Chu, 'the men who killed me: Rwandan survivors of sexual violence' (2009).

⁴²⁸ Mary Buckley and Sally N. Cummings. 'Kosovo: perceptions of war and its aftermath' (2001.)

⁴²⁹ Carmel Budiardjo and Liem Soei Liong. 'The war against East Timor' 84.)Volume 45, Issue 2 February 1986, pp. 442-443. *The Journal of Asian Studies*.

⁴³⁰ S. Lewis. 'Protecting the women of Congo. '(16 April.2008) (*The nation*).

⁴³¹Yusufu Turaki. *Historical roots of ethno-religious crises & conflicts in Northern Nigeria*. (1982) Jos ECWA Theological Seminary (JETS).

⁴³² *Ibid*.

⁴³³Sarkin Yakin Keffi. *Ethnic conflicts in Nigeria*. Executive Governor of Nasarawa State. *Www. Abdullahiadamu. Net/speeches*. 27 Jan 2002.

Thousands of lives had been lost in recent decades over rivalry between the predominantly Muslim North and the mostly Christian South.⁴³⁴ There was the Nigerian Civil War of the 1960s,⁴³⁵ the Asaba Massacre during the Biafra Civil War in October 1967,⁴³⁶ the Kaduna riots, and religious riots between Christians and Muslims over the introduction of Sharia in Kaduna State.⁴³⁷ Also, the Baga Massacre by Boko Haram caused at least 100 deaths, with over 2,000 disappearances.⁴³⁸ These conflicts, as revealed by this study, can be traced back to the unification of Northern and Southern Nigeria,⁴³⁹ which is the root cause of current conflicts in the country.⁴⁴⁰

4.7.1. The movement for the survival of the Ogoni people

During the 1970s and 1980s, an array of activist groups were formed in the Niger Delta region, including the Movement for the Survival of the Ogoni People (MOSOP),⁴⁴¹ the Ijaw Youth Council,⁴⁴² and the Movement for the Survival of the Ijaw Ethnic Nationality in the Niger Delta. The Movement for the Survival of the Ogoni People (MOSOP), a social movement organised by the people of Ogoni

⁴³⁴ Ibid.

⁴³⁵ John J. Stremmler, *The international politics of the Nigerian civil war, 1967-1970* (Princeton University Press 2015).

⁴³⁶ Alfred Obiora Uzokwe. *Surviving Biafra*, 2002. Links: <http://www.dawodu.com/barrack7.htm>.

⁴³⁷ Beshiru Salawu. 'Ethno-religious conflicts in Nigeria: Causal analysis and proposals for new management strategies' (2010) 13(3) *European journal of social sciences* 345.

⁴³⁸ Boko haram: 85 dead and counting in northeast Nigeria village, Wednesday, 29 January 2014 12:36.

⁴³⁹ Richard Akinjide, QC, SAN. *The Amalgamation of Nigeria Was A Fraud*. June 2000.

⁴⁴⁰ Ibid.

⁴⁴¹ Movement for the Survival of the Ogoni People. Nigeria. *The Ogoni Crisis. A Case-Study of Military Repression in South-eastern Nigeria*. July 1995'. Human Rights Watch Report. Vol. 7, No. 5.

⁴⁴² Okechukwu Ibeanu. 'Oiling the friction: Environmental conflict management in the Niger Delta, Nigeria' (2000) 6(6) *Environmental change and security project report* 19. *Environ Change Secur Proj Rep*. 2000 summer ;(6):19-32.

clan,⁴⁴³ was founded by Ken Saro-Wiwa in a bid for the struggle for oil royalties in Ogoni land.⁴⁴⁴

These groups campaigned for the politics of resource control and protested against the damage to their environment triggered by oil exploration. They also sought cultural rights, and social, economic and environmental justice in the Niger Delta region of Nigeria.⁴⁴⁵ The people of the Niger Delta, including the Ogoni clan, traditionally had sustainable economic activities based around farming and fishing, but oil exploration destroyed the sources of their livelihoods.⁴⁴⁶ Environmental degradation included oil blowouts, spillages, oil slicks, and flared gas, causing acid rain and general pollution.⁴⁴⁷ Studies conducted by United States Institute for Peace noted that, between 1976 and 2001, there were over 5,000 oil spills in the Niger Delta, amounting to 2.5 million barrels, equivalent to ten Exxon Valdez disasters, within a confined deltaic zone.⁴⁴⁸ This formed the catalyst for the protracted struggle by the Ogoni people, with no intervention from the national or international community.⁴⁴⁹

Their campaign erupted in a clash between the oil companies and the people of the Ogoni clan. This resulted in the deployment of troops by the Nigerian government to calm the crisis.⁴⁵⁰ The soldiers deployed for peacekeeping

⁴⁴³ Ogoni. Unpo.org. Unrepresented Nations and Peoples Organization. March 25, 2008. Retrieved December 13, 2014.

⁴⁴⁴ "Movement for the Survival of the Ogoni People. Nigeria. The Ogoni Crisis. A Case-Study of Military Repression in South-eastern Nigeria. July 1995". Human Rights Watch Report. Vol. 7, No. 5.

⁴⁴⁵ Mbembé, J-A 2000. At the edge of the world: boundaries, territoriality, and sovereignty in Africa. December 2000 *Public Culture* 12(1):259-284.

⁴⁴⁶ Ken Saro-Wiwa. 1995 Trial Speech of Ken Saro-wiwa. Taylor & Francis, Ltd.

⁴⁴⁷ Nixon, Rob 1996 "Pipe Dreams: Ken Saro-Wiwa, Environmental Justice, and Micro-Minority Rights."

⁴⁴⁸ Michael Watts, Ike Okonta, and Dimieari Von Kemedi, "Economies of Violence: Petroleum, Politics and Community Conflict in the Niger Delta, Nigeria," Washington DC: U. S. Institute of Peace, 2004), p. 2.

⁴⁴⁹ Kretzmann, Susan. (2005). *Drilling into Debt: An Investigation into the Relationship between Debt and Oil.*

⁴⁵⁰ Boele, Richard 1995 Ogoni: report of the UNPO mission to investigate the situation of the Ogoni of Nigeria, February 17-26, 1995.

attacked, killed, and raped women and girls.⁴⁵¹ These allegations were not investigated but rather refuted by the national government.⁴⁵² Other disturbances within the country with incidences of rape are adumbrated in the following sections.

4.7.2. Wilbros rape in Choba

The Choba, an Ikwerre community in the oil producing area of the Niger Delta, are strong supporters for resource control by the Niger Delta states. They organised a protest against Wilbros Nigeria Ltd., the subsidiary of an American pipeline construction company, over the destruction of their environment and non-employment of indigenous people by the company.⁴⁵³ HRW stated that the peaceful rally against Wilbros escalated when the company deployed police to disperse the protesters. This resulted in a situation where the Nigerian army deployed the use of force and assault against the protesters.⁴⁵⁴ This indicated a breakdown in law and order on the part of the security forces, with confirmed allegations against Nigerian forces who are known to use excessive force and brutality when called upon.

⁴⁵¹ Ibid.

⁴⁵² Boele, Richard 1995 Ogoni: report of the UNPO mission to investigate the situation of the Ogoni of Nigeria, February 17-26, 1995.

⁴⁵³ Human Rights Watch. 'In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside the premises of Willbros Nigeria Ltd., a subsidiary of an American contractor to the oil and gas industry, based in Oklahoma. The soldiers killed four people and raped a number of women from the community. The Nigerian federal government dismissed the reports of rapes, asserting that photographs alleged to show the soldiers assaulting the women were staged, and the police have refused to investigate. Human Rights watch found the women's claims of rape to be fully credible and believes that contesting the accuracy of the photographic evidence is an inappropriate response by the government to serious allegations of human rights violations.' (December 23, 1999).

⁴⁵⁴ Ibid.

HRW stated that the soldiers, on arrival, chose the path of attacking and raping the indigenous people,⁴⁵⁵ an allegation made by members of the community. Reports of allegations against soldiers include the killing of four people and the rape of a large number of women.⁴⁵⁶ Emily Lenning confirmed that these allegations were supported by photographic evidence of soldiers in the act of raping several women, published by the Nigerian press. These accusations were denied by the government, with no further investigation.⁴⁵⁷

4.7.3. Odi Massacre and rape

The community of Odi, a small village in Bayelsa State in the Niger Delta region, also supports resource control by local people, and it witnessed attacks from Nigerian soldiers.⁴⁵⁸ Uwakwe Abugu revealed that these incidents occurred subsequent to the killing of twelve policemen by youth gangs based in Odi.⁴⁵⁹ Four days after the expiration of the two-week ultimatum given by the government to hand over the perpetrators, President Obasanjo ordered soldiers into Odi and the surrounding communities.⁴⁶⁰ This was another worrisome situation originating in extraordinary executive action by the President. Ordinarily, the government is responsible for protection and keeping law and order, but in the case of Nigeria the government and state forces can be sources of insecurity. This action by the government was the beginning of war and terror upon the Odi community. The destruction and killings committed by the soldiers demonstrated that the killing of

⁴⁵⁵ Human Rights Watch Interview, RSM Usman Salami, Adaka Boro Barracks, Elele, December 5, 1999.

⁴⁵⁶ Lenning, Emily & Brightman, Sara. (2009). Oil, Rape and State Crime in Nigeria. *Critical Criminology*. 17. 35-48. 10.1007/s10612-008-9068-2.

⁴⁵⁷ Ibid.

⁴⁵⁸ Human Rights Watch May 1999. Crackdown in the Niger Delta," A Short Report,

⁴⁵⁹ Uwakwe Abugu and Same Onwemeodo, November 18, 1999. "Alternate account on police killings, Odi, Bayelsa,"

⁴⁶⁰ Frank Aigbodun, November 22, 1999. "Officials: thousands of soldiers deployed in Niger Delta," AP,

the policemen were certainly not the only reason for the nature of the onslaught carried out on the Odi.⁴⁶¹ These provocations merely provided an excuse for the government, in conspiracy with Shell and other oil companies, and an opportunity to abruptly deter the communities from requesting royalties and resource control.⁴⁶²

However, through the advocacy of various organisations, the Federal High Court, presided over by Justice Lambo Akanbi on 19 February 2013, ordered the federal government to pay N37.6 billion as compensation to the people of Odi (*which has not yet been executed*). This was as a result of the invasion and destruction of their community by armed soldiers.⁴⁶³ In addition, the judge ruled that the attack on the people of Odi was genocidal, reckless, inhuman, and a gross violation of the rights of the victims to life and ownership of property.⁴⁶⁴ Further explaining the rationale for his decision, the judge quoted Article 6 (a-c) of the Rome Statute, explaining that:

For the purpose of the Statute, “genocide” meant any act committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. Such includes (a) killing members of the group, (b) causing serious bodily (as in rape) or mental harm to members of the group.

In addition, ‘Article 5(1a) of the statute of the International Criminal Court, cites genocide as a crime under the jurisdictional preview of the Court.’ He also

⁴⁶¹Casmir Igbokwe, December 13, 1999. “Odi Cop Killers Storm P/H,”

⁴⁶²Rotimi Ajayi Texts of two reports by Nigerian TV on November 22, 1999, as reported by BBC Summary of World Broadcasts; text of government statement reported in Rotimi Ajayi, “FG denies military action in Bayelsa,” Vanguard (Lagos), November 23, 1999; BBC interview with Governor Alamiyeseigha, November 24, 1999.

⁴⁶³ Olusola Fabiyi March 2013 Obasanjo should face trial for Odi Massacre. Punching.Com/page/1899.

⁴⁶⁴ Ibid.

requested former President Chief Olusegun Obasanjo be formally arraigned before the International Criminal Court for the crime of genocide, which never occurred.⁴⁶⁵

4.7.4. Chibok kidnapping

In April 2014, the indigenes of Chibok, a small community in Borno State, bore witness to another gruesome attack by the Islamist jihadist group Boko Haram.⁴⁶⁶

This indicated another recorded occurrence of kidnapping of girls,⁴⁶⁷ raping and preventing them from participating in an examination, which the group claimed was Western education.⁴⁶⁸ As part of its Islamist ideology, Boko Haram is particularly hostile to Western education, which it views as a tool of colonisation that it threatens traditional Islamic values and customs.⁴⁶⁹ Since its inception in 2009, Boko Haram had been a persistent security threat in Nigeria, ideologically affiliated to al-Qaeda in the Middle East.⁴⁷⁰ Both groups adopt similar tactics, with sophisticated weapons, supporting allegations that the group receives training from foreign counterparts.⁴⁷¹

In the quest to establish an Islamic caliphate in Northern Nigeria, and oppose Western-style education,⁴⁷² this group was accused of carrying out attacks on schools and small villages. Such attacks were mostly aimed at Christian religious places of worship, markets, and areas of large gatherings of people.⁴⁷³ The

⁴⁶⁵ Supra see 511

⁴⁶⁶Jacob Zenn. 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014) 7(5) CTC Sentinel.

⁴⁶⁷Hamish MacDonald and Bola Omisore 9 May 2014."Nigeria Had 4-Hour Warning on School Raid, Amnesty International Says."

⁴⁶⁸ "Nigeria says 219 girls in Boko Haram kidnapping still missing." Fox News. 26 June 2014. Retrieved 30 June 2014.

⁴⁶⁹Scott Stewart, "Nigeria's Boko Haram Militants Remain a Regional Threat," Stratfor (January 26, 2012).

⁴⁷⁰Jon Gambrell November 4, 2011. "Nigeria: Radical Muslim Sect Grows More Dangerous,"

⁴⁷¹ Supra 517.

⁴⁷²McElroy, Damien 6 July 2013 "Extremist attack in Nigeria kills 42 at boarding school."

⁴⁷³Dorell, Oren 21 April 2014. "Terrorists kidnap more than 200 Nigerian girls."

rationale was to instil fear in people, and pressurise them into accepting Islam. These atrocities are noted to be violations of human rights, and punishable under the Rome Statute.⁴⁷⁴ In review of the current situation, Nigeria lacks the technicalities, equipment, and manpower to institute any significant change in the operation of the Islamic group. There has been no serious focus on strategic enquiry to curtail the activities of this Islamic sect.⁴⁷⁵ This has led to the spread of their activities to neighbouring states.

4.7.5. Baga massacre and kidnapping

Baga, another small town in Northern Nigeria bordering Lake Chad, is predominantly a fishing community.⁴⁷⁶ Baga, with other surrounding communities has witnessed several attacks by Boko Haram,⁴⁷⁷ which prompted the Nigerian army to set up a military base close to the community. However, due to the slump in the security of the villages the militants returned to the community to further enforce their wrath.⁴⁷⁸ On returning to the fishing community, according to reports, 185 people were killed, a thousand injured and displaced, and many girls raped and kidnapped.⁴⁷⁹ These cases confirm arguments concerning the non-implementation of criminal law in Nigeria, indicating that during conflicts in the country, rules and regulations are not obeyed by both sides. The Nigerian judicial system has been unable to fulfil its obligations to its citizens, thereby creating serious concerns and reasons for reviews and reform.

⁴⁷⁴ 'Rome Statute of the International criminal court, U N Doc. A/CONF.183/9* hereinafter ICC statute.' (July 17, 1998)

⁴⁷⁵Onapajo, Hakeem, Ufo Okeke Uzodike, and Ayo Whetho. "Boko Haram terrorism in Nigeria: The international dimension." (2012) 19.3 South African Journal of International Affairs 337-357.

⁴⁷⁶British Broadcasting Corporation 8 January 2015. Retrieved 8 January 2015. Boko Haram crisis: Nigeria's Baga town hit by new assault." BBC World News.

⁴⁷⁷ Agence France-press 8 January 2015. Boko Haram destroys at least 16 villages in NE Nigeria: officials." Business Insider.

⁴⁷⁸ Ibid.

⁴⁷⁹Baga Massacre & Monguno's Kidnap: The Big Cover Up! The street Journal 10-05-2013.

4.8. Summary

This chapter revealed past and present wartime realities, reflecting on accounts of sexual violence in conflicts, and depicting the twentieth century as an era of violence against women. It discloses past and current conflicts with incidences of rape and sexual abuse against women in Nigeria. The chapter also underlines the changes in war tactics to incorporate rape, sexual violence, kidnapping, and suicide bombing.

In addition, the recognition of the crime of rape under international law was discussed. This includes the progress made by the ICC in proposing distinctive definitions of rape to encompass all forms of sexual abuses. Furthermore, there was discussion of past wartime rapes, with references to lapses in tribunals and their failure to recognise rape as a stand-alone crime. Likewise, this chapter outlined conflicts and wartime crimes in particularly countries, including Nigeria, tracing their origin. It considers the rise in militia groups in Nigeria and how these groups transformed national conflicts into terrorism acts, therefore exposing the gaps in the Nigerian criminal system.

5. History of Recognition of Rape as a War Crime

5.1. Introduction

It was not until the ICTY and ICTR came into being that rape was primarily accorded the status of crime punishable under IHL.⁴⁸⁰ Under the *ad hoc* tribunal's paradigm, the atrocities of rape and abuse of women in conflict have been debated at the international, regional, and national level by various scholars.⁴⁸¹

This study is set to unravel historical records of rape and its recognition under international law. It reveals that the crime of rape has been in existence since the biblical era,⁴⁸² and is a major theme of Greek mythology⁴⁸³ and the genesis of Western civilization.⁴⁸⁴ Ancient cultures understood that the rape of women belonging to the enemy's family was a technique to weaken the opponent,⁴⁸⁵ thereby recognising this as a method of psychological warfare.⁴⁸⁶ Although this tactic of warfare has been recognized since time immemorial, it has taken many centuries to accept these brutalities as violations of human rights, subject to the

⁴⁸⁰Kelly D. Askin. 'Prosecuting wartime rape and other gender-related crimes under international law: extraordinary advances, enduring obstacles' (2003) 21 Berkeley J. Int'l L. 288.

⁴⁸¹Kohn, Elizabeth A 1994 Rape as a weapon of war: Women's human rights during the dissolution of Yugoslavia.

⁴⁸²Old Testament, Zechariah 14, For I [God] will gather all the nations against Jerusalem to battle, and the city shall be taken, and the houses looted, and the women raped."

⁴⁸³Ovid, *Metamorphoseon*, liber secundus; the rape of Europa, 850 ff.; Apollodorus *libris* 3.10.7, Leda and the swan; Tryphiodorus, Ajax and Cassandra, section 635.

⁴⁸⁴ C. J. Saunders, Rape and ravishment in the literature of medieval England, D. S. Brewer: Cambridge, 2001, p. 140.

⁴⁸⁵ Amnesty International's 2004 Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes against Women in Times of Conflict: Stop Violence against Women'.

⁴⁸⁶Alan Soble. Sexual attacks against women intended to weaken opposing communities reiterate the assumption that women are seen more as objects than as human beings, which leads to the assumption that physical attacks against women are primarily intended to affect men, which is where the psychological dimension of rape as a tactic of psychological warfare operates. See also: Sex from Plato to Paglia: a philosophical encyclopaedia, Vol. 2 M-Z, Westport: Greenwood Publishing Group 2006, p. 686.

laws of armed conflicts.⁴⁸⁷ The Nuremberg Trial,⁴⁸⁸ though beset by criticism, remains ground-breaking in the development of criminal law, closely followed by the International Tribunal for the Far East (IMTFE).⁴⁸⁹ These tribunals were the forerunners of the establishment of individual criminality of those who orchestrated the commission of heinous crimes which jeopardised the core of peaceful existence.⁴⁹⁰

5.2. The role and rationale of this chapter

This chapter therefore outlines the history of rape during armed conflicts, showcasing the transformation of conventional war tactics, and how it has affected the outcome of such conflicts. The chapter connects existing literature on past and current rape issues⁴⁹¹ to findings from empirical socio-legal interviews in subsequent chapters. Findings are cross-referenced with similarities or disparities in strategies of past conflicts to explore the extent to which

⁴⁸⁷ MacKinnon, A. 1994 *Rape, Genocide and women's Human Right in A Stigmayer*(Ed) Mass Rape. The war against women Bosnia-Herzegovina. University of Nebraska.

⁴⁸⁸Harris, Whitney R., Herbert R. Reginbogin 1945 *The Nuremberg Trials: International Criminal Law Since 1945*

⁴⁸⁹Yuma Totani, *the Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II*, Cambridge, Mass.: Harvard University Asia Centre, 2008. Pp 335.

⁴⁹⁰ Article 6.5 of Protocol II provides that 'at the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict'. This provision was understood by some commentators and courts to support amnesties of serious violations of the laws of war in internal conflicts. The ICRC is, however, clear that this article is inapplicable to amnesties that extinguish penal responsibility for persons who have violated international law. It only encourages amnesties for those detained or punished for the mere fact of having participated in hostilities.' L. Gibson, 'The developing jurisprudence on amnesty' (1998) 20 *Human rights quarterly* 865.

See also the whole vol. 59 of *Law and contemporary problems* entitled 'Accountability for international crime and serious violations of fundamental human rights. M. Scharf, 'the letter of the law: the scope of international legal obligation to prosecute human rights crime' (1996) 59 *Law and contemporary problems* 41; K. Ambos, 'Impunity and international criminal law, a case study on Colombia, Peru, Bolivia, Chile and Argentina' (1997) 18 *Human rights law journal* 1; T. Farer, 'Restraining the barbarians: can international criminal law help?' (2000) 22 *Human rights quarterly* 90-117; M. Freeman Harris et al., 'Bringing war criminals to justice: obligations, options, recommendations' in D. Orentlicher et al. (ed.), *Making justice work: the report of the Century Foundation* (New York: Century Foundation Press, 1998) pp. 27-32; L. Olson, 'Provoking the dragon on the patio. Matters of transitional justice: penal repression vs. amnesties' (2006) 88 *IRRC* 275-94.

⁴⁹¹M. Hossain et al. 'Men's and women's experiences of violence and traumatic events in rural Cote d'Ivoire before, during and after a period of armed conflict' (2014) 4(2) *BMJ Open* e003644.

international and national regulations were able to protect women. It further highlights current international and regional law and the reason for its inadequacies.

The study unravels how the reforms proposed by this research links to the deficiencies identified in the study. This is achieved through the discussion of these issues in segments: an account of the current legal position in relation to international criminal and human rights law, the International Criminal Court statute, law-in action-responses, and Nigerian legal practice.

Section 5.3 discusses the timeline of rape in conflicts, while 5.4 focuses on post-WWII trials. Section 5.5 explores the transformation of war tactics during conflicts, and deliberates on the instrumentalization of women and children. Section 5.6 discusses the development of gender crimes under international law, and the legal framework against gender violence in armed conflicts. 5.8 outlines armed conflicts under international humanitarian law, while 5.9 and 5.10 expound the principles and laws of armed conflicts, and 5.11 explains the transformation of law and international legal frameworks pertaining to gender violence.

The second segment focuses on legal doctrines and law in action, and what Nigerian and international prosecutors are actually doing in practice. Section 5.12 explains the application of the legal framework in Nigeria during internal armed conflicts, while

Section 5.13 explores the prevention of sexual exploitation and abuse of women and children during conflicts, 5.14 covers the process of prosecution of such crimes in Nigeria, and 5.15 considers the dimension of the interpretation of rape under Sharia. Each section further elucidates the rationale for the qualitative empirical interviews, as discussed in Chapter 3. It examines the history of rape in

conflicts and how post-WWII trials dealt with these offences. It also evaluates the issue of transformation of war tactics, stressing on the instrumentalization of women and girls during armed conflict.⁴⁹²

5.3. Timeline on recognition of rape in conflicts

International Laws on the prohibition of sexual abuse and modern-day rules governing warfare are traced back to the chivalric practices of medieval Europe.⁴⁹³ Terry Gill discloses that during the medieval era, feudal knights (soldiers) were bound by the laws of chivalry, a customary code of conduct by military commanders of all nations.⁴⁹⁴ These laws distinguished between soldiers and civilians in combats, and stated that civilians should be shielded from hostilities.⁴⁹⁵

He further argued that the Roman Catholic Church had a strong influence on the guidelines, differentiating between just and unjust wars, and denouncing the use of certain weapons as obnoxious.⁴⁹⁶ These rules in later years were transformed into the Lieber Code in the US, which regulated wars and usages of weapons in war.⁴⁹⁷ The Lieber Code was a welcome change in the regulation of combatants while also protecting civilian populations.⁴⁹⁸ The Lieber Code addressed the

⁴⁹²Ferdinand O. Ottoh. 'Changing the Pattern of Warfare in Africa: Boko Haram Insurgency in Nigeria' (2015) *Conflict Studies Quarterly* 23.

⁴⁹³C. J. Saunders, *Rape and ravishment in the literature of medieval England*, D. S. Brewer: Cambridge, 2001, p. 140.

⁴⁹⁴Gill, Terry. (2013). *Chivalry: A Principle of the Law of Armed Conflict*. 10.1007/978-90-6704-918-4_2.

⁴⁹⁵ Ibid.

⁴⁹⁶Supra see 674.

⁴⁹⁷Lieber Code Lieber Code, Articles 44 and 47 (cited in Vol. II, Ch. 43, Ibid., 27-28); Oxford Manual, Article 84 (Ibid., 29); First Geneva Convention, Article 49 (Ibid., 7); Second Geneva Convention, Article 50 (Ibid., 7); Third Geneva Convention, Article 129 (Ibid., 7); Fourth Geneva Convention, Article 146 (Ibid., 7); Hague Convention for the Protection of Cultural Property, Article 28 (Ibid., 8); Second Protocol to the Hague Convention for the Protection of Cultural Property, Article 15 (Ibid., 22); Additional Protocol I, Article 85 (adopted by consensus) (Ibid., 10); Amended Protocol II to the Convention on Certain Conventional Weapons, Article 14 (Ibid., 14); Ottawa Convention, Article 9 (Ibid., 15); Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Article 4 (Ibid., 23).

⁴⁹⁸ Ibid.

concept of military necessity, the rights of prisoners, non-combatants, spies, and the use of poisons, unnecessary violence and cruelty.⁴⁹⁹ These codifications governed international rules of land, sea, and air warfare following the end of the World Wars.⁵⁰⁰

Concerns within IHL on sexual abuse during conflicts encouraged the advancement of legislation during recent decades.⁵⁰¹ Previously, sexual abuse during conflicts was perceived as an unfortunate but unavoidable form of collateral damage.⁵⁰² Consequently, the UN World Conference on Human Rights implemented the Vienna Declaration and Programme of Action to strengthen human rights work around the world.⁵⁰³

This study argues that the UN Resolution 48/141 of 1993⁵⁰⁴ emphasises the responsibilities of all states, in conformity with the UN Charter. This action was to promote and encourage respect for all human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion.⁵⁰⁵ This Resolution was set up to assist in the international criminalisation of activities in internal armed conflicts, with the introduction of gender-based prosecutorial policies.⁵⁰⁶

⁴⁹⁹ Supra see 677.

⁵⁰⁰ Kim, Dong Choon 2004. *Forgotten war, forgotten massacres—the Korean War (1950-1953) as licensed mass killings*.

⁵⁰¹ At its inception, IHL generally regulated interstate conflicts involving two or more sovereigns, with few exceptions. On the “recognition of belligerency” and the “recognition of insurgency,” see, e. g., Yoram Dinstein, *Non-International Armed Conflicts in International Law* 108-14 (2014) [hereinafter, Dinstein, *NIACs in International Law*]; Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* 9-20 (2012).

⁵⁰² Reynolds, Jefferson D. *Collateral damage on the 21st century battlefield: enemy exploitation of the law of armed conflict, and the struggle for a moral high ground*. *AFL Rev.* 2005. Volume: 56 -1 HeinOnline

⁵⁰³ Mertus, Julie; Goldberg, Pamela. *Perspective on Women and International Human Rights after the Vienna Declaration: The Inside/Outside Construct*, *A NYUJ Int'l L. & Pol.* 1993. Volume: 26 Start Page: 201. Hein Online.

⁵⁰⁴ Ibid.

⁵⁰⁵ United Nations General Assembly. 20 December 1993.48/104. *Declaration on the Elimination of Violence against Women*.

⁵⁰⁶ Mertus, Julie; Goldberg, Pamela. *Perspective on Women and International Human Rights after the Vienna Declaration: The Inside/Outside Construct*, *A NYUJ Int'l L. & Pol.* 1993 Volume: 26, 201. HeinOnline.

This was another milestone in the taxonomy involved in classifying crimes committed during armed conflicts as war crimes.⁵⁰⁷ Also, as indicated earlier, part of the milestone was the adoption of UN Resolution 1325 on women, peace and security.⁵⁰⁸ In addition to the Resolution, state members were mandated to fully implement these laws that protect the rights of women and girls during and after conflicts.⁵⁰⁹

There has been a substantive shift in debates on the rise of sexual violence in conflict in recent decades.⁵¹⁰ Recent reports from the UNSC on rape and violence in armed conflict⁵¹¹ indicate that combatants from both sides have viewed sexual abuse as trophies in conflicts.⁵¹² During WWII, accusations of mass rapes involving all parties to the conflicts were reported,⁵¹³ yet neither Nuremberg nor the Tokyo Trials accepted alleged rapes as war crimes.⁵¹⁴ Crimes against humanity,⁵¹⁵ crimes against peace,⁵¹⁶ and war crimes⁵¹⁷ were the main subjects of consideration in the aftermath of WWII. Notwithstanding the high level of rape and abuses against women reported, rape was never acknowledged in any of the

⁵⁰⁷R. Copelon 1995 “Gendered war crimes” Reconceptualizing Rape in time of war. Women’s Rights Human Right

⁵⁰⁸Nduwimana, Françoise. United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security Understanding the Implications, Fulfilling the Obligations. 2006. New York.

⁵⁰⁹ Ibid.

⁵¹⁰Malone, David 2004 The UN Security Council: from the Cold War to the 21st century.

⁵¹¹Tessel Stabel. ‘United Nations Security Council Resolution 1820: Why sexual violence became framed as a threat to international security’ (2013).

⁵¹²UN Security Council Resolution 1820, unanimously adopted on 19 June 2008, demands an immediate and complete halt to the acts of sexual violence against civilians in conflict zones.

⁵¹³Röling, Bernard Victor Aloysius 1977. The Tokyo Judgment: The International Military Tribunal for the Far East (IMTFE), 29 April 1946-12 November 1948

⁵¹⁴Ibid.

⁵¹⁵Margaret M. Deguzman. ‘Crimes Against Humanity’ (2011) Research Handbook on International Criminal Law, Bartram S. Brown, Ed., Edgar Elgar Publishing 2010.

⁵¹⁶‘Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, December 20, 1945, 3 Official Gazette Control Council for Germany 50-55.’ (1946).

⁵¹⁷‘Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery Judgement: “Symbolic War Crimes Tribunal for Japanese ‘Comfort Women’”, Crimes of War Project: (4 December 2001).

post-WWII tribunals as a stand-alone war crime.⁵¹⁸ Indeed, even the inclusion of crimes against peace during the trials was controversial, and was criticised by many legal experts as having no legitimate foundation.⁵¹⁹ The German defence for instance argued that the cited laws were not in force at the time of the alleged acts, so offenders could not be held responsible retroactively.⁵²⁰ The introduction of the Rome Statute in 1998, which brought about a revolutionary change in the recognition of rape and other forms of sexual violence as a war crime.⁵²¹

Article 8(b) (xxii) of the Rome Statute prohibits the crime of sexual violence (the Committing of rape, prostitution enforced pregnancy and sexual slavery). It went further to define rape in Article 7 paragraph 2(f) to be 'other forms of abuses which constituted a breach of the convention including forced sterilization.'⁵²² By this principle, the International Criminal Tribunal for the former Yugoslavia (ICTY) incorporated rape as a crime against humanity. This was in conjunction with genocides and torture, when such crimes are committed in conflict against non-

⁵¹⁸ Harris, Whitney R., and Herbert R. Reginbodin 1945. *The Nuremberg Trials: International Criminal Law since 1945*.

⁵¹⁹ Miller, Robert H 1971. *The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity*.

⁵²⁰ Prosecuting Wartime Rape and Other Gender-Related Crimes under International Law: Extraordinary Advances, Enduring Obstacles. 21 *Berkeley J. Int'l Law*. 288 (2003).

⁵²¹ Rome Statute Art. 7(l)(g), July 17, 1998, 2187 Rome Statute of the International Criminal Court, 17 July 1998, (as corrected by the procès-verbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002), Article 7: Crimes against humanity 1. For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (...) (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity; (...) 2. For the purpose of paragraph 1: (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack; (...) (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy; (...) 3. For the purpose of this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above.

⁵²² Robinson, Darryl. (1999). *Defining "Crimes against Humanity" at the Rome Conference*. *The American Journal of International Law*. 93. 43. 10.2307/2997955.

combatants.⁵²³ Therefore, citing the ICTY of 2001 as the first court to indict guilty parties of rape as a war crime.⁵²⁴ In addition, the ICTY included sexual slavery in its definition of slavery.⁵²⁵

5.4. Post-World War II trials

The World War II Trials in Tokyo⁵²⁶ and Nuremberg⁵²⁷ set a precedent for other war tribunals. Whilst they had the power to prosecute suspected war criminals of alleged war crimes including rape, no references to sexual violence were specifically contained in the charters of their establishment.⁵²⁸ Subsequently, Article II (1) (c) of Control Council Law No 10, conferred jurisdiction over:

‘Atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.’⁵²⁹

⁵²³Rome Statute of the International Criminal Court, July 17, 1998 Arts. 7(1) (g), 8(2) (b) (xxii), U. N. Doc. A/CONF.183/9.

⁵²⁴ UN Security Council, Statute of the International Criminal Tribunal for the Former Yugoslavia 1993 art.5 (g).

⁵²⁵ Rome Statute of the International Criminal Court, 1998 Article 8(b). “(xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions.”

⁵²⁶ Yuma Totani, *Tokyo War Crimes Trial* (Wiley Online Library 2008).

⁵²⁷ Art 6(c) of the Nuremberg Charter defines crimes against humanity as ‘murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.’

⁵²⁸ Ibid.

⁵²⁹ ‘Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, December 20, 1945, 3 Official Gazette Control Council for Germany 50-55.’ (1946).

This was a positive development after the Nuremberg tribunal, by providing a legal framework for the trials of so-called 'lesser' Nazis.⁵³⁰ It also offered a uniform legal basis for the prosecution of other similar criminal offences. Furthermore, it made provisions governing the interchange of suspected war criminals, and the handling of requests by other Allied nations for the extradition to the requesting country.⁵³¹

This study reveals that despite international coordinated efforts to combat sexual violence against women, the use of rape and other forms of sexual violence persists in conflicts.⁵³² For instance, I identified that there were other conflicts where sexual abuse has been adopted as part of military strategy, including Uganda's war, where rape was employed to provoke fear and terror among civilian communities.⁵³³ Other conflicts were during the Great War of Congo. These conflicts employed sexual violence as a military tactic, and ethnic-cleansing was practiced by all armed groups involved.⁵³⁴ They employed this tactic to destroy communities, and to change the ethnic make-up of the next generation.⁵³⁵ Similarly, in Sudan, rape and other forms of sexual violence by Janjaweed militias were used to destroy community networks and force dwellers out of resource-rich areas.⁵³⁶

⁵³⁰John Hooper. 'Nazi war crimes trials opens in chaos. Opening of Erich Priebkes's Military Trial in Rome on the charge that he committed multiple. Homicide' (May 9, 1996) the Guardian.

⁵³¹ Control Council Law No. 10, Art. 111, pars. 4 to 6 inclusive, and Arts. IV and V.

⁵³² Brownmiller, Susan. *Against our will: Men, women and rape*

⁵³³Allen, Tim & Vlassenroot, Koen. (2010). *The Lord's Resistance Army: myth and reality.*

⁵³⁴ UN Special Representative on Sexual Violence in Conflict, Ms. Zainab Hawa Bangura.

⁵³⁵ Ibid.

⁵³⁶Sjoberg, Laura & Via, Sandra. 'Gender, war, and militarism: feminist perspectives' (03 Aug 2010.) Westport, CT: Prager Security International.

5.5. Change in war tactics during conflicts and instrumentalization of women and children

It was widely assumed that the end of the Cold War with the fall of the USSR in 1991 would lead to a reduction in armed conflicts worldwide.⁵³⁷ However, rather than a drop in the number of wars, the study reveals that there was an increase in conflicts.⁵³⁸ This increase has been a topic of debate among scholars on factors, reasons, and impacts of conflicts.⁵³⁹ As indicated earlier, armed conflicts have damaging effects on general society, and on women in particular due to gender-specific disadvantages that are particularly directed towards them.⁵⁴⁰

William Lind argued in support of the fact that there was an increase in conflicts, confirming the facts raised by this study on changing war tactics in fourth generation war.⁵⁴¹ This study maintained that the strategies of conflicts had taken a different dimension, unlike past conflicts where regular warfare strategies were engaged. This is a situation where one army confronts another in a battle for the conquest or defence of its sovereignty. It is worth mentioning that non-international conflicts increased in intensity and casualties, compared with international conflicts.⁵⁴²

⁵³⁷Encausse, Hélène Carrère. *The End of the Soviet Empire: The Triumph of the Nations*. 1993. Basic Books.

⁵³⁸Byrne, Bridget; Marcus, Rachel; Powers-Stevens, Tanya. *Gender, Conflict and Development. Volume II: Case Studies-Cambodia; Rwanda; Kosova; Somalia; Algeria; Guatemala and Eritrea*. 1995. Bridge, Institute of Development Studies.

⁵³⁹ Ibid.

⁵⁴⁰ McKay, Susan. The effects of armed conflict on girls and women. *Peace and Conflict: Journal of Peace Psychology* 1998. Volume: 4 Issue: 4 Page: 381. Lawrence Erlbaum.

⁵⁴¹Lind, William S. Understanding fourth generation war. *Military Review*. 2004. Volume: 84 Issue: 5 Page: 12 US Army CGSC

⁵⁴²Rehn, Elisabeth; Sirleaf, Ellen Johnson. *Women, Women, War, Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-Building (Progress of the World's Women 2002, Vol. 1)*.

I indicated that women and children have been recruited into combat.⁵⁴³ Girls are introduced and forced into the combat (including suicide bombing), enslavement, rape, and coercion into prostitution and marriage as part of the modern-day scheme for dominance.⁵⁴⁴ The UNSC, in an effort to protect these vulnerable groups, has introduced several pieces of legislation enforceable both at international⁵⁴⁵ and national levels.⁵⁴⁶ This refers back to my research question, which stresses the efficacy of national and international laws, and national implementation of these laws. What challenges do they pose? How are those challenges to be addressed? These questions are addressed during the analysis of my empirical interviews. However, review of existing literatures supports my findings of a lack of effective implementation of existing legislation and insufficient resources as a reason for failure to effectively execute these laws.⁵⁴⁷

5.6. The development of gender crimes under international law and legal frameworks against gender violence in armed conflicts

After WWII, numerous international resolutions were drafted in an attempt to aid and prevent similar tragedies from reoccurring.⁵⁴⁸ Arguably, the most important

⁵⁴³Otto, Ferdinand O. Changing the Pattern of Warfare in Africa: Boko Haram Insurgency in Nigeria. *Conflict Studies Quarterly*. 2015. Page: 23.

⁵⁴⁴Elizabeth Pearson October 16, 2014 Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons.

⁵⁴⁵ ICC. the Office of the Prosecutor (OTP) conducts investigations by gathering and examining evidence, questioning persons under investigation and questioning victims and witnesses, for finding evidence of a suspect's innocence or guilt. 2016.

⁵⁴⁶Umozurike, U Oji. The African Charter on Human and Peoples' Rights. *The American Journal of International Law*. 1983. Volume: 77. Issue: 4. Page: 902. Other Pages: 912. JSTOR.

⁵⁴⁷Zambara, Webster 2010. Africa's National Human Rights Institutions and the Responsibility to Protect.

⁵⁴⁸The various resolutions by the United Nations Security Council established for tribunals for the prosecution of individuals responsible for acts committed in the former Yugoslavia and in Rwanda contain provisions on acts punishable under international law ^[1]. In Articles 2, 3, 4 and 5 of the Statute of the International Tribunal for the former Yugoslavia which enumerates the different crimes coming under the jurisdiction of the court. Article 2, stresses on grave breaches of the 1949 Geneva Conventions, and gives the Tribunal the power to prosecute persons "committing or ordering to commit" such grave breaches. Article 3 enlarges the scope to cover violations of

was the Genocide Convention,⁵⁴⁹ which cited genocide as a crime under international criminal law.⁵⁵⁰ The convention against genocide set the pace for prosecutions for rape crimes against Muslim Bosniak women by Christian Serb men (soldiers).⁵⁵¹ This Convention tailored the definition of genocide as part of Serbia's campaign to exterminate a national, religious, and ethnic group.⁵⁵²

Equally, the 1945 UN Charter was supposedly among the earliest treaties to provide recognition to the equality between men and women.⁵⁵³ Its central focus was on discrimination against women based on gender. Sandra Coliver of the UNSC mentioned the establishment of the Commission on the Status of Women (CSW)⁵⁵⁴ under the Control of the Economic and Social Council (ECOSOC). This was to promote equality, non-discrimination of women in the workplace, equal pay as well as the political rights of women.⁵⁵⁵ This emphasised that laws alone were not enough to make much change; rather, active participation of women was necessary.⁵⁵⁶

the laws and customs of war. Article 4 reproduces Articles 2 and 3 of the 1948 Genocide Convention.'

⁵⁴⁹ Art 6 of the Convention on the Prevention and Punishment of Genocide of 1948, Art 7 of the ICTY Statute of 1993 and Art 6 of the ICTR of 1994.

⁵⁵⁰ United Nations 9 December 1948. The Convention on the Prevention and Punishment of the Crime of Genocide (adopted on 90RW1S34RfeSDcfkexd09rT3th1RW1S34RfeSDcfkexd09rT3 December 1948).

⁵⁵¹ MacKinnon, a 1994 Rape, Genocide and women's Human Right in A Stigmayer(Ed) Mass Rape. The war against women Boania-Hezagovina. University of Nebraska.

⁵⁵²United Nations 9 December 1948. The Convention on the Prevention and Punishment of the Crime of Genocide (adopted on 90RW1S34RfeSDcfkexd09rT3th1RW1S34RfeSDcfkexd09rT3 December 1948).

⁵⁵³United Nations Department of Public Information, Global Gender Agenda and the United Nations, Feb. 1997. Legislative Body: U. N. Press Release DPI/1890.

⁵⁵⁴Coliver, Sandra. United Nations Commission on the Status of Women: Suggestions for enhancing its Effectiveness. Whittier Law Review Pub Year: 1987 Volume: 9,435. HeinOnline.

⁵⁵⁵Mar. 21, 1950 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others, G. A. Res. 317 (IV), U. N. Doc. A/RES/317(IV).

⁵⁵⁶Allison Adams-Alwine, Gender Mainstreaming in the United Nations: A History, Resource Guide, and Agenda for the Future 2 (May 1, 2009).

This gave a fillip to international women's rights movements, and Women in Development (WID),⁵⁵⁷ focusing primarily on projects for women.⁵⁵⁸ In the same way, the organisation of the World Conference on Women was established to debate and counteract questionable perceptions against women. This transformed into the Convention on the Eliminations of Discriminations against Women (CEDAW),⁵⁵⁹ a treaty that promotes equality of women. The Treaty reinforced the formation of the ICTY⁵⁶⁰ and ICTR.⁵⁶¹ Apart from war crimes, these tribunals also prosecuted cases of sexual violence against women.⁵⁶²

5.7. The response to sexual violence during armed conflict

There is need to re-emphasise the persistent nature of rape and sexual abuse in armed conflicts globally.⁵⁶³ The UN, in an effort to prevent reoccurrences, drafted numerous resolutions to combat these atrocities.⁵⁶⁴ These abuses during combats were identified to be directed at religious places and certain ethnic groups,⁵⁶⁵ and were recognised as acts of supremacy with cultural prejudices.⁵⁶⁶

The Additional Protocols to the Geneva Conventions of 1997 are criticised for having only two sentences that explicitly prohibit sexual violence.⁵⁶⁷ The 1974

⁵⁵⁷Boserup, Ester; Kanji, Nazneen. Woman's role in economic development. 2007. Earthscan.

⁵⁵⁸ Allison Adams-Alwine, Gender Mainstreaming in the United Nations: A History, Resource Guide, and Agenda for the Future 2 (May 1, 2009).

⁵⁵⁹CEDAW. Conference of the International Women's Year, Mexico City. International Women's Year Plan of Action. G. A. Res. 3520 (XXX), U. N. Doc. A/RES/3520(XXX) (Dec. 15, 1975).

⁵⁶⁰Zacklin, Ralph. Bosnia and beyond Periodical, Full: Ga. J. Int'l L. 1993. Volume: 34, 277. HeinOnline.

⁵⁶¹ International Criminal Tribunal for Rwanda. The Prosecutor v. Jean Kambanda (ICTR 97-23-S), Judgement of the Trial Chamber. 4 September 1998.

⁵⁶²Akhavan, Payam 1996 The International Criminal Tribunal for Rwanda: the politics and pragmatics of punishment.

⁵⁶³ United Nations, 20 December 1993 Declaration on the Elimination of Violence against Women.

⁵⁶⁴ UN Security Council Resolution. 1820 June 2008.

⁵⁶⁵Zeinab Hawa Bangura. Fight against Sexual Violence in Conflict Reaches 'New Juncture,' Security Council Told. 5 April 2015. Security Council .7428th Meeting.

⁵⁶⁶Ward, Jeanne. Sexual violence against women and girls in war and its aftermath: Realities, responses and required resources. A Briefing Paper Prepared for Symposium on Sexual Violence in Conflict and Beyond 21-23 June 2006 Brussels (Belgium).

⁵⁶⁷ International Committee of the Red Cross Geneva Conventions 1949, Protocol I, art.76; Protocol II, art.4.

Declaration on the Protection of Women and Children in Emergency and Armed Conflict⁵⁶⁸ was indicated to have instigated the activities of non-governmental organisations and civil societies. This was solely in response to eliminate sexual abuse in conflicts.⁵⁶⁹ Burgess argues that these organisations were involved in the provision of support in the form of medical, psychological care and shelter for sexual abuse survivors.⁵⁷⁰

Furthermore, the UN established structured programmes such as Action against Sexual Violence in Conflicts,⁵⁷¹ an important indication that rape and other forms of sexual abuse are internationally rejected. Other steps undertaken by the UN developed into major reference points on the issue of women and armed conflicts. It eventually issued the Declaration on the Protection of Women and Children in Emergency and Armed Conflicts in 1974,⁵⁷² which prohibits the violation of women, abduction, coercion into marriage, and detention as prostitutes by soldiers⁵⁷³ as modern warfare tactics.⁵⁷⁴

Correspondingly, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW);⁵⁷⁵ Action for Equality; Development and Peace to

⁵⁶⁸ United Nations, Declaration on the Protection of Women and Children in Emergency.

⁵⁶⁹ Ibid.

⁵⁷⁰ Gemma Lucy Burgess (2012) When the personal becomes political: using legal reform to combat violence against women in Ethiopia, *Gender, Place & Culture*, 19:2, 153-174, DOI: 10.1080/0966369X.2011.573142

⁵⁷¹ United Nation, UN Action Against Sexual Violence in Conflict.

⁵⁷² 14 December 1974. United Nations, Declaration on the Protection of Women and Children in Emergency and Armed Conflict, General Assembly Resolution 3318 (XXIX), See preamble para. 9 and para 3.

⁵⁷³ Vlachová, Marie. 2005 Women in an insecure world: violence against women: facts, figures and analysis. Geneva, Switzerland: Geneva Centre for the Democratic Control of Armed Forces (DCAF), ©2005.

⁵⁷⁴ Tomas-Rossello, Juana, et al. "United Nations office on drugs and crime international network of drug dependence treatment and rehabilitation resource centres: Treatnet." *Substance abuse* 31.4 (2010): 251-263.

⁵⁷⁵ Eleventh session, 1992, paragraph 7. The Committee on the Elimination of All Forms of Discrimination against Women identified gender based violence, including rape and sexual violence, as a form of discrimination, and stated that: "Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention."

Promote Human Rights; and the Security of Women⁵⁷⁶ were UN resolutions⁵⁷⁷ to foster the issue and impact of abuses against women and girls in armed conflicts.⁵⁷⁸ In the same way, Carol Cohn argued that the active participation of women fostered the effort to maintain and promote peace and security,⁵⁷⁹ resulting in the mainstreaming of gender perspectives.⁵⁸⁰ Other positive additions were the support of local peace initiatives by women and training peacekeeping soldiers on the human rights of women.⁵⁸¹ These according to this research, have not been applied with practical success in the case of Nigeria.

5.8. Legal definition of armed conflicts in international humanitarian law, ICC, and ICTY

5.8.1. General principles

International humanitarian law (*jus in bello*) comprises the active rule and regulations in conflict situation.⁵⁸² It regulates the conduct of war while limiting the effects of the conflicts on civilians not participating in conflicts. These laws were initially applicable in international conflict; however, due to the evolving strategy of internal conflicts, the UNSC mandated for all parties to conflicts to abide by the rules of international humanitarian law.⁵⁸³

⁵⁷⁶United Nations, Commission on the Status of Women, Ecosoc's mandate to include activities which promoted "Equality, Development and Peace," and monitored the implementation of international measures for the advancement of women.

⁵⁷⁷ Cohn, Carol. Women, Peace and Security Resolution 1325. Centre for Gender in Organizations and Wellesley College, Helen Kinsella University of Minnesota & Sheri Gibbings York University, Toronto.

⁵⁷⁸ Ibid.

⁵⁷⁹ Supra see 626

⁵⁸⁰Protocol relating to the Establishment of the Peace and Security Council of the African Union (adopted in Durban, South Africa, July 2002 and entered into force in December 2003), whereby member states are concerned 'by the fact that conflicts have forced millions of our people, including women and children, into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope' (PSC Protocol).

⁵⁸¹ Ibid.

⁵⁸²Gasser, H. (1994). International Humanitarian Law an Introduction. International Review of the Red Cross, 34(298), 88-88. doi:10.1017/S0020860400081845.

⁵⁸³Stewart, G. S. Towards a single definition of Armed Conflict in International Law: A critique of Internationalized Armed Conflicts (850); 313-350.

In the preceding century, it was occasionally very challenging to distinguish between intra- and inter-state conflicts. Most civil hostilities evolved into multi-state conflicts, a situation very difficult to differentiate. This situation has presented challenges for the International Committee of the Red Cross (ICRC),⁵⁸⁴ and has prompted the classification of Armed Conflicts in Article 2 of the Geneva Convention.

‘All cases of declared war or of any other armed conflict that may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them.’

The ICRC further stated that the rules are to apply in ‘*all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.*’⁵⁸⁵

These criteria were also applicable to organisations of the rebels groups, their control over part of the territory, the use of regular military forces, or the duration and intensity of the conflict.⁵⁸⁶ This study argues that none of these criteria appeared in the final version of Common Article 3, as there was no satisfactory agreement on a definition of internal conflict.⁵⁸⁷ The complexities in applying the

⁵⁸⁴Pictet, Jean S 1994 Geneva Convention. Geneva Convention “Commentary on the Geneva Conventions of August 12, 1949. Volume I,

⁵⁸⁵ Chelimo, G. C. (2011). “Defining Armed Conflict in International Humanitarian Law.” *Inquiries Journal/Student Pulse*, 3(04). Retrieved from <http://www.inquiriesjournal.com/a?id=1697>.

⁵⁸⁶ The French proposed that the ‘rebel forces must be an organised military force belonging to a responsible authority capable of respecting or enforcing respect for the convention in a given territory’. Spain believed that the sign of an armed conflict was the use by the acting government of regular military forces against the insurgents. On the contrary, the USA, China, Canada, Australia and the UK believed that common Article 3 could only apply in conflicts fulfilling the characteristics of a recognition of belligerency. See 1949 Final Record, pp. 10-15. For an overview of all the amendments proposed to define internal armed conflict,

⁵⁸⁷ J. Pictet. Some of these criteria are included in the ICRC commentary to common Article 3 and are presented by the ICRC as ‘convenient criteria’ to determine the existence of an internal armed conflict., [The Geneva Conventions of 12 August 1949– commentary on the IV Geneva Convention relative to the protection of civilian persons in times of war (Geneva: ICRC, 1958) pp. 35-36.

set criteria spelled out in treaties to factual circumstances⁵⁸⁸ stressed that such a situation be dependent on the specific evidence of the nature of the conflict.⁵⁸⁹ Therefore, international humanitarian law recognises four categories of armed conflicts.

5.8.2. Internal armed conflicts

The Geneva Convention considers an internal conflict to be a situation of internal tension or civil disturbance, involving the use of force to reinstate or maintain public order.⁵⁹⁰ At this stage, according to the Convention, only international human rights law (IHRL) applies. However, states were permitted to derogate from or limit a restricted set of obligations under IHRL.⁵⁹¹

5.8.3. Internationalised armed conflicts

Internationalised armed conflict on the other hand is a situation of conflicts or war that arises when two different factions within a state are being supported by two or more other different states.⁵⁹² One example of an internationalised conflict was the Great War of Congo (DRC), the deadliest war in modern African history. It

⁵⁸⁸ International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, hereafter referred to 'ICTY' or 'International Tribunal'.

⁵⁸⁹Prosecutor v. Simi'c and others, case no. IT-95-9-PT, Prosecutor v. Simi'c and others, case no. IT-95-9-PT, decision on the pre-trial motion by the prosecution requesting the Trial Chamber to take judicial notice of the international character of the conflict in Bosnia- Herzegovina, 25 March 1999.

⁵⁹⁰A non-exhaustive list of examples of situations of tensions and internal disturbances is provided in Article 1(2) of Protocol II to the Geneva Conventions, and include "riots, isolated and sporadic acts of violence and other acts of a similar nature." Article 1(2) expressly provides that Protocol II does not apply to situations of tensions and disturbances.

⁵⁹¹Geneva Conventions (1949). Many IHRL treaties, including the ICCPR (Articles 12, 13, 18, 21 and 22) and the CRC (Articles 10, 14 and 15), contain limitation clauses that permit governments to lawfully restrict the free exercise of certain rights in such situations. For example, a government may legitimately impose restrictions on freedom of movement in an environ in which riots are occurring without violating the right to freedom of movement of affected persons. However, such restrictions are in general only permissible to the extent that they are (i) prescribed by law, and (ii) strictly necessary for achieving their legitimate purposes. Some IHRL treaties also contain derogation clauses which permit states to temporarily derogate from (i.e. suspend) certain guarantees in times of genuine public emergency. However, treaties containing derogation clauses typically list several rights that cannot be suspended even in times of emergency.

⁵⁹²G. S Steward 2003. Towards a single definition of Armed Conflicts in International Humanitarian Law.

involved nine African countries, as well as about 20 armed groups,⁵⁹³ supported by different states or factions contracting the war.⁵⁹⁴

5.8.4. Non-international armed conflicts

Article 3 of the Geneva Convention defines Non-International Armed Conflicts (NIAC) to be non-governmental conflicts. However, this excludes riots or sporadic violent occurrences.⁵⁹⁵ This definition mostly relies on the political states to categorise the nature of violence.⁵⁹⁶ The ICRC set up certain criteria for the declaration of a conflict, stating NIAC to be '*the hostility reaching a certain minimum level of intensity, with one of the parties having to show some level of organisation with a form of collective character.*'⁵⁹⁷ In the case of Nigeria, Boko Haram, MENDS, and Avengers militia groups are at a certain level, classed within this category. Boko Haram militia is the most organised, well equipped and trained group,⁵⁹⁸ unlike the MENDS and Avengers which originated from political instability and were partially equipped by politicians.⁵⁹⁹ Within these groups there is very little organisation, each having several factions, and (most importantly) having no declaration of war against the state or other militia groups.⁶⁰⁰

⁵⁹³Reyntjens, Filip 1999. Briefing: the second Congo War: More than a remake. African Affairs, Volume 98, Issue 391, 1 April 1999, Pages 241-250.

⁵⁹⁴ Ibid.

⁵⁹⁵ International Review of the Red Cross 1998. A detailed analysis of the legislation and case laws covering common article 3. See Thomas Graditzky, "Individual Criminal Responsibility for Violations of International Humanitarian Law Committed in Non-International Armed Conflicts."

⁵⁹⁶Vite, S. Typology of armed conflicts in international humanitarian law: legal concepts and actual situations, 0RW1S34RfeSDcfkexd09rT2International Review 91(873): 69-95. 2009.

⁵⁹⁷ Ibid.

⁵⁹⁸Al Jazeera, Boko Haram in Nigeria. The UNICEF reports that one in five "suicide bombers" used by *Boko Haram* has been a child.

⁵⁹⁹ Ewokor Chris. 'The Niger Delta Avengers: Nigeria's Newest Militants' (2016) 2 BBC Africa, Nigeria

⁶⁰⁰ Ibid.

5.8.5. International armed conflict

International armed conflict (IAC) is defined under Article 2 of the 1949 Geneva Convention as being '*when one or more states have recourse to armed forces against another state.*'⁶⁰¹ This law applies regardless of the reason or intensity of the confrontation. Moreover, the situation does not require a formal declaration of war.⁶⁰² It is quite different from Rules of Engagement (ROE), which are framed to restrict certain actions or permit actions to the full extent allowed by international law.⁶⁰³

5.9. Principles of armed conflict

5.9.1. The concept of honourable conduct

During the sixth century, the Byzantine Emperor Maurice issued strategies that, among others, catered for injured soldiers or civilians.⁶⁰⁴ A similar situation occurred during the thirteenth century, when knights' rules of chivalry included 'a duty to act honourably in war.' These rules were in place to provide justice, loyalty, honour, mercy, and the duty not to kill or take advantage of a vanquished enemy.⁶⁰⁵

Similarly, Richard II's Ordinance decreed death for acts of violence against women and priests and the desecration of churches.⁶⁰⁶ Likewise, Henry V's Ordinance of War 1419 codified rules protecting women and clergy.⁶⁰⁷ By the

⁶⁰¹ G. S Steward 2003. Towards a single definition of Armed Conflicts in International Humanitarian Law.

⁶⁰² Geneva Conventions (1949), Statute of the International Red Cross and Red Crescent Movement. Art.5 para 2(g).

⁶⁰³Rogers, Anthony Peter Vernon 2004 Law on the Battlefield. The JUSTICE Journal

⁶⁰⁴C. E. Brand Roman military Law. Austin University of Texas. (1968), 195-6. Timothy L. H. McCormack; from Sun Tzu to the sixth committee; The Evolution of an International Criminal Law. Regime.

⁶⁰⁵ Meron, Theodor 1998 Bloody Constraint: War and Chivalry in Shakespeare.

⁶⁰⁶ Schwarzenberger, Georg. International Law as Applied by International Courts and Tribunals. Stevens, 1957.

⁶⁰⁷T. Meron. 'Henry's wars and Shakespeare's laws: perspectives on the law of war in the later Middle Ages (Oxford: Clarendon Press, 1993) pp. 7-8, cited in L. Rosensweig Blank, 'The laws of

twentieth century armed conflict had changed immensely but the laws of armed conflict (LOAC) remained unchanged.⁶⁰⁸ Schindler distinguishes LOAC as 'conducting war honourably while avoiding cruelty,' indicating rules of battlefields.⁶⁰⁹ However LOAC was dependent on three interdependent principles: military necessity, humanity, and chivalry.⁶¹⁰

5.9.2. Principle of military necessity

Under the Geneva Convention, the principle of military necessity applies subject to the principle of humanity and chivalry.

'A belligerent is said to be justified applying any amount of force on a state to compel the submission of the state by an attack or action which is intended to help in the military defeat of the enemy; or an attack on a military objective, and the harm caused to civilians or civilian property must be proportional and not excessive in relation to the concrete and direct military advantage anticipated.'⁶¹¹

This could be argued to be permitted when accompanying legitimate military purpose.⁶¹² However, this is not the case with conflicts in Nigeria. It could be further argued that the militants and the security forces likewise used excessive

war in Shakespeare: international vs. internal armed conflict' (1997-1998) 30 International law and politics 251-90. A few fundamental precepts of the code of chivalry were: granting of quarter between knights, respect for churches and the clergy, and fair treatment of prisoners, whereby once a soldier is made prisoner, mercy needed to be shown and a ransom would generally be demanded. See also M. H. Keen, *The laws of war in the late Middle Ages* (London: Routledge and K. Paul, 1965).'

⁶⁰⁸Schindler, Dietrich 1988. *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents*.

⁶⁰⁹ War Department Field Manual (FM) 27-10, *Rules of land warfare*, United States Govt. 1947.

⁶¹⁰ B. Carnahan. "Lincoln, Lieber and the laws of war: the origins and limits of the principle of military necessity' (1998) 92 *AJIL* 213-31 at 215'.

⁶¹¹ Geneva Conventions. Article 52 of Additional Protocol I to the Geneva Conventions provides a widely accepted definition of military objective: "In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage."

⁶¹² *Military Necessity and Humanitarian Imperatives*. Draper Gerald I. A. D. in *RDMDG*, vol 1212 1973, pp. 129-151.

forces on civilian population that could not be justified under any conditions.⁶¹³ Comparably, during the Wilbros episode and the Odi Massacre, the Nigerian military were accused of using excessive (unjustified) force.⁶¹⁴ Even with photographic evidence attached, there was no accountability demanded by the judicial system of the country,⁶¹⁵ thereby exposing the system's non-compliance.⁶¹⁶

5.9.3. Principle of chivalry

The chivalric code is associated with the medieval institution of knighthood.⁶¹⁷ This code played an important role in the development of law of wars and is the fundamental principle of law and binding rules of conventional nature.⁶¹⁸ The principle prohibits the resort to dishonourable means of attaining an end, especially unconvincing, improper, or immoral conduct.⁶¹⁹ This chivalric code can be found in numerous world civilizations, including African warriors, with shared common characteristics on the meaning of warfare, fair play, and treachery in battle.⁶²⁰

⁶¹³ Human Rights Watch December 22, 1999 Nigerian Army Accused of Excessive Force, Rape in Niger Delta.

⁶¹⁴ Human Rights Watch. The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta.

⁶¹⁵ 'World Scarred by history: The Rape of Nanking' (December 13, 1997).

⁶¹⁶ Cihan Aksan and Jon Bailes. Editors of the book U. S. State Terrorism, Morality, Justification and Responsibility.

⁶¹⁷ Terry Gill, 'Chivalry: a principle of the law of armed conflict,' *Armed Conflict and International Law: In Search of the Human Face* (Springer 2013) 33.

⁶¹⁸ David Crouch. *The Birth of Nobility: Constructing Aristocracy in England and France 900-1300* (Harlow, UK: Pearson, 2005), p.7.

⁶¹⁹ Shannon E French. (2003). *the code of the warrior: exploring warrior values past and present.* Rowman & Littlefield Publishers.

⁶²⁰ Mike Albo. Greenwood C (2008) Historical development and legal basis. In: Fleck D, Bothe M (eds) *the handbook of international humanitarian law*, 2nd edn. Oxford University Press, Oxford, pp 1-43.

5.10. Laws of armed conflicts

There have always been debates on brutality in wars, and the application of basic principles of law in conflict situations.⁶²¹ For instance, the Chinese adopted logical views on the means and methods of warfare,⁶²² and the ancient Hindus were noted to distinguish between combatants and non-combatants as well as recognising the protection of persons and those *hors de combat*.⁶²³ Furthermore, there was prohibition of the use of certain weapons deemed to cause indiscriminate loss of life, like poisoned and barbed wires.⁶²⁴ These ancient principles were similar to the provisions of the *Geneva Conventions of 1949, Additional Protocol I*⁶²⁵ and the *Lieber Code*.⁶²⁶ It was difficult to accurately define war or conflict in legal sense, therefore it was necessary to highlight that not all armed conflicts were wars, but all wars were armed conflicts.⁶²⁷ Hence, the term 'International Law of Armed Conflicts' was used to describe the body of law that surrounds both war and conflict.⁶²⁸

The Laws of War are guidelines that justify engagement in war, indicating the acceptable limits of conduct, including the declaration of war, surrender, defeat,

⁶²¹Ibid.

⁶²²Sun Tzu. The art of war: Generally, in war the best policy is to take a state intact; to ruin it is inferior to this. To capture the enemy's army is better than to destroy it, to take intact a battalion, a company or a five-man squad is better than to destroy them. To subdue the enemy without fighting is the acme of skill. The worst policy is to attack cities. Attack cities only when there is no alternative.' Cited in Green, 'What is – why is there – the law of war?' p. 147.

⁶²³P. V. Kane History of Dharmasastra (vol. 3, 1973), p. 210, as well as, Sacred Books of the East, vol. 14, 1882, I.10.18, 11 cited in L. Penna, 'Written and Customary provisions relating to the conduct of hostilities and treatment of victims of armed conflicts in ancient India' (1989) IRRC 340-41.

⁶²⁴L. Penna. 'Written and customary provisions relating to the conduct of hostilities and treatment of victims of armed conflicts in ancient India' (1989) IRRC 340-41.

⁶²⁵A. Bashma. 'Written and customary provisions relating to the conduct of hostilities and treatment of victims of armed conflicts in ancient India - Volume 29 Issue 271.

⁶²⁶General Orders No. 100, 24 April 1863 Instructions for the Government of Armies of the United States in the Field the laws of armed conflict. A collection of conventions, resolutions and other documents

⁶²⁷D. Schindler and J. Toman. 'The Laws of Armed Conflicts' (1988), pp. 3-23.

⁶²⁸Roberts, Adam 2000. Documents on the Laws of War. The handbook of international humanitarian law, 2nd edn. Oxford University Press, Oxford, pp 1-43.

and treatment of prisoners of war.⁶²⁹ For example, the Field Manual (FM) 27-10⁶³⁰ is the U.S. Law of Land Warfare of 1956.⁶³¹ Its provisions were derived from two principal sources: treaties and conventions, such as The Hague⁶³² and Geneva Conventions,⁶³³ and the ‘customs of the nations.’⁶³⁴

The treaties were intended to establish a relationship governed by international law.⁶³⁵ Other early treaties were the 1785 treaty of Amity and Commerce between the Prussia and United States.⁶³⁶ This treaty provided, *inter alia*, basic rules regarding prisoners of war and non-combatant immunity.⁶³⁷ It enforced the domestication of legislation by member states and the penalisation of criminal violations. These international treaties, on their own, had no inherent powers to enforce; rather, states had jurisdiction over their citizens and an obligation to enforce such regulations.

There have been arguments about the numerous resolutions adopted in the nineteenth century on the conduct of war between states and how these were put in place to curtail civilian casualties.⁶³⁸ However, despite these laws, abuses still persist in conflicts. Among the resolutions mentioned were the Geneva

⁶²⁹The Program for Humanitarian Policy and Conflict Research at Harvard University, “ihl primer series. <http://www3.nd.edu/~cpence/ewwt/ihlri2009>.

⁶³⁰War Department Field Manual (FM) 27-10, Rules of land warfare, United States Govt. 1947.

⁶³¹Dept. of the Army FM 27-10; The Law of Land Warfare, w/change 1(DC: GPO, 1956), Para 4.

⁶³²Peter Malanczuk, Akehurst. Modern Introduction to laws of war through 1980, including the Geneva Conventions of 1864 and 1906, the three Hague Conventions of 1899 concerning the laws of land and maritime warfare, and the thirteen Hague Conventions of 1907, dealing with many remaining military issues).

⁶³³ ICRC 8 June 1977. Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

⁶³⁴ Ibid.

⁶³⁵Law Dictionary Adapted to the Constitution and Laws of the United States. By John Bouvier. 1856.

⁶³⁶Walker Jr, Herman 1957. Modern treaties of friendship, commerce and navigation. Columbia Journal of Transnational Law, Vol. 51, p. 302, 2013. UNC Legal Studies Research Paper No. 2150260

⁶³⁷Villiger, Mark Eugen. 2009. Commentary on the 1969 Vienna Convention on the Law of Treaties. Martinus Nijhoff Publishers, Leiden and Boston, 2009, ISBN 9789004168046, xxxiv.

⁶³⁸Charles Lysaght. ‘scope for Protocol II and Its Relation to Common Article 3 of the Geneva Conventions of 1949 and Other Human Rights Instruments, the’ (1983) 33 Am. UL Rev. 9.

Conventions and their Additional Protocols.⁶³⁹ The Common Article 3 to the fourth Geneva Convention was designed to deal with situations of non-international armed conflicts.⁶⁴⁰ However the process of implementing these regulations was slow, and problems of nations accepting international law to regulate internal armed conflicts were of greatest concerns. Furthermore, the late application of basic principles of humanity towards rebels⁶⁴¹ permitted rebels to perpetrate their terrors for decades.

Reflecting on laws prior to 1949 showcase that ruthless behaviour existed in ancient civilisations resulting in pragmatic views of warfare being adopted. This was to create distinctions between combatants and non-combatants and the safeguarding of civilians.⁶⁴² This, was the reason international law linked the conducts of war to prior and existing regulations.⁶⁴³ Ancient regulations prompted the outlines of the Lieber Code in 1863,⁶⁴⁴ an attempt to codify the laws and customs of war. It was a necessity to cover a range of issues from the treatment of prisoners of war, principles of military necessity, protection of civilians, their properties, and the prohibition of rape, which is currently categorised as a war crime.⁶⁴⁵

⁶³⁹ International Committee of the Red Cross 1988 Basic rules of the Geneva Conventions and their Additional Protocols.

⁶⁴⁰ Supra 687.

⁶⁴¹L. Perna. The formation of the treaty law of non-international armed conflicts (Leiden, Boston: Martinus Nijhoff Publishers, 2006), her chapters 1 and 2.

⁶⁴² L. Perna. 'Written and customary provisions relating to the conduct of hostilities and treatment of victims of armed conflicts in ancient India' (1989) IRRC 340-41.

⁶⁴³Meron, Theodor 1996. The continuing role of custom in the formation of international humanitarian law. Oxford Scholarship Online.

⁶⁴⁴ James R. Miles, Francis Lieber and the Law of War, *Review of Military Law and the Law of War*, 253, 255 (1990). Stating that the Lieber Code represented the first codification of the modern law of war and formed the basis for early European codes.

⁶⁴⁵M. H. Hoffman. 'The customary law of non-international armed conflict: evidence from the US Civil War' (1990) IRRC 322-43 and T. Meron, 'Francis Lieber's code and principle.

In comparison, there is this broad scope of the ICC's definition, and its ability to criminalise extensive conducts committed by combatants as well as civilians during conflict.⁶⁴⁶ The ICC defines war crimes as:

'serious violations of the law which is applicable in armed conflicts... murder, mutilation, cruel treatment and torture, taking of hostages, intentionally inciting direct attack against the civilian population, intentionally directing attack against building dedicated to religion, education, arts and science, pillaging, rape, sexual slavery, forced pregnancy or any other form of sexual violence; conscripting or enlisting children under the age of 15 years into armed forces or group and using them to participate actively in hostility.'

Most war crimes were ultimately not prosecuted during the IMTFE, Tokyo, and Nuremberg tribunals.⁶⁴⁷ Initially, these resolutions were mostly associated with crimes committed in international conflict. However, in recent decades, it has been applicable to internal conflicts due to intensification of hostility on recommendation of the ICRC.⁶⁴⁸

⁶⁴⁶Askin, K. D. *Women and International Human Rights Law* vols I and II: R Cook *Human Rights of Women: National and International Perspectives*.

⁶⁴⁷Röling, Bernard Victor Aloysius 1977. *The Tokyo Judgment: The International Military Tribunal for the Far East (IMTFE)*, 29 April 1946-12 November 1948.

⁶⁴⁸The term 'sexual slavery' was first used in an international criminal law treaty in the Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (1998) (hereinafter ICC Statute), where jurisdiction is granted the Court the authority to adjudicate 'rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence' of comparable gravity, as war crimes and crimes against humanity, arts. 7(1) (g), 8(2) (b) (xxii), 8(2) (e) (VI). The common elements of the crime of sexual slavery have been defined by the ICC Preparatory Commission as: '1. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty. 2. The perpetrator caused such person or persons to engage in one or more acts of a sexual nature.' Report of the Preparatory Commission for the International Criminal Court, Addendum, finalized draft text of the Elements of Crimes, UN Doc. PCNICC/2000/INF/3/Add.2, 6 July 2000 (hereinafter ICC, Elements of Crimes).

The struggle to determine war crimes during internal armed conflicts is quite challenging. There is the question of deciding whether perpetrators should face violation of domestic law or war crimes, since as a prerequisite, there must be an obvious link between the criminal act and the conflicts.⁶⁴⁹ It is understood by the ICRC that the alleged hostility must be linked to the incidents in territories that are controlled by the perpetrator's party. The ICTY, in the case of Kunarac, had to establish the distinction between war crimes from domestic offences and crimes committed under international conflict.⁶⁵⁰ War crimes were dependent upon the environment and the armed conflicts in question.⁶⁵¹ Their existence in conflict, must at minimum, play a substantial part in the ability of the perpetrators being able to commit the crime.⁶⁵²

On the contrary, from the ICTY point of view, rape committed between soldiers in a military camp during a conflict would not amount to a violation of law of war, but a violation of domestic criminal legislation.⁶⁵³ These have raised arguments when the perpetrators are non-combatants, as soldiers well as civilians equally commit war crimes.⁶⁵⁴ Arguments were also raised on individual responsibility.⁶⁵⁵ The principle of individual criminal responsibility for war crimes were examined by Boed. There are rules of customary international law recognised in the Lieber

⁶⁴⁹J. Pictet. Some of these criteria are included in the ICRC commentary to common Article 3 and are presented by the ICRC as 'convenient criteria' to determine the existence of an internal armed conflict., [The Geneva Conventions of 12 August 1949– commentary on the IV Geneva Convention relative to the protection of civilian persons in times of war (Geneva: ICRC, 1958) pp. 35-36.].

⁶⁵⁰Amann, Diane Marie 1999 Prosecutor v. Akayesu. Case ICTR-96-4-T. International Criminal Tribunal for Rwanda, September 2, 1998.

⁶⁵¹ Ibid.

⁶⁵² Supra 782.

⁶⁵³ The ICTY was established to prosecute 'Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991' SC Res 827 (25 May 1993). The Statute of the ICTY is contained in UN Doc S/25704 Annex (3 May 1993).

⁶⁵⁴ Ibid.

⁶⁵⁵ Boed, Roman 2002. Individual criminal responsibility for violations of article 3 common to the Geneva conventions of 1949 and of additional protocol II thereto in the case law of the International Criminal Tribunal for Rwanda.

Code and recurrent in many treaties under international humanitarian law.⁶⁵⁶ It was the foundation for prosecutions under the Charters of the International Military Tribunals at Nuremberg and at Tokyo, and under the Statute of the International Criminal Tribunal for the former Yugoslavia and the Statute of the International Criminal Court.⁶⁵⁷ The issue of individual responsibility was also mentioned in post-World War trials,⁶⁵⁸ and the tribunals embraced the imposition of individual criminal liabilities for war crimes committed by government forces, belligerent soldiers and civilians.⁶⁵⁹

Individual criminal responsibility for war crimes committed in non-international armed conflicts has been incorporated in three international humanitarian law treaties.⁶⁶⁰ These were the Amended Protocol II to the Convention on Certain Conventional Weapons, the Statute of the International Criminal Court and the Second Protocol to the Hague Convention for the Protection of Cultural Property.⁶⁶¹ It is also incorporated in the Statutes of the International Criminal

⁶⁵⁶ Ibid.

⁶⁵⁷ International Review of the Red Cross 1998. A detailed analysis of the legislation and case laws covering common article 3. See Thomas Graditzky, "Individual Criminal Responsibility for Violations of International Humanitarian Law Committed in Non-International Armed Conflicts."

⁶⁵⁸ UN Conventions. The term 'international crimes' refer to crimes recognized by international law which impose criminal responsibility directly on individuals. They are the subject of specific conventions that define the offence and create a framework of extra-territorial jurisdiction over those crimes for states parties. Where such conventions have been ratified, they may contribute to a system of universal jurisdiction available to all states. Examples are the core crimes covered by the Rome Statute of the International Criminal Court, which include genocide, war crimes, and crimes against humanity, together with torture and enforced disappearance as separately defined in the relevant UN conventions.

⁶⁵⁹ Ibid.

⁶⁶⁰ Roman Boed. 'Individual criminal responsibility for violations of article 3 common to the Geneva conventions of 1949 and of additional protocol II thereto in the case law of the International Criminal Tribunal for Rwanda' (Criminal Law Forum Springer, 2002) 293; UN Conventions. 'The term 'international crimes' refer to crimes recognized by international law which impose criminal responsibility directly on individuals. They are the subject of specific conventions that define the offence and create a framework of extra-territorial jurisdiction over those crimes for states parties. Where such conventions have been ratified, they may contribute to a system of universal jurisdiction available to all states. Examples are the core crimes covered by the Rome Statute of the International Criminal Court, which include genocide, war crimes and crimes against humanity together with torture and enforced disappearance as separately defined in the relevant UN conventions.'

⁶⁶¹ International Review of the Red Cross. 'A detailed analysis of the legislation and case laws covering common article 3. See Thomas Graditzky, "Individual Criminal Responsibility for

Tribunal for Rwanda and the Special Court for Sierra Leone, which proposes that individuals were criminally responsible for war crimes they committed in non-international armed conflicts.⁶⁶² This statement establishes the fact that war crimes were not at any time acceptable and that perpetrators face charges irrespective of the nature of the conflict.

The ICC also acknowledges challenges on the issue of amnesty and prosecuting certain ranks of individuals (high ranking military officers, presidents, and diplomats) in respect to crimes of genocide, crimes against humanity, or any violations during internal conflicts.⁶⁶³ This permits the prosecutions of individuals rather than the whole troops bearing the burden for a crime that was committed by a person.⁶⁶⁴ This is a common phenomenon during conflicts in Africa where presidents, diplomats, and high ranking officials were commonly accorded amnesty for offences committed while in office.

Violations of International Humanitarian Law Committed in Non-International Armed Conflicts” (1998) No 322. pp. 29-56.

⁶⁶² Roman Boed. 'Individual criminal responsibility for violations of article 3 common to the Geneva conventions of 1949 and of additional protocol II thereto in the case law of the International Criminal Tribunal for Rwanda' (Criminal Law Forum Springer, 2002) 293.

⁶⁶³Article 6.5 of Protocol II provides that 'at the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict'. This provision was understood by some commentators and courts to support amnesties of serious violations of the laws of war in internal conflicts. The ICRC is, however, clear that this article is inapplicable to amnesties that extinguish penal responsibility for persons who have violated international law. It only encourages amnesties for those detained or punished for the mere fact of having participated in hostilities, L. Gibson, 'The developing jurisprudence on amnesty' (1998) 20 Human rights quarterly 865. See also the whole vol. 59 of Law and contemporary problems entitled 'Accountability for international crime and serious violations of fundamental human rights. M. Scharf, 'The letter of the law: the scope of international legal obligation to prosecute human rights crime' (1996) 59 Law and contemporary problems 41; K. Ambos, 'Impunity and international criminal law, a case study on Colombia, Peru, Bolivia, Chile and Argentina' (1997) 18 Human rights law journal 1; T. Farer, 'Restraining the barbarians: can international criminal law help?' (2000) 22 Human rights quarterly 90-117; M. Freeman Harris et al., 'Bringing war criminals to justice: obligations, options, recommendations' in D. Orentlicher et al. (ed.), Making justice work: the report of the Century Foundation (New York: Century Foundation Press, 1998) pp. 27-32; L. Olson, 'Provoking the dragon on the patio. Matters of transitional justice: penal repression vs. amnesties' (2006) 88 IJRL 275-94.

⁶⁶⁴ Ibid.

5.11. Transformation of law and international legal frameworks against gender violence

5.11.1. The Rome Statute of the ICC

Rape as a crime against humanity was originally cited under the Control Council Law No. 10,⁶⁶⁵ before the Rome Statute was established. Article 7 of the Rome Statute of ICC⁶⁶⁶ inaugurated a list of crimes prosecuted under the ICC as crimes against humanity.⁶⁶⁷ The ICC documentation on Rules of Procedure and Evidence added components to the definitions of the crime of rape to clarify the situations where the rules are applicable. These includes:

'A conduct committed as part of a widespread or systematic attack directed against a civilian population. Also, the perpetrator(s) knew that the conduct was part of, or intended the conduct to be part of a widespread systematic attack directed against a civilian population.'⁶⁶⁸

⁶⁶⁵ Control Council Law (CCL) No. 10 of 20 Dec. 1945, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, available at: <http://avalon.law.yale.edu/imt/imt10.asp>, (14 March 2011).

⁶⁶⁶Cassese, Antonio 2002. The Rome statute of the International Criminal Court: a commentary Volume 1.

⁶⁶⁷ Rome Statute Art. 7(l)(g), July 17, 1998, 2187 Rome Statute of the International Criminal Court, 17 July 1998, (as corrected by the procèsverbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002), Article 7: Crimes against humanity 1. For this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (...) (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity; (...) 2. For the purpose of paragraph 1: (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack; (...) (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy; (...) 3. For this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above.

⁶⁶⁸ ICC-ASP/1/3, 9 Sept. 2002, p. 119.

As defined above, there are two fundamental elements; 'a widespread or systematic attack' and 'directed against a civilian population.' These fundamental elements are vital to prosecutors to establish rape as a crime against humanity.⁶⁶⁹ It also constitutes a crime under domestic law,⁶⁷⁰ which does not fall under the scope of the ICC.⁶⁷¹

An additional vital point mentioned was the principle of complementarity which states that '*the court may assume jurisdiction only when national legal systems are unable to or are unwilling to exercise jurisdiction.*'

Consequently, this raises the question of concurrent jurisdiction, which in actuality means that the national court has priority over the ICC.⁶⁷² Mahnoush Arsanjani argues against this principle while examining the law in action under the international criminal court, stating that parties to the statute holds the primary obligation for prosecuting violations of laws within its territory.⁶⁷³ The principle of complementarity was also mentioned in Articles 1, 17 and 19 of the Rome Statute, and was argued by Yang to deal with selected serious crimes. This was to avoid overloading courts with cases, as well as limiting financial burdens on national governments.⁶⁷⁴

⁶⁶⁹ 'Rome Statute of the International criminals court N Doc. A/CONF.183/9* hereinafter ICC statute.' (July 17, 1998).

⁶⁷⁰M. Laden. "Issues in domestic implementation of the Rome Statute of the international criminal court in Nigeria, a round table presentation with parliament on the implementation of the Rome Statute in Nigeria. Organised by Nigerian coalition on the international criminal court (NCICC)." (12 November 2002)

⁶⁷¹Omoba Oladele Osinuga Esq 'Nigeria and the ICC: The Dawn of a new era? Supreme Court of Nigeria; European Union Rule of Law Mission EULEX. December 25, 2011.

⁶⁷²This is one of the important differences between the ICC and the two ad hoc Tribunals on the former Yugoslavia and Rwanda. Under Article 9 of the Statute of the Yugoslav Tribunal and Article 8 of that of the Rwanda Tribunal, in case of concurrent jurisdiction by the Tribunals and national courts, the Tribunals have primacy over national courts.

⁶⁷³Mahnoush H. Arsanjani and W. Michael Reisman. 'The law-in-action of the International Criminal Court' (2005) 99(2) The American Journal of International Law 385.

⁶⁷⁴Lijun Yang. 'On the principle of complementarity in the Rome Statute of the International Criminal Court' (2005) 4(1) Chinese Journal of International Law 121.

In addition, the principle was aimed at handling offences of grievous crimes of international concern, with the intention of harmonising general principles of criminal law with the procedures of common law.⁶⁷⁵

5.11.2. Declaration on the Protection of Women and Children in Emergencies and Armed Conflict

The horrors of wars are well-known facts, with women and children experiencing terrible challenges during conflict. The UN modified its laws in an attempt to prevent the inhumanity of war, to promote acceptable conduct for international as well as national conflicts.⁶⁷⁶ The Economic and Social Council proposed the resolution of the Declaration on the Protection of Women and Children in Emergency and Armed Conflict in 1974.⁶⁷⁷ The proposed resolution was to display the disapproval against the treatment of women and children of the civilian population during armed conflicts.⁶⁷⁸ Despite these unequivocal condemnations of abuse against women, they are still subjected to brutality during conflicts.⁶⁷⁹ Therefore, the need for the United Nations to Commission Resolution 2444(XXIII)

⁶⁷⁵ Rome Statute Art. 7(l)(g), July 17, 1998, 2187 Rome Statute of the International Criminal Court, 17 July 1998, (as corrected by the procèsverbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002), Article 7: Crimes against humanity 1. For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (...) (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity; (...) 2. For the purpose of paragraph 1: (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack; (...) (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy; (...) 3. For this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above.

⁶⁷⁶ Spivak, Gayatri Chakravorty 1996. 'Woman's Theatre-United Nations Conference on Women, Beijing 1995-Commentary.

⁶⁷⁷ Van Bueren, Geraldine 1994. The international legal protection of children in armed conflicts.

⁶⁷⁸ Ibid.

⁶⁷⁹ Supra 317

of 1968 on Respect for Human Rights in Armed Conflicts,⁶⁸⁰ and Resolution 2675 (XXV) of 1970,⁶⁸¹ both basically focus on the protection of civilian populations in armed conflict and respect for their basic rights.⁶⁸²

Other resolutions proposed were Resolution 48/104 of 20 December 1993, with regard to security, liberty, dignity, integrity, and equality of both men and women.⁶⁸³ This resolution reinforces the works of the Convention on the Elimination of All Forms of Discrimination against Women.⁶⁸⁴ On the plus side, the resolution offered a wide definition for violence against women (VAW⁶⁸⁵) to be:

‘Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of acts such as, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.’

These acts include battering, marital rape, sexual abuse of girls, female genital mutilation, non-spousal violence, violence related to exploitation and sexual abuse.⁶⁸⁶ Reilly Niamh, a supporter of women’s human rights, advocates that progress made by the Declaration was susceptible to the rise of more conservative forces.⁶⁸⁷ She emphasises this by highlighting the situation that

⁶⁸⁰Solf, Waldemar A 1986. Protection of Civilians against the Effects of Hostilities under Customary International Law and Under Protocol I.

⁶⁸¹ Schindler, Dietrich 1988. The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents.

⁶⁸² UN Security Council Resolution. “A/RES/48/104 - Declaration on the Elimination of Violence against Women - UN Documents: Gathering a body of global agreements.”

⁶⁸³ Ibid.

⁶⁸⁴Barreiro-Bobadilla, Olinda 2010. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly.

⁶⁸⁵UNECE Gender Statistics - About Violence against Women.” United Nations Department of Economic and Social Affairs, 2015.

⁶⁸⁶ United Nations, 20 December 1993 Declaration on the Elimination of Violence against Women.

⁶⁸⁷Reilly, Niamh. “Violence against Women.” Feminist Review. March 2011, Volume 97, Issue 1, pp 5-31.

occurred during the UN Commission on the Status of Women in 2003. Here delegates from Iran, Egypt, Pakistan, Sudan, and the US challenged the inclusion of a paragraph that called on governments to condemn violence against women.⁶⁸⁸ These delegates prevented the commission from invoking any custom or religious consideration to avoid their obligations, as a result making it the first ever diplomatic failure of the UN Commission on the Status of Women.⁶⁸⁹

5.12. Practice of Nigerian and international prosecutors during Nigerian internal armed conflicts

5.12.1. Applying legal frameworks

Nigeria became a party to the Rome Statute in September 2001. This bestows ICC jurisdiction over crimes against humanity committed within its territory that the national courts were unable to act upon.⁶⁹⁰ This grants ICC the power to prosecute offenders of war crime in Nigeria. However, the Odi Massacre in Niger Delta termed a war crime did not bring about any prosecution against the past leaders who were alleged to have committed such offences.⁶⁹¹

Though in the past, allegations of crimes against humanity were committed by both the government and insurgents alike, as indicated there have been no prosecutions in Nigeria. The current terror being meted out by Boko Haram Islamic militants, MENDS, and Avengers has now raised conflict status in Nigeria from sporadic disturbances to terrorist acts.⁶⁹² This has therefore changed the

⁶⁸⁸ United Nations, Commission on the Status of Women, Ecosoc's mandate to include activities which promoted "Equality, Development and Peace," and monitored the implementation of international measures for the advancement of women.

⁶⁸⁹Freeburg, Emily 2003 "UN Pact Sinks on Issue of Violence against Women | Woman's news". womensenews.org/2003/04/un-pact-sinks-issue.

⁶⁹⁰Terrence L. Chapman and Stephen Chaudoin. 'Ratification patterns and the international criminal court1' (2013) 57(2) Int Stud Q 400.

⁶⁹¹ Kelly Dawn Askin. 'War crimes against women. Prosecution in international war crimes tribunal. Martinus Nijhoff publishers. pp.12-13.' (1997).

⁶⁹²Laurie Hanna and Jennifer Newton 16 January 2015 Boko Haram fanatics abducted '500 women and children' after massacring 2,500 in one town.

undertone of conflicts in the Nigerian territory, and the law is applicable to them.⁶⁹³

As an ICC member, Nigeria is legally obliged to protect women and children from acts of torture and crimes against humanity. This includes rape, sexual abuse, kidnapping, and trafficking of women and girls during conflicts.⁶⁹⁴ Common Article 3 to the 1949 Geneva Convention applies explicitly to internal armed conflicts.⁶⁹⁵ Although the Additional Protocol II of 1977 also covers both international and internal armed conflicts,⁶⁹⁶ this is less widely accepted among states than the 1949 Convention's Article 3.⁶⁹⁷ Sylvie Junod criticises Additional Protocol II, because it did not have exactly the same scope as Article 3, as it was only applicable in situations of high hostility or a certain level of intensity.⁶⁹⁸ Common Article 3 to the 1949 Geneva Convention states that:

Members of contracting parties are each confined to the provisions in the case of internal armed conflict occurring in the territory of one party... any persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed "hors de combat" by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without

⁶⁹³ Ibid.

⁶⁹⁴ M. Laden. "Issues in domestic implementation of the Rome Statute of the international criminal court in Nigeria, a round table presentation with parliament on the implementation of the Rome Statute in Nigeria. Organised by Nigerian coalition on the international criminal court (NCICC)." (12 November 2002)

⁶⁹⁵ Lysaght, Charles 1983 Scope of Protocol II and Its Relation to Common Article 3 of the Geneva Conventions of 1949 and Other Human Rights Instruments. The' (1983) 33 Am. UL Rev. 9

⁶⁹⁶ Ibid.

⁶⁹⁷ Crimes of wars. www.crimesofwar.org/a-z-guide/407.

⁶⁹⁸ Sylvie-Stoyanka Junod. Additional Protocol II: History and Scope. Washington College of Law, American University, 1983.

any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.’

Also, under prohibition are:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised people.⁶⁹⁹

The rules in Common Article 3 of the Geneva Convention of 1949 were deemed to be incorporated in military manuals and implemented in the training of forces on application of humanitarian law during conflicts.⁷⁰⁰ However, there is an argument against its ambiguity, which limits most state parties from applying it during conflicts.⁷⁰¹

Jean Pictet criticised the imprecise nature of the Article, which indirectly offers nation states the authority of defining the nature of the conflicts within its territory.⁷⁰² Pictet further stressed that the Article indicates that the rules were

⁶⁹⁹ Lysaght, Charles 1983 Scope of Protocol II and Its Relation to Common Article 3 of the Geneva Conventions of 1949 and Other Human Rights Instruments.

⁷⁰⁰The Handbook of Humanitarian Armed Conflicts. The conflicts in Lebanon during 1980s and Somalia after 1991 may be cited as examples of this kind. See Fleck, (1995), p.221.

⁷⁰¹The law of internal armed conflict (Cambridge: Cambridge University Press, 2002) cl pp. 30-132.

⁷⁰² Jean S. Pictet Geneva Conventions of 12 August 1949: Commentary (Geneva, 1958), p.36.

only applicable during armed conflicts. It made no clear distinction on the definition of the term or kind of situation that constituted an armed conflict. Hence, this once again left states to determine the circumstances that constituted armed conflicts.⁷⁰³ On the downside, Common Article 3 of the 1949 Geneva Convention encountered challenges in execution. State parties were not obliged to impose any responsibility; rather, it acted as a principle that regulates violations during armed conflicts.⁷⁰⁴ The Article is, however, said to oblige international organisations to offer support to civilians in conflict situations.⁷⁰⁵

On the other hand, it was also marked that certain war crimes were not punishable under Common Article 3, including the crimes of genocide and apartheid. These crimes were deemed to fall within the national jurisdiction and their courts. Obviously, there are circumstances where European courts seem to criminalise certain types of conducts that violate humanitarian laws during internal conflicts but are unable to uniformly convict offences of war crimes.⁷⁰⁶

5.12.2. Women's rights violation in Nigeria's tripartite legal system as an obstacle towards gender equality

Nigeria is a state party to the UNSC, the ICC,⁷⁰⁷ and the Organisation of African Unity.⁷⁰⁸ It has ratified numerous UN international treaties, and is consequently

⁷⁰³ Ibid.

⁷⁰⁴ American Journal of International Law, 1988. Certain non-international conflicts may be more violent, extensive and consumptive of life and value than international one. See W. Michael Reisman & James Silk, "Which Law Applies to the Afghan Conflict?"

⁷⁰⁵ Ibid.

⁷⁰⁶ Antonio Cassese. "On the Current Trend towards Criminal Prosecution and Punishment of Breaches of International Humanitarian Law" European Journal of International Law, vol.9 (1998), p.17.

⁷⁰⁷ Omoba Oladele Osinuga Esp. Nigeria and the ICC: The Dawn of a new era? By Omoba Oladele Osinuga Esq.

⁷⁰⁸ Murray, R. 2000. Human Rights in Africa, From the OAU to the African Union; The African Charter on Human and Peoples' Rights" (1981-1982) 22 Virginia Journal of International Law 694; E Bello "The mandate of the African Commission on Human and Peoples' Rights" (1988) "The African Commission on Human and Peoples' Rights: A five year report and assessment" (1992) 14 Human Rights Quarterly 46; HJ Steiner & P Alston International human rights in context: Law, politics and morals 920

obliged by law to enforce human right treaties within its territory.⁷⁰⁹ Despite these treaties, Nigeria's tripartite legal system hinders the promotion of gender equality.⁷¹⁰ This system comprises the Criminal Code (based on English Common Law and legal practice), the Penal Code (based on a Muslim system of law and justice), and Customary Law (based on the customs and traditions of the people).⁷¹¹

He stresses that the three systems have been influenced by religious and customary practices.⁷¹² Critics like Justice Haleem also argue that the quest for human rights and human dignity was a phenomenon of modern life. He suggested the need for government to harmonise its legal framework to ensure uniformity that conforms to international human rights law.⁷¹³ He expressed this by highlighting the complexities of the different systems of laws,⁷¹⁴ quoting reasons for delays in the implementation of laws for the protection of women and attributing them to the dwindling process of domesticating international treaties into Nigeria's national legislation.⁷¹⁵ Other reasons were the slow response on passing bills relating to the fundamental human rights of women.⁷¹⁶

In addition, the Convention on the Elimination of Discrimination against Women in Article 5 was established to encourage states to modify cultural patterns with

⁷⁰⁹ Klaus 2010. Human Rights Violations in Africa: How to File Complaints on Human Right Violations.

⁷¹⁰ Nwogugu, Edwin I 2014 Family Law in Nigeria. Heinemann studies in Nigerian law. Ibadan, Nigeria: HEBN Publishers Plc. 2014.

⁷¹¹ Ludwig, Frieder. 2008 Christian–Muslim relations in Northern Nigeria since the introduction of Sharia's in 1999.

⁷¹² Ibid.

⁷¹³ The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.

⁷¹⁴ Ibid.

⁷¹⁵ Justice Haleem. 'The Domestic Application of International Human Rights Norms London: Commonwealth Secretariat.' (1988).

⁷¹⁶ Ibid.

the view of eliminating inferiority and stereotypes against women.⁷¹⁷ Subsequently, Article 4(1) of the Constitutive Act of African Union, mandates the declaration on gender equality and proclaims member states to actively uphold the implementation of legislation guaranteeing the rights of women.⁷¹⁸

Furthermore, Act Cap 10 of 1999 Nigerian Constitution stresses the enforcement and domestication of the African Charter on Human and Peoples' Rights. Article 21 of the Constitution emphasises the protection of women's domestic rights. In Subparagraph (2) of the Constitution, women and girls were accorded the same rights as men and boys, and to equal shares as the men. Despite all these treaties, charters and national legislation, women in Nigeria were still not protected by the state.⁷¹⁹ Women were still classed lower than men in all indices of development, even though the rights to the protection of women were inscribed in the 1999 Constitution of Nigeria. In conclusion, the Nigerian Constitution was a mere postulation, without any practical reality.⁷²⁰

On the other hand, in practice, Nigerian society is filled with anti-humanist ideology, as revealed by Ouguergouz. Women are still relegated to an inferior position even with the recognition of the protection of women within its international protocols.⁷²¹ Abuses such as rape and defilement are still perpetuated against women, in conflicts, at home, during robbery attacks, and in

⁷¹⁷ The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.

⁷¹⁸ African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10 Laws of the Federation 1990 which domesticates the African Charter. See also Abacha V. Fawehinmi [2000] 6 NWLR 228 where the Nigerian Supreme Court stated that '[c]ap 10 [African Charter] is a statute with international flavour [...] if there is a conflict between it and another statute, its provisions will prevail over those of that other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation.' Union, African 2000. The Constitutive Act.

⁷¹⁹ Oba, Abdulmumini A. 2004 The African Charter on Human and Peoples' Rights and ouster clauses under the military regimes in Nigeria: before and after September 11.

⁷²⁰ Ouguergouz, Fatsah, 2003. The African Charter of Human and People's Rights: A Comprehensive Agenda for Human Dignity and Sustainable Democracy in Africa.

⁷²¹ Section 4(2) of the Constitution of the Federal Republic of Nigeria. 1999.

forced child marriage. Furthermore, abuse in the workplace, female genital mutilation, discriminations against girls, and harmful traditional practices remain in continuous exercise.

The Nigerian government have tried to conform to international regulations with the passing of legislation on the adoption of Gender Policy Act 2007.⁷²² Others are Trafficking Persons (Prohibition) Law Enforcement and Administration Act,⁷²³ National Policy on HIV/AIDS,⁷²⁴ Reproductive Health and Female Genital Mutilation, and Establishment of Schools for Girls.⁷²⁵ However, these laws are not physically enforced within the society. Therefore, in spite of all this legislation, women in Nigeria are still adversely treated by the patriarchal structure of the society, especially the failure of the judiciary to take necessary actions to bring about justice, as well as to prosecute offenders.⁷²⁶

Though most domestic legislation explicitly makes provision for the protection of women, discrimination against women persists.⁷²⁷ This is revealed in some national legislation, such as Section 26(2) of the Nigerian Constitution, which prohibits a woman from transferring her nationality to her husband, if he is foreign; similarly, Section 55(2) of Northern Nigerian Penal Code permits wife battery as chastisement as long as no grievous harm is inflicted upon her. Also, Section 55 of the Labour Act prohibits women from working at night. The Nigerian government, despite its own legislation and subscription to international treaties,

⁷²² Ibid.

⁷²³ Ethel Innocent Amadi. Federal Republic of Nigeria. National Gender Policy Strategic Framework. Vol. 5(5), pp. 145-160, Academic research journals. August 2017.

⁷²⁴ Africa & Agbu, Osita. (2019). West Corruption and Human Trafficking: The Nigerian Case.

⁷²⁵ Chen Reis et al. 'Discriminatory attitudes and practices by health workers toward patients with HIV/AIDS in Nigeria' (2005) 2(8) PLoS Med e246

⁷²⁶ Glasier, Anna 2006 Sexual and reproductive health: a matter of life and death. The Lancet Sexual and Reproductive Health Series, October 2006.

⁷²⁷ Asiyanbola, Abidemi 2005. Patriarchy, male dominance, the role and women empowerment in Nigeria.

still supports some unfavourable traditional practices against women and permits in its criminal codes abuses that are harmful to women.⁷²⁸

In addition, practices in Nigeria survive, such as the law that regards women as the property of their husbands, and the fact that other male members of the family can 'inherit' women upon the demise of their spouse. Furthermore, women cannot inherit any property from their parents or spouses.⁷²⁹ Similar practices include widowhood rites, as well as child marriage, and female genital mutilation, all against their wishes.⁷³⁰ The laws on rape in Nigeria are in place to protect women. However, they are archaic and require review and constant amendment to comply with current day situations as required by international law.

National governments are mandated to review the laws with the objective of making it appropriate for this era.⁷³¹ These laws should be gender neutral and non-discriminatory, so that both men and women are equally protected.⁷³² For example, a man can be raped by another man in practice, yet under the law in Nigeria no provision is made for this situation.⁷³³ Therefore male rape is not treated as a crime in the Nigerian court, as there is a need to establish the alleged occurrence of a rape to initiate prosecution. Rape under international law could be recognised as 'forcing the perpetrator's penis or other objects through the vagina, anus or mouth of the victim,'⁷³⁴ however in the criminal codes of Nigeria,

⁷²⁸ Ibid.

⁷²⁹ Umar, Mohammed Aminu. The perspective of Sharia's on domestic violence. Vol 3 2012. African Journals Online (Ajol).

⁷³⁰ Adikema-Ajaegbo, G International Federation of Women Lawyers. Memories of 36th Triennial Convention for the International Federation of Women Lawyers (FIDA). FIDA executive council 2017.

⁷³¹ National Human Rights Commission Act Cap. N46 Laws of the Federation of Nigeria 2004.

⁷³² Ibid.

⁷³³ Abidemi Asiyanbola. 'Patriarchy, male dominance, the role and women empowerment in Nigeria' (Poster presentado en la XXV International Population Conference Tours, Francia 2005).

⁷³⁴ Section 282 of the Penal Code and section 357 of the Criminal Code exempts perpetrators of rape within marriage from punishment.

no such reference is made regarding the use of an object.⁷³⁵ The only acceptable evidence is the penetration by the penis into the woman's vagina.⁷³⁶ As earlier stated, since the court only accepts the above definition, it is impossible for male rape to be proven and prosecuted in Nigerian courts.

Another important issue is the legal age for rape. There are no age limits as to who can commit rape. Therefore, one may conclude that if a defendant can penetrate the vagina, anus, or mouth of another person with his penis or object, that person is capable of committing the offence of rape if found guilty, and should be prosecuted under the law, even if he would otherwise be considered a junior.⁷³⁷

5.13. Prevention of sexual exploitation and abuse of women and children during conflicts

In the past couple of decades, global conflicts have observed the increase of sexual abuse perpetuated against women and children.⁷³⁸ Janie Leatherman claims that the systematic rape, murder, forced prostitution, and the institutionalisation of women and children was used by both rebels and

⁷³⁵ US the Department of Justice. 'Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.'

⁷³⁶ such as rape in section 357 of the Criminal Code; defilement of a girl under 13 in section 218 of the Criminal Code; defilement of girls under 16 and above 13, and of idiots in section 221 of the Criminal Code, etc.

⁷³⁷ Rape in section 357 of the Criminal Code; defilement of a girl under 13 in section 218 of the Criminal Code; defilement of girls under 16 and above 13, and of idiots in section 221 of the Criminal Code,

⁷³⁸ 'The terms "sexual contact" "sexual act" and "committing sexual acts" shall be used in this document to describe the physical acts through which crimes of rape or sexual assault are committed, to identify the physical conduct without making assumptions about whether it was sought or unsought, therefore identifying it as either legal or criminal activity. The use of this term is to allow a description in the text of the physical acts which occurred, while reflecting the reality that rape and sexual violence is not "sexual intercourse" (a term which implies agreement by the participants). The use of this term allows a clear differentiation to be made between conduct which is criminal, and conduct which is protected behaviour under human rights law, when it is actively wanted and agreed to by the participants. For a comprehensive overview of the issues, see "*Sexuality and human rights*" a discussion paper, published by the International Council on Human Rights Policy, 2009.' (2010.)

government forces during conflicts of all kinds.⁷³⁹ H. J. Joshua supports this idea, while pointing out how the world ignored abuses perpetuated against women in conflicts. He states that the reason many militaries were still employing such acts during war was based on low prosecution rates.⁷⁴⁰

Joshua cites previous International Courts⁷⁴¹ and Military Tribunals⁷⁴² that neglected the recognition of violent abuses against women. These tribunals he claims had limited capacity and while refusing to accept evidence to prosecute crimes of rape and sexual abuses,⁷⁴³ until the establishment of the ICC, whereby crimes of rape and sexual violence are treated as crimes against humanity, and courts are empowered to prosecute such violence against women.⁷⁴⁴

5.14. Prosecution of sexual abuse and convictions in Nigeria

Nigeria, being a member of the UN,⁷⁴⁵ accepts the Universal Declaration of Human Rights.⁷⁴⁶ The legal system of Nigeria was based on the English Common Law and other traditions.⁷⁴⁷ As a multi-cultural nation, Nigeria has different traditional customs that have varying impacts on its legal system. Sylvia Tamale, in her analysis of cultural rights of women, describes how Nigeria is a multi-ethnic nation with ethnic groups having their own indigenous systems of law, reflecting

⁷³⁹ Leatherman, Janie 2011. Sexual violence and armed conflict. May 2011, a United Nations report.

⁷⁴⁰ Joshua H. J. 2008. Gender and International Law: How International Criminal Court can bring justice to victims Sexual Violence. Academic journal article Texas Journal of Women, Gender, and the Law. Gender and International Law.

⁷⁴¹ Ibid.

⁷⁴² Finch, George A 1947 The Nuremberg Trial and international law. The American Journal of International Law Volume 41 Issue 1.

⁷⁴³ Charter, Nuremberg 1945 Charter of the International Military Tribunal. EISIL.

⁷⁴⁴ Ibid.

⁷⁴⁵ Chappell, L. (2014). Conflicting Institutions and the Search for Gender Justice at the International Criminal Court. Political Research Quarterly, 67(1), 183-196.

⁷⁴⁶ Anthony Clark Arend. 'The United Nations and the New World Order' (1992) 81 Geo. LJ 491.

⁷⁴⁷ Hurst Hannum. 'status of the Universal Declaration of Human Rights in National and International Law, The' (1995) 25 Ga. J. Int'l & Comp. L. 287.

cultural values and customs.⁷⁴⁸ She reveals, however, that there were variations in the customary laws of each ethnic group. These customary laws in most cases are unwritten and, as such, are flexible with the capacity to adapt to social changes.⁷⁴⁹ Apart from flexibility, other major obstacles to the enforcement and implementation of human rights provisions in Nigeria were the tripartite legal system practised in the country.⁷⁵⁰

Obilade, in reviewing the Nigerian legal system, pointed out that the Criminal Code of Southern Nigeria was based upon common and traditional customary law. In contrast, the Penal Code of Northern Nigeria has a separate and distinct system based on Sharia (Islamic law).⁷⁵¹ Sharia has distinct status, and is peculiar in its origin, nature, territories and scope of application.⁷⁵² Sharia has clear defined principles,⁷⁵³ and a complex body of jurisprudence derived from Islamic sources (particularly the Quran), analogy, and custom. Okonkwo notes that the scope of Sharia has broadened since its initial introduction into the legal system in Northern Nigeria.⁷⁵⁴

5.15. The interpretation of rape under Sharia

Sharia law generally advocates for equality between men and women.⁷⁵⁵ Amnesty International described Sharia as emphasising the equality between men and women, and that there was therefore, no superiority in the spiritual

⁷⁴⁸Evans, M. D., Murray, R. H. *The African Charter on Human and Peoples' Rights*. Cambridge University Press. 2008.

⁷⁴⁹Sylvia Tamale. 'The right to culture and the culture of rights: a critical perspective on women's sexual rights in Africa' (2008) 16(1) *Feminist Legal Studies* 47.

⁷⁵⁰ Ibid.

⁷⁵¹ Obilade A. O. 1979 *The Nigerian Legal system*. Ibadan: Spectrum Books Ltd.

⁷⁵²Karibi-Whyte, A. G. 1993, *History and sources of Nigerian criminal law* / A. G. Karibi-Whyte Spectrum Law Publishing Ibadan, Nigeria.

⁷⁵³Obilade A. O. 1979. *The Nigerian Legal system*. Customary Law, Social Development and Administration of Justice in Nigeria. *Beijing Law Review*, Vol.7 No.4, December 30, 2016.

⁷⁵⁴Okonkwo and Naish on *Criminal Law in Nigeria*. Spectrum book. 1990. 2nd. Ibadan

⁷⁵⁵ Ibid.

sense between men and women;⁷⁵⁶ however, this does not apply in practice. The Quran, however further communicates that women and men have the same rights as anticipated, but the man stands above women.⁷⁵⁷

The different interpretations of Sharia depend upon the school of Islamic jurisprudence being practised, the custom, and the country.⁷⁵⁸ In most Muslim-majority societies, scholars have argued against the disparity between practice and what the Quran says on women's rights, which reveals considerably reduced, inconsistent, contradictory, and conservative ideas of gender roles. A Muslim woman, according to the Quran, is bound by Sharia primarily, even in places where other laws exist or are in conflict with Sharia.⁷⁵⁹ Islam, as with other religions, condemns rape as a social, violent crime.⁷⁶⁰ The religion associates an increase in crime rate with a decline in morals and a deterioration of religious values. Islam prohibits all kinds of crimes, including sexual abuses and rape.⁷⁶¹ However, the law contradicts itself on the criteria expected for victims to prove rape in court in order for offenders to be prosecuted.

The law differentiates the crime of rape from adultery or fornication, which involve consensual agreement on sexual acts, and is different from prostitution, where sex is paid for.⁷⁶² The Quran further views rape as an attempt to threaten a weaker person to accept unwilling sexual advances that are highly condemned by Islam.⁷⁶³ It emphasises sex in the quotes below:

⁷⁵⁶Amnesty International. How Sharia law punishes rape women. Rape victim sentenced to 200 lashes and six months in jail. November 2007.

⁷⁵⁷Noble Quran. 4:1,7:189. 42:11

⁷⁵⁸Noble Quran. 2: 228

⁷⁵⁹ Ibid.

⁷⁶⁰ Supra 808

⁷⁶¹ Supra 807

⁷⁶² Noble Quran. 2: 228.

⁷⁶³ Ibid.

'You shall maintain chastity, not committing adultery, nor taking secret lovers... anyone who rejects faith, all his work will be in vain and in the hereafter, he will be with losers.'⁷⁶⁴

'Tell the believing men that they shall subdue their eyes and not stare at the women and to maintain chastity; this is purer for them and God is fully cognisant of everything they do.'⁷⁶⁵

'Tell the believing women to subdue their eyes and maintain their chastity.'

These quotes indicate that the Quran condemns sexual crimes of rape along with oppression and refers to oppression as 'worse than murder.'⁷⁶⁶

'You shall not force your girl to commit prostitution seeking material things of this world. If anyone forces them, the God seeing that they are forced forgives them and is merciful.'

The above quote highlights that the Quran perceives rape as a hideous and most awful crime.⁷⁶⁷ However, despite the facts that the Quran condemns rape as a crime, its stringent conditions to prove rape contradict this abhorrence. They are such that it is mostly impossible for a rape victim under the Islamic law to meet the set criteria unless the rapist decides to confess.⁷⁶⁸ Feminist Islamic scholars have argued on the rigidity of Islamic law. The challenges encountered by women include the difficult task of providing evidence, such as four male witnesses to the crime (i.e. penetration), as required in Sharia.

⁷⁶⁴ Noble Quran. 4:1, 7:189. 42:11

⁷⁶⁵ Quran 5:5'

⁷⁶⁶ Quran 24:30'

⁷⁶⁷ Ibid.

⁷⁶⁸ Supra

Regrettably, this law contradicts itself in practice. For example, married women who are rape victims are deemed to have committed adultery. According to the Quran, their testimony is worth half of that of a man in court.⁷⁶⁹ If the victim cannot provide four credible male witnesses, it is assumed that the rape did not occur.⁷⁷⁰ Also, the Quran asserts that there is no rape in marriage.

‘Your wives are as a tilth unto you. So, approach your tilth as ye will for there is no such thing as rape in marriage as a man is permitted unrestricted sexual access to his wife.’⁷⁷¹

On the other hand, Bukhari 5:59,462, highlights a case where three witnesses corroborated an incident of rape. However, it was rejected based on the arbitrary rule that four witnesses are required to establish rape: *‘Zina is not confirmed except the accused admits or a testimony of four trustworthy men however not the testimony of any woman.’*⁷⁷²

Most rape incidences occur in a solitary environment with no witnesses, unless in the case of gang rape. Therefore, victims are left without any other options to prove the crime of rape. In addition, under Islamic law, the rape of a non-Muslim woman is not illegal. On the other hand, Muslim women are not fully protected due to the challenging demands of establishing the crime of rape.⁷⁷³ The Boko Haram Islamic sect in Nigeria operate under this ideology. They believe rape of Christian women is a means of punishing the unbelievers, therefore all non-Muslim women are trophies to be grasped as a reward.

⁷⁶⁹ Quran 24:4, 24:13.

⁷⁷⁰ Quran 2:282.

⁷⁷¹ Quran 24:4, 24:13.

⁷⁷² Ibid.

⁷⁷³ Julie Norman. “Rape Law in Islamic Societies” CSID 6th Annual Conference ‘CSID “Democracy and Development: Challenges for the Islamic World” Washington, DC - April 22 - 23, 2005 “Rape Law in Islamic Societies: Theory, Application and the Potential for Reform.

In a similar occasion, Julie Norman further affirmed that it was impossible for an accused to violate a victim in the presence of trustworthy and credible men.⁷⁷⁴ The law was, therefore, creating an excuse for sexual predators to evade prosecution. Equally, this study identifies that Islamic law does not accept forensic evidence such as DNA; thus a woman who cannot provide the required witnesses are punished or stoned, while the accused escape prosecution since they will never admit to rape crimes.⁷⁷⁵

The requirement for establishing the crime of rape under Sharia is for victims to prove, beyond reasonable doubt, the act of rape perpetrated against them. This must conform to the set criteria under Islamic law. The proof of *Zina* (fornication), *adultery*, or *Zina Bil-Jabr* (rape) liable to the *Hadd* (corporal or capital) punishment including:

‘That the accused makes a confession, the victim shall produce at least four trustworthy adult male Muslims as witnesses.’⁷⁷⁶

Punishment will take place when *Zina* or rape has been proven by witnesses.⁷⁷⁷

Sharia law rejects the witness of women.’⁷⁷⁸

Islamic law’s inadmissibility of evidence from women on the basis of their weakness is incompatible with modern law and expectations.⁷⁷⁹ Proof of rape is virtually impossible for victims to establish in court, where circumstantial evidence

⁷⁷⁴ Ibid.

⁷⁷⁵ Supra

⁷⁷⁶ Ibid.

⁷⁷⁷ Supra 988

⁷⁷⁸ Codified Islamic Law Volume 1 Law#133.

⁷⁷⁹ Hanafi Law-Page 176, 353, Shafi’i Law- page 638 Law#o.24.9, Criminal Law in Islam and the Muslim World –page 251, The Penal Law of Islam – Kazi Publications Lahore- page 44, 45, Tafsir of Translation of the Qura’an by Muhiuddin Khan pages 239 and 928.

is not admissible.⁷⁸⁰ In addition, admitting to sex outside marriage in the Islamic religion results in the penalty of stoning to death on the part of the victim.⁷⁸¹ Conversely, the rapist has only to deny the crime to be set free, because no forensic evidence is acceptable to establish the crime of rape.⁷⁸² A 13-year-old girl in Somalia (Aisha Ibrahim Duhulow) was stoned to death in 2008 for having reported she was gang-raped by Al-Shabaab jihadists.⁷⁸³ Under Sharia, the act of accusing her rapists had exposed her to counter-claims of having sex outside marriage. This act condemned her to death while the rapists escaped punishment.⁷⁸⁴

Another scenario of unjust treatment of a rape victim under Sharia was an Afghan family who had to murder their daughter (honour killing) for being a rape victim.⁷⁸⁵ This further proves that, although Sharia strongly prohibits rape, it is virtually impossible for victims to obtain justice with the current set of guidelines under Islamic law.⁷⁸⁶ Therefore, there is need for reform and review of laws and their set criteria for the prosecution of rape as a crime.

5.16. Rape under the Criminal Code of Southern Nigeria

The crime of rape is prohibited globally, as discussed earlier, termed as an unjust and hideous crime perpetuated against women.⁷⁸⁷ Brownmiller claims that victims of rape crimes are faced with great trauma, and they dissociate themselves from society due to stigma. She proposes that the government is

⁷⁸⁰ Hanafi Law-Page 176, 353, Shafi'i Law- page 638 Law#o.24.9, Criminal Law in Islam and the Muslim.

⁷⁸¹ Ibid.

⁷⁸² Hanafi Law Hedaya 178, Codified Islamic law #129. Sunan Abu Dawood book. 38, 4457 & 4423.

⁷⁸³ Amnesty International. October 31, 2008 Somalia: Girl stoned was a child of 13."

⁷⁸⁴ Ibid.

⁷⁸⁵ Supra 995

⁷⁸⁶ H. Kelsen, "Will the Judgment in the Nuremberg Trial constitute a Precedent in International Law?", in *The International Law Quarterly*, Vol. 1, No. 2, Summer 1947, p. 153-171.

⁷⁸⁷ Ibid.

responsible for protecting its citizens, and this is reflected in the Criminal Code of Southern Nigeria.⁷⁸⁸ The Code on its own prohibits abuse of women and rape. However, its definition for rape and abuse is lacking. The Code is not comprehensive enough to sufficiently make a significant impact on the prosecution of all kinds of rape and abuse of women.⁷⁸⁹ Rape is defined under the Criminal Code as:

‘Having unlawful carnal knowledge of a woman or girl without her consent or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind or by fear of harm or by means of false act or in case of a married woman be personating her husband.’

Though the code conveys rigorous punishment, the gap in the definitions presents the full effect of the law being felt. Cases of rape with objects, oral sex, and anal sex are not recognised under the Criminal Code. Therefore, if rape is perpetrated using these methods, there is a high possibility of offenders walking out without conviction. Similarly, rape without penile penetration and rape of men are also not recognised under the code.⁷⁹⁰ However, the Penal Code of Northern Nigeria defines rape to be recognised in situations ‘*Where the girl is a wife of the person, such will be guilty of rape if she has not attained puberty.*’ However, the Penal Code does not clarify the age for puberty. Girls under 10 years old marry, yet they have not (in most cases) attained biological puberty, nor the age of

⁷⁸⁸ Brownmiller, Susan. (1978). *Against Our Will: Men, Women and Rape*. The Family Coordinator. 27. 10.2307/582736.

⁷⁸⁹ In the Criminal Code Cap 38, LFN 2004, which applies in the South, any person who has unlawful carnal knowledge of a woman or girl without her consent, or with her consent if the consent is obtained by force or by means of threat or intimidation of any kind or by fear of harm, or by means of false and fraudulent representation as to the nature of the attack or in the case of a married woman by personating her husband, is guilty of an offence which is called rape; section 252 of the Penal Code Cap pg. 3 LFN 2004 f Northern Nigeria.

⁷⁹⁰ Ibid.

consent; therefore, marriage of an underage girl should be deemed statutory rape, but that is not the case.⁷⁹¹ This topic is controversial and is still debated amongst Nigerian feminists.⁷⁹²

Ignatius Ayua observed that rape is on the rise, and he categorised various ways in which it is perpetrated, including gang, date, incestuous, acquaintance, and marital rape, in addition to rape during conflicts.⁷⁹³ However, the significant question that this study is trying to unravel is the reason for the low prosecution rate.⁷⁹⁴ From the assessment of the laws in Nigeria, this study identifies that the definitions of rape under both Criminal and Penal Codes do not satisfy certain internationally accepted criteria to holistically incorporate all forms of sexual abuse that could prosecute offenders.⁷⁹⁵ This criterion is an additional reason for the low rate of reported rape cases by victims.⁷⁹⁶ Societal perceptions and stigma are part of the reason for low witness testimonies during rape cases in court. In addition, inadequate investigation of rape crimes, poor forensic facilities, and threats from offenders are among other reasons for low reporting rates.⁷⁹⁷ Family

⁷⁹¹The Criminal Code Cap "C 38" Law of the Federation 2004. Laws and Rules Applicable to Criminal Courts in Nigeria.

⁷⁹² Ibid.

⁷⁹³Ayua, Ignatius Akaayar; Okagbue, Isabella E. The rights of the child in Nigeria. 1996. Nigerian Institute of Advanced Legal Studies

⁷⁹⁴According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South 'any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.' Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

⁷⁹⁵Such as rape in section 357 of the Criminal Code; defilement of a girl under 13 in section 218 of the Criminal Code; defilement of girls under 16 and above 13, and of idiots in section 221 of the Criminal Code, etc.

⁷⁹⁶ Kelly D. Askin. 'Prosecuting wartime rape and other gender-related crimes under international law: extraordinary advances, enduring obstacles' (2003) 21 Berkeley J. Int'l L. 288.

⁷⁹⁷Kruttschnitt, Candace. (1993). Violence by and Against Women: A Comparative and Cross-National Analysis. Violence and victims. 8. 253-70. 10.1891/0886-6708.8.3.253.

stigma and honour are of utmost importance within a close community,⁷⁹⁸ which deters families from encouraging victims to pursue justice.⁷⁹⁹

Consequently, this study reaffirms the ideas of Amnesty International in its argument about weak implementation of legal legislation and penalties. Hereafter, enforcement of severe penalties will deter people from committing rape crimes. Most importantly, legal requirements expected from victims to establish rape need to be realistic, along with the state improving its methods of investigating rape cases.⁸⁰⁰ Another obstacle encountered by victims is the court requirement to present evidence of an eyewitness (corroboration) at the scene of the crime, which is frequently impossible.⁸⁰¹

In fact, during rape cases, according to the Criminal Code of Nigeria, victims are expected to demonstrate evidence of penetration, force, and non-consent.⁸⁰² This means that victims are expected to exhibit some sort of physical resistance to their utmost power, otherwise the offender cannot be convicted of rape. However, what the court fails to consider during rape proceedings are the circumstances of the rape crime, the type of people involved, the strength and capacity and the surrounding environments.

During conflict-related rape, victims are under duress, at gunpoint, gagged or gang-raped, by threatening assailant. Therefore, victims put up little or no resistance.⁸⁰³ These elements of proof of non-consent have been argued by

⁷⁹⁸ Amnesty International's 2004 reports on 'Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes against Women in Times of Conflict: Stop Violence against Women,' and Human Rights Watch's 2000.

⁷⁹⁹ Ibid.

⁸⁰⁰ Pascale Harter. Libya rape victims facing honour killing. 14 June 2013. BBC News, Tunisian-Libyan border

⁸⁰¹ Karen Rich and Patrick Seffrin. 'Police officers' collaboration with rape victim advocates: Barriers and facilitators' (2013) 28(4) Violence Vict 681.

⁸⁰² Ibid.

⁸⁰³ which applies to the Southern part of Nigeria as: Any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained

scholars. They proposed the need to amend or eliminate their inadequacies in the face of changing tactics.⁸⁰⁴ Victims are also expected to prove unlawful carnal knowledge, e.g. *non-consensual penetration*, as requested by the Criminal Code.⁸⁰⁵

The Criminal Code of Southern Nigeria requires full penetration of the male organ inside the female vagina for rape to be established.⁸⁰⁶ However, this conflicts with the definition of rape under ICTY,⁸⁰⁷ which in the case of *Furundzija v Prosecutor* (judge Florence Mumba) defined rape as:

‘the sexual penetration, however slight, either of the vagina or anus of the victim by the penis of the perpetrator, or any other object used by the perpetrator or the mouth of the victim, such as by the penis of the perpetrator, where such penetration is effected by coercion or by force or threat against the victim or a third person.’⁸⁰⁸

The definition of rape in the Nigerian Criminal Code excludes anal penetration, penetration by objects, as well as the use of the mouth of the victim by the penis of the perpetrator (oral sex).⁸⁰⁹ The Criminal Code of Southern Nigeria and the

by force or by means of threats or intimidation of any kind, or by fear of 2 harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.

⁸⁰⁴ Pateman, C. (1980). Women and Consent. *Political Theory*, 8(2), 149-168. <https://doi.org/10.1177/009059178000800202>.

⁸⁰⁵ According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South ‘any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.’ Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

⁸⁰⁶ The World Health Organisation (WHO). ‘Defines Rape as “physically-forced or otherwise coerced penetration, even if slight, of the vulva or anus, using a penis or body parts or an object.”’ (2002)

⁸⁰⁷ *Supra* 855

⁸⁰⁸ *Prosecutor V Anto Furundzija Trial Chamber II Judge Florence Mumba, presiding in the case; The Prosecutor V Anto Furundzija at the International Criminal Tribunal of former Yugoslavia ICTY. Dec 10, 1998*

⁸⁰⁹ *Ibid.*

Penal Code of Northern Nigeria do not recognise spousal rape or male rape.⁸¹⁰

This raises the concern over establishing penetration in rape cases in Nigeria due to the definition of rape under the criminal codes.⁸¹¹

The World Health Organisation (WHO) reveals that, under the Christian religion, a wife is expected to '*renders herself unto her husband due benevolence, likewise the husband to his wife;*' hence, the wife has no power over her body.⁸¹² In the case of *R v Seidu* (1960) it was argued that the court laid emphasis on the term 'carnal knowledge.' The court states that sexual intercourse (rape) was only completed upon penetration, i.e. ejaculation of sperm.⁸¹³ Owing to the importance attached to the term 'penetration' under the Criminal Code of Nigeria, it is cited as an unnecessary condition, whereby rape could still occur without penetration of the male organ into the vagina.

Similarly, the Nigerian law does not recognise anal or any other type of penetration.⁸¹⁴ If there is penetration of the vagina with the finger or any other object, the offender cannot be convicted of rape, rather they can only be convicted of injury to the victim or indecent assault.⁸¹⁵ Therefore, the Nigerian Criminal Code has been noted for retaining an archaic definition of rape and still maintaining the 'only penis-vagina contact' approach.⁸¹⁶ This contradicts the

⁸¹⁰Godiya Allanana Makama. 'Patriarchy and gender inequality in Nigeria: the way forward' (2013) 9(17) European scientific journal.

⁸¹¹The Offence of rape is Punishable in Section 358 of the Criminal Code by life imprisonment while an attempt to commit the offence is punishable in section 359 of the code by 14 years imprisonment with or without caning.

⁸¹² The World Health Organisation (WHO). 2002 Defines Rape as "physically-forced or otherwise coerced penetration, even if slight, of the vulva or anus, using a penis or body parts or an object."

⁸¹³Holy Bible, New International Version. The husband should fulfil his marital duty to his wife, and likewise the wife to her husband. 4 The wife does not have authority over her own body but yields it to her husband. In the same way, the husband does not have authority over his own body but yields it to his wife. 5 Do not deprive each other except perhaps by mutual consent and for a time, so that you may devote yourselves to prayer. Then come together again so that Satan will not tempt you because of your lack of self-control.

⁸¹⁴The World Health Organisation (WHO), 2002. Defines Rape as "physically-forced or otherwise coerced penetration, even if slight, of the vulva or anus, using a penis or body parts or an object."

⁸¹⁵*Iko v State* 35 W. R. N. I; *Rv Khan* (1990) 2 All E. R. 788.

⁸¹⁶*Ibid.*

definition of rape under international law.⁸¹⁷ Bamgbose cites additional elements that could aid conviction of the offence of rape to be the component of consent and unlawfulness of the act. She mentioned unlawful carnal knowledge as defined in the Criminal Code of Nigeria as an act that takes place between a man and a woman other than a husband and wife.⁸¹⁸

Also, in the case of *Idowu v State*, the term unlawful carnal knowledge was described as '*illicit intercourse*,' which means sexual contact outside marriage.⁸¹⁹

Therefore, it is apparent that the Criminal Code of Nigeria does not recognise marital rape due to the definition of unlawful carnal knowledge. A husband, according to the law, cannot be accused of raping his wife,⁸²⁰ because it is assumed that during her matrimonial vows to the man, she has given up her body to her husband.⁸²¹ Therefore, any rape within marriage is not admissible in court.

Similarly, in 1889, during a case in Nebraska, the court ruled on the grounds of non-resistance on the part of the victim. This conviction was reversed because

⁸¹⁷Bamgbose O. A. Reflection on the past, present and future of rape Law. (2002). Vol II JPBL p.128 at p. 129.

⁸¹⁸Rape is a particular kind of sexual violence whose definition is confined to the act of penetration of the body, whereas the definition of other kinds of sexual violence is potentially extremely wide, due to the variety of methods chosen by perpetrators to commit these crimes: as stated in the Triffterer Commentary, "Sexual violence is a term broader than rape. The term is used to describe any kind of violence carried out through sexual means or by targeting sexuality" (Otto Triffterer Commentary on the Rome Statute of the International Criminal Court" Hart Publishing, 2008, page 214). According to the ICTR in the Akayesu judgement, sexual violence, which includes rape, is considered "any act of a sexual nature committed under circumstances that are coercive." (Akayesu, above, note 8: paragraph 598). The ICTR continued: "Sexual violence is not limited to a physical invasion of the human body and may include acts that do not involve penetration or physical contact. Sexual violence covers both physical and psychological attacks directed at a person's sexual characteristics." (Akayesu, Trial Judgment above, note 8: paragraph 688) However, the aspects of coercion and violation of sexual autonomy are common to both the definition of rape and the definition of sexual violence, and are of relevance to the investigation and prosecution of both crimes.

⁸¹⁹Criminal Code of Nigeria. In the English Sexual Offence Act 1956 (as amended in 2003), "sexual intercourse" is synonymous with "carnal knowledge," and is said to be complete upon penetration. In trial of any offence under this Act, it is necessary to prove sexual intercourse and not necessary to prove competition of the intercourse by the emission of sperm.

⁸²⁰Olugbenga A. Olatunji. 'Penetration, corroboration and non-consent: examining the Nigerian law of Rape and addressing its shortcomings' (2012) 8 Univ Ilorin Law J 79.

⁸²¹The Criminal Code Act, Chapter 77 of the Laws of the Federation of Nigerian. 1990.

the court stated that the victim had the capacity to resist and she did not.⁸²² The study reveals that a degree of resistance was expected from the victim to show a lack of consent, indicating the historical importance of establishing consent in rape trials.

On *Iko v State*,⁸²³ Essien mentioned that Edet Iko was charged for the crime of rape contrary to Section 358 of the Criminal Code of Cross River.⁸²⁴ According to the court, he indicated that consent involves submission but that submission does not indicate consent on the part of the victim.⁸²⁵ Similarly, in *R v Olugboja*,⁸²⁶ the victim was thought to have submitted due to fear and experience from a previous assault. Here, Smith and Hogan⁸²⁷ attempted to distinguish between consent and submission, and indicated that consent is synonymous with approval, cooperation, and positive consensus. In contrast, submission is accepting or yielding to a superior force or authority of another person.⁸²⁸ The study, therefore, suggests that a woman who does not put up any resistance during rape at gunpoint or gang-raping cannot be said to have given consent; she *does not resist* out of fear and threat, and there is no evidence of congeniality between them.⁸²⁹

⁸²²State v. Barker: 1989: Nebraska Supreme Court Decisions

⁸²³NY 374 1874 (People v Dohring 59. Court of Appeals of the State of New York Dec 22, 1874.

⁸²⁴ Iko v State Edet Okon Iko v the State. SC.177/2001. 14 NWLR (Pt.732) 195.

⁸²⁵Dominus Okon Essien. 'The Pre-Colonial Economy of Akwa Ibom' 1995. Trans African Journal of History 186.

⁸²⁶Per Lord Coleridge. In R v Day 1841 C & P 722 t 724.

⁸²⁷ R v Olugboja [198] 3 All ER 443. In this case the victim was raped by Nigerian brothers. When she was raped by the 1st accused, she fought tooth and nail to prevent her violation, but she was severely beaten by the accused until he had his way. On being approached by the second brother for the same purpose, she submitted without putting up any resistance due to her fear of an additional beating. The court held that non-resistance in the second rape was not consent, but mere submission.

⁸²⁸Smith, J. C and Hogan. Criminal Law.10 Edition

⁸²⁹A. A. Owoade. 'Note on Rape. KIU Journal of Humanities, Vol. 2, No.1, June 2017. Ogun state University press.

5.17. Corroboration as a Vital Element in Rape Prosecution in Nigeria

The term corroboration is explained as confirmation and validation of existing evidence from another independent witness.⁸³⁰ In most court cases, evidence given during criminal proceedings does not need corroboration, and offenders are convicted based on the unverified evidence of a single witness, provided the jury is convinced beyond reasonable doubt.⁸³¹ This further emphasises, however, that corroboration rules are stressed in certain circumstances, to protect the interests of the accused against wrongful conviction.⁸³²

Evidence during sexual abuse proceedings is assumed to be susceptible to fantasy, fabrication, frustration, or spite.⁸³³ Therefore, the corroboration rules are applied to reduce the danger arising from false accusations of sexual attack, which are difficult to refute. Similarly, Hibey quoted the tendency of the complainant to receive empathy from the jury, which may prevent evaluating the evidence objectively.⁸³⁴ He illustrated that most judges emphasised corroboration of victims' evidence to rule out unfounded allegations of sexual assaults. The complications of refuting such allegations and the tendency of victims to lie about sex events is a cause for concern.⁸³⁵

⁸³⁰ Ibid.

⁸³¹Hibey, Richard A 1972. Trial of a Rape Case: An Advocate's Analysis of Corroboration, Consent, and Character.

⁸³²Evidence Act 2011. Section 200 of the Evidence Act 2011 which provides that "Except as provided in sections 201 to 204 of this Act, no particular number of witnesses shall in any case be required for the proof of any fact"

⁸³³Evidence Act 2011 section 197. Evidence Act 2011 section 197 (breach of promise to marry); section 201 (treason and treasonable felony); section 202 (evidence on charge of perjury); section 203 (exceeding speed limit); section 204 (sedition).

⁸³⁴ Ibid.

⁸³⁵ Hibey, Richard A 1972. Trial of a Rape Case: An Advocate's Analysis of Corroboration, Consent, and Character.

In the case of *State v Wuff*⁸³⁶ in Minnesota, Galvin stated that the Supreme Court presumed that the corroboration rule was necessary, due to the psychic complexes of errant girls or women contriving false allegations of sexual violations. Equally, in *Power v State*,⁸³⁷ the court stated that if proof of opportunity to commit the crime were alone sufficient to sustain a conviction, no man would be safe.⁸³⁸ Williams, however, refuted that it was not a prerequisite of the law.⁸³⁹ He further stated that neither was it a rule of law in sexual offence cases that an accused person cannot be convicted on the uncorroborated evidence of a prosecutrix.⁸⁴⁰ However, he argued on the risk of conviction based on uncorroborated evidence, even though the jury may, after paying attention to the warning, nevertheless convict if they are satisfied with the evidence presented.⁸⁴¹

With reference to the *Iko v State* case, Essien argued that the court in indisputable terms stated that, apart from instances where the law requires corroborations of sexual offences, it was a practice to always demand rape victims to present independent evidence to support their claims.⁸⁴² The court, in addition, stressed that where uncorroborated evidence was relied upon, juries were warned before convicting an accused.⁸⁴³ Likewise, in *Queen V Ibeakanma*, Mack revealed that the court emphasised the established practice in criminal law that corroboration of evidence of the prosecutrix in a rape case was not essential

⁸³⁶ Ibid.

⁸³⁷ Galvin, Harriett R 1985. Shielding rape victims in the state and federal courts: A proposal for the second decade.

⁸³⁸ Bowman v. State 103 Ariz. 482 (1968), 445 P.2d 841. Donald BOWMAN, Petitioner, v. The STATE of Arizona; the Superior Court of Arizona; the Honourable William C. Frey, a Judge thereof, Respondents.

No. 9323.

⁸³⁹ Ibid.

⁸⁴⁰ Williams G, 'Corroboration in Sexual Cases' (1962). Criminal Law Review p. 662

⁸⁴¹ Corroboration requirement. The Rape Corroboration Requirement: Repeal Not Reform, 81 YALE L. J. 1365 (1972). For a list of common types of corroborating evidence, see Allison v. United States, 409 F.2d 445, 448 n.8 (D. C. Cir. 1969).

⁸⁴² Ibid.

⁸⁴³ Supra 1053

in practice. However, it is better to look for further evidence and warn the jury against the danger of acting upon them.

Smith et al. on the other hand argued that the legal requirements for securing responsibility in rape cases are tricky, and they claimed that it was quite difficult to determine what constitutes or where to draw the line on the actual point of penetration as a precondition.⁸⁴⁴ This criterion, Hogan argued in opposition, was difficult to establish where no third party witnessed the alleged act, to testify to actual penetration.⁸⁴⁵ Regrettably, emphasis is still placed on the interpretation of non-consent by Nigerian courts. Smith argued against the cruelty to the victims, and obsolete as regards to the current position on non-consent in advanced legal systems internationally. It therefore can be argued that corroboration rules, especially in rape cases, should be abolished.⁸⁴⁶ In addition, another significant fact that requires attention is consent. Apparently, consent means acceptance, as defined by the *Oxford Dictionary*, while if a woman says 'no,' she means 'no.' However, the courts define consent as something more than the distinction between 'yes' and 'no.'⁸⁴⁷ Olatunji argued against the criteria set by courts for non-consent to be established. He disagreed on the set terms that there should be a degree of resistance offered by the accuser, which is often deemed critical in rape proceedings.⁸⁴⁸ Dripps highlighted that most judges have inferred 'lack of consent' to mean that the accuser offered anywhere uncorroborated testimony of

⁸⁴⁴Mack, Kathy 1993 Continuing barriers to women's credibility: A feminist perspective on the proof process.

⁸⁴⁵David C. Ormerod, Karl Laird, Brian Hogan, John Cyril Smith Oxford University Press, 2015 - Criminal law - 1352 pages

⁸⁴⁶ Ibid.

⁸⁴⁷ Supra 496

⁸⁴⁸ Olugbenga A. Olatunji. 'Penetration, corroboration and non-consent: examining the Nigerian law of Rape and addressing its shortcomings' (2012) 8 Univ Ilorin Law J 79.

victims⁸⁴⁹ from utmost resistance to reasonable resistance,⁸⁵⁰ a significant statement in rape cases (92 (Marcus 1992: 400) 22). The law stipulates that most women are confused about their sexual desires and may say 'no' when they mean 'yes.' Therefore, a statement that supports the courts' emphasis for a clear indication of 'no' and a degree of physical resistance that leaves bodily evidence on the complainant is required. Otherwise, the assumption is that the complainant must have consented.⁸⁵¹

Physical resistance as a requirement of resistance is striking. Olatunji opposes societal interpretations whereby society justifies social practices that treat subservient women as weak and powerless, while in matters of rape or abuse, the same society demands them to be strong and aggressive,⁸⁵² whereas, in reality, less force is required by a man to subdue a woman. In addition, too much expectation was placed on a woman to resist an attacker who is doubtless stronger than her, and in the case of conflict-related rape, assailants are trained and armed combatants.⁸⁵³

In reviewing the Criminal Code of Nigeria, this study identified it to be based on archetypal Common Law, with infrequent review. Internationally, law on sexual offences has undergone infinitesimal amendments over the years, and there is a need for radical reform with broad legislation, and preferably a distinct code on sexual offences (beyond the current 2015 Sexual Offences Act).⁸⁵⁴ The definition of sexual offences and concepts in the current Criminal Code are obsolete and

⁸⁴⁹Kalgo. Law Pavilion Electronic Law Report (LPELR) - NIGERIA. At p.22 per

⁸⁵⁰ Hibey, Richard A 1972. Trial of a Rape Case: An Advocate's Analysis of Corroboration, Consent, and Character.

⁸⁵¹Dripps, Donald A. Beyond rape: An essay on the difference between the presence of force and the absence of consent.1992.

⁸⁵²Ibid.

⁸⁵³ supra 1063

⁸⁵⁴ Ibid.

inadequate in their deviation from ICC accepted definitions.⁸⁵⁵ In effect, the universally accepted definition of rape under international humanitarian law encompasses the penile penetration of the vagina, anus, or mouth, without consent. This also includes the use of objects due to changing war strategy.⁸⁵⁶ In contrast, under the Criminal Code of Southern Nigeria, rape is limited to penile penetration of the vagina only.⁸⁵⁷ This is, therefore, a crucial reason to broaden the scope of the definitions as acts other than the penetration of a vagina by a penis.⁸⁵⁸ These gaps in definition form the basis for the low level of convictions in rape cases, thereby discouraging victims from pursuing justice.⁸⁵⁹

Furthermore, scholars have proposed non-consensual sexual acts by men and boys be recognised legally to deter potential offenders.⁸⁶⁰ In addition, they suggested that Nigerian criminal law embraces some assumptions that are questionable. They opposed Section 30 of the Criminal Code that indicates males below the age of 12 years are incapable of having carnal knowledge. Kawu revealed that most 12-year-old boys attain early puberty, and are sexually active

⁸⁵⁵National Legislative Bodies / National Authorities. 'Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP)' (25 May 2015).

⁸⁵⁶ Rape is a particular kind of sexual violence, where the definition is confined to the act of penetration of the body, whereas the definition of other kinds of sexual violence is potentially extremely wide, due to the variety of methods chosen by perpetrators to commit these crimes: as stated in the Triffterer Commentary, "Sexual violence is a term broader than rape. The term is used to describe any kind of violence carried out through sexual means or by targeting sexuality" (Otto Triffterer Commentary on the Rome Statute of the International Criminal Court" Hart Publishing, 2008, page 214). According to the ICTR in the Akayesu judgement, sexual violence, which includes rape, is considered "any act of a sexual nature committed under circumstances that are coercive." (Akayesu, above, note 8: paragraph 598). The ICTR continued: "Sexual violence is not limited to a physical invasion of the human body and may include acts that do not involve penetration or physical contact. Sexual violence covers both physical and psychological attacks directed at a person's sexual characteristics." (Akayesu, Trial Judgment above, note 8: paragraph 688) However, the aspects of coercion and violation of sexual autonomy are common to both the definition of rape and the definition of sexual violence, and are of relevance to the investigation and prosecution of both crimes.

⁸⁵⁷ Kelly D. Askin. 'Prosecuting wartime rape and other gender-related crimes under international law: extraordinary advances, enduring obstacles' (2003) 21 Berkeley J. Int'l L. 288

⁸⁵⁸The Criminal Code Act 1 is currently a legislation of general application penalizing criminal acts in Southern Nigeria while the Penal Code Act applies in the North.

⁸⁵⁹ Ibid.

⁸⁶⁰Petrak, J. 2002. (The psychological impact of sexual assault. In J. Petrak & B. Hedge (Eds.).

and mature enough to commit the crime of rape.⁸⁶¹ He further opposed most hypotheses made by the law as non-credible. However, this assumption is indisputable based on the law, meaning that even in those cases where such males are capable of sexual intercourse, they cannot be held liable for rape under the Nigerian criminal law.⁸⁶² This is another critical section of the Nigerian Criminal Code that requires radical reform.

Kawu, in further analysis of rape prevalence in Nigeria, argued in opposition that the rate of rape within this age group, though possible, was trivial compared to other age groups,⁸⁶³ which accounts for this insignificance. Also, minors during rape proceedings are not provided anonymity during investigations. As such, there is withholding of vital information from families that would offer important statistics.

Hence, there should be a review of methods of conducting rape investigations, with emphasis on the anonymity of minor rape victims and accused, and also security and rehabilitation for victims to spur much-needed interest in reporting rape crimes.⁸⁶⁴

Finally, the societal perceptions of the feminine sex has been documented throughout history.⁸⁶⁵ The Nigerian Women Affairs Ministry stressed that discrimination against women was evident in the despicable requirements of the tripartite law to establish penetration, non-consent, and corroboration before conviction can be secured in rape trials.⁸⁶⁶ The Ministry points out that other

⁸⁶¹ Ibid.

⁸⁶²Kawu, I. M. 2013. "Nigeria's Troubling Epidemic of Rape." *IMPACT: International Journal of Research in Applied, Natural and Social Sciences*.

⁸⁶³Section 4(2) of the Constitution of the Federal Republic of Nigeria. 1999.

⁸⁶⁴Kawu, I. M. 2013 "Nigeria's Troubling Epidemic of Rape". *IMPACT Int J Res Appl Natl Soc Sci*.

⁸⁶⁵Brigneti, P. and Egbonimali, S. 2002. "Rape in Nigeria: Theory & Reality."

⁸⁶⁶ Nigeria's Minister for Women Affairs. *Tripartite Legal System Hinders Progress towards Gender Equality in Nigeria*.

jurisdictions had made efforts to exclude these discriminatory provisions in their law. However, the provisions remain unchanged in Nigerian Criminal Codes.⁸⁶⁷ These requirements, the Ministry stated, originated from the Common Law system, but most practising countries had reviewed their laws to reflect the current advancement in rape trials, while Nigeria still adheres to its archaic laws.⁸⁶⁸

Nigeria needs to embrace a holistic review of its criminal laws on rape to reflect internationally accepted principles. This means eliminating the corroboration requirement from its legislation, and realistically interpreting the non-consent rule. The court, however, must be objective in the interpretation of penetration. Other objects rather than the penis as specified by the Nigerian criminal law can be used to penetrate a woman's vagina, which under international humanitarian law constitutes rape.⁸⁶⁹ In conclusion, a broad-based strategy is vital to tackle the high rate of rape crimes in Nigeria.

5.18. Summary

This chapter set out to explain the history and recognition of conflict-related rape as a war crime and the basis for its articulation. The study achieved this by analysing arguments on the deficiencies of post-WWII trials. It then traced the global history of conflict-related rape. It was argued that, though glaring evidence was presented in past wars, rape was not recognised as a war crime in the IMTFE and Nuremberg trials. It was not until the ICTY and ICTR that rape was first accepted as a war crime.

⁸⁶⁷ Ibid.

⁸⁶⁸ Supra 515

⁸⁶⁹ Nigeria's Minister for Women Affairs. 'Tripartite Legal System Hinders Progress towards Gender Equality in Nigeria,' (Evidence of Nigeria's Commitment. To Implementing Obligation under Women's Convention Also Cited 637th & 638th Meetings.

This study, in addition, reveals the transformation and recognition of changing war tactics. To eliminate discrimination against women, international, regional, and national legislation was reviewed or enacted to shield women from all kinds of abuses including rape. This chapter recounted challenges encountered in enforcing existing legislation and argued against archaic laws that provide gaps for offenders to escape prosecution. It further highlights rigid and challenging criteria imposed by the law on victims (corroboration and proof of non-consent) to obtain prosecution in court. Following this progression, the next chapter analyses the empirical interviews to further elucidate problems highlighted in the study objectives. This supports possible reforms suggested from the findings of this research.

6. Obstacles and Impediments Encountered by Female Rape Victims during Conflicts in Nigeria

6.1. Introduction

The incorporation of rape as a weapon during internal conflicts in Nigeria is now a serious and worrying issue.⁸⁷⁰ Basically, rape is viewed by combatants as the less expensive but more aggressive and lethal weapon to achieve the desired effect of inflicting the maximum harm on 'enemies', comprising ethnic communities.⁸⁷¹ Women are caught between both sides in conflicts. In Nigeria, traditional and religious factors are major hindrances to responses to rape crimes. Though the UNSC has erected a strong fight against the rape and abuse of women,⁸⁷² and there have been positive responses from regional and national governments,⁸⁷³ the key concern is the implementation of the law.

Chapters 6 to 9 therefore deliberate upon and assess the research questions, which are considered in themes. Each chapter critically evaluates an individual

⁸⁷⁰ Rome Statute of the International Criminal Court, 17 July 1998, (as corrected by the procèsverbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002), Article 7: Crimes against humanity 1. For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (...) (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity; (...) 2. For the purpose of paragraph 1: (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack; (...) (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy; (...) 3. For this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above

⁸⁷¹Morenike O. Folayan et al. 'Rape in Nigeria: a silent epidemic among adolescents with implications for HIV infection' (2014) 7 Global health action

⁸⁷² Amnesty International's. Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes Against Women in Times of Conflict: Stop Violence against Women'. 2004

⁸⁷³UN Security Council Resolution 1820 was unanimously adopted on 19 June 2008, demanding an immediate and complete halt to the acts of sexual violence against civilians in conflict zones, unanimously adopting Resolution 1820.

research question to ascertain the deficiencies in implementing legislations on the protection of women during conflicts. Chapter 6 evaluates obstacles and complications encountered by female rape victims in internal conflicts in Nigeria. The empirical interviews examined victims' perspectives on legal principles governing the protection of women and children from rape and its implications.⁸⁷⁴ This responds to the research question probing the extent to which existing legal criminal legislation in Nigeria protects women and children. This highlights facts through empirical interviews to strengthen issues raised from past literature reviews. There was cross-referencing between testimonies from interviews and previous studies.⁸⁷⁵ The inferences revealed that numerous atrocities were perpetrated against women, supporting the arguments of Brownmiller⁸⁷⁶ and Martins⁸⁷⁷ on the use of rape as a weapon during conflicts. The inferences further revealed that despite the fact that WWI⁸⁷⁸ and WWII⁸⁷⁹ witnessed rape, and sexual crimes attracted heated debate during the tribunals, rape during conflicts is still a major and persistent issue in conflicts worldwide, as confirmed by Amnesty International.⁸⁸⁰ Likewise, Marie Vlachová argues that conflict-related abuse cuts across cultural and religious barriers, impeding the rights of women.⁸⁸¹ These claims were later justified by Anne-Marie de Brouwer because of the collapse of regulations during war and peacetime.⁸⁸² Violence against women in

⁸⁷⁴Meron, Theodor. Rape as a crime under international humanitarian law. *American Journal of International Law*. Am. J. int'l. Pub Year: 1993. Page: 424, 428. Publisher: JSTOR

⁸⁷⁵The Criminal Code Act, Chapter 77 of the Laws of the Federation of Nigerian. 1990.

⁸⁷⁶Idowu, J., Aregbesola, M. O. *Internal Security Operations and Human Rights Abuses in Nigeria: Issues and Challenges*.

⁸⁷⁷ Brownmiller, S. *against Our Will: Men, Women and. Rape*. Pub Year: 1975.

⁸⁷⁸Martins D. *Battered wives*. San Francisco: Del Martin Glide Publications San Francisco, 1976.

⁸⁷⁹World Scarred by history: The Rape of Nanking. Pub Year: December 13, 1997.

⁸⁸⁰Kim, Dong Choon. *Forgotten war, forgotten massacres—the Korean War (1950-1953) as licensed mass killings*. *Journal of Genocide Research*. Pub Year: 2004. Volume: 6. Issue: 4 Page: 523, 544. Taylor & Francis.

⁸⁸¹ Human Rights Watch. *The Human Rights Watch. Global Report on women's Human Rights*. 1995.

⁸⁸² Vlachová, Marie; BIASON, Lea. *Women in an insecure world: violence against women: facts, figures and analysis*. Pub Year: 2005. Publisher: Geneva Centre for the Democratic Control of Armed Forces (DCAF)

recent times has taken a dismaying variety of forms, including domestic abuse, forced marriages, female circumcision and rape, amounting to violations of the fundamental human rights of women.⁸⁸³

As indicated earlier, cultural and religious perceptions are sometime presented as justifications for harmful social practices that subjugate women.⁸⁸⁴ This study has established that religious perceptions and cultural subjugation are prime factors for the low rate of rape reports by victims and follow-up court cases. Most victims shy away from society and exhibit the potentials to be vicious, and in most cases vulnerable.⁸⁸⁵ This study therefore acknowledges religion as the most significant motivating force during conflicts, an obstacle to peace,⁸⁸⁶ and a contributing factor to intensify, expand and extend violent situation within conflicts.⁸⁸⁷

6.2. Internal armed conflict

One of the questions all participants were asked concerned obstacles and complications encountered by female rape victims during internal conflicts in Nigeria. Internal armed conflict, in most cases, involves non-professional armed groups.⁸⁸⁸ This is evidenced in current conflict situations in Nigeria between the

⁸⁸³Anne-marie de Brouwer, Sandra Ka Hon Chu 2009. The men who killed me: Rwandan survivors of sexual violence.

⁸⁸⁴Watts, Charlotte. Violence against women: global scope and magnitude. The Lancet. Volume 359, ISSUE 9313, P1232-1237, April 06, 2002.

⁸⁸⁵WHO Global Consultation on Violence and Health. Violence: a public health priority. Geneva, World Health Organization, 1996 (document WHO/EHA/ SPI. POA.2).

⁸⁸⁶Brownmiller, Susan. Against our will: Men, women and rape. Pub Year: 2013: Open Road Media

⁸⁸⁷Puechguirbal, Nacline. Women and war in the Democratic Republic of Congo. Signs journal of woman in culture and society. Pub Year: 2003.

⁸⁸⁸ Ibid.

Nigerian Armed Forces and the MENDS,⁸⁸⁹ the Avengers,⁸⁹⁰ and the Boko Haram Islamic group.⁸⁹¹ Internal conflicts usually invoke chaotic and lawless circumstances that present fertile ground for acts of sexual violence on the part of combatants.⁸⁹² Even among the most professional armies, the use of rape and other forms of sexual abuse as a military strategy is employed in conflicts.⁸⁹³ This has been the case in Nigeria, where acts of sexual abuses in internal conflicts are becoming widespread and, therefore, alarming.⁸⁹⁴

This research is founded on recurring reports of sexual abuse on the part of both rebels and the national security forces.⁸⁹⁵ The slow response of the government has seemingly encouraged full-blown attacks on women during conflicts in Nigeria.⁸⁹⁶ Very little has been done to redress these atrocities and little academic research has been conducted at an advanced level designed to address the impact of these crimes in Nigeria.⁸⁹⁷ Therefore, the interviews were conducted to assess the views of victims and the public, and perceptions of people living in

⁸⁸⁹Hossain, M; Zimmerman, C; Kiss, L; Kone, D; Bakayoko-Topolska, M; Manan K A, D; Lehmann, H; Watts, C; (2014) Men's and women's experiences of violence and traumatic events in rural Cote d'Ivoire before, during and after a period of armed conflict. *BMJ open*, 4(2). e003644.

⁸⁹⁰ Elias Courson, Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and Petro-insurgency in the Niger Delta (Nordiska Afrikainstitutet 2009).

⁸⁹¹ Ewonor Chris. 'The Niger Delta Avengers: Nigeria's Newest Militants' (2016) 2 BBC Africa,

⁸⁹² John Thompson. 'Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma' (May 9th, 2014) Canada Free Post.

⁸⁹³Parsons, Rymn J. Combatant Immunity in Non-International Armed Conflict, Past and Future.

⁸⁹⁴ Maedl, A. Rape as Weapon of War in the Eastern DRC? The Victims' Perspective. February 2011.

⁸⁹⁵ Peter Takirambudde. 'Nigerian Army accused of Excessive Force, Rape in Niger Delta. Destruction of Odi and rape in Choba. December 23, 1999'

⁸⁹⁶ Human Rights Watch. 'Nigerian Army Accused of Excessive Force, Rape in Niger Delta' (December 22,

⁸⁹⁷Morenike O Folayan, Morolake Odetoyinbo, Brandon Brown, Abigail Harrison. Addressing the Socio-Development Needs of Adolescents Living with HIV/AIDS in Nigeria: A Call for Action. *African Journal of Reproductive Health*. Vol 18, No 3 (2014).

Nigeria, regarding the laxity in regulation of acts of sexual abuse perpetrated during internal conflicts.⁸⁹⁸

The interviews examined the individual's views regarding the realities arising from legislation governing conflict and the extent to which these laws protect non-combatants.⁸⁹⁹ Analysis of the interviews in themes were set to further elucidate research aims. As mentioned earlier, participants were selected from diverse geopolitical and professional cross-sections within Nigeria. Due to ethical reasons (from the authorising university, UCLAN) concerned with avoidance of re-victimisation of vulnerable individuals, there were no direct interactions or interviews with victims. Rather the views of various public and professional bodies working in close contact with these victims' and testimonies of victim's experiences were employed to elucidate the complications and impacts of rape. All participants were asked similar semi-structured questions, which snowballed depending on the responses from interviewees, and the analysis of the interviews is presented below.

Rape within armed conflicts is recognized as a global phenomenon,⁹⁰⁰ but it is challenging to respond to this cruel and abusive treatment against females in each jurisdiction. The UNSC⁹⁰¹ over the years have recognized that women are being abused during internal conflicts across the globe,⁹⁰² and has strived to promulgate resolutions to tackle these abuses.⁹⁰³ However, traditional beliefs and

⁸⁹⁸ Ibid.

⁸⁹⁹ Folayan, Morenike O; Odetoynbo, Morolake; Harrison, Abigail; Brown, Brandon. Rape in Nigeria: a silent epidemic among adolescents with implications for HIV infection Periodical, Full: Global health action. Pub Year: 2014. Volume: 7.

⁹⁰⁰ Kawu, I. M. "Nigeria's Troubling Epidemic of Rape." Pub Year: 2013. Links: <http://www.nigeriastroublingepidemicofrape> on July 4, 2013.

⁹⁰¹ Carreiras, Helena. Sexual Violence in Armed Conflicts: A Global Overview. Cadernos. 2013.

⁹⁰² Stabel, Tessel 2013 United Nations Security Council Resolution 1820: Why sexual violence became framed as a threat to international security.

⁹⁰³ Chinkin, Christine. Rape and sexual abuse of women in international law. Eur. J. Int'l L. 1994

cultural perceptions within Nigeria are among the main obstacles encountered to redress such abuses against women.⁹⁰⁴ Nigeria has been described as a male-dominated country.⁹⁰⁵ Arguably, this is widely perceived among informed women in this area as a contributing factor towards the prevailing attitude towards rape victims. The interviews, detailed below, shed light on the participants' perception of how cultural and societal factors have impacted on the treatment of victims of rape at the initial reporting of the crime.

This chapter assessed obstacles and complications encountered by victims during seeking justice for rape crimes committed against them. All participants were asked similar questions. Their responses were segmented to clarify responses. These were in terms of the increase in conflict-related rape in Nigeria, issue of vulnerability during internal conflicts and the participants' views on kidnapping during internal conflicts in Nigeria.

6.3. Interviewees' assessment of the increase in conflict-related rape cases in Nigeria

Responses from the interviews indicated unanimously the evolving tactics being employed in current internal conflicts in Nigeria.⁹⁰⁶ It was revealed that women are now placed in the centre of conflict as bargaining chips, while some are recruited as combatants⁹⁰⁷ and female suicide bombers.⁹⁰⁸ Others are forced into unwanted pregnancy to dishonour victims' families, institutionalizing the women

⁹⁰⁴Ibid.

⁹⁰⁵Udekwe, N. V. "Sexual Abuse among the Adolescents in Nigeria: Religious Implications and the Way Forward", M. A. Seminar Paper, University of Nigeria, Nsukka, Enugu State. Pub Year: 2013.

⁹⁰⁶Mathebula, Brian. Patriarchy and the Informal Economy: The Case for Women Empowerment. 2015

⁹⁰⁷Zenn, J., & Pearson, E 2014 Women, Gender and the evolving tactics of Boko Haram. Journal of terrorism research, 5(1).

⁹⁰⁸Dionne, Searcey. Article Title: 2 Female Suicide Bombers Attack Mosque near Maiduguri, Nigeria, Killing over 20. Continue reading the main story Share This Page Share Tweet Email More. Newspaper Name: New York Times. Pub Date Free Form: MARCH 16, 2016.

involved.⁹⁰⁹ This was expressed as an emerging security problem within Nigeria, raising the question of the efficacy of existing national laws. How are these laws protecting vulnerable civilians during conflicts? Interviewee 7 (a civil servant from the Ministry of Health) responded as follows:

‘Men are the stronger sex and they will always find a way of escaping during conflicts, and when they do so, they leave the women and children behind. The women, children and elderly are always the most defenceless. And all those insurgents that come are like sex-starved animals, when they come and see free women that the men have left behind they take advantage of them.’

This quote was a response from a participant which further reveals the perceived belief that women are the weaker sex. In African tradition, women are by tradition the properties of men. There are also ideas that all men, irrespective of their professional position, have in mind: if a woman is not attached to any man in any form of relationship, she is therefore deemed available for grasp by other males for personal ownership. “Free” here indicates women who are not currently attached to any male partner, or those whose male family members have either killed or deserted because of the conflicts.⁹¹⁰ Government security forces and insurgencies also see women as trophies.

This quote further confirms public awareness of the dangers of conflicts and the motives behind acts of abuse. It indicates that the general public are aware of the

⁹⁰⁹ Elizabeth Pearson. Nigeria’s Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons. October 16, 2014.

⁹¹⁰Todd Salzman. ‘Rape Camps, Forced Impregnation and Ethnic Cleansing’ in Ann L. Barstow (ed.) *War’s Dirty Secret: Rape*, (2000).

complicated situation that women face during conflicts.⁹¹¹ Interviewees 7 (a civil servant from the Ministry of Health) and 14 (a female NGO worker) agreed that the outward attitude of deployed soldiers towards women during conflict is directly related to their perceptions of women generally.⁹¹² This could mean that their religion, cultural beliefs or, in most cases, level of professional training, play a huge part in the overall behaviour in the field.⁹¹³ Interviewee 9, a male civil servant expressed similar views:

‘A lot of these soldiers that are sent on missions don’t have regards for women. They are not properly trained. And to worsen issues, is the fact that African culture have very little value for women. In Nigeria, women are expected to be seen and not heard. Women are properties of men, and most of these soldiers don’t see their wives often, so they look for the next available woman or girl around to have sex with. So, if there is conflict and these sorts of men are sent out to where there are free women, of course they will rape them.’

As earlier revealed, the African culture is not sympathetic to the plight of women. Women are less valued and therefore, have no voice within the community. Moreover, conflicts of ethnic orientation, as pointed out by Allan Beverly, like

⁹¹¹ Vlachová, Marie; BIASON, Lea. Women in an insecure world: violence against women: facts, figures and analysis. Pub Year: 2005. Geneva Centre for the Democratic Control of Armed Forces (DCAF).

⁹¹² WHO Global Consultation on Violence and Health. Violence: a public health priority. Geneva, World Health Organization, 1996 (document WHO/EHA/ SPI. POA.2).

⁹¹³ Crome, S., & McCabe, M. P. The impact of rape on individual, interpersonal, and family functioning.

those of Sri Lanka,⁹¹⁴ Syria,⁹¹⁵ and Iraq,⁹¹⁶ have been noted to be the most brutal, producing horrors including generalised violence against civilians, mass rape, and genocide.⁹¹⁷

Soldiers who are from the opposing ethnic group often take advantage of these facts, by exploiting unattached females.⁹¹⁸ A lack of professionalism has been revealed as grounds responsible for these unacceptable behaviours of combatants.⁹¹⁹ It was a widely held view among interviewees that there had been an escalation in the rates of conflict-related rape in Nigeria. They concurred that though rape was recorded in past civil conflicts in the country, the upsurge and level of damage inflicted upon women in recent times is horrendous.⁹²⁰ Others expressed the fact that the increase in conflict-related rape indicated a breakdown in societal values, eroded conscience in men, the lack of professionalism and laxity in legal regulations of conduct within internal conflicts.⁹²¹

Similarly, the interviewees indicated that, on the other hand, there was also a rise in domestic rape in the country.⁹²² Rape crimes during conflict in Nigeria are never investigated, nor is any perpetrator ever held accountable for their hideous

⁹¹⁴Castelli, E. A. Reverberations: On violence, special issue of scholar and feminist. *The Scholar & Feminist Online*, Issue 2.2. Winter 2004.

⁹¹⁵Liberation Tigers of Tamil Eelam defeated; Sri Lanka liberated from terror." Ministry of Defence. 18 May 2009.

⁹¹⁶ Wolfe, Lauren. 2013 International, Violence against women Syria has a massive rape crisis. *The Atlantic*.

⁹¹⁷ Farr, Kathryn "Extreme war rape in today's civil-war-torn states: A contextual and comparative analysis." *Gender Issues*. 2009

⁹¹⁸ Allen, Beverly. *Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia*. 1996.

⁹¹⁹ Ibid.

⁹²⁰ Turshen, Meredith 2001 *The political economy of rape*. Chapter of Caroline and Fiona Clark -victims, perpetrator or actors? *Gender, armed conflicts and political violence*. London.

⁹²¹ Agence France-press. 'Boko Haram destroys at least 16 villages in NE Nigeria: officials.' *Business Insider*. 8 January 2015.)

⁹²² "Judge Blasts Nigerian Police over Poor Handling of Rape Case." federal High Court Judge, Justice Abimbola Ogie, has condemned the Nigeria Police for alleged disregard for the tenets of the rule of law, especially in the handling of criminal cases

crimes, thereby creating a breeding ground for prospective offenders.⁹²³ This increase is attributable to the low value that African tradition places on women as previously stated.⁹²⁴ In Africa, men traditionally do not have a high regard for women.⁹²⁵ They regard women as property that can be taken at any time and, when placed in position of power, men have the potential to make life unbearable for women.⁹²⁶

Most interviewees emphasized their dissatisfaction with the attitude of soldiers sent on military assignments.⁹²⁷ They claimed that unmarried soldiers devour the next available woman or girl for sex.⁹²⁸ In addition, religion and tradition play a significant negative role by enabling men to denigrate women.⁹²⁹ A typical example was the Odi Massacre,⁹³⁰ in which soldiers entrusted with peacekeeping duties in the Odi community were Muslims from Northern Nigeria. The rape crimes carried out during this conflict was seen to be maliciously and religiously motivated.⁹³¹ The soldiers were intent on destroying a Christian community with forced pregnancy, to dishonour the families of victims and institutionalize the women involved.⁹³² The best way to humiliate the community was to rape the women and girls, rendering them unfit for childbearing.⁹³³ This observation was

⁹²³ Morenike O Folayan, Morolake Odetoyinbo, Brandon Brown, Abigail Harrison. Addressing the Socio-Development Needs of Adolescents Living with HIV/AIDS in Nigeria: A Call for Action. *African Journal of Reproductive Health*. Vol 18, No 3 (2014).

⁹²⁴ Lenning, Emily; Brightman, Sara. Oil, rape and state crime in Nigeria. 24 December 2008 Springer Science Business Media B. V. 2008

⁹²⁵ African War Zones Rape Epidemic: Feb 2008BBC.

⁹²⁶ Buss, D., Liebert, J. M., Rutherford, B. A. 1, Sharkey, D., & Aginam, O. Understanding sexual violence in armed conflict: cutting ourselves with Occam's razor. *Journal of International Humanitarian Action* 2016:6.

⁹²⁷ Ibid.

⁹²⁸ Aall, Pamela. (2000). NGOs, conflict management and peacekeeping. *International Peacekeeping*. 7. 121-141.

⁹²⁹ Jacob Zenn. 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014) 7(5) *CTC Sentinel* 1.

⁹³⁰ Ibid.

⁹³¹ Onyebuchi Ezigbo: Nigeria: Obasanjo's Aide Justifies Odi Massacre. *This Day Lagos*: 20 November 2012.

⁹³² Nwajah, O: A Tale of Military Massacres: From Ogoniland to Odi Town. December 6, 1999.

⁹³³ Casmir Igbokwe. "Odi Cop Killers Storm P/H," *P. M. News (Lagos)*, December 13, 1999.

expressed by Interviewee 4, a female doctor, in relation to graffiti posted by soldiers on walls in Odi community:

“We don finish Odi, we don finish our work. They send us to destroy your community.” So, if there is conflict and these sorts of men are sent out to where there are free women, of course they will rape them.

From the caption inscribed above, one could deduce that the soldiers were already biased before embarking on the military assignment. “We don finish Odi” meaning that they were at the community to lash out havoc which from inference was religiously motivated. Also, lack of professionalism was observed from the attitudes of the soldiers which means that, there is disregard for military training and rules governing combats.⁹³⁴

The interviewee acknowledged that, globally, it is a well-known fact that during conflicts, women, children and the elderly are targeted.⁹³⁵ On the other hand, evidence exists that men and boys are also abused,⁹³⁶ as in the Odi Massacre, where the soldiers bragged about the destruction they inflicted upon the community. However, HRW placed more emphasis on the violation of women and children, on the basis of available statistics and the intensity of the impact of these crimes.⁹³⁷

⁹³⁴Ibid.

⁹³⁵Rules of engagement for the Nigerian military Section 217 (2) (b) and (c).

⁹³⁶Amnesty International's: Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes against Women in Times of Conflict: Stop Violence against Women': 2004.

⁹³⁷ Hossain, M., Zimmerman., Kiss, L., Kone, D., Bakayoko-Topolska, M., Manan, D. K., Lehmann, H., Watts, C. Men's and women's experiences of open: 2014, Feb 25.

While some interviewees criticized the law, others showed concern about the lack of professionalism on the part of the national security officers.⁹³⁸ They acknowledged that:

‘Our security officers have not laid any good example. People whitewash situations and it comes to “security against civilians.” No one owns up to any responsibility, the Oga’s (senior officers) cannot be bothered, and most times sweep matters under the carpet and make empty promises. The average Nigerian mind is bombarded with so many materialistic problems that justice is the last thing on their minds.’

Once again, respondents are still emphasizing on lack of professionalism and commitment to job from the security forces. Issues are not dealt with in a professional manner, rather “whitewash situations” are affected at best, and there are cover-ups of actual situations that transpired. Blame is wrongly apportioned to innocent people. Similar quotations were presented by Interviewee 4, a physician:

‘The security officers in Nigeria always have this underlying idea that you have to bully or torture to achieve any result. And who best to bully but the women, who are the vulnerable in the society, to boost their ego. The women will always be in a vulnerable position because of our cultural beliefs that men are superior beings. Whatever kind of decision that will be taken will be based on or a reflection of their cultural beliefs; aside from the security situations,

⁹³⁸ Human Rights Watch. ‘The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999 ‘.

women are not positively reflected in our society. These manifest on the attitude toward women. You can imagine a policeman calling a woman “*ashawo*” [prostitute], which shows a lack of respect for the female gender. What you don’t value, you don’t respect.’

In Nigeria, issues are not dealt with in the appropriately accepted manner. The approach of “jungle justice” is often adopted, to avoid the long and unending process of justice system in the country.⁹³⁹ The soldiers therefore take laws into their hands to act as judges by “bullying and torture,” as a faster method to achieve their set goals.⁹⁴⁰ Most times, their actions are not legally justified, which takes us back to their religious orientation and perceptions clouding their professional judgement in executing their jobs.⁹⁴¹ This also reflects in their attitudes towards women. The soldiers tag victims “*ashawo*,” meaning prostitute, rather than investigating reported rape cases.

This attitude of “use of force, jungle justice, and poor investigation” has dented Nigeria’s international image. Many states do not seem to regard Nigeria as a country interested in addressing its internal problems.⁹⁴² Nigeria’s negligence in protecting its citizens is viewed as a breach of obligations to them.⁹⁴³ Lack of respect for the female gender can technically be viewed as a violation of the rights of women in itself.⁹⁴⁴ The Nigerian police force has been accused of exhibiting the characteristic of humiliating victims who have shown the courage to report

⁹³⁹Rules of engagement for the Nigerian military. Section 217 (2) (b) and (c).

⁹⁴⁰Amnesty International’s. Women and War: Rape as Weapon of War’ and ‘Lives Blown Apart: Crimes Against Women in Times of Conflict: Stop Violence against Women’. 2004.

⁹⁴¹Human Rights Watch. The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999.

⁹⁴²Makama, Godiya Allanana. Patriarchy and gender inequality in Nigeria: the way forward: European scientific journal: 2013 Volume: 9 Issue: 17: European Scientific Journal.

⁹⁴³Oyebode, Akin 2012 Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria’s Terrorism (Prevention) Act, 2011 (Forum on Public Policy: A Journal of the Oxford Round Table Forum on Public Policy, 2012).

⁹⁴⁴Dode, R. O. 2012, Nigerian Security Forces and the Management of Internal Conflict in Niger Delta: Challenges of Human Security and Development. p. 411.

rape.⁹⁴⁵ This has deterred most victims and their families, and has encouraged would-be perpetrators of rape.⁹⁴⁶ Some interviewees were concerned that the patriarchal system of society has played a large part in devaluing women. The interviewee's perception is highlighted below:

'This reflects our male-dominated society, and the military are mostly men. They are not foreign to the values our society bestowed on women. It is a celebrated act. We see these acts in different sectors of our daily life.'

This attitude of the police force reflects not only on their traditional beliefs in the context of a "male-dominated society" but also indicates poor compliance with professional training. It indicates that, despite set rules within the security system, men are still ruled by their religious and traditional beliefs.

6.4. Vulnerability during internal armed conflicts

Interviewees conveyed their views on a well-known fact about the vulnerability of women and children, and how deficiencies in the legal system in Nigeria have made them more susceptible to abuse.⁹⁴⁷ They expressed the fact that, though Nigeria has its national laws and is also a party to numerous international treaties, it has failed in its duty to protect vulnerable people during conflicts.⁹⁴⁸

⁹⁴⁵National Legislative Bodies / National Authorities. Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP). [Nigeria], 25 May 2015.

⁹⁴⁶ Bachman, Ronet. The factors related to rape reporting behaviour and arrest new evidence from the national crime victimization survey: Criminal Justice and Behaviour Periodical, Abbrev: Crim. Justice Behav. 1998

⁹⁴⁷ Ronet Bachman. 'Predicting the reporting of rape victimizations: Have rape reforms made a difference?' (1993) 20(3) Crime Justice Behave 254.

⁹⁴⁸National Legislative Bodies / National Authorities. Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP). 25 May 2015.

Similarly, Nigeria, like other countries, is obliged by international law to protect the lives and properties of people within its national territories.⁹⁴⁹ Interviewees accepted that abuse of women in conflict is a recognized global phenomenon.⁹⁵⁰ However, other countries were making efforts to reduce these crimes and adequately protect their citizens. In contrast, the Nigerian government is turning a blind eye and labelling such abuse as a tribal issue.⁹⁵¹ Interviewee 8, a worker with the Nigerian Red Cross, articulated the vulnerability of women and lack of protection from “their” men during conflicts:

‘It’s a well-known fact all over the world, when it comes to matter of conflicts, women and children are the most vulnerable and Nigeria is no exception. They are always helpless, therefore subject to abuse and torture. Globally, it is believed that men are stronger sex, which is an added advantage to escape danger leaving the women, children and disabled behind. That puts them most vulnerable to all forms of attack.’

In this regard, women are stigmatised as the “weaker gender.” In times of conflict, this exposes women more to violence and exploitation. The interviewee quoted above expressed views on a professional level, based on experiences encountered after attacks on communities by militants. This view was seconded by Interviewee 5, a lawyer, who expressed her opinion on the fact that the

⁹⁴⁹ African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10 Laws of the Federation 1990 which domesticates the African Charter. See also *Abacha V. Fawehinmi* [2000] 6 NWLR 228 where the Nigerian Supreme Court stated that ‘[cap 10 [African Charter] is a statute with international flavour [...] if there is a conflict between it and another statute, its provisions will prevail over those of that other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation.’

⁹⁵⁰ UN Office of the High Commissioner for Human Rights: Report of the Mapping Exercise documents the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, available at: (2010)

⁹⁵¹ Meredeth Turshen, *The political economy of rape: An analysis of systematic rape and sexual abuse of women during armed conflict in Africa* (na 2001).

national forces have not placed special emphasis on the protection of women and children during internal conflicts in Nigeria.⁹⁵² This issue was emphasized in the following quote:

‘Nigerian society has not developed to such an extent for its security forces to focus or place special emphasis on any particular group or gender who are termed vulnerable during any conflicts.’

When we compare legal processes in Nigeria with a country like Britain, we can understand interviewee 5’s point that “Nigerian society has not developed” based on the implementation and execution of legal processes in Nigeria and their gender-specific focus.⁹⁵³ A similar idea on “gender specific laws”⁹⁵⁴ was raised by Interviewee 3, a worker with a privately run NGO; stressing that if there are such regulations in place, security agencies would place special focus on execution of those laws.⁹⁵⁵

‘Generally, in every conflict situation, usually it is the women, children, disabled and elderly of the society who are worst affected by abuses during conflicts, and Nigeria is not excluded. Nigeria, especially in Niger Delta (MEND) and Northern Nigeria where Boko Haram operates, have taken advantage of vulnerabilities of women to inflict all kind of offensive abuses on them and nothing is done to prevent or protect them. They are at the mercy of militants.’

⁹⁵²National Legislative Bodies / National Authorities. Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP): 25 May 2015.

⁹⁵³Laura Smith-Spark. Women’s bodies have become part of the terrain of conflict. BBC December 8, 2004

⁹⁵⁴United Kingdom Sexual Offences Act 2003: legislation. Gov. UK.

⁹⁵⁵Udekwe, N. V. “Sexual Abuse among the Adolescents in Nigeria: Religious Implications and the Way Forward”, M. A. Seminar Paper, University of Nigeria, Nsukka, Enugu State.

Equally, a different participant raised the issue of religion being the motivating factor in conflicts, particularly in the case of crimes instigated by Boko Haram. Interviewee 8, a worker with the Nigerian Red Cross, emphasized that:

‘In Nigeria, especially in Northern Nigeria where the Islamic sect Boko Haram has been terrorizing the residents, more than 500 women and girls have been seized and held in militant camps since 2009 as part of the ongoing conflicts between the government and Boko Haram. The single biggest abduction was of 276 girls from a school in Chibok in April 2014 by Boko Haram. Up until now they have not been able to locate those women and girls, and the issue has been swept under the carpet.’

The major problem perceived in Nigeria is that all aspects of its existence have either been politicized or influenced by religion or culture.⁹⁵⁶ A typical example is the battle between government forces and Boko Haram, which is driven by Islamic (religious) ideology.⁹⁵⁷ Islam perceives other religions as phony and not true believers in the Superior Being. Muslims believe that only the Islamic religion should exist, and other religions should be eradicated. This has been the major component in the fight of Boko Haram.⁹⁵⁸ The Boko Haram conflict in Nigeria is viewed as a religious war and, to an extent, as tribal battles rather than rebels trying to destabilise political power, thereby disintegrating the national security of the country.⁹⁵⁹ The case of over 200 kidnapped girls was acknowledged by the

⁹⁵⁶National Legislative Bodies / National Authorities. Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP): 25 May 2015.

⁹⁵⁷John Thompson. Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma). Canada Free Post. May 9th, 2014.

⁹⁵⁸ Ibid.

⁹⁵⁹Supra 1007

then ruling government as a problem of the Northerners.⁹⁶⁰ It was not regarded as a breach of human rights of its citizens, nor was it perceived as a breakdown in the nation's security and peace.⁹⁶¹ This was reflected in the responses of Interviewee 10 (a female journalist), who identified the lack of prompt response from the government:

'When the first girls were kidnapped, there should have been reactions from the whole country. You know the Nigerian attitude where if something doesn't happen on our doorstep then it doesn't exist or it's not our concern. The government acted as if it was the problem of the girls' families. Then you could hear people saying, "It's their problem, those Hausa people, let them bear their cross, it's not our problem."

In Nigeria, there is these accusations laid against the government on the slow pace in response to incidence. The government reaction and action were not prompt, and enough to reciprocate the actions of the militia groups.⁹⁶² This reaction was described by the participants as a result of religious disparity in the ruling government. On the issue of "*if something doesn't happen on our doorstep then it doesn't exist or it's not our concern.*" Generally, it expected that we should be our neighbour's keeper. However, that is not the case when it comes to

⁹⁶⁰Al Jazeera. Boko Haram in Nigeria. The UNICEF reports that one in five "suicide bombers" used by Boko Haram has been a child. Pub Year: 2017

⁹⁶¹Dionne Searcey. Years After Boko Haram Kidnapping, Dozens of Girls Are Freed, Nigeria. The Nigerian government announced that 82 of the girls who had been taken from a school in Chibok, Nigeria, three years ago had been released in exchange for as many as six suspected Boko Haram militants. May 6, 2017.

⁹⁶²Dionne Searcey May 6, 2017 Years After Boko Haram Kidnapping, Dozens of Girls Are Freed, Nigeria. The Nigerian government announced that 82 of the girls who had been taken from a school in Chibok, Nigeria, three years ago had been released in exchange for as many as six suspected Boko Haram militants.

cultural, tribal and religious war in Nigeria, and there is still bitterness Muslims and Christians.⁹⁶³

A similar response from Interviewee 5 (a female lawyer) was provided on the same issue:

‘It’s the Hausa problems, they are attacking their Hausa Christian brothers. It’s not our problem.’

The Hausa’s are one of the Muslim tribes residing in Northern Nigeria. There is the belief that they hate other non-Muslim tribes. Thus, when there is any incident against them, other tribes disassociate themselves. Likewise, Interviewee 11 (a journalist) agreed on the nonchalant attitude of the government:

‘The government had a nonchalant attitude. They acted as if it was the problem of the girls’ families. Then you could hear people saying, “Let them kill themselves, those Hausa people, let them bear their cross, it’s their problem.”’

The government are also accused of the nonchalant attitude, especially if the ruling president was of the opposing religion. They interpret it to be an internal fight between brothers, with no external interference. After the unification of Northern and Southern Nigeria, there were concerns about religious, traditional, and political disparities.⁹⁶⁴ These differences comprised a partial catalyst for the Nigerian Civil War in the 1960s and 70s, and this situation has not significantly

⁹⁶³Sampson, Isaac Terwase. The dilemmas of counter-Boko Haramism: Debating state responses to Boko Haram terrorism in Northern Nigeria. *Security Journal*.2016, Volume: 29. Issue: 2 Page: 122- 146. Springer.

⁹⁶⁴Bamidele, Oluwaseun. “Boko Haram Catastrophic Terrorism: An Albatross to National Peace, Security and Sustainable Development in Nigeria.” *Journal of Sustainable Development in Africa*. 2015: Volume: 14.1

changed.⁹⁶⁵ Rather, it has precipitated the collapse of different elected governments and ushered in a military takeover in Nigeria. The Boko Haram movement was channelled through this type of ideology. Boko Haram believers have tried on several occasions to introduce Sharia in Nigeria as a national religion but have been thwarted by opposition from the Christians in Southern and Western Nigeria. Therefore, Christians from Southern Nigeria regarded any attack by Boko Haram on fellow Northerners as their problem, rather than the problem of Southern Nigerians.

Since its inception, the Boko Haram militia group in Northern Nigeria has triggered considerable controversy. Apart from the kidnapping of schoolgirls from their dormitories, other reports have indicated that women and girls were adopted daily from villages around the Northern states of the country.⁹⁶⁶ The case of the schoolgirls came into the limelight and received much international attention because the target was an all-girls Christian school. However, after a couple of months elapsed, publicity fizzled out. The Boko Haram militia group released different media messages regarding the schoolgirls. They claimed that some of those girls had been sold out as sex slaves, others married out to members of their group or used as domestic slaves, and the rest were used as female suicide bombers.⁹⁶⁷

This new dimension has sparked debates from the public on the welfare and security of girls and lack of action from the government. While some accept the story to be true, others have claimed that the kidnapping was political propaganda

⁹⁶⁵Yusufu Turaki. Historical Roots of Crises and Conflicts in Nigeria. With Reference. To Northern Nigeria and Kaduna State Pub Year: 1982.

⁹⁶⁶Stremlau, J. J. The international politics of the Nigerian civil war, 1967-1970. Princeton University Press.

⁹⁶⁷British Broadcasting Corporation. Boko Haram crisis: Nigeria's Baga town hit by new assault." BBC World News. 8 January 2015.

solely to destabilise the administration of the Southern government.⁹⁶⁸ It was of utmost importance to uncover the views of the public on this controversial issue.

6.5. Kidnapping and perceived veracity

Interviewees were asked about their perceptions regarding the kidnapping of the schoolgirls and the alleged sexual abuse reports because some people believed the whole episode was stage-managed. The question naturally arises of how future kidnappings can be prevented.

It was a common understanding among the interviewees that the kidnapping took place, and the story was not stage-managed as speculated. They also emphasized that this was not the only incidence of kidnapping steered by Boko Haram. Many villages, including the Kubrriyu and Gumsuri villages in Northern Nigeria, within Boko Haram's controlled area, witnessed kidnapping, rape, and sexual abuse on a daily basis.⁹⁶⁹ Interviewee 10 (a female journalist) had this to say:

'Between you and me, I will say yes, these girls were kidnapped, and the statistics of kidnapping by Boko Haram have been underestimated. Unlike the issue of the girls that were kidnapped from Chibok, other women and girls are kidnapped all the time from villages in the North, but their cases do not gain such publicity, and therefore go unnoticed by the world. I always fear the worst for those girls, because even if they are found, they will never be the

⁹⁶⁸ Elizabeth Pearson Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons. October 16, 2014.

⁹⁶⁹ Okoli, Al Chukwuma, and Philip Iortyer. "Terrorism and humanitarian crisis in Nigeria: Insights from Boko Haram insurgency." *Global Journal of Human Periodical*, Abbrev: Social Science: 2014 Volume: 14.1

same again. I just don't want to imagine what they have gone through.'

There are different explanations relating to the case of the kidnapped school girls. Most people view it to be politically staged to destabilize the country and impeach the Christian president. Others claimed it was instigated by the religious leaders to force Northern Christians to convert to Islam.⁹⁷⁰ However, this interviewee, believed that innocent girls were kidnapped as a bargaining chip by the militia group. Also, there was the fear of what the group was going to subject the girls to, because of their mode of operation when the opposing group was captured. A similar response from Interviewee 3 (a worker with a privately-run NGO) confirmed the above:

'Of course, the story is true. Girls were kidnapped and abused. It's not possible to take that number of girls unaccounted, unprotected for over a period without harming them. It's not possible.'

However, there were some sceptics among the interviewees who were in doubt as to the accuracy of the reports. Interviewee 6 (a male medical doctor) was uncertain as to the accuracy of the figures of abuse victims.

'We don't really know the actual truth with regards to those hundreds plus alleged missing girls in Northern Nigeria. Nobody saw them being taken. I think they are speculation. Northern propaganda to undermine the government.'

Interviewee 6 commented that the figures presented an exaggerated number. As earlier discussed, the issue of the kidnapping of the 270 girls gained much

⁹⁷⁰Agence France-press. Boko Haram destroys at least 16 villages in NE Nigeria: officials." Business Insider.

publicity and momentum for its religious setting,⁹⁷¹ but most importantly because those allegedly kidnapped girls were offered in exchange for the release of jailed members of Boko Haram.⁹⁷²

The political tone of the official discourse made it very difficult for the public to accept that these crimes took place. Following these incidents were allegations against high-ranking Northern religious, military, and political leaders found to be sympathetic to the ideology that influences this group. Most of the leaders were accused of being in support of the ideology due to political reasons, to destabilise the ruling Southern power. This was a way to divert the government's attention from serious economic matters to maintaining security equally. There has been use of female suicide bombers to draw attention away from rape.⁹⁷³ These emerging tactics have changed the character of internal conflict in Nigeria.⁹⁷⁴

The inclusion of women as suicide bombers has placed women in a controversial position in situations of armed conflict. In the eyes of the public, these female suicide bombers are categorized as terrorists. However, they are in fact victims who are forced at gunpoint to carry out these atrocities. These acts have changed the face of terrorism in Nigeria, because women and children are now forced to commit these crimes against their will. With all this taking place, most female victims of terror attacks lose public sympathy, not least because of doubts about

⁹⁷¹Hassan, Muritala Babatunde. Boko Haram Insurgency and the Spate of Insecurity in Nigeria: Manifestation of Governance Crisis. Research on Humanities and Social Sciences. 2014, Volume: 4 Issue: 1 Page: 9 -18.

⁹⁷² Jacob Zenn. 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014) 7(5) CTC Sentinel 1.

⁹⁷³ Dionne Searcey. 'Years after Boko Haram Kidnapping Dozens of Girls Are Freed, Nigeria. The Nigerian government announced that 82 of the girls who had been taken from a school in Chibok, Nigeria, three years ago had been released in exchange for as many as six suspected Boko Haram militants' (May 6, 2017).

⁹⁷⁴Elizabeth Pearson. Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons, (October 16, 2014).

the degree of their actual involvement in and sympathy for the ideology of Boko Haram.⁹⁷⁵

Participants emphasized the laxity and slow action by the government in tackling violence against women. The lack of concern for the safety of the victims and slow response by the security forces raises some concerns about human rights violations taking place in the country and the reliability of the government's legal system. The non-existence of investigation of conflict-related rape allegations in Nigeria has been a major impediment for rape victims attempting to overcome the barrier of stigma. Most interviewees supported the view that the low rate of reported rape cases indicated that societal perceptions play a major role in the reporting of attacks by victims.

Nigerian societal stigmatisation has made it impossible for a woman to identify herself as a rape victim, due to the acceptance of certain religious or cultural beliefs. Globalization has tried, in its own way, to change people's perception of dangerous practices. However, deep-rooted preconceived notions on certain issues, including rape, still evoke major problems. The people who have struggled to advocate in favour of the rights of rape victims remain anxious about the effects of social and marital influences and the rejection of victims by families. The issue of family honour is still upheld in most societies. Most families lose focus on individuals due to their desire to uphold their collective integrity, consequently neglecting their duties towards victims. Therefore, there is yet to be a holistic change in perceptions to bring about the non-stigmatization of rape victims, as observed in countries like India⁹⁷⁶ and the developed world. This could

⁹⁷⁵ Ibid.

⁹⁷⁶ Okoli, Al Chukwuma, and Philip Iortyer. "Terrorism and humanitarian crisis in Nigeria: Insights from Boko Haram insurgency." *Global Journal of Human* (2014) 14.1 Social Science 39-49.

be achieved by a combination of legislation and change in attitudes towards rape and the protection of abused women, without which victims' attitudes to reporting rape crimes will remain the same.

When there is a case of rape, whether it is a domestic or conflict-related situation, the first port of call for any rape victim is the police station.⁹⁷⁷ The way she is received or treated at the station has a great impact on the reporting of subsequent rape cases and follow in court.⁹⁷⁸ Allegations of a lack of professional practices on the part of the police personnel at the station are common. There was agreement among most participants on the prejudice towards rape victims at the initial stage of reporting, which deters other victims from coming forward.⁹⁷⁹ Interviewee 12 (an ex-policeman), expressed the harsh and judgmental treatment faced by rape victims at the police station:

'If you walk into a police station there is a likelihood that the first person you meet to make a report is a man. The person you are reporting to is also a male, like the attacker. Most of them are very judgmental. The policeman will ask you about your mode of dressing before the rape incident or why you were singled out for attack. They blame you even before you talk.'

There was huge concern on the part of participants arising from this type of attitude towards rape victims at the police station. Whether it is a domestic or conflict-related rape allegation, it is the responsibility of the police to investigate

⁹⁷⁷Dhram. Veer Singh Krishnawat 2012. Redefining the rape laws in India: A comparative and constructive approach.

⁹⁷⁸Bachman, Ronet. The factors related to rape reporting behaviour and arrest new evidence from the national crime victimization survey: Criminal Justice and Behavior. *Crim. Justice Behav.* 1998, Volume: 25. Issue: 1, Page: 8 -29. Sage Publications.

⁹⁷⁹ Ibid.

the crime.⁹⁸⁰ However, when the law enforcement officer is the first to blame the victim, then it is almost impossible for the victims to pursue the case further.⁹⁸¹ Consequently, victims know that they will always be judged, and they may perceive that they have no possibility of achieving justice. Another puzzle for most participants was the preconceived notion that victims are always responsible for their predicament.⁹⁸² This was highlighted in the debate about the relationship between the mode of dress and being raped amongst participants, as I examined with reference to past wars in which there is no relevance of the mode of dress in the rationale of raping a person.⁹⁸³

Some African people exhibit sanctimonious tendencies, causing society to exhibit a holier-than-thou attitude towards certain aspects of life. Stigma is more dominant in this kind of environment and Nigerian socio-cultural attitudes are no exception.⁹⁸⁴ Rape victims are perceived to be responsible for their predicament.⁹⁸⁵ However, in conflict situations, it is obvious that any rape will be exceptionally traumatic, with most of such attacks occurring at gunpoint,⁹⁸⁶ yet society remains unsympathetic towards these victims. Deep-rooted beliefs in cultural norms take precedence and indirectly affect subsequent decision-making. A large majority of African men are deeply involved in, and still have a strong affinity towards, cultural practices, and these attitudes have extended into

⁹⁸⁰ Ibid.

⁹⁸¹ Bachman, Ronet. Predicting the reporting of rape victimizations: Have rape reforms made a difference?

⁹⁸² Ibid.

⁹⁸³ Askin, Kelly D. Prosecuting wartime rape and other gender-related crimes under international law: extraordinary advances, enduring obstacles: Berkeley J. Int'l L. 2003. Volume: 21 Page: 288

⁹⁸⁴ Ibid.

⁹⁸⁵ Gerdi Weidner, William Griffitt. Rape: A sexual Stigma. Journal of Research in Personality, 18, 3, (359), (1984). Crossref Volume 51, Issue 2.

⁹⁸⁶ Todd A. Salzman. 'Rape camps as a means of ethnic cleansing: Religious, cultural, and ethical responses to rape victims in the former Yugoslavia' (1998) 20(2) Hum Rights Q 348.

the professional arena.⁹⁸⁷ Policemen, who are the first responders to any crime, are subconsciously ruled by these beliefs.⁹⁸⁸ Their personal opinions directly affect their professional reasoning and judgement.

Many victims have accentuated, in their accounts, that the lack of interest to pursue rape charges against offenders is based on previous experiences of other victims with law enforcement officers. That means that the ill-treatment suffered at the police station is a clear example of blaming rape victims. No woman wishes to be tagged as a prostitute or be compelled to face the societal stigma of rape. For these reasons, among others, rape cases are highly under-reported.⁹⁸⁹

Those seeking to assess statistics of crimes committed during internal conflicts in Nigeria tend to meet a brick wall. This is because records are fragmentary and sparse. The country lacks accurate records of events that occur within its territory.⁹⁹⁰ A considerable number of crimes are committed behind the scene with little or no records. The statistics on both conflict-related and domestic rape cases in Nigeria are very sketchy and this has been a hindrance to research studies. The country is deficient in record-keeping and statistics of rape crimes. Therefore, claims of events are mostly based upon assumptions and the high rate

⁹⁸⁷Wood, E. J. 2011. 'Rape is not Inevitable during War' in K Kuehnast, C de Jonge Oudraat & H Hernes (eds), *Women and War: Power and Protection the 21st Century*, US Institute of Peace Press, Washington DC, pp. 37-63- 2006, 'Variations in Sexual Violence During War,' *Politics & Society*, vol. 34, no. 3, September, pp. 307-41.

⁹⁸⁸Harriet P. Lefley Ph. D. Clarissa S. Scott Ph. D. Maria Liabre. Ph. D. Dorothy Hicks M. D. Cultural Beliefs about rape and Victims' Response in three ethnic groups. *American Journal of Orthopsychiatry*.

⁹⁸⁹ Human Rights Watch. 'In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside the premises of Wilbros Nigeria Ltd, a subsidiary of an American contractor to the oil and gas industry, based in Oklahoma. The soldiers killed four people and raped several women from the community. The Nigerian federal government dismissed the reports of rapes, asserting that photographs alleged to show the soldiers assaulting the women were staged, and the police have refused to investigate. Human Rights watch found the women's claims of rape to be fully credible and believes that contesting the accuracy of the photographic evidence is an inappropriate response by the government to serious allegations of human rights violations.' (December 23, 1999).

⁹⁹⁰Amy Grubb and Emily Turner. 'Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming' (2012) 17(5) *Aggression and Violent Behavior* 443.

of rape during conflict, though factual, cannot be verified with definite figures.⁹⁹¹ Nonetheless, what one can empirically deduce that evidence of sexual abuse within current conflicts is glaring in that women are employed as sex slaves and raped as a strategy to humiliate, instil fear, and defeat the opposing side.

Kidnapping, bombing and assassination have become endemic within Nigerian internal conflicts, placing Nigeria among the top list of terrorist countries in the world.⁹⁹² Avengers and MENDS militia groups from the Niger Delta, and Boko Haram from Northern Nigeria, presently employ women and children as suicide bombers.⁹⁹³ Nonetheless, there are conflicting reports, based on which side disseminates the information, that rape is under-reported rather than exaggerated. When faced with these predicaments within society, interviewees were asked their opinions on how the victims could be protected and the role of the civil society and government. Different suggestions and advises were made by interviewees.

Interviewee 18, a male journalist, spoke of the hindrances faced when reporting rape cases. The interviewee stressed the unwillingness of victims to follow up the cases after the initial reports,⁹⁹⁴ which he attributed to pressure from families, churches, and the general society due to stigma. The interviewee mentioned that from 2013 to date, a substantial number of rape cases had been brought forward, and most journalists had undertaken to report such cases but had met opposition from families of victims. Most of the cases were brought to the attention of local

⁹⁹¹Dr. Kemi DaSilva-Ibru. Rape stats in Nigeria- WARIF. Warifng. Org/rape-stats-in-Nigeria.

⁹⁹² Ibid.

⁹⁹³ Global Terrorism Index (GTI). 'The Global Terrorism Index (GTI). Measuring and Understanding the Impact of Terrorism. National Consortium for the Study of Terrorism and Responses to Terrorism' (2015).

⁹⁹⁴Mia Bloom. 'Female suicide bombers: a global trend' (2007) 136(1) Daedalus 94Mia Bloom. 'Female suicide bombers: a global trend' (2007) 136(1) Daedalus 94.

courts, including the Human Rights Commission.⁹⁹⁵ However, because of pressure, some victims withdrew from giving evidence or cooperating with the authorities, therefore resulting in the cases being dropped. Sentiments such as those below are heard from victims all the time:

‘I don’t want trouble, I just want this case to go away. I don’t like the way people are looking at me in the public.’

Most interviewees recounted that the ‘jungle justice’ approach was undertaken by most families rather than proper investigations, citing influences in government as the reason for this. Interviewee 18 compared the report of rape cases to that of HIV/AIDS:

‘I think if rape is reported the way HIV has been reported on a large scale, to determine prevalence rate and backing it up with empirical data, it will go a long way to give a true picture on rape cases in the country. If you come to rape cases you do not have convincing data because if, out of twenty girls who might have been raped, how are you sure that ten of them are willing to come forward and report? Even those that tell you the story, they are not willing to go beyond that so, even if you’re writing the story, you are writing in the condition of anonymity, but when you put a name and a face to that character, it drives that reality home that this person was raped.’

In South Africa, there is high rate of reported HIV/AIDS cases due to high awareness and behaviour change campaign. This has brought a tremendous reduction in death and casualties to HIV victims. So, if similar efforts were applied

⁹⁹⁵ Bachman, Ronet: The factors related to rape reporting behaviour and arrest new evidence from the national crime victimization survey. Criminal Justice and Behaviours. Crim. Justice Behav. 1998 Volume: 25, Issue: 1

to rape cases, there will be a change in attitude towards victims and possibility of accurate empirical data.⁹⁹⁶ This will enable researchers to have a clear view of conflict-related rape and be able to provide accurate advice to solving the problem of rape crimes. Besides there is still the indication that societal perception still influences attitudes towards the reporting of rape crimes. Most victims are still blamed and castigated by society.

Interviewee 18 stressed that speculation is always encountered, owing to the victims' refusal even to appear in court. Cases that were taken to the Human Rights Commission could not be sustained, since victims refused to come forward, rendering it impossible to pursue the case without victims' testimony.⁹⁹⁷ In rape cases, victims' testimonies play a great part in determining the decision by the presiding judge.⁹⁹⁸ Therefore, if the victims refuses to testify, it provides an avenue for offenders to escape prosecution.⁹⁹⁹

Similar stories were narrated by Interviewee 10 (a female journalist), on how journalists reached deadlock during rape cases when they tried to interview soldiers to verify incidents:

'There are times you get information from victims and the other side such as the soldiers, they are not willing to tell you what happened or if they were involved. As a journalist, I will want to ensure I balance my report objectively with fairness. Instances where I get information from the one party and the other side is not ready or

⁹⁹⁶Michael Olugbode 5 March 2015 Nigeria: NHRC - 2,000 Human Rights Violation Recorded in Borno.

⁹⁹⁷ Dr. Kemi DaSilva-Ibru Rape stats in Nigeria- WARIF. Links: warifng.org/rape-stats-in-Nigeria.

⁹⁹⁸ Galvin, Harriett R. Shielding rape victims in the state and federal courts: A proposal for the second decade. 70 *MlnN. L. Rnv.* 763, 765-66 (1986). 3. See id. 4. See id. 5. See id. At 787. 6.

⁹⁹⁹ Grubb, Amy; Turner, Emily. Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming: *Aggression and Violent Behavior*. 2012. Volume: 17, Issue: 5. Page: 443, 452. Elsevier.

forthcoming is one factor, and then the second is a situation whereby you are threatened if you report rape cases or get arrested. The fear alone won't let you get into the case knowing fully well that I know what happened and that if reported it will come into full view of the public. It is going to be like letting the world know what women in the third-world countries are going through. These are the factors that the government must handle. Besides that, there are instances where you get involved and are told that you can't report the story by your boss or are being bribed as well as told you can't report the story. This means that the case might have something to do with a rich or influential person in the society. So, they won't want you to report cases that involve them. That is why journalists keep stories under the carpet and won't want to go through with the story.'

In Nigeria, journalism practice is very demanding and risky due to the environmental settings and insecurity.¹⁰⁰⁰ Follow-up of vital and crucial cases is met with obstacles and threats. Therefore, obtaining accurate information from both parties' concern are difficult or impossible, as in the case of the Odi rape.¹⁰⁰¹ The military refused to give interviews and request for investigation on allegations of rape levied against its staff members.¹⁰⁰² Threats and fear for life are amongst the reason most cases are not followed-up. Most times influential persons are

¹⁰⁰⁰ Hibey, Richard A. Trial of a Rape Case: An Advocate's Analysis of Corroboration, Consent, and Character.

¹⁰⁰¹ Simons, Marlise. "For first time, Court Defines Rape as War Crime." The New York Times. (June 1996).

¹⁰⁰² Onyebuchi Ezigbo. Nigeria: Obasanjo's Aide Justifies Odi Massacre This Day Lagos. 20 November 2012.

involved; therefore it is even more risky due to threat of kidnapping and torture against journalist reporting on cases.¹⁰⁰³

Also, considering the crime of rape during conflict from the viewpoint of a legal professional, Interviewee 16, a male lawyer, emphasized that the government should pay close attention to improving the national legal framework on the protection of women and children during internal armed conflicts:¹⁰⁰⁴

‘There is need for new definition of what constitutes rape in internal armed conflict situations. The Nigerian criminal legal framework is vague and porous. It gives room for perpetrators to escape conviction. Also, a task force should be put in place to investigate and enforce the law separately from the police.’

Although some states in Nigeria have taken revolutionary steps on the protection of rape victims, by the introduction of a gender-sensitive desk at the police station, the idea is still flawed. Among the criticisms against the gender-sensitive desk is the fact that officers minding the desk are men who are already biased against feminism.¹⁰⁰⁵ These men are not likely to obtain justice or give the case all the necessary support to charge the offenders. Corruption, which is cancerous within Nigerian society, has affected the security system. Exploitation and manipulation

¹⁰⁰³ Nwajah, O. A Tale of Military Massacres: From Ogoniland to Odi Town. December 6, 1999.

¹⁰⁰⁴ Prosecuting wartime rape and other gender-related crimes under international law: extraordinary advances, enduring obstacles. Berkeley J. Int'l L. 2003, Volume: 21. Page: 288. Hein Online.

¹⁰⁰⁵ The Committee on the Elimination of Discrimination against Women recommends that: [...] (b) States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women and respect their integrity and dignity.”

have eroded professional practices, whereby offenders are able to bribe their way out of being prosecuted.¹⁰⁰⁶

Another vital point raised by a participant was poor forensic facilities in the country.¹⁰⁰⁷ This has been a great hindrance in criminal investigations. It has affected proper evidence gathering in rape cases presented in courts.¹⁰⁰⁸ Inadequate training of personnel impairs the success of rape cases. Beyond that, the government and the civil society need to collaborate to raise awareness of the negative impact of rape and the rights of victims.

Interviewee 2, an NGO worker, threw more light on all the services that NGOs in Nigeria are providing for rape and abused women, and the lack of financial support from the government.¹⁰⁰⁹ She also accentuated impediments that are being encountered in the process of performing their duties. The interviewee advocated mind-set changes, discipline on the part of the combatants and security forces, and the concern for witness protection in place for victims.¹⁰¹⁰ These would create a situation where victims could be protected and be given a new identity during and after rape proceedings. She mentioned that Nigeria has no such facilities. Assistance provided to rape victims is from privately owned and managed NGOs. Due to financial constraints, however, these NGOs are limited in the services they can provide to victims, unless the government agrees to provide financial support.¹⁰¹¹

¹⁰⁰⁶Bachman, Ronet. The factors related to rape reporting behaviours and arrest new evidence from the national crime victimization survey. *Criminal Justice and Behavior*. Crim. Justice Behav. 1998. Volume: 25

¹⁰⁰⁷ Ibid.

¹⁰⁰⁸Mirabel Centre- Sexual Assault centre: sexual assault referral: the first centre supporting rape survivors in Nigeria. Set up in 2013.

¹⁰⁰⁹ Askin, Kelly D. Prosecuting wartime rape and other gender-related crimes under international law: extraordinary advances, enduring obstacles. *Berkeley J. Int'l L.* 2003. Volume: 21. Page: 288

¹⁰¹⁰ Mirabel Centre- Sexual Assault centre: sexual assault referral: the first centre supporting rape survivors in Nigeria. Set up in 2013

¹⁰¹¹Art. 64(6) (e). Rome statute of the international criminal court.

Interviewee 2 proposed government partnership with local NGOs to empower them with the projects entrusted to them. This will expand their clientele and reach a wide range of the populace. She indicated that though there are fraudulent NGOs, there were still some reputable organizations:

‘I know some people set up NGOs to be able to access grants, free money that they can use for their selfish reasons. There are NGOs like that who are just in for the money, though they say it is non-profit, but they use it to line their pocket. Also, there are actual NGOs that help people and I think government should assist such NGOs.’

Apart from the NGOs being supported with funds, the government should appoint advisers to the advocates for rape victims during trials (public prosecutors). Similar cases are being carried out for acid attack victims in Bangladesh where NGOs, in partnership with international bodies, advocating for victims. Mirabel Centre was the first Sexual Assault Referral Centre (SARC) in Nigeria and the second in West Africa.¹⁰¹² This privately-owned rape centre is the only functioning centre in Nigeria that helps counsel rape victims. The Mirabel Centre has encountered obstacles, including threats from perpetrators, as Interviewee 2 narrated:

‘At one point, there was a lot of campaign from the Centre about abusers threatening them, so they were talking about closing up the Centre, and funds was another hindrance in running the centre and paying of staffs.’

¹⁰¹² Mirabel Centre (Sexual Assault Centre) for sexual assault referrals was the first centre supporting rape survivors in Nigeria, established in 2013.

According to Interviewee 2, private individuals and women's groups have engaged in a fund-raising campaign for the Centre. Project Alert, a similar scheme, has recently been established to support the Mirabel Centre with funds. Project Alert provides shelter for abused women. She indicated that the Lagos State Government also provides shelter, but not in a good condition or as well-maintained as the private shelter. Therefore, there is need for the government's full involvement in such projects to rehabilitate and produce an enduring impact on the lives of rape victims.

6.6. Conclusion

This chapter assesses issues raised based on the experiences of participants. This was achieved by a thematic approach method of coding. Each theme was sectioned into chapters to respond to an objective within the research. The first theme evaluated the hindrances or obstacles that are encountered by rape victims in Nigeria. This was achieved through experiences and reports of participants on personal and professional grounds. It highlighted the changing tactics in conflicts and the high rate of sexual abuse against women in internal conflicts in Nigeria. From the discussion, participants were able to outline how cultural perception has been a major obstacle in the struggle to prevent abuse and rape of women during conflicts. Participants articulated how the low value accorded women in African society had affected attitudes towards women.

Other issues emphasized by the participants were stigmatization of rape victims, constant blaming of rape victims and a lack of support from families and communities. Additional points mentioned were lack of discipline on the part of combatants and security forces, and poor forensic facilities and investigations of rape cases. The issue of witness protection for victims during trials was

advocated for by participants. To counter the above, they called for the provision of new identities to be given to rape victims as part of a rehabilitation and reintegration programme. Participants have also lobbied government, through campaigns for financial aid, to provide funding to NGOs managing rape and supporting abused women.

7. Influence of Social Constructions

7.1. Influence of societal perceptions on responses to conflict-related sexual abuse and rape

In Africa, culture, religion and tradition all shape perceptions and judgments on major topics including rape. There are national laws, including the Criminal Code in the South¹⁰¹³ and the Penal Code in the North;¹⁰¹⁴ regional laws, including the African Charter on Human and Peoples' Rights;¹⁰¹⁵ and numerous international treaties enacted into local legislation.¹⁰¹⁶ The traditional laws handed down from generation to generation technically take precedence.¹⁰¹⁷ As earlier mentioned, this theme evaluates the extent of influence of societal perception on responses towards conflict-related rape in Nigeria.

Efforts have been made from the grass-roots level to address discrimination towards rape and abused women.¹⁰¹⁸ Indeed the Nigerian Constitution prohibits such abuse of women.¹⁰¹⁹ However, this provision is inadequate because of

¹⁰¹³ Mirabel Centre- Sexual Assault centre: sexual assault referral: the first centre supporting rape survivors in Nigeria. Set up in 2013.

¹⁰¹⁴Such as rape in section 357 of the Criminal Code; defilement of a girl under 13 in section 218 of the Criminal Code; defilement of girls under 16 and above 13, and of idiots in section 221 of the Criminal Code, etc.

¹⁰¹⁵Ruth Olurounbi. Section 282 of the Penal Code and section 357 of the Criminal Code exempts perpetrators of rape within marriage from punishment.

¹⁰¹⁶Viljoen, F. An Introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2009.

¹⁰¹⁷Laden, M. Issues in domestic implementation of the Rome Statute of the international criminal court in Nigeria: A round table presentation with parliament on the implementation of the Rome Statute in Nigeria. Organized by Nigerian coalition on the international criminal court (NCICC). 12 November 2002.

¹⁰¹⁸Sarbah, John Mensah Fanti customary laws: a brief introduction to the principles of the native laws and customs of the Fanti and Akan districts of the Gold Coast with a report of some cases thereon decided in the law courts (1968).

¹⁰¹⁹11th session, 1992), paragraph 7, The Committee on the Elimination of All Forms of Discrimination against Women identified gender-based violence, including rape and sexual violence, as a form of discrimination, and stated that:....

loopholes in its definitions of rape, enabling perpetrators to evade prosecution and conviction:

‘Rape could only be said to have occurred when there is penetration of the penis however slight; therefore, rape is confined to the act of penetration.’¹⁰²⁰

Rape with an object is not accepted in Nigeria courts unlike the ICTY & ICTR’s definition where rape with objects are accepted.’¹⁰²¹

There is still need to broaden the definition of rape to eliminate loopholes that enable offenders escape prosecution. It is obvious that rape can occur without the actual penetration of male penis, which unfortunately is not included in the provision under the Nigerian criminal code.¹⁰²² NGOs such as the International Federation of Women Lawyers (FIDA), a women’s legal body in partnership with grass-roots women’s groups that deal with issues of abuse, have made rape the focal point of their agenda.¹⁰²³ These NGOs have dealt with terrible cases of abuse of women and children, both of a domestic and conflict-related nature.¹⁰²⁴

¹⁰²⁰Sect 12 of Nigerian constitution of 1999.

¹⁰²¹According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South ‘any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offense which is called rape.’ Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

¹⁰²²MacKinnon, Catherine A. 2006. “Defining Rape Internationally: A Comment on Akayesu.” Pp. 237-246 in *Are Women Human?*

¹⁰²³ The Criminal Code Act, Chapter 77 of the Laws of the Federation of Nigerian. 1990.

¹⁰²⁴G. Adikema-Ajaegbo. Article Title: ‘International Federation of Women Lawyers’. *Fédération Internationale Des Femmes Juristes – Federación Internacional De Abogadas – Federazione Internazionale Donne Avvocato Constitution as Amended Through October 1990.*

Statistics of rape during conflicts in Nigeria include rapes and general massacres in (in Bayelsa State),¹⁰²⁵ Ogoniland,¹⁰²⁶ and Choba (Rivers State).¹⁰²⁷ In addition, the rape of schoolgirls from Chibok¹⁰²⁸ others were from several Borno towns and villages, including Abadam, Bama, Baga, Damasak, Dikwa, Gamboru Ngala, Gwoza, Kukawa, and Walassa, have been documented.¹⁰²⁹ These rape crimes now appear to be a routine and expected reward to the conquerors.¹⁰³⁰ This is due to a lack of discipline and obedience to the law governing conflicts,¹⁰³¹ and most importantly, because rape has now been integrated into military strategy to undermine the strength of the opposition.¹⁰³²

Due to the upsurge of conflict-related rape cases, interviewees were asked to express their opinion regarding rape in Nigerian conflicts. Reports provided by Interviewee 14, a female NGO worker, on survivors recounting their experiences of rape, were alarming. Stories of torture, rape, and killing were communicated

¹⁰²⁵ Ibid.

¹⁰²⁶ African Charter on Human and Peoples Rights African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10 Laws of the Federation 1990 which domesticates the African Charter. See also *Abacha V. Fawehinmi* [2000] 6 NWLR 228 where the Nigerian Supreme Court stated that '[cap 10 [African Charter] is a statute with international flavour [...] if there is a conflict between it and another statute, its provisions will prevail over those of that other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation.'

¹⁰²⁷ Nwajah, O, O, and O. December 6, 1999 a Tale of Military Massacres: From Ogoniland to Odi Town.

¹⁰²⁸ Human Rights Watch December 23, 1999 In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside the premises of Wilbros Nigeria Ltd, a subsidiary of an American contractor to the oil and gas industry, based in Oklahoma. The soldiers killed four people and raped several women from the community. The Nigerian federal government dismissed the reports of rapes, asserting that photographs alleged to show the soldiers assaulting the women were staged, and the police have refused to investigate. Human Rights watch found the women's claims of rape to be fully credible and believes that contesting the accuracy of the photographic evidence is an inappropriate response by the government to serious allegations of human rights violations.

¹⁰²⁹ Zenn, Jacob 2014 Boko Haram and the kidnapping of the Chibok schoolgirls

¹⁰³⁰ Kawu, I. M. "Nigeria's Troubling Epidemic of Rape": [HTTP://www.Nigeriastroublingepidemicofrape](http://www.Nigeriastroublingepidemicofrape), on July 4, 2013.

¹⁰³¹ Folayan, Morenike O; Odetoyinbo, Morolake; Harrison, Abigail; Brown, Brandon. Rape in Nigeria: a silent epidemic among adolescents with implications for HIV infection. Global health action.

¹⁰³² Nigerian Institute of Strategic Studies.new.ismng.org.

by victims whose families were destroyed. These include quotes from testimonies between NGOs and victims:

‘My husband was shot, they killed my two sons and took my daughter.’

“We won’t kill the women and the girls,” the soldiers said. They claim they needed us. They raped us. As if rape were different from death.’

‘Four of them held me down and forced me to watch as three others raped my 11-year-old daughter.’

These were personal testimonies (reports) from survivors of conflict-related rape in Northern Nigeria to NGOs on how their families were tortured and raped by soldiers and militants. They expressed how the security agents had turned enemies of the masses, with disregards to rules and regulations governing warfare. Others expressed how humiliated and suicidal they felt at the hands of militants:

‘I could only see blood as the men took turns to rape me. I wanted to die.’

These were the stories that are told daily by women who lived in militant-occupied territory in the Northern Nigeria. And also, similar testimonies were recounted in the Niger Delta region occupied by MENDS and Avengers militants.¹⁰³³ Women and girls live in constant fear of invasion by these militants with no protection from the government. Kidnapping, rape and abuse of women and girls are carried out

¹⁰³³Amnesty International’s 2004 reports on ‘Women and War: Rape as Weapon of War’ and ‘Lives Blown Apart: Crimes against Women in Times of Conflict: Stop Violence against Women,’ and Human Rights Watch’s 2000.

constantly by militants and soldiers.¹⁰³⁴ This newly introduced tactic in internal conflicts in Nigeria gained international attention due to an attack on a Christian secondary school.¹⁰³⁵ Unfortunately, very little effort has been engaged by the federal government to prevent such attacks, to protect women, or to pursue justice.¹⁰³⁶

The constant abuse and devaluing of women have been blamed on the masculine rooted culture in Africa.¹⁰³⁷ Though Boko Haram explains its wartime rape through twisted interpretations of religious doctrine, at the base of this is an entrenched belief in the superiority of men.¹⁰³⁸ What can we do to address these perceptions? Most interviewees believed education alone is not enough to eradicate rape in war. There is need for the society to condemn rape, and the government to act upon it.¹⁰³⁹ So far, there have been no reports of prosecutions or convictions of any conflict-related rape cases in Nigeria. There was common agreement that lack of prosecution in past conflicts was also a contributing factor to the increase of rape in conflicts as well as domestic rape cases. Most militants and national soldiers believe that their predecessors have gone unpunished for similar crimes, so they can also evade justice.¹⁰⁴⁰

¹⁰³⁴ Chris, Ewokor. The Niger Delta Avengers: Nigeria's Newest Militants. BBC Africa, Nigeria.

¹⁰³⁵ Peters, Ayo. Understanding Kidnapping as a Political Act. A Case of the Niger Delta. 2016

¹⁰³⁶ Zenn, Jacob: Boko Haram and the kidnapping of the Chibok schoolgirls. CTC Sentinel. 2014

¹⁰³⁷ Van Bueren, Geraldine. The International Legal Protection of Children in Armed Conflicts. Volume 43, Issue 4 October 1994, pp. 809-826. International & Comparative Law Quarterly

¹⁰³⁸ Harriet P. Lefley Ph. D. Clarissa S. Scott Ph. D. Maria Liabre Ph. D. Dorothy Hicks M. D. Cultural Beliefs about Rape and Victims' Response in Three Ethnic Groups. American journal of Orthopsychiatry.

¹⁰³⁹ John Thompson. Boko Haram and Islamic Rape: Bio and Archives. May 9, 2014

¹⁰⁴⁰ National Legislative Bodies / National Authorities. Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP). 25 May 2015.

7.2. The role of cultural perceptions in the abuse of women in conflicts

Interviewees believed women were generally perceived as the weaker sex, thus they bear the burden of any wrongs within society.¹⁰⁴¹ Cultural perceptions in the African community condemn women to second-class citizenship, so their rights are not always appropriately protected. There is an adage in Africa that was repeated by Interviewee 7, a civil servant who declared that:

‘Women are only expected to be seen and not heard. Therefore, certain cultural practices help perpetuate discrimination against women.’

Handed-down cultural perceptions play a major role in the societal attitudes and generally accepted norms. Women in Africa are traditionally not expected to have a voice on vital issues. They are seen as servants and helpers and are therefore relegated to the background.

Increased terror attacks by Boko Haram stem from religious ideology laid down through Islamic religion.¹⁰⁴² Boko Haram militants believe that their religion not only approves of their actions, but also demands it, despite the overt prohibition of their terrorist actions in actual Islamic law. They identify their cause as sacred, with a sense of hope for the future and retribution for the past.¹⁰⁴³ The Nigerian government was not prepared for the revolutionary changes in internal conflicts,

¹⁰⁴¹Domestic Violence Legislation, Nigeria. Jigawa State of Nigeria Projection against Domestic Violence Law 2005 Cross River State of Nigeria Lagos State of Nigeria Violence against Persons (Prohibition) Act 2015.

¹⁰⁴² Tamale, Sylvia. The right to culture and the culture of rights: a critical perspective on women's sexual rights in Africa. *Feminist Legal Studies*. 2008. Volume: 16, Issue: 1. Page: 47, 69. Springer.

¹⁰⁴³ John Thompson. Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma). *Canada Free Post*.

and the criminal law in Nigeria was not fashioned for sophisticated attacks by militants.¹⁰⁴⁴ Therefore, a strong rationale for the federal government enacting the Terrorism Prevention Act 2011, amended in 2013, in the struggle to prevent terror attacks in Nigeria.¹⁰⁴⁵

Though this Act is in the right direction on the prevention of terrorism, it is faced with criticism because rape and abuse of women were never mentioned as acts that were prohibited under the law during terror attacks.¹⁰⁴⁶ Similarly, the Nigeria Sexual Offences Bill, introduced in 2015,¹⁰⁴⁷ and the Child Rights Bill, in 2003, were positive developments in protecting women and children from rape and other forms of sexual abuse.¹⁰⁴⁸ However, these bills too, were not without their controversies and criticism on the issue of defilement of children.

It is expected by the Nigerian federal government that states within Nigeria will adopt these bills and implement them. However, most Northern states, backed by a reactionary interpretation of religious beliefs, have refused to implement the laws and have continued to carry out gross human rights abuses of vulnerable persons within the society. These are among the hindrances encountered to

¹⁰⁴⁴ Ibid.

¹⁰⁴⁵ Section 357 of the Criminal Code: which applies to the Southern part of Nigeria as: Any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of 2 harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.

¹⁰⁴⁶ Oyeboade, Akin: Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria's Terrorism (Prevention) Act, 2011. Pub Year: 2012.

¹⁰⁴⁷ Sampson, Isaac Terwase. 2016. The dilemmas of counter Boko harams: Debating state responses to Boko Haram terrorism in Northern Nigeria.

¹⁰⁴⁸ Violence against Persons (Prohibition) Act, 2015, Nigeria. 5 May 2015 – President Goodluck Jonathan, this afternoon, passed the Violence against Persons Prohibition (VAPP) bill into law. The new law prohibits female circumcision or genital mutilation, forceful ejection from home and harmful widowhood practices. It prohibits abandonment of spouse, children and other dependents without sustenance, battery and harmful traditional practices. Legislation online: <http://www.refworld.org/docid/556d5eb14.html>.

protect women and children from the negative impacts of religious and cultural beliefs.¹⁰⁴⁹

The godfather syndrome is a noted feature of Northern Nigeria, whereby high-ranking religious clergy, top politicians, and traditional leaders sympathetic to the Islamic ideology are among those impeding efforts with their financial support to militants. Lack of accountability, corruption, and insensitivity to the growing crisis are other major problems in implementing laws in the country. Agencies created to educate and organize training in humanitarian crisis management have been rated as failures. Therefore, Nigeria requires a tough, holistic approach in tackling criminal activities and terrorism acts in the country. Such an approach should begin with a new mind-set and changes in the perception of men towards women.

7.3. Proposed societal responses

These perceptions have raised the question of how society could stem the ideology or truncated opinion towards women, another question put to the interviewees. Most interviewees advocated a change in the perceptions of men towards women as a pioneering step towards the protection of women. For many years in Nigeria, violence against women received little or no attention. The silence engulfing rape was used as a weapon to further perpetrate the acts.¹⁰⁵⁰ As previously mentioned, strong cultural, traditional and religious forces have hitherto hindered the elimination of sexual violence.¹⁰⁵¹ Consequently, abolishing extreme practices, engaging in foundational awareness by educating the younger

¹⁰⁴⁹ Ayua, Ignatius Akaayar; Okagbue, Isabella E. "The rights of the child in Nigeria." Pub Year: 1996

¹⁰⁵⁰Section 282(1) of the Nigerian Penal Code. Penal Code contained in the Schedule to the Penal Code Law, 1959, of the Northern States (hereinafter referred to as the Penal Code of the Northern States).

¹⁰⁵¹Ewelina U. Ochab. Sexual Violence as a Weapon of War. The story of Daesh and Boko Haram.

generations, and encouraging families, rather than victims alone, to participate in reporting incidents of rape, will hopefully improve attitudes towards women.

Interviewee 2, a worker with Kebetkache Women Resource and Development, mentioned that limited numbers of NGOs were assisting with the rehabilitation of rape victims and advocated government involvement:

‘The first in the country, the Mirabel Centre in Lagos, was set up in 2013. The centre has treated and supported more than 1,100 survivors of rape and sexual assault both domestic and conflict-related. The government should partner with such NGOs and empower them. It could be far-reaching, and the masses will benefit better.’

This was an indication of active participation from grassroots and professional women in their struggle to protect abused women.¹⁰⁵² Due to failure on the parts of the government, ordinary citizens have taken up the challenge to fight against domestic and conflict-related sexual abuses against women.¹⁰⁵³ This should be an opportunity for the Nigerian government to partner and financially support these NGOs

Interviewee 19, a female medical doctor, advocated the involvement of society in the provision and protection of women.¹⁰⁵⁴ She stressed the importance of women forming grass-roots organizations to campaign against the discrimination

¹⁰⁵²John Thompson. Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma). Canada Free Post

¹⁰⁵³G. Adikema-Ajaegbo. Article Title: ‘International Federation of Women Lawyers’. Fédération Internationale des Femmes Juristes – Federación Internacional De Abogadas – Federazione Internazionale Donne Avvocato Constitution as Amended through October 1990. 36th Triennial Convention for the International Federation of Women Lawyers (FIDA).

¹⁰⁵⁴Ibid.

of rape victims within society.¹⁰⁵⁵ This would encourage community collaboration and awareness on the importance of supporting rape victims instead of stigmatization them. There were hints that many NGOs in Nigeria were fraudulent; however, those who were genuinely providing services to women faced difficulties ranging from uncertainty in funding, lack of continuity and threats from sex offenders.¹⁰⁵⁶

Most indigenous NGOs, like Kebetkache, the Movement against Domestic Violence (MAD-V), the Warien Rose Foundation, and the Society to Heighten Awareness of Women and Children Abuse (SOTHAWACA), have mentioned a few ways in which they have contributed to the awareness programmes that are paramount to the success of any reform.¹⁰⁵⁷ One significant solution discussed was community involvement in security and safety, which they described as ‘the onion principle.’ This is a situation where layers of security are put in place, restoring the belief that the society, working hand-in-hand with all stakeholders, can make a difference in changing attitudes and mind-sets. They advocated male figures supporting the victims; this change would begin with families educating male children to have respect for girls and trying to protect them, rather than allowing them to suffer. Nigerian security officers are human, so if such a moral mind-set is instilled from childhood, it would go a long way towards turning around the views of the society.

¹⁰⁵⁵Emeka, Okafor Monica. Ewomazino, Akokuwebe Monica. Women and Leadership in Nigeria: Challenges and Prospects. Department of Sociology, University of Ibadan, Nigeria. July 2015.

¹⁰⁵⁶G. Adikema-Ajaegbo. ‘International Federation of Women Lawyers’.

¹⁰⁵⁷ Kebetkache Women Development. 16 days activism against gender violence: The Kebetkache Women Development & Resource Centre decries the rape of 13 female students of the University of Port Harcourt on November 14, 2009 by ex-militants who are camped in nearby Aluu community.

7.4. Summary

In summary, this chapter examined how African religious and cultural perception influence responses to conflict-related rape in Nigeria, scrutinising how cultural beliefs play a major part in sensitive issues and in fashioning societal norms. The attitudes of men towards women are shaped by the rules laid down by religion or custom, which condition how they view women as second-class citizens. This has been recognised to affect professional practices and actions, even though the national and regional laws in Nigeria prohibit the rape and abuse of women. This chapter also evaluates testimonies from victims, discusses hindrances encountered because of stigma, and the effect on victims' lives.

Evaluation of NGOs in Nigeria were discussed to appraise their role and the difficulties they encounter in the rehabilitation and protection of rape victims. It was emphasized that Nigeria has few genuine NGOs dealing with rape victims, and that these organizations require financial and professional support from the government. Furthermore, a lack of security encourages threats from offenders and deters victims from pursuing legal action, while permitting prospective offenders to continue to perpetrate their crimes.

PART TWO

LEGAL DOCTRINE AND LAW IN ACTION RESPONSES

8. Nigerian Government's Response to Rape and Abuse of Women during Internal Armed Conflicts

8.1. Introduction

Ever since Nigeria gained its independence from Britain in 1960, the country has been involved in various internal conflicts of diverse dimensions.¹⁰⁵⁸ Such violence ranges from military coups, civil war, and Muslim-Christian sectarian violence to militia insurgencies.¹⁰⁵⁹ During those conflicts, normal casualties encountered during wars have been experienced. However, with the turn of the millennium, there were changes in war strategy, which have included the abuse of women and children as weapons of war.¹⁰⁶⁰

The Odi Massacre,¹⁰⁶¹ MOSOP,¹⁰⁶² MEND,¹⁰⁶³ the Niger Delta Avengers,¹⁰⁶⁴ and Boko Haram¹⁰⁶⁵ are militia groups in Nigeria that have emerged, fighting for different purposes but with one common enemy: "the government." These militia groups have deployed terror attacks to compromise the internal security of the nation. They have also changed the strategy of conflict to include the abuse of

¹⁰⁵⁸ Ibid.

¹⁰⁵⁹ "Nigeria: Early History": The Library of Congress Country Studies. 2010-05-15. Washington: GPO for the Library of Congress.

¹⁰⁶⁰ Major Abubakar A. Atofarati: CSC 1992 Title: The Nigerian Civil War, Causes, Strategies, And Lessons Learnt. US Marine Command & Staff College. 1991.

¹⁰⁶¹ Amnesty International's: Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes against Women in Times of Conflict: Stop Violence against Women'. 2004.

¹⁰⁶² Onyebuchi Ezigbo: Nigeria: Obasanjo's Aide Justifies Odi Massacre. This Day Lagos. 20 NOVEMBER 2012.

¹⁰⁶³ Movement for the Survival of the Ogoni People. In Ken Saro-Wiwa ...broadened the reach of the Movement for the Survival of the Ogoni People.

¹⁰⁶⁴ Courson, Elias: Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and Petro-insurgency in the Niger Delta. 2009. Nordiska Afrikainstitutet.

¹⁰⁶⁵ Chris, Ewokor. The Niger Delta Avengers: Nigeria's Newest Militants. BBC Africa, Nigeria. 2016.

civilians, including women and children, as a way of conveying a strong message to the government.

Boko Haram, an Islamic sect, has attempted on several occasions to forcefully impose its religious ideology and belief on Nigeria's secular society since its inception in 2009. Over 2000 women and girls have been either raped¹⁰⁶⁶ or kidnapped¹⁰⁶⁷ by the group. Numerous human rights abuses have been perpetuated by this group,¹⁰⁶⁸ including the abduction of 276 secondary school girls in Chibok, a town of Borno state. This brought about international awareness of all the atrocities committed by Islamist terrorists in Nigeria. This incident created international publicity because the victims were girls from a Christian all-girl secondary school.¹⁰⁶⁹ However, the Nigerian government is still to find a lasting solution to this insurgency.

There are various controversial sides to the stories of the kidnapped girls. The Nigerian Army claims that some girls have been rescued, while others have claimed the reportage of abductions are political propaganda. However, it is uncertain which group of girls escaped captivity, because many villages were invaded by Boko Haram, during which women, children, and girls were kidnapped, raped, or otherwise sexually abused. Amnesty International was on the scene after an attack by Boko Haram and collated reports from families of escaped victims and actual victims of Boko Haram, revealing that the interviewed women and girls were not from the notorious abduction from the Christian

¹⁰⁶⁶ Elizabeth Pearson. Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons

¹⁰⁶⁷ Ewelina U. Ochab. Sexual Violence as a Weapon of War. The story of Daesh and Boko Haram. Mar 2, 2017.

¹⁰⁶⁸ Zenn, Jacob. Boko Haram and the kidnapping of the Chibok schoolgirls. CTC Sentinel, 2014.

¹⁰⁶⁹ Maiangwa, Benjamin. "Baptism by fire": Boko Haram and the reign of terror in Nigeria." 59.2 (2012): 40-57. Africa Today. 2016.

secondary school.¹⁰⁷⁰ This indicated that many other women were kidnapped daily from villages, without any governmental responses or awareness. These victims, according to Amnesty international, testified that they were kidnapped at gun point and forced to convert to Islam. Those women and girls who refused were physically or psychologically abused, and others were recruited into military operations.¹⁰⁷¹

The victims recounted instances where the Nigerian military forces were overwhelmed. This was due to the short supply of troops deployed, poor military equipment, and insufficient ammunition during attacks.¹⁰⁷² Others described a lack of support from government, and how they made reports of impending attacks to government forces but were met with a feeble response. HRW also accused Nigerian security forces themselves of gross abuses against women while responding to distress calls. Other soldiers were alleged to have engaged in physical abuse, extrajudicial killings, and rape of women suspected of supporting insurgents.

Likewise, during the Odi Massacre, women and children were the most targeted.¹⁰⁷³ Equally, in the fight for the emancipation of the Ogoni people,¹⁰⁷⁴

¹⁰⁷⁰ Zenn, Jacob. Boko Haram and the kidnapping of the Chibok schoolgirls. CTC Sentinel, 2014.

¹⁰⁷¹ Mausi Segun and Samer Muscati. "Those terrible weeks in their camp': Boko Haram violence against women and girls in Northeast Nigeria' (2014).

¹⁰⁷² Amnesty International UK. 'Exposed: War crimes by Nigeria's military: Nigeria's Military Unlawfully Killed 1,200 People during Hunt for Boko Haram'.

¹⁰⁷³ Nwolise, O. B. C. "Military Assistance to Civil Authority as a Constitutional Duty of the Nigerian armed Forces: Sources of Public Agonies and Outcries, Bad Military Image, and Their challenges for Political Leadership, Military Command and Professionalism" in A. Ogomudia (ed), Peace Support Operations, Command and Professionalism: Challenges for the Nigerian Armed Forces in the 21st Century. Ibadan: Gold Press.

¹⁰⁷⁴ Human Rights Watch. In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside the premises of Wilbros Nigeria Ltd, a subsidiary of an American contractor to the oil and gas industry, based in Oklahoma. The soldiers killed four people and raped a number of women from the community. The Nigerian federal government dismissed the reports of rapes, asserting that photographs alleged to show the soldiers assaulting the women were staged, and the police have refused to investigate. Human Rights watch found the women's claims of rape to be fully credible and believes that contesting the accuracy of the photographic evidence is an inappropriate response by the government to serious allegations of human rights violations.

women were also the targets and the Choba village crisis between the Wilbros protesters and the Nigerian security forces resulted in women and girls being raped.¹⁰⁷⁵ HRW found the claims of rape to be fully credible, due to the testimonies of victims and photographic evidence provided via smartphones. The government, on the other hand, concentrated on contesting the accuracy of the photographic evidence rather than investigating the allegations. This was found to be an inappropriate response from the government to serious allegations of human rights violations within its territory. Concerns from Nigerians were that the security forces and militia groups were committing serious violations of human rights, amounting to war crimes and crimes against humanity.¹⁰⁷⁶

Hundreds of sexual abuses,¹⁰⁷⁷ unlawful killings (including scores of extrajudicial executions), and deliberate attacks have been reported to have been perpetrated against civilian populations from both sides.¹⁰⁷⁸ Thousands of detainees by the security forces have also been victims of torture, rape, abuse and other cruel inhuman or degrading treatment, as punishment.¹⁰⁷⁹ These acts contradict binding provisions of the Convention against Torture¹⁰⁸⁰ (CAT) and general human rights principles contained in the Universal Declaration of Human Rights (UDHR), both of which Nigeria is party to, without reservation clauses.¹⁰⁸¹

To identify gaps in the existing legislation, interviewees were asked to evaluate the existing security situation in Nigeria. It was not surprising that all the

¹⁰⁷⁵ Courson, Elias. *Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and petro-insurgency in the Niger Delta*. 2009

¹⁰⁷⁶ *Ibid.*

¹⁰⁷⁷ Kaleck, Wolfgang 2010 *Corporate Accountability for Human Rights Violations Amounting to International Crimes. The Status Quo and its Challenges*.

¹⁰⁷⁸ Brigneti, P. and Egbonimali, S. "Rape in Nigeria: Theory & Reality." Retrieved from: 2002.

¹⁰⁷⁹ Casmir Igbokwe. "Odi Cop Killers Storm P/H." *P. M. News* (Lagos), December 13, 1999.

¹⁰⁸⁰ Amnesty International. October 31, 2008 *Somalia: Girl stoned was a child of 13.*

¹⁰⁸¹ J. Hermann Burgers, *The United Nations Convention against Torture: A handbook on the Convention against Torture and other cruel, inhuman, or degrading treatment or punishment*, vol 9 (Martinus Nijhoff Publishers 1988).

interviewees raised concerns about the in Nigeria. They articulated their views on the changing tactics of war, including the use of women and children as instruments of war.¹⁰⁸² Several questions were raised, and a summary of responses from the interviewees is presented below.

8.2. Assessments of the security situation of Nigeria during internal armed conflicts

Comments from the majority of interviewees on non-responsiveness of the government regarding the protection of vulnerable people during conflicts involved concern about the instrumentalization of women and children. It was apparent that, though there is legislation on the prohibition of sexual abuse of women, law in action differed sharply from its theoretical basis, as highlighted in responses from Interviewee 12, an ex-policeman:

‘In Nigeria, I don’t think any special emphasis is placed on protecting women and children. I assume our society has not developed to such an extent that the security forces will focus or lay prominence on the protection of any vulnerable group of people. The current legal framework on the protection of women in Nigeria is inadequate. It leaves much to be desired. There is need for enough improvement and the system could do better. Now, the law doesn’t appear to be structured in such a way that it protects the rights of women effectively.’

The criminal system in Nigeria is still behind in reforms and executions of laws. The system does not place much emphasis on the protection of women, as is

¹⁰⁸²Hannum, Hurst 1995 Status of the Universal Declaration of Human Rights in National and International Law.

practised in the UK. Rape victims are given special protection, identity change and even rehabilitation. Families are provided with professional assistance to enable them cope with the tragic situation. The Nigerian government should focus more on educating security forces, since they are the first responders to crisis situations. Similar reactions were articulated by Interviewee 5, a lawyer:

‘The situation in Nigeria with regards to protection of women and children during conflicts is very unfortunate. Like any other country, women, children, and the elderly are the most vulnerable people. They are uprooted from their known environment and sent to live in camps. A typical example is the Boko Haram situation in the North, and the Avengers of the Niger Delta in Southern Nigeria. These groups have been bombing villages, sexually abusing women, kidnapping and others are displaced from their homes. The situation in Nigeria is very bad when it comes to shelter for the needy. In the camps for displaced are reports of malnutrition; you can imagine coming to a place of refuge and you end up dying there.’

Crisis response and rehabilitation in Nigeria is patchy and inadequate. Rapid response during internal disturbances is simply lacking,¹⁰⁸³ and the security forces exhibit poor conflict resolution and diplomacy capabilities. All internal disturbances are dealt with forcefully and with arms.

Likewise, Interviewee 18, a journalist, had this to say:

¹⁰⁸³ Amnesty International. *Women and War: Rape as Weapon of War* and *Lives Blown Apart: Crimes Against Women in Times of Conflict: Stop Violence against Women*. 2004.

'The security situation in Nigeria is an interesting question. It depends on what perspective you're looking at. We have the crisis in the Niger Delta by the Avengers and MENDS, Boko Haram in the North, and the regular security problem such as domestic violence. We have to look at them generally because they are all interwoven. But we can also look at them in terms of gravity, intensity of the problems for instance. Looking at it generally we have a long way to go. A situation where you have one policeman to 1000 civilians is not good enough. I believe the government can still do better in making sure that adequate security measures are put in place of conflicts. At the same time, am I an advocate for citizens' awareness when it comes to security? I don't think we should leave every problem for the government alone. If the government can set up agencies and machineries that will create awareness in the minds of the people, about some basic actions to contribute as citizens in terms of security, I think that would go a long way, rather than just waiting for the government to do everything. Though there are a number of security issues that are beyond the agencies' capabilities, such as insurgencies and riots etc., the government has to go through trained officers to make sure they curb the situation, but generally we are still not safe, even though Lagos State has agencies, it's still not sufficient.'

From the above responses obtained from participants, it can be deduced that the security of civilians is not taken seriously by the government, as manifest in the low number of security agents in the community, and inadequate measures in

place for any crises.¹⁰⁸⁴ The interviewees established that the protection of women during conflicts was appalling, despite legislation prohibiting the abuse of women. They advocated community involvement in security and indicated that the high rate of insurgency in the country had revealed the ineffectiveness of the existing criminal legislation. They also highlighted a lack of strategy by the government in combating and cushioning the effects of militancy in the country. It further demonstrates that the criminal framework in the country was inadequate to protect citizens, even from internal attacks that, in turn, expose the country to external assaults.

Boko Haram's attacks in Northern Nigeria have exposed the laxity of the Nigerian national army, its poor training and unsophisticated military equipment's compared to the sophisticated equipment used by militia groups. It has also proven that the government attaches little significance to the defence of its citizens, reflecting on past conflicts in the country. It was established to be a common feature that women and children were at risk of attack, and there are no records of investigations on the part of government to allegations made against either the military or the rebel groups.

Similar accusations were made against the government during the conflicts on the emancipation of the Ogoni people, the Odi Massacre, the Wilbros rape incidents and, currently, the Boko Haram kidnapping and rape phenomena in Northern Nigeria. The International Red Cross stressed that conflicts in Nigeria have escalated to the status of terrorism, based on the intensity of damage, level

¹⁰⁸⁴ Mirabel Centre. Mirabel Centre- Sexual Assault centre: sexual assault referral: The first centre supporting rape survivors in Nigeria. Set up in 2013.

of group organization, and the quality of weapons used.¹⁰⁸⁵ These factors automatically change the laws applicable during such conflicts.

International Humanitarian Law (IHL) applies in both international and internal conflicts based on the implementation of certain criteria.¹⁰⁸⁶ Terrorism acts and other forms of violence may also give rise in either of these categories. In such situations, the laws of armed conflicts¹⁰⁸⁷ and IHL apply to all parties in armed conflict and, where relevant, to dissident armed forces or organized armed groups. However, it has been proven that terrorist acts can also be conducted outside the context of an armed conflict, as is the case of Boko Haram.¹⁰⁸⁸ Those acts of terrorism committed by the group are subject to domestic law enforcement regimes. However, Nigerian criminal law is inadequate to redress the atrocities committed by Boko Haram, thereby leading to the introduction of the Terrorism Prevention Act 2011 (amended 2013).¹⁰⁸⁹

The application of IHL to the Boko Haram situation is based on an assessment of the fact that there was no declaration of war.¹⁰⁹⁰ However, some states try to avoid the application of IHL altogether by arguing that their counter-terrorism activities are initiated outside a situation of armed conflict. A review of related literature indicated that in 2015, the Global Terrorism Index (GTI) ranked Boko

¹⁰⁸⁵ Dode, R. O. Nigerian Security Forces and the Management of Internal Conflict in Niger Delta: Challenges of Human Security and Development. p. 411. European Journal of Sustainable Development: 2012.

¹⁰⁸⁶ Bagaji, Ali S Yusufu 2012 Boko Haram and The Recurring Bomb Attacks In Nigeria: Attempt To Impose Religious Ideology Through Terrorism? /Boko Haram Et Les Attentats a La Bombe Au Nigeria: Tenter D'imposer Les Ideologies Religieuse A Travers Le Terrorisme?

¹⁰⁸⁷ Cullen, Anthony 2010 The concept of non-international armed conflict in international humanitarian law.

¹⁰⁸⁸ Schindler, Dietrich; Toman, Jiří. The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents. 1988. Brill.

¹⁰⁸⁹ Forest, J. J. 2012 Confronting. The Terrorism of Boko Haram in Nigeria (No. Jsou-12-5). Joint Special Operations Univ Macdill AFB Fl.

¹⁰⁹⁰ Oyeboode, Akin. Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria's Terrorism (Prevention) Act, 2011. 2012. Forum on Public Policy: A Journal of the Oxford Round Table. Forum on Public Policy.

Haram among ‘the most deadly terrorist group in the world.’¹⁰⁹¹ This supported the 2014 index, in which Boko Haram was ranked second-highest, behind Iraq.¹⁰⁹² Oddly, Boko Haram was responsible for fewer terrorist incidents but, on the other hand, it was indicated that it caused a high number of casualties, thus emphasizing the lethality of its attacks.

One of the prominent duties of all governments in a country is to guarantee the security of the lives and property of people within its jurisdiction. In many instances, constitutional and statutory provisions are provided by governments to take care of people’s security and welfare.¹⁰⁹³ However, the major impediment is implementation of these regulations. Apart from the various attempts by regional and international organizations to maintain peace and security globally, the Nigerian government has also enacted laws. Agencies are established for ensuring the security of life and property within its jurisdiction. Unfortunately, these attempts have not yielded any practical and satisfactory dividends. The nature, degree, and complexity of the current security situation is challenging, despite numerous security laws and a host of operatives.¹⁰⁹⁴

Similarly, the Odi incident was also a reflection of the male-dominated society and the military ruthlessness of Nigerian conflicts, emphasizing earlier discussed

¹⁰⁹¹ IHL: At its inception, IHL generally regulated interstate conflicts involving two or more sovereigns, with few exceptions. On the “recognition of belligerency” and the “recognition of insurgency,” see, e. g., Yoram Dinstein, *Non-International Armed Conflicts in International Law* 108-14 (2014) [hereinafter, Dinstein, *NIACs in International Law*]; Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* 9-20 (2012).

¹⁰⁹²The Global Terrorism Index (GTI) 2015. *The Global Terrorism Index (GTI) Measuring and Understanding the Impact of Terrorism*.

¹⁰⁹³*Ibid.*

¹⁰⁹⁴ Nwolise, O. B. C. “Military Assistance to Civil Authority as a Constitutional Duty of the Nigerian Armed Forces: Sources of Public Agonies and Outcries, Bad Military Image, and Their challenges for Political Leadership, Military Command and Professionalism” in A. Ogomudia (ed), *Peace Support Operations, Command and Professionalism: Challenges for the Nigerian Armed Forces in the 21st Century*. Ibadan: Gold Press. 2007.

values within society.¹⁰⁹⁵ In addition, it exposes the ineptitude of the Nigerian military. The security forces in Nigeria have an underlying belief that to bully or torture is necessary to achieve a goal, and who better to bully than women, who are the most vulnerable in society? Women will always be in a vulnerable position as long as African cultural consent is accorded to men as the superior gender. Aside from the security position, women are not positively reflected in Nigerian society. These are manifest even in the attitudes towards women on the home front. Everything about the security forces in Nigeria involves aggression. Soldiers claim that brutality is the language that Nigerians understand, and this has raised concerns about evaluating government responses to violence.

8.3. Respondents were required to evaluate government responses to violence in Nigeria

Acts of insurgency are alien to Nigerian society. Though the country has trained armed forces, they are combatants, trained to fight off external forces and not competent in internal resolution.¹⁰⁹⁶ The Nigerian soldiers are not up to dealing with acts of terrorism, nor designated to deal with the revolutionized strategies introduced in recent internal conflicts.¹⁰⁹⁷ Inadequate training to deal with the resolution of internal disputes, coupled with unsophisticated military hardware and tactics, has resulted in low performance by the security forces and the government, defaulting in its obligations to protect its citizens during crises.¹⁰⁹⁸

¹⁰⁹⁵ Dode, R. O. Nigerian Security Forces and the Management of Internal Conflict in Niger Delta: Challenges of Human Security and Development. p. 411. European Journal of Sustainable Development. 2012.

¹⁰⁹⁶ Obilade A. O. The Nigerian Legal system. Sweet and Maxwell. Ibadan. 1979.

¹⁰⁹⁷ Dode, R. O. Nigerian Security Forces and the Management of Internal Conflict in Niger Delta: Challenges of Human Security and Development. p. 411. European Journal of Sustainable Development. 2012.

¹⁰⁹⁸ Bamidele, Oluwaseun. "Boko Haram Catastrophic Terrorism: An Albatross to National Peace, Security and Sustainable Development in Nigeria." Journal of Sustainable Development in Africa. 2015. Volume: 14.1. Page: 32-44.

The Nigerian government has never paid particular attention to the issue of investigating rape cases during internal conflicts. The forensic dimension of investigation is also a serious setback.¹⁰⁹⁹ Interviewees commented on the method of investigation in Nigeria. They cited the lack of appropriate forensic laboratories and trained staff as serious impediments to the prosecution of crimes.¹¹⁰⁰ Another significant point raised by interviewees was that top government officials were also accused of committing grievous crimes against women during the performance of their duties. This has been blamed on the patriarchal system, where women are unlikely to obtain justice. Interviewee 14, a female NGO worker, presented real life testimonies regarding a state official in the country:

‘There is a particular state in Nigeria where the speaker of the executive house abuses his wife. He threw her down the stairs. Can you imagine a lawmaker having such behaviours? What kind of justice do you think women will get from such a man?’

Interviewee 12 was trying to highlight the facts that if a lawmaker can perpetrate violence at home, it is unlikely that such a person will sympathize on the plight of women during conflict. He is expected by the position of his office to protect the civilian population (women) on the domestic end as well as during conflict. However, this could not be guaranteed from such a lawmaker who has a violence tendency to try and condemn a fellow man who is also exhibiting similar characteristics as him.

Equally, Interviewee 19, a medical doctor, also raised similar concerns:

¹⁰⁹⁹ Karibi Whyte, A. G. Section Title: History and Source of Nigerian Criminal Law. Ibadan. 1993.

¹¹⁰⁰ Evelyn Okakwu. Investigation: In Search for Justice, Shoddy Prosecution Frustrates Nigeria’s Child Rape Victims. Premium Times. October 21, 2017.

'If you have people in government who are also guilty of sex crimes, you are not going to get the positive response you expect from them. They will assume that the law could be applied to them. Our government has no sense of responsibility, they would have done something by now.'

Respondents advised that government and lawmakers were not setting positive examples in society. Likewise, they did not reprimand officers for committing similar crimes in the field of conflict. Even in situations where specific laws targeting abuse of women during internal conflicts existed, there is still some level of responsibility expected from the government. The government should assign roles and responsibilities to specific agencies, such as creating a special independent task force to investigate allegations, if appropriate, to prosecute. They should encourage rape victims to come forward with the provision of witness protection, and to heighten awareness among women on how to and where to report rape incidents.¹¹⁰¹ Also, empowering women, irrespective of religious orientation, re-education, and rehabilitation are all highly significant. Interviewees also advocated that funds be allocated by the government to reputable organizations for the protection of the vulnerable during conflict and that the agencies created should be independent of external and internal influences or the security sector.¹¹⁰²

As mentioned earlier, there is room for improvement in the investigation and prosecution of rape cases in the country. It does not appear that enough is being done to tackle the issue of using rape as a weapon of war in Nigeria. Certainly,

¹¹⁰¹ Usifo Ebhuomhan. Investigation: Inside Nigeria's growing rape epidemic November 22, 2014.

¹¹⁰² Richard A. Aborisade. Barriers to Rape Reporting for Nigerian Women: The Case of female University Students. International Journal of Criminology and Sociological Theory. December 2014. Volume: Vol. 7.

the government needs to do more to stem the rape epidemic during internal conflicts. It is unfortunate that the Nigerian military, when sent out on military peacekeeping in other countries, displays an exceptional performance level,¹¹⁰³ but that is not the case with operations within the country. Based on review, there is need for the Nigerian government to introduce rules of engagement in internal conflicts such that the consequences of committing crimes are clear, specific and consistently implemented.¹¹⁰⁴

The Nigerian Rules of Engagement is still a draft document prepared by the Institute of Legal and Strategic Studies in Nigeria, for the regulation of the Nigerian military.¹¹⁰⁵ This document recognizes the rules governing international and non-international armed conflicts set out in the four Geneva Conventions and their Additional Protocols.¹¹⁰⁶ The document is not legally binding *strictu sensu*, but outlines a set of summary principles for military engagement on land, sea, and air. Therefore, internal conflicts in Nigeria are technically not governed by rules of engagement. If there were binding rules in internal conflicts, those found to have committed abuse against women and children would be prosecuted either under martial (military) law or civil law.

Nigeria does not have enough manpower, equipment and trained staff compared to developed countries. Gathering forensic evidence has contributed tremendously to the improvement and increased the number of prosecutions and convictions in developed countries. Interviewee 8, a worker with the Nigerian Red

¹¹⁰³ Mirabel Centre. Mirabel Centre- Sexual Assault centre: sexual assault referral:

¹¹⁰⁴ UN News. Service and Sacrifice: Honouring Nigeria's contribution to UN peacekeeping. Since the 1960s, Nigeria has been a major contributor of troops and police to UN peace operations, having served in dozens of missions. Most recently, Nigerian troops were the military backbone of the UN Mission in Liberia (UNMIL), from 2003-2018, helping to restore security throughout a country that had undergone a brutal civil war. 16 February 2018.

¹¹⁰⁵ Nigerian Institute of Strategic Studies. Rules of engagement for the Nigerian military chapter II section 14 (2) (b).

¹¹⁰⁶ Ibid.

Cross, expressed his views on promoting public enlightenment and involvement in the security of Nigerian citizens. The interviewee held that:

‘Nigerians don’t believe that they are also responsible for the security of their country until the crime is committed on their doorsteps.’

There is the saying “be your neighbours’ keeper” should be an attitude that Nigerians should embrace to contribute to improving the security situation. This was inferred by one of the participants. This attitude should extend to the security agencies, who are not dedicated and sincere in their jobs. Most security agents are perceived to hold office for financial benefit, with many commonly accepting bribes. Security agents in Nigeria believe in a crude method of solving problems.¹¹⁰⁷ They would rather torture a suspect to obtain false forced confessions than carry out an appropriate investigation.¹¹⁰⁸ The problem of high-handedness and insensitivity to the nature and characteristics of civilian dominated areas was pointed out as a flaw with the security services.

Use of excessive force was one of the issues of concern in the Odi Massacre, which led to the rape and torture of the civilian population as a violation of the principles of human rights.¹¹⁰⁹ Closely following the Odi invasion was the attack at Wilbros Choba, an oil producing community in the Niger Delta, and Zaki Biam, a Tiv community in Benue State.¹¹¹⁰ The common feature in all these military operations was application of excessive force on civilian populations.

¹¹⁰⁷ International Committee of the Red Cross. Basic rules of the Geneva Conventions and their Additional Protocols.1988.

¹¹⁰⁸ Human Rights Watch. The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999.

¹¹⁰⁹ Fresh torture allegations against Nigeria’s security forces. Thursday 18 September 2014 - 4:04pm Johannesburg - Amnesty International has released a chilling report on torture by Nigeria&39.

¹¹¹⁰ Nwajah, O. A Tale of Military Massacres: From Ogoniland to Odi Town. December 6, 1999.

Rape, sexual abuse, and torture of women and men is in contravention of the laws of armed conflict,¹¹¹¹ and violation of the Geneva Conventions, and their Additional Protocols.¹¹¹² The Nigerian military, in internal security operations, has been characterized by extrajudicial killings and a failure to obey regulations during conflicts. The killing in Baga on April 16, 2013, during a clash between officers of the Joint Task Force and insurgents in the Baga community, was a classic example of the use of force, with women and girls bearing the brunt, resulting in rape and other forms of abuse. *This Day* newspaper in Nigeria, on Thursday, January 17, 2013, reported instances where girls were raped in Abuja by soldiers under the pretext that the girls were prostitutes.¹¹¹³ These are clear instances of a deterioration of human dignity and an excessive use of power by security forces.

The above issues have, therefore, brought to the front burner of national discourse the need to enshrine the doctrine of proportionality in the use of force via reorientation of the military and paramilitary forces in Nigeria.¹¹¹⁴ More fundamental is the need to realize that rules of engagement for the military in internal security operations must be sanctioned by the legislative body. Strict punishment should be apportioned in cases of violation, with rigorous adherence and diligent enforcement of punishment on the part of the armed forces and the Nigerian states.¹¹¹⁵

¹¹¹¹Human Rights Watch. Nigeria: Soldiers Massacre Civilians in Revenge Attack in Benue State.

¹¹¹² International Review of the Red Cross. A detailed analysis of the legislation and case laws covering common article 3. See Thomas Graditzky, "Individual Criminal Responsibility for Violations of International Humanitarian Law Committed in Non-International Armed Conflicts."1998, Volume: No 322, Page. pp. 29-56.

¹¹¹³ International Committee of the Red Cross. Basic rules of the Geneva Conventions and their Additional Protocols. 1988.

¹¹¹⁴ <https://www.hrw.org/news/2016/10/.nigeria-officials-abusing-displaced-women-girl>.

¹¹¹⁵ International Review of the Red Cross. A detailed analysis of the legislation and case laws covering common article 3. See Thomas Graditzky, "Individual Criminal Responsibility for Violations of International Humanitarian Law Committed in Non-International Armed Conflicts." 1998, Volume: No 322, Page. pp. 29-56.

From a layman's perspective, the whole security machinery in Nigeria needs overhauling. With the involvement of the military in civil operations, there is the need for the military to adjust to the demands of internal security operations, since the primary function of the military is to defend the country in times of war.¹¹¹⁶ Military training is usually tailored towards inflicting maximum damage and destruction on opponents and defeating them in the shortest possible time within the rules and laws of armed conflict. In the meantime, deployment to internal security operations requires restraint and the use of minimum force, which contrasts with what is usually obligatory of soldiers in conventional warfare.¹¹¹⁷ The arbitrariness associated with combatants while in internal security operations can be attributed to the kind of training provided. There is, therefore, the need for military deployment in internal affairs to refocus on logistics training in internal operations. Interviewee 16, a female lawyer, expressed the fact that:

'If someone is not operating within the rules required to perform a job they should be laid off. Let there be sanity in our system. That is where I believe we should start from. A new mind-set away from business as usual is required in Nigeria.'

This quote further stresses on the unprofessional attitude of Nigerians in the workplace. Defence against external aggression should be differentiated from the defence employed against 'enemies' within. Additionally, Interviewee 12, an ex-policeman, related:

'Another perceived attitude of the military when called upon to perform internal security operations: they think they have been

¹¹¹⁶ Ibid.

¹¹¹⁷ Schindler, Dietrich; Toman, Jiří. *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents*. 1988. Brill.

called upon because of the incapability and inefficiency of the police in maintaining law and order. The resultant effect is that the military usually take over operations from the police, instead of aiding the civil authorities as provided for in Section 217 of the 1999 Constitution.’

Often, the soldiers involved in internal security operations are not properly prepared for the task.¹¹¹⁸ The planning, coordination, and general direction of military operations are taken, in most cases, to meet overall political and military objectives. However, internal conflicts do not always require all the tactics that soldiers ordinarily employ.¹¹¹⁹ Dealing with a hostile crowd of civilians or insurgents requires a completely different approach from an attack on an enemy position in conventional warfare.¹¹²⁰ Therefore, there is a need to adjust to a reduced scale of tactical operations, focusing more on a holistic approach to include terrorism attacks. Most interviewees suggested decentralizing the power in the security system to aid rapid responses, as opposed to the current situation of bureaucratic paralysis and inertia. However, leaders prefer the current system, which offers room to commit fraudulent crimes, along with complicated processes to address conflict responses.

8.4. Concerns on the lack of witness protection for rape victims

Another major issue raised during the interviews was the case of witness protection for rape victims, irrespective of whether it was conflict-related or

¹¹¹⁸ Ibid.

¹¹¹⁹The Nigerian Constitution. Chapter 6. Part 3. Section 217. Establishment and composition of the armed force of the Federation. (1) There shall be an armed force for the Federation which shall consist of an army, a navy, an air force and such other branches of the armed forces of the Federation as may be established by an Act of the National Assembly.

¹¹²⁰ Common Article 3 and Additional Protocol II see L. Moir. *The law of internal armed conflict* (Cambridge: Cambridge University Press, 2002). Number: pp. 30-132.

domestic rape.¹¹²¹ During or after a period of conflict and political instability, the route from rape and other sexual abuse to prosecuting the perpetrator is often stalled by barriers. This leaves victims subject to threats, emotional trauma, and physical ailments long after the crime has been perpetrated against them. Nigeria lacks technical manpower in forensic investigations, rehabilitation centres, free legal consultations and witness protection centres for rape victims.¹¹²² Social and cultural prejudices often brand the victims, in addition to the brutality perpetrated against them. Infrastructure, from hospitals to safe houses, courtrooms to prisons is presently inadequate, which compromises victim privacy, security, and justice. Law enforcement and other partners in the justice division regularly lack requisite training. The system is politicized or there may simply be too few professionals to conduct in-depth investigations and prosecute offenders. Most communities after attacks are devoted more to rebuilding the lives of victims, and rarely prioritize justice. Political leaders often do not even recognize sexual violence as a major crime. Consequently, perpetrators of sexual crimes during conflicts often go unpunished, leaving victims at risk of further harm and fuelling the rise of such criminal conduct. The Nigerian system suffers from legal, social, infrastructural and political impediments.¹¹²³ These discourage victims from reporting crimes, speaking to investigators, and testifying in court. Consequently, these barriers serve to protect perpetrators and facilitate further violence.¹¹²⁴ This prevents the possibility of knowing the true extent of the crimes committed and the

¹¹²¹ Benjamin Chuka Osioma. *Conflict Management and Peace Building in Nigeria: Finding the Common Ground*. September 2016. September 2016. Page: 14. South-East Zonal Summit of the NIM at Abakaliki, Nigeria.

¹¹²² SB. 332 - National Assembly. *Witness Protection Programme Bill, 2017*. The Senate at its plenary session on Thursday 8th June 2017 passed the Witness Protection Programme Bill into an Act to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions. 23 Jun 2017.

¹¹²³ *Ibid*.

¹¹²⁴ Evelyn Okakwu. *Investigation: In search for justice, shoddy prosecution frustrates Nigeria's child rape victims*. Premium Times. October 21, 2017.

accumulation of appropriate data with which to address them. Societies determined to confront sexual violence need to address fundamental questions, such as prejudice and the political aversion, which stand in the way of progress.

Exploring avenues such as witness protection programmes and giving opportunities to victims to participate in the criminal process offers the hope of accountability and provides vulnerable witnesses with protection.¹¹²⁵ Interviewee 16, a female lawyer, expressed such views:

‘If the Nigerian government can incorporate the witness protection services into the judiciary system, it will encourage victims and their families to report rape crimes with the view that their identity will be protected from the public scrutiny and security from perpetrators.’

In Nigeria, witness protection is often sorely lacking in rape cases. The progress towards formalized and functioning witness protection services has been slow and, in most states, non-existent. Challenges include statutory frameworks and policies that are weak or absent. Other hindrances encountered are under-investment in rape cases (a situation where the government provides public prosecutors to advocate on behalf of victims). Insufficiency of relevant skills among policymakers and law enforcement agencies, poor forensic equipment and laboratories.

There may be a shortfall in the regulation and implementation of witness protection from country-to-country, particularly in African countries where national laws overlap and clash with local traditional laws, as in Sierra Leone¹¹²⁶ and

¹¹²⁵ Richard A. Aborisade. Barriers to Rape Reporting for Nigerian Women: The Case of female University Students. *International Journal of Criminology and Sociological Theory*. December 2014. Volume: Vol. 7,

¹¹²⁶ SB. 332 - National Assembly. Witness Protection Programme Bill, 2017. The Senate at its plenary session on Thursday 8th June 2017 passed the Witness Protection Programme Bill into

Liberia.¹¹²⁷ Culpability is secondary to reconciliation in the community or between perpetrators and victims. The non-existent prosecution of acts of sexual violence undermines witnesses and victims' faith in the justice system.

In Nigerian courts, basic elements of legal infrastructure are missing, often leaving witnesses minimally protected, and their identities subject to disclosure.¹¹²⁸ The prisons are ineffective at holding perpetrators, who may escape easily or bribe themselves out. Few safe houses exist to provide sanctuary for those who wish to testify against their perpetrators. Most infrastructure is often distant from villages where such violence occurs, and few medical professionals and psychologists exist to provide essential services.¹¹²⁹

Witness protection is one of the areas in which international courts excel over national ones, in their ability to provide trained psychologists with specializations in vulnerable people. The protection they offer involves not only physical treatment, but also therapy for the kinds of recurrent emotional and psychological harm that often stem from the trauma of sexual violence. By way of example, the

an Act to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions. 23 Jun 2017.

¹¹²⁷ Cohen, Dara Kay. Explaining Sexual Violence. During Civil War: Evidence from the Sierra Leone War (1991-2002). 2007. Annual Convention of the American Political Science Association, Chicago, IL (August).

¹¹²⁸ Linda de Hoyos. Liberia/Sierra Leone: Warlords reap from a 'children's war'. News and Views on Africa from Africa. African News. December 1999. Issue 45.

¹¹²⁹ SB. 332 - National Assembly. WITNESS PROTECTION PROGRAMME BILL, 2017. The Senate at its plenary session on Thursday 8th June 2017 passed the Witness Protection Programme Bill into an Act to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions. 23 Jun 2017.

ICTY,¹¹³⁰ ICTR,¹¹³¹ and Special Court for Sierra Leone (SCSL)¹¹³² investigated and prosecuted rape and sexual violence committed during conflicts within their jurisdiction as war crimes, crimes against humanity, and acts of genocide. These tribunals had greater resources than many national judicial systems and benefited from an extensive network of professionals inside the courts and beyond.

Nigeria should seek to emulate these countries on witness protection and rehabilitation of victims. As mentioned earlier, very little effort is devoted to witness protection in Nigeria. The argument was that witness protection remains administratively complex and expensive. This is because it includes physical protection, provision for daily living requirements to witnesses and, in many cases, their families. There was also the question of complexity in ensuring that witnesses abide by set rules to protect and safeguard against interference. Furthermore, the task of ensuring that the custodians of the operations are

¹¹³⁰ Mirabel Centre. Mirabel Centre- Sexual Assault centre: sexual assault referral:

¹¹³¹ Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, adopted 25 May 1993 by SC Resolution 827/1993 ; "Le Tribunal international pénal pour l'ex-Yougoslavie", *Revue belge de droit international*, 1992, p. 565 ; A. Pellet, "Le tribunal criminel international pour l'ex-Yougoslavie — Poudre aux yeux ou avancée décisive ?", *Revue générale de droit international public*, 1994, p. 7 ; D. Shraga/R. Zacklin, "The International Criminal Tribunal for the Former Yugoslavia", *European Journal of International Law*, 1994, p. 360 ; A. Cassese, "The International Criminal Tribunal for the Former Yugoslavia", in *Study Panzera*, Bari, 1995, I, p. 235 ; G. Carella, "Il Tribunale penale internazionale per la ex-Yugoslavia", in P. Picone (ed.), *Interventi delle Nazioni Unite e diritto internazionale*, Padova, 1995, p. 463 ; P. Tavernier, "The experience of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda", and M. C. Roberge, "Jurisdiction of the ad hoc Tribunals for the Former Yugoslavia and Rwanda over crimes against humanity and genocide", *IRRC*, No. 321, November-December 1997, pp. 605 and 651 respectively.

¹¹³² Wolfgang Schomburg and Ines Peterson 'Genuine consent to sexual violence under international criminal law' *the American Journal of International Law*, Volume 101:121-141, 2007; Alison Cole 'Prosecutor v Gacumbitsi: the New Definition for Prosecuting Rape under International Law' *International Criminal Law Review* 8(2008) 55-86; Kristen Boon 'Rape and forced pregnancy under the ICC Statute: human dignity, autonomy and consent' *32 Columbia Human Rights Law Review* page 625-675, 2001; significant texts include Anne-Marie L. M. de Brouwer 'supranational Criminal Prosecution of Sexual Violence: the ICC and the Practice of the ICTY and the ICTR' *Intersentia*, the Hague, in 2005. Anne-Marie L. M. de Brouwer, Case note on Gacumbitsi, André Klip and Göran Sluiter (Eds) *Annotated Leading Cases of International Criminal Tribunals, The International Criminal Tribunal for Rwanda*, Volume 24, page 583.

trustworthy is arduous. Nigeria has recently adopted the masked-witness approach in court.¹¹³³ However, this process is still unworkable and has not broken the barriers on witness testimonies, instead reducing the motivation for people to come forward with information that would be helpful during investigations or to testify during rape cases.

8.5. Summary

This chapter examines government responses to rape and sexual abuses during internal conflicts. It highlights the country's lack of preparedness to the changing plan of action of internal conflicts due to the evolving tactics engaged by militants. The study revealed techniques in which women and children are instrumentalised in conflicts. Women are raped and sexually abused and used as suicide bombers and engaged as combatants during internal conflicts. This has been established to be the result of unregulated conflict where soldiers, and militants commit grievous crimes against civilian populations. It also stresses the un-professionalism of the national security system in combating conflict-related crimes. If any investigation of conflict-related rape cases is undertaken, it is invariably slow and ineffective. Furthermore, Nigeria has been recognized as lacking the establishment of an effective witness protection programme. Non-funding of programs from government was mentioned as the missing essential element. Other barriers identified include a lack of full-time security for victims and their families. The following chapter assesses the extent to which national

¹¹³³ The Special Court for Sierra Leone was created as a result of an Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone (16 January 2002). It is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. It is reported that throughout the ten-year civil war, thousands of Sierra Leonean women were subjected to widespread and systematic sexual violence, including rape and sexual slavery. Human Rights Watch "we'll kill you if you cry": Sexual violence in the Sierra Leone conflict' (2003) 15 Human Rights Watch 25.

and international legislation has protected women against rape or abuses during internal conflicts and efforts contributed by the Nigerian legal system.

9. International and National Legislation on the Rape and Abuse of Women during Conflicts in Nigeria

9.1. Introduction

The application of international law in Nigeria came into effect when the country signed and ratified the Rome Statute. At the regional level it is articulated through the African Union (AU) (1963–2002), formerly the Organization of African Unity. This intergovernmental organization was established in 2002 to promote unity and solidarity among African states, spur economic development, and promote international cooperation. This Union set up some laws and resolutions that govern African states, including the protection of civilian populations. It was mandatory for state members to enact the set resolutions into their national legislation. The most important pertaining to the current topic is the African Charter on Human and Peoples Rights (1981 – 1982).¹¹³⁴ This was to protect women and children during conflicts. However, these laws though in place do not accord full protection to women and children during conflicts. On a national level, Nigeria has several pieces of legislation on the protection of civilians, but there is controversy about the implementation of these laws. This chapter therefore scrutinizes the extent to which these laws have been able to fulfil their obligations towards Nigerians during conflict.

¹¹³⁴ John Chuks Azu. Nigeria: Witness Protection Law - Enter Masked Witnesses. Recent trials of terror suspects in some courts in Nigeria has provided a good platform to test the Prevention of Terrorism Act passed in 2011 by the National Assembly. But it is the adoption of witness protection measures by the courts that has highlighted the value of this new legislation in the bid to suppress terrorism and all forms of criminality in the society. Daily Trust (Abuja). 28 MAY 2013.

During the interviews, participants were asked for their views on how the different legislations pertaining to the protection of women and children during conflict. There were diverse opinions and the rationales behind the views.

9.2. To what extent are rules of engagement a practical reality in Nigerian conflicts?

Political and religious undertakings in Nigeria have a major influence on the security of the country, due to the inherent complexity of the nation. In comparison with other African countries, cultural and religious beliefs¹¹³⁵ are more significant motivating factors in national security. This is basically grounded on regional allocation of power, and how deeply rooted beliefs can influence an individual's actions.¹¹³⁶ It has been identified that this allocation of power has led to numerous conflicts between Northern and Southern Nigeria.¹¹³⁷

These two regions are separate entities with little in common. Historically, Northern Nigeria was the centre of a precolonial Islamic empire. The North differs in racial, religious, cultural, traditional, and geographical settings from the South.¹¹³⁸ These variations have been a source of political disagreement between the two regions since colonial times. Each region consists of ethnic and religious minorities who harbour grievances against others, whom they view as oppressors or primordial enemies. Their grievances are sometimes expressed

¹¹³⁵ Oba, Abdulmumini A. The African Charter on Human and Peoples' Rights and ouster clauses under the military regimes in Nigeria: before and after September 11. *African Human Rights Law Journal*. 2004.

¹¹³⁶ Harriet P. Lefley Ph. D. Clarissa S. Scott Ph. D. Maria Liabre Ph. D. Dorothy Hicks M. D.

¹¹³⁷ Bagaji, Ali S Yusufu; Etila, Moses Shaibu; Ogbadu, Elijah E. Boko Haram and the Recurring Bomb Attacks in Nigeria: Attempt to Impose Religious Ideology through Terrorism? *Boko Haram Et Les Attentats A La Bombe Au Nigeria: Tenter D'imposer Les Ideologies Religieuse A Travers Le Terrorisme?* *Cross-Cultural Communication*. 2012. Volume: 8, Issue: 1. Page: 33

¹¹³⁸ Yusufu Turaki. *Historical Roots of Crises and Conflicts in Nigeria With Reference To Northern Nigeria and Kaduna State*. 1982.

through bitter political complaints and sectarian disputes, stoked by political elites and entrepreneurs.¹¹³⁹

Mismanagement of national resources and abuse of power by multi-ethnic and multinational partnerships have been part of the underlying reasons for conflict in Nigeria.¹¹⁴⁰ This has resulted in ethnic malignancy between communities.¹¹⁴¹ The proposing of religious reform as a solution to societal ills has been undertaken by some ethnic groups, resulting in the springing up of different militant groups. This led to the adoption of the Sharia Criminal Legal System by Northern states in Nigeria, in 2000.¹¹⁴²

This implementation signified the high-point of this new politicization of religion. Once Sharia was embraced in most Northern states, it added to the fear of Christians being persecuted and their freedoms, which are guaranteed by the Nigerian Constitution, being curtailed.¹¹⁴³ The introduction of Sharia by some states in Northern Nigeria brought about growing tension with bombing, kidnapping, and sexual violence against women being the order of the day.¹¹⁴⁴ In response to this violence, the nation's security forces and belligerents likewise have committed atrocities during clashes that amount to a violation of the laws regulating conflicts and human rights.¹¹⁴⁵

¹¹³⁹ Ibid.

¹¹⁴⁰ John Thompson. Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma). Canada Free Post. May 9th, 2014.

¹¹⁴¹ Watts, Michael. "Resource curse? Governmentality, oil and power in the Niger Delta, Nigeria." *Geopolitics*

¹¹⁴² Courson, Elias. Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and petro-insurgency in the Niger Delta. 2009. Nordiska Afrikainstitutet.

¹¹⁴³ Nmehielle, V. O. O. 2004 Sharia law in the northern states of Nigeria: To implement or not to implement, the constitutionality is the question. *Human Rights Quarterly*, 26(3), 730-759. 2004.

¹¹⁴⁴ Ibid.

¹¹⁴⁵ Nancy Gallagher. Amnesty International and the Idea of Muslim Women's Human Rights. *Journal of Middle East Women's Studies*. 2005. Volume: Vol. 1, Issue: No. 3. Page: pp. 96-107.

This chapter is set to unveil important questions on the extent of compliance to rule of law during combats by combatants. It explores the extent to which international, regional, and national legislation regulates conflict, as well as protecting vulnerable people enmeshed within it. It was essential to obtain the views of interviewees on the formal legal position or rules of engagement as a practical reality in internal conflict in Nigeria. Their responses were based on their experience of the practices in conflicts, particularly crisis situations, which they indicated were not well-governed. This was an important question that raises the issue of practical relevance of rules of engagement generally, and particularly in the context of crisis situations in Nigeria. Interviewee 20, a female advocate with the International Federation of Women Lawyers (FIDA), raised doubts about the practical relevance of rules in crisis situations.

‘It is ultimately necessary to improve the protection of civilians within a country. Lives of non-combatants are rarely respected during conflicts as mandated by humanitarian law. Civilians, especially women and girls, are intentionally targeted in conflicts, which encroaches upon their fundamental human rights.’

This respondents’ perception raises major challenges for legal studies of rules of engagement within Nigeria.¹¹⁴⁶ These rules are only relevant if they have a practical effect on the behaviour of parties involved. At an academic level, this research can focus upon the meaning, scope and rationale for formal rules of engagement in internal conflicts. However, it is also necessary to be aware that not everyone, including the Nigerian army, has full respect for rules of

¹¹⁴⁶ Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo.

engagement and, indeed, this may be a problem in Nigeria. This concern was raised by most of the interviewees, who emphasized the applicability of rules of engagement in conflicts in Nigeria.

The above quotations were significant because they draw attention to perceived discrepancies between the formal international law position mediated by the Nigerian domestic law and the realities on the ground, as lived and evidenced by those with first-hand experienced.¹¹⁴⁷ This is an important statement because it draws attention to the needs to cross-reference the formal legal position with the realities on the ground and to reference those realities with legal accountability. If these people's accounts of experiences are accepted, the conclusion has implications for this thesis. Also, they invoke the potential flaws in engaging in a total abstract analysis of legal rules without any context. The beneficial aspect of this investigation is that the research highlights possible tensions or discrepancies between law in books and law in action, and therefore confirms the rationale for conducting this research on Nigeria. A similar point was made by Interviewee 11, a male journalist, who highlighted the lack of rules during internal conflicts in Nigeria.

'From experience, I don't think rules of engagement are applicable in Nigerian internal conflicts. I know in international conflicts certain rules apply. Where there is armed conflict, local or national legislation is suspended and replaced by international law. The international laws are usually codified. They are usually treaties or agreement which member countries agreed to abide to when there are armed conflicts. There should be rules of engagement during

¹¹⁴⁷ Nigerian Institute of Strategic Studies. Rules of engagement for the Nigerian military chapter II section 14 (2) (b).

all conflicts. But the problem is that I don't think it is applicable in internal conflicts in Nigeria. All parties to conflicts in Nigeria most time are ruled by their ideology rather than rules of engagement. I don't think Nigerians, either government forces or rebels, obey any law in conflict. Nigerians are very rule-less in crisis situations.'

This quote highlights the lack of rules governing conflict within Nigeria. Nigeria being a member of numerous international treaties is obliged to implement these rules, but they are in effect inapplicable during conflicts in Nigeria. Nigeria should review and adopt officially the draft rules of engagement. These laws should also be applicable to militia or organized groups. A similar point was also raised by Interviewee 8, a worker with the Nigerian Red Cross:

'During conflicts in Nigeria, I don't think any special emphasis is placed on protecting women and children. Though there are rules governing conflicts generally, that is not the situation within Nigeria. I assume our society has not developed to such an extent that the security forces will focus or lay importance on the protection of any group or vulnerable people. The current legal framework on the protection of women in Nigeria is inadequate and no rules of engagement set out by Nigerian army. It leaves much to be desired. There is a need for enough improvement, and the system could do better. Now, the law doesn't appear to be structured in such a way that it provides adequate protection on the rights of vulnerable, including women, effectively.'

These go to emphasize further the lack of regulation of conflicts in Nigeria.¹¹⁴⁸ The Nigerian ROE, as earlier mentioned, are at the drafting stage; while this in itself is a move in a positive direction, rules are not yet embodied in a legally binding document.¹¹⁴⁹ Therefore, rules are not consistently applied in internal conflicts within Nigeria, and rules in books do not always reflect rules applied to real life situations; rather, the position in real life may not be rule-compliant.

ROE is supposed to be defining principles in the governance of conflicts, to ensure that military operations are conducted in accordance with human rights codes.¹¹⁵⁰ The rules are mediating factors with which both sides to the conflicts are obligated to comply. Rules of engagement are non-existent in Nigeria, because neither the army nor rebels are guided by legal regulations. This leaves no doubt as to the practicality of laws of armed conflict in Nigeria. This was reinforced by Interviewee 16, a male lawyer:

‘Yes, when an organization declares rebellion against a state then it becomes an international matter not simply a national matter. Obviously, they are national laws if, for example, a group rises and starts killing people, the force of law will arrest them and prosecute them, and the penalty is execution by firing squad. It is considered a treason; the international community might step in if they feel that the state is not handling the issue as it should through ICC. That’s why, when I started, I talked about the rules of engagement. I was in Akwa Ibom during the incidents and I met a young guy, a military

¹¹⁴⁸ Bothe, Michael; Partsch, Karl Josef; Solf, Waldemar A. *New rules for victims of armed conflicts: commentary on the two 1977 protocols additional to the Geneva Conventions of 1949*. 1982. Martinus Nijhoff Publishers.

¹¹⁴⁹ Schindler, Dietrich; Toman, Jiří. *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents*. 1988. Publisher: Brill.

¹¹⁵⁰ Nigerian Army. Nigeria, Operational Code of Conduct: Operational Code of Conduct for the Nigerian Army.

man not more than 23 years old. He happened to be part of the military team who invaded Odi. He was bragging about what they did. They went into the Odi community and destroyed their houses. However, the impression he was trying to give us was that the young men in the village were shooting back at them and that they were only reacting, so they destroyed that place. Maybe some youths reacted when the soldiers attacked their community. You know the Niger Delta youths are very volatile. What instructions were the military people given as they are being sent out to the field? That we will never know.'

From the above quote, it can be inferred that unprofessionalism persists in the military. Perceptions and personal interest, in most cases, affect or override professional judgement. This was the concern with the Odi issue, where the president had a personal interest due to his investment in multimillion-dollar oil company assets. Obviously, the primary duties of the army are to protect the citizens of the country it serves. However, this was not the case with the Odi, Wilbros, and Zaki Biam events.¹¹⁵¹

When the validity of the legal system is in doubt, the leaders should be held accountable. They are responsible for directing and executing national laws. Reports from eyewitness testimonies indicate that some soldiers claimed they were directed from their headquarters to kill and destroy the community because of their constant protests and demands for oil royalties.¹¹⁵² Testimonies obtained

¹¹⁵¹IHL. At its inception, IHL generally regulated interstate conflicts involving two or more sovereigns, with few exceptions. On the "recognition of belligerency" and the "recognition of insurgency," see, e. g., Yoram Dinstein, *Non-International Armed Conflicts in International Law* 108-14 (2014) [hereinafter, Dinstein, *NIACs in International Law*]; Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* 9-20 (2012).

¹¹⁵² Human Rights Watch. *The Destruction of Odi and Rape in Choba*. Human Rights Watch interview, Yenagoa, December 22, 1999.

from victims by the NGO Friends of the Earth, who were on the ground after the Odi attack, read as follows:

'In the afternoon of November 20, we received information that the military wanted to attack Odi. No sooner had we received the information, we started hearing some artillery bombardments. In the process five "Asawana" boys were killed. Their heads were cut off and their bodies were beyond recognition. Only two could be recognized. After a while we started hearing rifles and some shelling until around 5 pm. In the morning, we started seeing soldiers. The next thing we saw was that they were destroying all the buildings with their weapons. They continued the destruction from Oboribeigha quarters to the end of the town and back again. We all ran into the bush and we were peeping from there.'

Here, dual interest plays a huge part. Top government officials have stocks in the multi-million-dollar oil wells, and their loyalty goes first to protect their investments rather than protect citizens.¹¹⁵³ Other testimonies included:

'I was raped by three army men. They carried guns and they had uniforms. They kicked in the door and hit me in the face. They threw me on the bed and raped me using a gun. My son was trying to run away from the soldiers, but he was beaten up. There were no witnesses to the rape. I didn't report the rape to the police, there was no police.'

Similarly, a lack of interest for the protection of women was exhibited by the security forces. It was confirmed by HRW that atrocities were carried out by

¹¹⁵³ Ibid.

soldiers who were sent to calm the unrest. Also, HRW confirmed victim's testimonies of rape and abuses, which the Nigerian federal government denied.¹¹⁵⁴

'When they started shelling our town, we all ran. We ran into the bush, stayed inside the swamp. There is no food to eat so we had to eat these little bush fruits.'

This reveals what ordinary citizens are facing in situations of conflicts without any protection from the law. It is the obligation of the Nigerian Army to protect its civilians during conflicts, but Friends of the Earth described the carnage during the destruction of the town as alarming,¹¹⁵⁵ which did not correspond to the opposition or resistant the soldiers claimed they experienced from the youth of the community. Other testimonies read as below;

'The army came in at night and asked for my brother and father. I didn't know where they were. They took me to their station. I stayed there five days. Four men raped and beat me. They all used me. When they saw I was almost dead, they dropped me along the road.'

Lack of respect for the female gender is displayed here. This further exposes the earlier discussed male dominated society and their treatment of the weaker gender, as mentioned by Brownmiller.¹¹⁵⁶ It further highlights the fact that rape in conflicts is normalised as a widely expected and accepted tactic during combat,

¹¹⁵⁴ Human Rights Watch, *The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta*. December 22, 1999.

¹¹⁵⁵ *Ibid.*

¹¹⁵⁶ Environmental Rights Action/Friends of the Earth, Nigeria. 2002.

and very little is being done to curb this attitude. Reports of graffiti by the Nigerian soldiers on the walls of building in the village support this:

'We will kill all Ijaws, Bayelsa will be silent forever, Odi people take your time, Odi people take it easy-saying by soldier, Don play with soldier, As from today Odi people, if you see soldier or Mopol or police try an touch one of them again you will see what go happening by soldier, Nobody can save you.'

These graffiti confirm the accusations laid against the government and the soldiers as being biased before they embarked on the mission to Odi. The national army was accused of committing war crimes, crimes against humanity, and genocide.¹¹⁵⁷ A similar situation was described by MacKinnon as genocide, whereby a whole village or tribe was almost wiped out. These crimes were refuted by the federal government as an exaggeration, rather than conducting a thorough investigation to ascertain the behaviour and actions of the soldiers during conflicts. As mentioned in Chapter 8, investigation of crimes by government has been a long-standing challenge in the country.¹¹⁵⁸ Evelyn Okakwu mentioned investigation as a very worrying challenge that rape victims encountered in their quest to seek justice. She described it as a serious impediment that frustrated the Nigerian judiciary system during rape proceedings.

ROE is not practiced during conflicts in the country. Combatants exceed the necessary force expected during internal conflicts. It is expected that the laws of armed conflict automatically apply, and it is accepted that the crime of rape and

¹¹⁵⁷ Brownmiller, Susan, *against our will: Men, women and rape*. 2013: Open Road Media.

¹¹⁵⁸ MacKinnon, A. *Rape, Genocide and women's Human Right in A Stigmayer*(Ed) *Mass Rape. The war against women Boania-Hezagovina*. University of Nebraska. 1994.

sexual abuse amount to war crimes and crimes against humanity.¹¹⁵⁹ Art 5 of the ICTY Statute specifically condemns such acts and prescribes the punishment for crimes against humanity. This however, was within the jurisdiction of the national law. This was further stressed by Interviewee 16, a lawyer, who reaffirmed the change of laws that should be applicable to internal conflicts:

‘Rape is also part of war crimes. I have not heard that, because rape is committed in internal conflicts, it must be dealt with differently. It is a crime against humanity and regarded as war crime; depending on the severity of the crime, then sentence should be given.’

The interviewee’s argument is since, during internal conflict in Nigeria, international law should be applied to replace national legislation. However, the government believes that the conflict in Nigeria has not satisfied the minimum threshold specified in Additional Protocol II to qualify as internal conflict,¹¹⁶⁰ therefore it does not come within the ambit of IHL. This definition has posed a serious challenge, because IHL permits national governments to define the level of unrest which they deem to fit the characterisation. This is a serious problem, as Nigerians in affected regions live in fear of their lives because of the classification of these conflicts as ‘other situations of violence’ (OSV), a term that most Nigerians find extremely difficult to understand or appreciate. Classification

¹¹⁵⁹ Evelyn Okakwu, Investigation: In search for justice, shoddy prosecution frustrates Nigeria’s child rape victims. Premium Times. October 21, 2017.

¹¹⁶⁰ Art 5 of the ICTY Statute where it states that the ICTY ‘shall have the power to prosecute persons responsible for crimes committed in armed conflict, whether international or internal in character, and directed against any civilian population: (g) Rape’. Also, art 3 of the ICTR Statute stipulates that ‘the [ICTR] shall have the power to prosecute persons responsible for the following crimes when committed as part of the widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds: (g) Rape’. It should be noted that the ICTR Statute does not require the existence of an armed conflict for the prosecution of crimes against humanity.

of conflict as internal or international or 'other situations of violence' helps to determine the relevant or applicable law to such situations. Therefore, in dealing with the concept of conflict this distinction should be clearly made. Though criticized, it remains a part of the laws of war or armed conflict.

Likewise, Boko Haram in Northern Nigeria is accused of committing similar crimes based on their fanatical religious ideology, which goes back to the issue of cultural and religious perceptions in Africa.¹¹⁶¹ Osaghae, Eghosa E cited the vast cultural and religious diversity in Nigeria that fuels discord in the country. Most cultures or religions claim their way of behaving or the approach adopted to problems are the only solutions, without regard to IHL or domestic law. This was stressed by Interviewee 5, a lawyer, who stated that:

'As earlier said, what Boko Haram is doing is born out of ideology, and that makes it very dangerous. It's an ideology that could be passed on through generations. You are not just going to take one year to fight and stop such insurgency, mind you. You might be able to drive them out of the Sambisa forest, but you forget that they have tentacles (sleeper cell) which may not necessarily be in the same state, Bornu.'

Interviewee 5 pointed out the seriousness of religious ideology as very dangerous and problematic to change. The interviewee stressed on the deep-rooted views and the facts that it could take years for any reasonable change to occur. He also indicated the:

¹¹⁶¹ Draper, Gerald IAD. Humanitarian law and internal armed conflicts. Ga. J. Int'l & Comp. L. 1983

'Need to find out the root of the people that are encouraging this ideology then it will go a long way in trying to solve the problem of insurgency. It is going to take a while to destroy the Boko Haram nest. It is just not about their kidnapping people or trying to destroy their territory, there is an ideology behind what they are chasing and that makes it very dangerous and now they are linked with ISIS and the rest. We have a real crisis at hand in Nigeria.'

This confirms the implicit association between Boko Haram and ISIS, and the need for coordinated international efforts to eradicate Islamist terrorism. This once again raises the issue of the effectiveness of the existing legislation to deal with acts of terrorism.¹¹⁶²

9.3. Are the existing legal principles in Nigeria adequate to protect women and children during internal conflicts?

Arguments have been raised as to the efficacy of the current national legislation. There were concerns about the classification of conflict. According to IHL,¹¹⁶³ there are certain accepted criteria for situations of violence to amount to an 'armed conflict. This is not of an international character' (NIAC), thus triggering the application of the Law of Armed Conflicts. However, violence that does not meet the 'armed conflict' categorisation includes 'internal disturbances, tensions, isolated and sporadic acts of violence based on the intensity and the ability of

¹¹⁶² Osaghae, Eghosa E., and Rotimi T. Suberu., 'A history of identities, violence and stability in Nigeria. Oxford. (2005.) Centre for Research on Inequality, Human Security and Ethnicity, University of Oxford.

¹¹⁶³ Oyeboade, Akin 2012 Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria's Terrorism (Prevention) Act, 2011 Akin Oyeboade. 'Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria's Terrorism (Prevention) Act, 2011' (Forum on Public Policy: A Journal of the Oxford Round Table Forum on Public Policy, 2012).

their organisation.¹¹⁶⁴ Schindler argued that it was difficult to draw the line on when a civil disturbance can be classed as an armed conflict. This has been a serious issue with Nigeria. When can the law of armed conflict be activated? When critically analysing the operations of Boko Haram, it does not fall into any of these categories. However, based on the intensity of conflict, the harm caused, and the organizational ability of the group, it could trigger the implications of the law of armed conflict. Since the Nigerian criminal legal system lacks the capability to indict this terrorist group, the Nigerian public believes the country should apply IHL¹¹⁶⁵ and engage the assistance of the ICC to bring about prosecution against the militants.¹¹⁶⁶

Interviewee 5, a lawyer, argues that though some states in Nigeria have tried to enact laws within their jurisdiction on the protection of women, little progress has been achieved in the context of conflict-related rape. States can enact their own laws and deliberate on which law is applicable within their jurisdiction. Most states in Northern Nigeria practice Sharia,¹¹⁶⁷ as indicated by Nmehielle, while in the South, the Criminal Code prevails.¹¹⁶⁸ These discrepancies arising from the

¹¹⁶⁴ IHL: At its inception, IHL generally regulated interstate conflicts involving two or more sovereigns, with few exceptions. On the “recognition of belligerency” and the “recognition of insurgency,” see, e. g., Yoram Dinstein, *Non-International Armed Conflicts in International Law* 108-14 (2014) [hereinafter, Dinstein, *NIACs in International Law*]; Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* 9-20 (2012).

¹¹⁶⁵ Schindler, D and Toman J, *the Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents* (Brill 1988).

¹¹⁶⁶ IHL: At its inception, IHL generally regulated interstate conflicts involving two or more sovereigns, with few exceptions. On the “recognition of belligerency” and the “recognition of insurgency,” see, e. g., Yoram Dinstein, *Non-International Armed Conflicts in International Law* 108-14 (2014) [hereinafter, Dinstein, *NIACs in International Law*]; Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* 9-20 (2012).

¹¹⁶⁷ Oyeboode, Akin 2012 *Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria’s Terrorism (Prevention) Act, 2011* Akin Oyeboode. ‘Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria’s Terrorism (Prevention) Act, 2011’ (Forum on Public Policy: A Journal of the Oxford Round Table Forum on Public Policy, 2012).

¹¹⁶⁸ Nmehielle, V. O. O. 2004. ‘Sharia law in the northern states of Nigeria: to implement or not to implement, the constitutionality is the question,’ *Human Rights Quarterly* 26, 3: 730 –59. Oba, A. A. 2002. ‘Islamic law as customary law:

different codes represent a hindrance in execution by states. Interviewee 5 declared the following:

'I will say in terms of legal provisions, though the national government is lacking behind due to some responsibilities, states are waking up to their responsibility. In the last dispensation we saw the state assembly try to pass out legislation that will sanction and punish people who commit the crime of rape. In fact, one of the popular clauses of that amendment even stipulated death penalty for the crime of rape. In terms of legal measures, I think they are available because states like Lagos are really going ahead of their peers to ensure that the abuse of women is prohibited, and offenders are prosecuted. However, little is known on how rape in conflict fits into this law. I don't think there should be much difference. Rape is rape.'

The major problem is prosecuting conflict-related rape (during internal conflicts) based on civil law. Arguments have been on the facts that the county has laws that prohibits rape but what happens in conflicts situations. Will IHL be applicable? Interviewee 5 went further to suggest:

'One way in which the government can improve the legal framework on the protection of women is to enact universal but specific legislation designed and designated to protect women in conflict situations. This should be irrespective of their religion, culture or

zone. Also, the country needs to domesticate and enforce most of the international treaties that they have acceded to.¹¹⁶⁹

In addition:

‘The government needs to introduce an independent enforcement agency, with women protection being their priority. Whether you are practicing Sharia law or the Criminal Code, you are obligated by law as a Nigerian to comply. I’m sure the Sharia law does not support rape or abuse. A trained task force should work in collaboration with police to conduct independent investigations without any interference or intrusion from high and powerful government persons. Alongside highly equipped forensic laboratories, and the provision of sufficient funds to conduct these tasks.’

Others, such as Interviewee 15, indicated that the issue of implementation of existing law is an ever-present challenge in Nigeria. This is in support of Evelyn Okakwu, who argued on the merits and drawbacks of investigation in rape crimes.¹¹⁷⁰ She indicated that a comprehensive investigation along with a good forensic laboratory will go a long way to assist in legal proceedings for rape cases.

¹¹⁶⁹ According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South ‘any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.’ Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

¹¹⁷⁰ Rome Statute of the International Criminal Court N Doc. A/CONF.183/9 hereinafter ICC statute.’ (July 17, 1998).

'I think there are legal procedures in Nigeria, but a lack of proper implementation is an angle the government should follow to conclusion.'

Interviewee 14 noted that:

'Of course, there are rules in the Penal Code and Criminal Code for the protection of children and women. But the laws are ambiguous, undefined and imprecise. The new bill on Sexual Offenders Act, though with controversy, promotes the protection of women and the effect to prosecute offenders. It also raised issue of the consent and age under scrutiny. I think that Nigeria is a step backward. Here influential citizens in the country marry underage children and claim culture, tradition, or religion as a rationale. But I believe that any customary law or religion that runs contrary to natural justice, equity, and good conscience should be abolished and rejected by the society. You can't have a governor of a state marrying a 9-year-old or a senator marrying a 12-year-old. I call it crazy, there is no difference from rape.'

Corruption within Nigerian society is often blamed on tradition. According to the Criminal Code of Southern Nigeria, marriage or sex with an underage girl is prohibited and punishable under the law. However, under Sharia, practiced in Northern Nigeria, it is acceptable for an adult male to legally marry an underage girl as long as a dowry is paid to her parents. This contradicts international and national law and hinders arguments in court on the protection of these girls. Therefore, as earlier mentioned, laws on the protection of girls and women should

be unified to abolish ambiguities and harmful religious practices and eliminate the problem of boundaries and jurisdiction.

The tripartite legal system in Nigeria hinders the process of gender equality in Nigeria. There is concern about contradictions and inconsistencies created by the application of Nigeria's three legal systems, namely Islamic Sharia, customary law, and common law. The customary and religious practices negatively affect the situation of Nigerian women.¹¹⁷¹ The slow process of domesticating international conventions into Nigeria's national legislation has raised some concern about the government fulfilling its obligations to protect women during conflicts. This issue was raised by Laden, noting that Nigeria has a problem of implementing international legislation.¹¹⁷² Nigeria is a country that should focus on holistic methods of incorporating international human rights instruments on the protection of women into its domestic law.

9.4. Summary

This chapter examines the practical operation of the law of armed conflicts and the implementation of rules of engagement to regulate internal conflicts in Nigeria. It evaluates the level of Nigerian's compliance with international law and how the country deals with human rights violations. It has been identified from the research that the tripartite legal system in Nigeria is a major hindrance to the effective harmonization of the criminal system. Though Nigeria is a party to numerous international treaties, it has still not enacted some treaties into its national law. The African Union Convention for the Protection and Assistance of

¹¹⁷¹Evelyn Okakwu. Investigation: In search for justice, shoddy prosecution frustrates Nigeria's child rape victims. Premium Times. October 21, 2017.

¹¹⁷²Nmehielle, V. O. O. 2004. 'Sharia law in the northern states of Nigeria: to implement or not to implement, the constitutionality is the question,' Human Rights Quarterly 26, 3: 730 –59. Oba, A. A. 2002. 'Islamic law as customary law: Nnoli O, Ethnic conflicts in Africa.

Internally Displaced Persons, the Genocide Convention of December 9, 1948, The Rome Statute for the International Criminal Court of 1998, the UN Convention on the Prevention and Punishment of the Crime of Genocide (ratified by Nigeria on 29th July 2009), and the UN Code of Conduct for Law Enforcement Personnel (17th December 1979) are all ratified but are yet to be incorporated into Nigerian national law.

Many of these treaties are not operational in the country because they have not been enacted into the local law. For this reason, these treaties are not national law, and therefore cannot be deployed in cases involving alleged violations before courts of law in the country. Consequently, they cannot be used for advocacy of rights within the country. Another major impediment is that states in Nigeria make their own laws and can decide which federal law they want to incorporate into their state laws.¹¹⁷³ This explains why some states in Northern Nigeria are able to practice Sharia, which is not part of the federal criminal system. Another dimension that was discovered is the fact that though there are laws of armed conflict in Nigeria, which never appear to be observed during conflicts. The rules of engagement are not observed by either combatants or by national soldiers. National security and rebels both commit atrocities against each other and the civilian population, thereby committing a violation of IHL.

¹¹⁷³ Laden, M. 'Issues in domestic implementation of the Rome Statute of the International Criminal Court in Nigeria' Paper presented at a Round - Table session with Parliamentarians on the Implementation of the Rome Statute in Nigeria organised by the Nigerian Coalition on the International Criminal Court (NCICC), 12 November 2002, National Assembly Complex, Abuja, Nigeria .

PART THREE

POSSIBLE REFORMS BASED ON QUALITATIVE

ANALYSIS OF INTERVIEWS

10. Conclusion and Recommendations

10.1. Introduction

This research set out to evaluate the Nigerian criminal legal framework for the protection of women against rape during internal conflicts. The study aimed to evaluate the efficacy of the Nigerian criminal framework to highlight and interpret areas of discrepancies and possible paths for reforms. The adoption of empirical socio-legal methodology for the examination and evaluation of the Nigerian criminal system is believed to offer an original and fresh approach to existing literature on the subject. This approach has, apart from allowing for new and critical perspectives, resulted in several findings and suggestions for improving the criminal legal system in Nigeria on prosecution of conflict-related rape.

The empirical socio-legal method adopted included unstructured interviews. This provided in-depth qualitative knowledge based on responses from interviewees. Responses from the interviews were structured in themes, to cross-reference with existing literature and highlight concepts, with the aim of linking the findings to assist in suggesting the right reforms that will bridge the gaps to achieve the overall objective of this study. This study was able to support arguments raised during the review of past literature on conflict-related rape.¹¹⁷⁴ This chapter summarises the salient findings on possible reforms based on qualitative analysis of the interviews for the main points identified; discusses the limitations encountered during interviews; and makes recommendations and suggestions for future research.

¹¹⁷⁴Lagos State of Nigeria. A Law to Provide Protection against Domestic Violence and For Connected Purposes (18th May 2007).

10.2. Overview of the research

The instrumentalization of women during internal armed conflicts has been recognized globally as an issue for serious concern. The subject of rape during internal armed conflicts in Africa has gradually developed since 1945. Accordingly, there has been a substantial amount of literature on the issue of conflict-related rape in Africa and major developments in the form of enacting regional laws to protect women during conflicts.¹¹⁷⁵ A major part of this literature addresses sexual abuses and rape of women in Central Africa.¹¹⁷⁶ These works are mainly descriptive, and seek to draw attention at the national and global level on the violations of human rights during internal armed conflict in Africa. However, very little academic literature offers critiques or opinions on the increasing rate of conflict-related rape in Nigeria, referencing victims' perspectives or encounters as its focal point. This study is based upon this premise.

This research adopted empirical semi-structured interview method as the best-suited technique to access the opinion of victims and the society on the efficacy of the Nigerian legal system in handling rape and sexual assault during internal conflict. This was because of its accuracy and reliability of first-hand information, as opposed to hearsay evidence. It also adopted the black letter method to enable the examination of the different legislation concerning protection of women and children during conflicts. The former emphasizes the importance to appreciate problems first hand rather than relying on transmission of information without

¹¹⁷⁵Doris E. Buss, Rethinking 'Rape as a Weapon of War' *Feminist Legal Studies*, Vol. 17, pp. 145-163, 2009.

¹¹⁷⁶Murray R, 'Human Rights In Africa, From the OAU to the African Union; The African Charter on Human and Peoples' Rights' (1981-1982) 22 *Virginia Journal of International Law* 694; E Bello "The mandate of the African Commission on Human and Peoples' Rights" (1988) "The African Commission on Human and Peoples' Rights: A five year report and assessment" (1992) 14 *Human Rights Quarterly* 46; HJ Steiner & P Alston *International human rights in context: Law, politics and morals* 920' (2000)(1 *African Journal of International Law* 55; CE Welch) (For an account of early writings criticizing the implementation mechanism of the Charter, see R Gittleman).

credibility and transparency. This was inferred from reports and on how victims perceive the laws based on testimonies. The study identified that there is an increased of rape and sexual abuses in conflicts in Nigeria,¹¹⁷⁷ and further established, by the inclusion of women and children in combat, that rape and sexual abuse had been adopted as a tactic in combats.¹¹⁷⁸ This strategy has been experienced in Nigeria in the last two decades with the upsurge in militia groups.¹¹⁷⁹

This study focuses on the protection of women by the Nigerian criminal system based on testimonies from victims obtained from reports of previous interviews conducted by NGOs. In addition, it critiques the tripartite legal system in Nigeria with the aim of uncovering the discrepancies. Furthermore, the study identified the inconsistencies in the criminal codes of Southern Nigeria and the Penal code of Northern Nigeria¹¹⁸⁰.

The issue of rape as a hallmark¹¹⁸¹ in conflicts was also raised by Miller¹¹⁸² and Martins,¹¹⁸³ while unfolding atrocities perpetrated against women during conflicts. Though comparatively rare, there are reports from conflict zones that point out that men and boys are also victims of rape and sexual abuses from soldiers.¹¹⁸⁴ On the other hand, from a statistical perspective, the number of men suffering

¹¹⁷⁷Turshen Meredith, *The political economy of rape: An analysis of systematic rape and sexual abuse of women during armed conflict in Africa*. 2001.

¹¹⁷⁸Helena Carreiras. *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector* (Geneva: DCAF). Bridge D. and Horsfall D. (2009).

¹¹⁷⁹Nigerian Army Accused of Excessive Force, Rape in Niger Delta (12/22/99), Human Rights Watch called on the Nigerian government to initiate criminal proceedings against soldiers responsible for abuses in two recent incidents in the oil producing Niger Delta region.

¹¹⁸⁰Zenn, J., & Pearson, E, 'Women, Gender and the Evolving Tactics of Boko Haram. *Journal of Terrorism Research*, 5(1).' (2014).

¹¹⁸¹Ito Eze-Anaba. 'Domestic violence and legal reforms in Nigeria: Prospects and challenges.' (2007) 14(21) *Cardozo JL & Gender*.

¹¹⁸²Nifem & Dpko., 'UN Department of Peacekeeping Operations. *Addressing Conflict-related Sexual Violence: An Analytical Inventory of Peacekeeping Practice*, UN, New York.' (2010).

¹¹⁸³Brownmiller, Susan. (1978). *Against Our Will: Men, Women and Rape*. The Family Coordinator. 27.

¹¹⁸⁴Martins D *Battered wives*. San Francisco: Del Martin Glide Publications San Francisco, 1976.

from the devastating damage of sexual assault and rape during conflicts is negligible compared to the substantial numbers of women who suffer this fate,¹¹⁸⁵ which once again confirms the rationale for this study.

This chapter summarizes findings obtained from the interview analysis with cross-referenced literature relating to the incidence and legal regulation of abuse during internal conflict. Chapter 6 discussed the identified obstacles and complications as recounted by rape victims from two different perspectives: hindrances and legal implications. This is in response to the first research question, which probed the extent to which existing legal criminal legislation in Nigeria protects women and children during internal conflicts. Reflecting on past history of war criminality, this study highlights the fact that rape has been engaged as an approach in many conflicts in the preceding centuries,¹¹⁸⁶ and is currently employed by both state security agents¹¹⁸⁷ and militants in Nigeria.¹¹⁸⁸

Human rights abuses, as empirical realities in Nigeria, have been revealed and cross-referenced with testimonies from interview.¹¹⁸⁹ This has exposed numerous atrocities perpetrated against women, supporting the concerns raised by Brownmiller¹¹⁹⁰ and Martins¹¹⁹¹ on crimes committed against women during

¹¹⁸⁵Bennett, W Lance, 2006. None dare call it torture: Indexing and the limits of press independence in the Abu Ghraib scandal.

¹¹⁸⁶Saipira Furstenberg, *Male Rape in Armed Conflicts: Why We Should Talk about It* _2014. Global Perspectives on Human Rights. Oxford Human Rights Hub. Oxford University Press.

¹¹⁸⁷Kim, Dong Choon. Forgotten war, forgotten massacres—the Korean War (1950-1953) as licensed mass killings. *Journal of Genocide Research*. Pub Year: 2004. Volume: 6. Issue: 4 Page: 523, 544. Taylor & Francis.

¹¹⁸⁸ Human Rights Watch. *The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta*. December 22, 1999.

¹¹⁸⁹John Thompson. 'Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma. (May 9th, 2014) *Canada Free Post*.

¹¹⁹⁰ Idowu, J., Aregbesola, M. O. *Internal Security Operations and Human Rights Abuses in Nigeria: Issues and Challenges*

¹¹⁹¹Brownmiller, Susan. (1978). *Against Our Will: Men, Women and Rape*. The Family Coordinator. 27.

conflicts. Chapter 1 also reveals global impact of WWI¹¹⁹² and WWII,¹¹⁹³ and occurrences of rape abuses. Countries like Japan,¹¹⁹⁴ China,¹¹⁹⁵ Korea,¹¹⁹⁶ Algeria,¹¹⁹⁷ Yugoslavia,¹¹⁹⁸ Rwandan¹¹⁹⁹ and Congo¹²⁰⁰ testified to deliberate use of rape as weapon of war during the last century. Furthermore, Chapter 1 discusses the development of conflict in Nigeria, outlining the consequences of cultural and religious influences of on rape victims and radical turn from standard war strategy in internal conflicts to the use of women and children as weapon of war.¹²⁰¹ This evidence from the interviews supports reports from internal observers such as Amnesty International that serious war crimes were committed in Nigeria.¹²⁰²

In addition, responses from interviews support views from related literature that victims of rape and sexual abuses during internal conflicts in Nigeria were found to encounter various hindrances due to a cultural preconceived opinion against rape.¹²⁰³ These hindrances ranges from stigma at the initial reporting of crime,¹²⁰⁴

¹¹⁹²Martins D. *Battered wives*. San Francisco: Del Martin Glide Publications San Francisco, 1976.

¹¹⁹³World Scarred by history: The Rape of Nanking. December 13, 1997.

¹¹⁹⁴Africa: An Introduction' (2010).

Kim, Dong Choon. *Forgotten war, forgotten massacres—the Korean War (1950-1953) as licensed mass killings*. Journal of Genocide Research. Pub Year: 2004. Volume: 6. Issue: 4 Page: 523, 544. Taylor & Francis.

¹¹⁹⁵Röling BVA and Rüter CF, *The Tokyo Judgment: The International Military Tribunal for the Far East (IMTFE), 29 April 1946-12 November 1948, vol 2* (APA-University Press Amsterdam 1977).

¹¹⁹⁶Hicks, George L. 1995. *The comfort women: Sex slaves of the Japanese Imperial Forces*. London Souvenir Press.

¹¹⁹⁷Howard, Keith. *The true stories of Korean Comfort Women*. Cassell, 1995.

¹¹⁹⁸Chelala C., 'Algerian abortion controversy highlights rape of war victims. *Lancet*, 1998, 351:1413'.

¹¹⁹⁹Todd, S. 2000) 'Rape Camps, Forced Impregnation and Ethnic Cleansing' in Ann L. Barstow (ed.) *War's Dirty Secret: Rape, Prostitution, and other Crimes against Women*.

¹²⁰⁰Sexual Violence during the Rwandan Genocide and its Aftermath Human Rights Watch Women's Rights Project Fédération Internationale des Ligues des Droits de l'Homme. Human Rights Watch. September 24, 1996.

¹²⁰¹Pratt, M., Werechick. L. January 2004 *Sexual terrorism: Rape as a weapon of war in eastern Democratic Republic of Congo*. USAID/ DCHA, 9.

¹²⁰²Yusufu Turaki. *Historical roots of ethno-religious crises & conflicts in Northern Nigeria*. (1982) Jos ECWA Theological Seminary (JETS).

¹²⁰³Amnesty International Nigeria: *Rape - the silent weapon. Rape of women and Girls*. Amnesty International

¹²⁰⁴Abayomi Adebayo, Anthony & Akanle, Olayinka. (2014). *Gender and the Academy in Nigeria*. African Journal for the Psychological Study of Social Issues. 17. 147-154.

societal rejection, prejudiced towards rape victims, constant blaming of victims, and threats from perpetrators.¹²⁰⁵ However, it is established that conflict in itself constitutes a serious problem, and the incorporation of rape was an additional damage imposed upon women.

Post-WWII rape and sexual abuses has been analysed through to more recent conflicts, and findings from this research indicate that though there were cases of rape and abuses in past wars, recent conflicts have incorporated kidnapping and recruiting of women and children as combatants (in terrorism acts) to a novel degree. These women and children are enlisted as suicide bombers¹²⁰⁶ to gain entry into public and secured places, a tactic which deviates from standard war strategy.¹²⁰⁷

In various parts of the world, including Nigeria, cultural and traditional perceptions are sometimes presented as justifications for harmful social practices that subjugate women.¹²⁰⁸ It is established by this study to be a prime factor for the low rate of rape reports by victims and follow-up cases in courts. Owing to the abuse, most victims shy away from society, have a heightened tendency to be potentially aggressive towards men and, in most cases, present themselves as vulnerable.¹²⁰⁹ The interviews also identified the particularly perfidious role of

¹²⁰⁵Bachman, Ronet. (1998). The Factors Related to Rape Reporting Behavior and Arrest New Evidence from the National Crime Victimization Survey. *Criminal Justice and Behavior*. 25. 8-29. 10.

¹²⁰⁶Bachman Ronet. 'Predicting the reporting of rape victimizations: Have rape reforms made a difference?' (1993) 20(3) *Crime Justice Behave* 254 Ronet Bachman. 'Predicting the reporting of rape victimizations: Have rape reforms made a difference?' (1993) 20(3) *Criminal Justice Behav* 254.

¹²⁰⁷Elizabeth Pearson, 'Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons (October 16, 2014).

¹²⁰⁸Zenn, Jacob, and Elizabeth Pearson., "Women, Gender and the evolving tactics of Boko Haram." (2014) 5.1 *Journal of terrorism research*.

¹²⁰⁹WHO Global Consultation on Violence and Health. *Violence: a public health priority*. Geneva, World Health Organization, 1996 (document WHO/EHA/ SPI. POA.2).

religious ideologies in conflicts that can pose an obstacle to peace.¹²¹⁰ Therefore, religion consequently contributed to intensify conflicts by expanding and extending violent situations.¹²¹¹

Comparison of the extent of the applicability of international treaties at national level in Nigeria was presented in Chapter 5, indicating that law in books was not consistent with law in action. This chapter also defined Nigeria's obligations under the African Charter¹²¹² on the protection of women during conflicts and its expectations as a party to the Charter.

Chapter 7 centres on major deterrents relating to societal opinions on conflict-related rape in Nigeria. This responded to the second research question on the impact of societal preconceived notions about rape in Nigeria. Evidence from interviews further reinforced the views of Anthias, Yuval-Davis and Bagaji, and Ali S. Yusuf on how ideologies stimulate individuals to attack other ethnic groups.¹²¹³ It indicated that cultural ideology was an essential component in perpetrating rape during conflicts in Nigeria.¹²¹⁴ This was extrapolated from attitudes and utterances of soldiers who invaded the Odi community.¹²¹⁵ The

¹²¹⁰Brownmiller, Susan. (1978). *Against Our Will: Men, Women and Rape*. The Family Coordinator. 27.

¹²¹¹Puechguirbal, Nacline. *Women and war in the Democratic Republic of Congo*. Signs journal of woman in culture and society. Pub Year: 2003.

¹²¹²Onyebuchi Ezigbo: *Nigeria: Obasanjo's Aide Justifies Odi Massacre*. This Day Lagos: 20 November 2012.

¹²¹³ Ibid.

¹²¹⁴Bagaji, Ali S Yusufu; Etila, Moses Shaibu; Ogbadu, Elijah E. *Boko Haram and the Recurring Bomb Attacks in Nigeria: Attempt to Impose Religious Ideology through Terrorism? Boko Haram Et Les Attentats a La Bombe Au Nigeria: Tenter D'imposer Les Ideologies Religieuse A Travers Le Terrorisme? Cross-Cultural Communication*. 2012. Volume: 8, Issue: 1. Page: 33.

¹²¹⁵ John Thompson May 9th, 2014 *Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma*).

soldiers deployed to Odi were mostly of Islamic origin, who expressed the fact that their ultimate goal was to destroy the victim community.¹²¹⁶

Similarly, the Boko Haram invasion of villages in Northern Nigeria targeted and inflicted more damage on Christian communities,¹²¹⁷ suggesting that religion was the motivating factor behind these attacks.

Chapter 8 examined the Nigerian government responses to rape and abuse of women during internal armed conflicts. This theme responded to the third research question on the disparity between legal doctrine in books and law in action, with reference to the Criminal Code of the South and the Penal Code of Northern Nigeria. Critical examination of conflicts in Nigeria revealed the shift in war dynamics in Nigeria to incorporate women in combat. These findings were identified as the effect caused by the laxity in existing laws, and the slow development of legislation on prohibition of rape and sexual abuse of women. It further revealed that both Criminal and Penal Codes were insufficient, with gaps found in both definitions. The implementation of these codes enables offenders to escape prosecution for acts of rape during conflict. This chapter also referenced the legal framework against gender violence in armed conflict based on characterizations of categories of conflicts.¹²¹⁸

Chapter 9 evaluated Nigeria's criminal legal system during internal conflicts, responding to the fourth research question, comparing the Nigerian criminal system with internal legislation, and how it implements ratified legislation. It

¹²¹⁶ Human Rights Watch. The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999

¹²¹⁷ Environmental Rights Action/Friends of the Earth, Nigeria. 2002 Blanket of silence: "Genocide in Odi"

¹²¹⁸ Agence France-press 8 January 2015. Boko Haram destroys at least 16 villages in NE Nigeria: officials." Business Insider.

assessed how Nigeria implements¹²¹⁹ the Rome Statute,¹²²⁰ the ICC,¹²²¹ and African regional legislation¹²²² on the prohibition of violence against women. The chapter further references legal doctrine and law relating to prosecution of offenders of rape and sexual abuses in conflict. It was also revealed from the study of court cases in Nigeria that there are no specific records for conflict-related rape cases and persecution.¹²²³ This demonstrates that though there are incidences of reported conflict rape cases, no one has ever been convicted by the Nigerian legal system for rape during conflicts. The research goes further to emphasize the laxity in the Nigerian criminal system, which accentuates the rationale for this study. Similarly, reports from international organisations on the increase of rape in conflicts in Nigeria produced no responses, nor were there further investigations on those rape allegations in court.¹²²⁴

10.3. Obstacles and complications for female rape victims

My discussion of this theme assessed the obstacles and complications encountered by female rape victims during internal conflicts in Nigeria. This research discloses that in Nigeria, religious and traditional perceptual experience

¹²¹⁹ Schindler, D. The different types of armed conflicts according to the Geneva Conventions and Protocols.

¹²²⁰ Laden, M. 12 November 2002. "Issues in domestic implementation of the Rome Statute of the international criminal court in Nigeria, a round table presentation with parliament on the implementation of the Rome Statute in Nigeria. Organised by Nigerian coalition on the international criminal court (NCICC).

¹²²¹ International centre for criminal law reform and criminal justice policy (ICCLR). International criminal law: manual for the ratification and implementation of the Rome Statute.

¹²²² Omoba Oladele Osinuga Esq 'Nigeria and the ICC: The Dawn of a new era? Supreme Court of Nigeria; European Union Rule of Law Mission EULEX. December 25, 2011.

¹²²³ Murray R, 'Human Rights In Africa, From the OAU to the African Union; The African Charter on Human and Peoples' Rights' (1981-1982) 22 Virginia Journal of International Law 694; E Bello "The mandate of the African Commission on Human and Peoples' Rights" (1988) "The African Commission on Human and Peoples' Rights: A five year report and assessment" (1992) 14 Human Rights Quarterly 46; HJ Steiner & P Alston International human rights in context: Law, politics and morals 920' (2000)(1 African Journal of International Law 55; CE Welch) (For an account of early writings criticizing the implementation mechanism of the Charter, see R Gittleman).

¹²²⁴ Oludotun Ogunbayo v The State (SC. 272/2005) [2007] NGSC 76 (9 March 2007) Nigeria-Law.org.

was a major interference in the lives of women. The Nigerian culture presents women as inferior to and dependent on men. These negative philosophies have affected attitudes and responses to women reporting rape crimes. Though conflict-related rape and sexual abuses are quite recent in Nigeria, globalization has not changed societal opinions on women and rape.¹²²⁵ This study confirms the observation of J. Rachael that stigma is a very important issue when discussing rape.¹²²⁶ My findings went further to identify the fact that whilst it is often said that communities despise rape, responses to rape crimes show that strong action is rarely taken against perpetrators, and the victims are predominantly blamed.

10.4. Assessment of increased conflict-related rape cases in Nigeria

The upsurge in conflict-related rape and abuses has increased public concern about the nation's criminal legal system. This concern was beyond the classification or type of rape. This research is able to highlight the reality that domestic rape is on the rise in Nigeria, alongside conflict-related rape.¹²²⁷ This increase was attributed particularly to the fall in societal norms, whereby the lack of respect for women resulted from cultural and religious beliefs. On the other hand, other reasons attributed to the increase of rape crimes is the changing war tactics being adopted in current internal conflicts.¹²²⁸

¹²²⁵ Supra 1275.

¹²²⁶Baron L, Straus MA 1989. 8(3):209-3 Rape and its relation to social disorganization, pornography and inequality in the USA.

¹²²⁷Jewkes R, Penn-Kekana L and Rose-Junius H, "If they rape me, I can't blame them": Reflections on gender in the social context of child rape in South Africa and Namibia' (2005a) 61(8) Soc Sci Med 1809. If they rape me, I can't blame them": Reflections on gender in the social context of child rape in South Africa and Namibia' (2005b) 61(8) Soc Sci Med 1809.

¹²²⁸Kawu, I. M. 2013. "Nigeria's Troubling Epidemic of Rape." Rape Epidemic in Nigeria: Cases, Causes, Consequences and Responses. International Journal of Research in Applied, Natural and Social Sciences (Impact: Ijranss) Issn(E): 2321-8851; Issn(P): 2347-4580Vol. 2, Issue 1, Jan 2014, 31-44.

Apparently, rebels are recruiting women and children as suicide bombers, (Terrorism Acts), combatants, and sex slaves during conflicts in Nigeria.¹²²⁹ This study establishes these new war tactics adopted by Boko Haram as an emerging scheme to inflict greater casualty on civilians. The research accepts that the rebels professed this as a means to attract government and public attention to their demands, and also a proof of control or dominance of the territory.¹²³⁰ The further identified that victims were found to be portrayed as bargaining-chips between insurgents and the government in exchange for incarcerated rebels.¹²³¹ Similarly, findings from the review of literature, and confirmed by this research, discovered that the rebels were not the only people responsible for rape, abuse of women and children during conflict. Peacekeepers¹²³² and national security agents were also alleged to be guilty of the offense of rape.¹²³³ This claim reaffirms Sara Meger's argument that conflict-related rape ranked sixth of ten biggest problem facing mankind in past decades.¹²³⁴ Equally, E. F. Defeis also reported sexual abuse and exploitation during conflicts by UN peacekeepers. She revealed how soldiers and peacekeepers alike were involved in the rape of civilians,¹²³⁵ further strengthening concerns on how vulnerable women are during conflicts.

¹²²⁹ Omeje, Kenneth 2004. The state, conflict & evolving politics in the Niger Delta, Nigeria. Review of African Political Economy No.101:425-440? ROAPE Publications Ltd., 2004.

¹²³⁰ Zenn, J., & Pearson, E 2014. Women, Gender and the evolving tactics of Boko Haram. Journal of terrorism research, 5(1).

¹²³¹ Niarchos, Catherine N. 1995. "Women, War, and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia." Human Rights Quarterly 17 (4): 649-90.

¹²³² Zenn J, 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014) 7(5) CTC Sentinel.

¹²³³ Turshen Meredith, The political economy of rape: An analysis of systematic rape and sexual abuse of women during armed conflict in Africa. 2001.

¹²³⁴ Sarah Taylor. Stop Sexual Abuse by Peacekeepers Women's rights advocate. New Report Reveals Lack of Justice, Protection for Victims. Human Rights Watch. March 4, 2016.

¹²³⁵ Sara Meger, Rape in Contemporary Warfare: The Role of Globalization in Wartime Sexual Violence. African Conflict and Peacebuilding Review. Vol. 1, No. 1 (Spring 2011), pp. 100-132.

10.5. Assessing issues of vulnerability during internal conflict

Studies in the past have highlighted that women and children are the most vulnerable in conflict situations.¹²³⁶ Therefore, it is the responsibility of men in the society and the national government to protect them.¹²³⁷ This is emphasized in a report by UNSC that states have the obligation to protect their citizens.¹²³⁸ The UN went further to support the notion by enacting treaties on the protection of women and children,¹²³⁹ and compelling states to ratify and implement these laws. The research also highlighted the fact that the Nigerian government is a signatory to several international treaties which endorse the protection of women during conflicts, and the government, as part of its duty, is obliged by international law to protect its citizens.¹²⁴⁰ However, human rights violations are still being committed with impunity in Nigeria. This study, furthermore, indicates that the Nigerian government has not placed special emphasis on the protection of women and children from abuses during conflicts in the country.

Findings supporting these notions indicate a lack of prompt action and intervention to calls of distress from worried communities. Poor responses to rape reports and investigation and, most importantly, a lack of government support in medical and rehabilitation services to victims and families are apparent. Other attributed factors are the under-development of the country's security and legal system, and extremism in culture, tradition, and religion. Nigerian cultural and

¹²³⁶Defeis Elizabeth F. UN peacekeepers and sexual abuse and exploitation: an end to immunity. Washington University Global Studies Law Review Volume 7|Issue 2 2008 U. N.

¹²³⁷ Wood, EJ 2011, 'Rape is not Inevitable during War' in K Kuehnast, C de Jonge Oudraat & H Hernes (eds), Women and War: Power and Protection the 21st Century, US Institute of Peace Press, Washington DC, pp. 37-63. 2006, 'Variations in Sexual Violence during War,' Politics & Society, vol. 34, no. 3, September, pp. 307-41.

¹²³⁸ United Nations, Declaration on the Protection of Women and Children in Emergency and Armed Conflict, General Assembly Resolution 3318 (XXIX), See preamble para. 9 and para 3.14 December 1974.

¹²³⁹ Stabel, Tessel 2013 United Nations Security Council Resolution 1820: Why sexual violence became framed as a threat to international security.

¹²⁴⁰ Supra 1290.

religious values place women at a disadvantaged position, prone to continual attacks from men. An additional dimension to the vulnerability of women is the politicization of the security services of the nation. The political party in power controls the police and security as opposed to it being independent of any political party.

Likewise, leaders from Northern Nigeria are strong believers in culture and tradition. They seek to control the country's resources and to monopolise power, therefore they continually seek to undermine other stakeholders at every opportunity, empowering the rise of militants to disturb the peace and security of the country.¹²⁴¹ Boko Haram's ideology is based upon religious bigotry and a misappropriation of Islamic religion,¹²⁴² and the laissez-faire attitude of the government has enabled the emergence and increased activities of this fringe group, which could not take root in a functioning nation state with a vibrant civil society.

10.6. Evaluations of societal opinions on the increase in kidnapping as a weapon in internal conflicts

Boko Haram is practically a new insurgency group that conducted its first major attacks in 2009.¹²⁴³ Kidnapping became its main *modus operandi*, and this has become a common phenomenon in other attacks across Nigeria.¹²⁴⁴ Reports of kidnapping were recounted in conflicts in the Niger Delta by MENDS,¹²⁴⁵

¹²⁴¹ Laden, M. 12 November 2002 "Issues in domestic implementation of the Rome Statute of the international criminal court in Nigeria, a round table presentation with parliament on the implementation of the Rome Statute in Nigeria. Organised by Nigerian coalition on the international criminal court (NCICC).

¹²⁴² Onapajo, Hakeem, Ufo Okeke Uzodike, and Ayo Whetho. "Boko Haram terrorism in Nigeria: The international dimension." '(2012) 19.3 South African Journal of International Affairs 337-357.

¹²⁴³ Hassan, Muritala Babatunde. Boko Haram Insurgency and the Spate of Insecurity in Nigeria: Manifestation of Governance Crisis. Research on Humanities and Social Sciences. 2014, Volume: 4 Issue: 1 Page: 9 -18.

¹²⁴⁴ Ibid.

¹²⁴⁵ Peters, Ayo, Understanding Kidnapping as a Political Act. A Case of the Niger Delta. 2016.

Avengers,¹²⁴⁶ and Boko Haram¹²⁴⁷ in the North. Kidnapping is deployed upon women as a weapon of war.¹²⁴⁸ This research identified that the issues of kidnapping is foreign to Nigerian security, a major reason why the system has not been able to find a permanent solution to this new strategy in conflict.¹²⁴⁹

Other factors identified during the research include the fact that the Nigerian police and army are not highly skilled at counteracting the crimes of kidnapping and bombing.¹²⁵⁰ They lack the prerequisite facilities, skills, and expertise. For instance, the Nigerian police do not even incorporate DNA in forensic investigations to challenge kidnappers in court. Most importantly, this study established that Nigeria lacks a universal criminal database for suspects and convicts.¹²⁵¹ All police crime information from different states in Nigeria is disparate, not linked to a single database unit, whereby information on a suspect could be accessed from any part of the country. This finding is a major outcome of this study.

The new biometric system (Persons Verification Number) recently launched by banks in Nigeria to combat banking fraud could also be extended to assist law enforcement, as part of a universal personal identification scheme, due to the uniqueness of each individual's finger-printing mechanism. These verification numbers could represent an exceptional means of identifying Nigerian citizens within the country, and a reliable means of identifying criminals. Individuals who are arrested could be photographed, finger-printed, and issued a unique number.

¹²⁴⁶Obi, Cyril. (2010). Nigeria's Niger Delta: Understanding the Complex Drivers of Violent Oil-related Conflict. Africa Development.

¹²⁴⁷ Supra 1298.

¹²⁴⁸Zenn J, 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014) 7(5) CTC Sentinel.

¹²⁴⁹ Ibid.

¹²⁵⁰ Forest, J. J. 2012. Confronting the terrorism of Boko Haram in Nigeria (No. JSOU-12-5). Joint Special Operations. Univ Macdill AFB FI.

¹²⁵¹Agbibo DE, "No Retreat, No Surrender: Understanding the Religious Terrorism of Boko Haram in Nigeria.' (2013) 34(2) African Study Monographs 65-84.

This could be fed into the universal system, accessible from any government database.

Due to the high rate of corruption in Nigeria, the universal database system should be encrypted so that all input information cannot be altered from any office. Rather, any changes made to the system would only be updated. This method would become an effective means to track individuals with criminal records. Those Nigerians recruited as militants from the North, who claim citizenship of neighbouring countries, due to porous boundaries and similarities in languages, could thus be easier identified.

Secondary reports obtained during the research indicate that Boko Haram militants captured by soldiers claimed to be from Niger, a neighbouring country. Owing to lack of proper identification and verification method, the Nigerian police had no process of authentic confirmation of those offenders' nationality. But with a unique universal database, as suggested by this research, such individuals could be identified using their biometric stored in the system. This information could be used to trace future offenders, and also to provide a way of obtaining statistical data on crimes committed during conflicts.

Other significant complications observed during current research is the recruitment of women and children into combat.¹²⁵² A few months after the kidnapping of the Chibok schoolgirls, Boko Haram militants deployed female suicide bombers for the first time in successive attacks in big cities across the country.¹²⁵³ They used teenage girls to gain access to secured public places to

¹²⁵²LaFree, Gary, and Laura Dugan. 2007. "Introducing the Global Terrorism Database." *Terrorism and Political Violence* (May): 181-204.

¹²⁵³Zenn, J., & Pearson, E, 'Women, Gender and the Evolving Tactics of Boko Haram. *Journal of Terrorism Research*, 5(1).' (2014).

inflict maximum injuries on the public.¹²⁵⁴ It was also reported in 2015 that over 500 people were killed in Abuja Open Market/ Bus Park when female suicide bombers detonated a bomb very early on a local market day.¹²⁵⁵ These bombings were significant, as they all took place outside the three key states of the Boko Haram controlled states (Borno, Adamawa, and Yobe).

This was proof that the militants were extending their tentacles outside their control area. Unfortunately, the government response to these attacks was sluggish. The lack of appropriate and prompt response from the Nigerian government raises concerns regarding the competency of the legal and security systems and also a vital fact that the Nigerian Constitution did not accommodate crimes of terrorism. This was a major reason for enacting the 2011 Terrorism Prevention Act.¹²⁵⁶

The 9/11 terrorist attacks in the USA altered the world's security approaches and the way terrorism threats were perceived.¹²⁵⁷ The UN, in its condemnation of terrorism attacks, passed resolutions, specifically Resolution 1373,¹²⁵⁸ calling on member states to amend their existing laws or enact new laws to criminalize terrorism. In compliance with Resolution 1373, Nigeria incorporated the Economic and Financial Crimes Commission (EFCC) Establishment Act 2004.¹²⁵⁹ However, this inclusion was still deficient of some vital elements,

¹²⁵⁴ Zenn, Jacob 2014 Boko Haram and the kidnapping of the Chibok schoolgirls. Combating Terrorism Centre. Sentinel. May 2014, Volume 7, Issue 5.

¹²⁵⁵Awad Joumaa & Khaled Ramadan Journalism in times of war. Al Jazeera Media Institute Legal Deposit No. 623/2017.

Boko Haram in Nigeria. The UNICEF reports that one in five "suicide bombers" used by *Boko Haram* has been a child.

¹²⁵⁶Elizabeth Pearson, 'Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons (October 16, 2014).

¹²⁵⁷ Oyeboade, Akin 2012. Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria's Terrorism (Prevention) Act, 2011.

¹²⁵⁸Pyszczynski, Tom 2003. In the wake of 9/11: Rising above the terror. The Psychology of Terror. pg.227

¹²⁵⁹Rosand, Eric, 2003. Security Council resolution 1373, the counter-terrorism committee, and the fight against terrorism.

therefore, the Terrorism Prevention Act 2011¹²⁶⁰ was enacted to tackle the emerging terror attacks by militants in the country.

This research discloses that the Terrorism Act (2011) was not without its limitations. Criticisms such as the lack of inclusion of gender violence and rape as a crime during terror attacks were highlighted.¹²⁶¹ In addition, having to strike a balance between human rights protection and the necessity to contain terrorism was found to be a major challenge on the part of the security system.¹²⁶² Facts on record also indicated that suspects evaded punishment during trials before the Federal High Court on charges of terrorism. This was because charges could not be judicially determined due to lack of concrete evidence during arrests or actual logistics deployed by the terrorists suspected for an attack.¹²⁶³ This further undermines the investigative skills of security agents in the country. In addition, Nigeria had no experience of 'terrorism' prior to the Boko Haram attacks and is therefore unprepared for the sophisticated and unconventional methods of attacks launched by the militants.¹²⁶⁴

10.7. Societal perception on conflict-related rape in Nigeria

Chapter 7 examined how societal perceptions influence responses to conflict-related rape in Nigeria. It found that in Africa, society is heavily affected by tribal and religious norms. Cultural beliefs are highly instrumental in the conceptualisation of sensitive issues, and shape individuals' opinions. Views of

¹²⁶⁰ The AU convention on the Prevention and Combating of Terrorism 1999 had earlier made this provision.

¹²⁶¹ Terrorism (Prevention) Act, 2011 Act No. 10. An Act to Make Provisions for And About Offences Relating to Conduct Carried Out or Purposes Connected with Terrorism.

¹²⁶² Oyebode, Akin 2012 Legal Responses to the Boko Haram Challenge: An Assessment of Nigeria's Terrorism (Prevention) Act, 2011.

¹²⁶³ Nigerian Terrorism Prevention Act 2011. An Act to Make Provisions for And About Offences Relating to Conduct Carried Out Or Purposes Connected With Terrorism. 3rd Day of June 2011.

¹²⁶⁴ A. J. Omede. 'Nigeria: Analysing the Security Challenges of the Goodluck Jonathan Administration/Nigeria: L'analyse Des Defis De La Securite D'administration De Goodluck Jonathan.' '(2011) 90(7.5) Canadian Social Science.

the community are extremely valued, and the external orientation of self-perception mean that people's personal views mirror what is accepted within society. Women in Africa are seen as second-class citizens. Hence, attitudes towards them within society are affected by such opinions. This study recognizes that women constantly found themselves at the centre of conflicts and, in most cases, used as bargaining-chips.¹²⁶⁵ Seemingly, in conflicts over the past couple of decades, kidnapping has been introduced as a weapon. Women have been recruited as combatants and suicide bombers and institutionalized in an effort to defeat and defile of the opposing party.¹²⁶⁶

This increases anxiety about the emerging security problem in the country, raising questions about the effectiveness of existing national criminal regulations. Conflict-related rape is recognized during the research as a result of breakdown in societal values, eroded conscience in men, and the lack of professional practices and general laxity in the criminal legal system. Women are viewed by society as the vulnerable gender, and therefore are constantly targeted during conflicts. This research reveals that rape victims from conflicts in Nigeria are in a particularly disadvantaged situation, especially given the lack of willingness or ability of law enforcement agencies and the legal system to bring prosecutions against perpetrators.

The study went further to identify additional problems apart from the lack of proper investigation, including poor medical facilities, access to affordable legal aids, safe houses for victims, and financial support to non-governmental agencies.¹²⁶⁷

¹²⁶⁵ C. Ibegbu, *Instability and Terrorism in Nigeria. Legal Framework for the Punishment of Terrorism in Nigeria: A Critique of the Efcc Establishment Act1*. The Nigerian Army Quarterly Journal Vol.4 No.3 (2008).

¹²⁶⁶ R. Copelon 1995 "Gendered War Crimes" *Reconceptualization Rape In Time Of War*. Women's Rights Human Right.

¹²⁶⁷ Plumper, Thomas 2006. *The unequal burden of war: the effect of armed conflict on the gender gap in life expectancy*.

Nigeria has remained under-developed in all these sectors. Therefore, accessing these facilities is practically impossible for the public, given the uneven distribution of existing services and lack of availability of others across the country.

Similarly, the low value accorded to professionalism is also identified as having direct effect on attitudes of people within the community toward rape victims.¹²⁶⁸ Soldiers and rebels both originate from within the same geographical location, and they share similar beliefs about women, being ready to disregard legal principles protecting women. Moreover, tradition portrays women in Nigeria as the property of men, who can be taken as and when desired.¹²⁶⁹ Therefore, violent discrimination against women is tolerated by traditional and religious practices. Most often, the police are reluctant to intervene to protect women who report rape incidences, because they consider it a fight against fellow men, or they claim it is a private matter.

Tribalization has eaten into the Nigerian system, thereby destabilizing former communal ethics of protecting one another. There is no sense of obligation from those in official positions, as most disputes are settled based on ethnicity. Nigerians take on official positions for what they can acquire for themselves, and not to generally benefit the country. These concerns were raised during the Niger Delta conflicts, when Muslim soldiers were deployed to a Christian community to

¹²⁶⁸ Mirabel Centre: Mirabel Centre- Sexual Assault centre: sexual assault referral: The first centre supporting rape survivors in Nigeria. Set up in 2013.

¹²⁶⁹ Tamale, Sylvia 2008 The right to culture and the culture of rights: a critical perspective on women's sexual rights in Africa.

combat violent attacks. The soldiers deployed to Odi were found to have uttered derogatory statements,¹²⁷⁰ and their actions were contrary to the ROE.¹²⁷¹

Like anywhere in the world, the elderly, children and women were affected in Nigerian conflicts, including Odi (Bayelsa State), Ogoniland, Choba (Rivers State) and Northern Nigeria. This study suggests that women's very bodies have become battlegrounds in conflicts. Grievances between the government forces and the indigenous rebel groups of the Niger Delta and other secessionist movements¹²⁷² (e.g. the MOSOP and MEND)¹²⁷³ target women for sexual abuse as part of their conflict tactics.

So far, the authorities have paid little attention to these crimes, even, when photographic evidences of the assaults are presented by national newspapers, and victims' interviews are broadcast on national television,¹²⁷⁴ as during the Obasanjo regime.¹²⁷⁵ The culture of silence cultivated by the Nigeria government has aggravated these problems. Humiliation and intimidation of victims by the police, as well as the embarrassment of publicly acknowledging being a rape victim, have been encountered by women due to societal perceptions.

Silence reinforces the stigma already attached to victims, rather than to perpetrators. Dominant perceptions toward rape presume that women entice their

¹²⁷⁰ which applies to the Southern part of Nigeria as: Any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.

¹²⁷¹ Human Rights Watch. The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999

¹²⁷² Nigerian Institute of Strategic Studies Rules of engagement for the Nigerian military chapter II section 14 (2) (b)

¹²⁷³ Nigerian Army Accused of Excessive Force, Rape in Niger Delta (12/22/99), Human Rights Watch called on the Nigerian government to initiate criminal proceedings against soldiers responsible for abuses in two recent incidents in the oil producing Niger Delta region.

¹²⁷⁴ Human Rights Watch May 1999. Crackdown in the Niger Delta," A Short Report.

¹²⁷⁵ Michael Watts, Ike Okonta, and Dimieari Von Kemedi, "Economies of Violence: Petroleum, Politics and Community Conflict in the Niger Delta, Nigeria," Washington DC: U. S. Institute of Peace, 2004), p. 2.

attackers. Consequently, rape and sexual abuse victims are unwilling to testify about their experiences.

10.8. Religious perceptions and the abuse of women in conflict

Rape is a crime notable for placing women in a vulnerable position from a cultural perspective. Victims are labelled false accusers or scorned, witnesses are stereotyped within society, and sometimes these accusations come from fellow women, which is disheartening. It is a sad indictment of society's treatment of rape victims, while perpetrators escape punishment. As earlier discussed, the issue of the Boko Haram insurgency in Nigeria is a by-product of a fanatical interpretation of Islamic religious ideology. The Quran sanctions the seizure of infidel girls and their use as sex slaves;¹²⁷⁶ this allows Muslim men to take captives of other non-Muslim women as spoils of war. Historically, Islamic Sharia allowed men to have intercourse with their slave women, regardless of their own marital status.

While mainstream Islamic legal opinion and the majority of Islamic jurists affirm that the slavery no longer exists, non-state terrorist groups like Boko Haram and ISIS (which reject modern nation states and the Islamic clerical establishment) read classical texts to justify their militant activities and sexual assaults on women.¹²⁷⁷ As read by Boko Haram, a captive child or woman becomes enslaved

¹²⁷⁶Onyebuchi Ezigbo: Nigeria: Obasanjo's Aide Justifies Odi Massacre. This Day Lagos: 20 November 2012.

¹²⁷⁷ Quran. Rape of Muslim women is against Islamic law - although the rape of non-Muslim women is not, if they are 'captured in battle' or bought as slaves. Even the rape of a Muslim woman is almost impossible to prove under strict Islamic law (Sharia). If the man claims that the act was consensual sex, there is very little that the woman can do to refute this. Islam places the burden of avoiding sexual encounters of any sort on the woman.

by the fact of capture in Sharia, and any woman's previous marriage is immediately annulled.¹²⁷⁸

However, this study further highlights contradictory texts in the Quran that completely forbid rape and classes' rape as a crime punishable by death.¹²⁷⁹ The Quran repeatedly reminds men to treat women with kindness and fairness, as rape is a horrible crime causing women humiliation and physical harm. This study therefore recommends that mainstream Muslim scholars in Nigeria denounce the regressive and dangerous interpretations of Boko Haram and other terrorist groups concerning women as an integral and central part of counter-terrorism strategy.

10.9. Nigerian government responses to conflict-related rape

Likewise, the Nigeria Criminal Code prohibits rape,¹²⁸⁰ but the definition of this offense under the Code and the collaboration clauses¹²⁸¹ applicable to the prosecution enables perpetrators to slip through the hands of the law. This study highlights the construct that women are still caught up in a cycle of human rights

¹²⁷⁸ Intercourse with a slave woman is not regarded as Zina (adultery). Islam Q&A, Fatwa No. 10382, November 24, 2005?

¹²⁷⁹ Ibid.

¹²⁸⁰ Noble Quran. 2: 228. Wives have the same rights as the husbands have on them in accordance with the generally known principles. Of course, men are a degree above them in status... (Sayyid Abul A'La Maududi, *The Meaning of the Qur'an*, vol. 1, p. 165).

¹²⁸¹ Rape is a particular kind of sexual violence, where the definition is confined to the act of penetration of the body, whereas the definition of other kinds of sexual violence is potentially extremely wide, due to the variety of methods chosen by perpetrators to commit these crimes: as stated in the Triffterer Commentary, "Sexual violence is a term broader than rape. The term is used to describe any kind of violence carried out through sexual means or by targeting sexuality" (Otto Triffterer *Commentary on the Rome Statute of the International Criminal Court* Hart Publishing, 2008, page 214). According to the ICTR in the Akayesu judgement, sexual violence, which includes rape, is considered "any act of a sexual nature committed under circumstances that are coercive." (Akayesu, above, note 8: paragraph 598). The ICTR continued: "Sexual violence is not limited to a physical invasion of the human body and may include acts that do not involve penetration or physical contact. Sexual violence covers both physical and psychological attacks directed at a person's sexual characteristics." (Akayesu, Trial Judgment above, note 8: paragraph 688) However, the aspects of coercion and violation of sexual autonomy are common to both the definition of rape and the definition of sexual violence, and are of relevance to the investigation and prosecution of both crimes.

violations.¹²⁸² The slow responses to conflict-related rape in Nigeria are incomprehensible unless they are attributable to a lack of concern about the issue on the part of law enforcement agencies and the government. Also, the absence of a functioning criminal justice system prolongs the culture of impunity associated with sexual abuse.¹²⁸³

This study further accentuated the inability of victims to report rape crime at the police with prompt intervention on the side of the security. This information was extrapolated from the attitude of victims, who due to fear of stigma prefer to live with injustice perpetrated against them rather than face shame and scorn at the police station. Issues ranging from neglect of rape victims, open mockery, abandonment from friends and families, and the inability to afford legal representation are but a few difficulties encountered. Being a rape victim is viewed within society as attracting shame and dishonour upon the family, a reason why victims are ostracized.¹²⁸⁴

Another issue identified is that the police and court system in the county show very little support towards rape victims. Rather, the research revealed that only NGOs seriously advocate for victims; these agencies are mostly privately run and were not without their constraints. Additional complications discovered were the lack of specialized trained police officers (preferably women), as highlighted in

¹²⁸²Koss, Mary P 2006. Restoring rape survivors. Justice, advocacy, and a call to action. Annals of the New York Academy of Sciences, 2006.

¹²⁸³Human Rights Watch. 'In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside the premises of Willbros Nigeria Ltd., a subsidiary of an American contractor to the oil and gas industry, based in Oklahoma. The soldiers killed four people and raped several women from the community. The Nigerian federal government dismissed the reports of rapes, asserting that photographs alleged to show the soldiers assaulting the women were staged, and the police have refused to investigate. Human Rights watch found the women's claims of rape to be fully credible and believes that contesting the accuracy of the photographic evidence is an inappropriate response by the government to serious allegations of human rights violations.' (December 23, 1999). "'We'll kill you if you cry": sexual violence in the Sierra Leone Conflicts, 3-4, 46.' (2003).

¹²⁸⁴Human Rights Watch, 'The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999 '.

poor investigations¹²⁸⁵ of conflict-related rape cases, as identified during the Wilbros rape¹²⁸⁶ and Odi Massacres.¹²⁸⁷ This was aggravated by weak legal sanctions and enforcement of strict legal rules that would bring about the prosecution of perpetrators.

Evaluating the violence in Nigeria from past reports, the study recognizes that the escalating rate of abuses tallies with reports from the HRW Global Terrorism Index.¹²⁸⁸ The index ranked Nigeria amongst other countries with higher rate of violence.¹²⁸⁹ Furthermore, a confirmation that Nigerian government was slow in investigating conflict-related abuses or rape.¹²⁹⁰ Most importantly, the findings reveal the entrenchment of a patriarchal social system and attitudes in the national security sector. Men with political positions are expected to be sympathetic towards victims, but these people are also liable to perpetrate rape crimes,¹²⁹¹ and therefore they are reluctant to pursue further cases of sexual abuses. Another important fact is the nonchalant attitudes of Nigerians, who believe that if a crime is not committed at their door steps, then it is not important. This lack of concern has enabled the Boko Haram group to expand its terror attacks outside its occupied zones.

¹²⁸⁵Pascale Harter. Libya rape victims facing honour killing. BBC News, Tunisian-Libyan border. 14 June 2011.

¹²⁸⁶Mofoluwawo Esther Omoniyi. Rape Endemic in Nigeria: Causes, Effect and Probable Way Out the Journal of Social Sciences Research. ISSN (e): 2411-9458, ISSN(p): 2413-6670Vol. 3, No. 12, pp: 120-125, 2017.

¹²⁸⁷Human Rights Watch, 'The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999 '.

¹²⁸⁸Human Rights Watch, 'The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999.

¹²⁸⁹Human Rights Watch 1995. The Human Rights Watch. Global Report on Women's Human Rights. Human Rights. New York: Human Rights Watch, 1995.

¹²⁹⁰Global Terrorism Index Report 2014 - Measuring and Understanding. The Impact of Terrorism. Institute for Economics and Peace Published on 16 Nov 2015.

¹²⁹¹Sokari Ekine. November 27, 2012 Gendered Violence in Nigeria #16Days.

10.10. Concerns on lack of witness protection for rape victims

The findings of the study highlighted the lack of witness protection for rape victims. The protection of witnesses and victims is vital for rape prosecutions, and the lack thereof in Nigeria was recognized to be an important impediment, after societal stigma. Wendy Lobwein¹²⁹² indicated that protecting witnesses or victims is crucial in any effective investigation and prosecution of perpetrators of crimes. This method was employed during the UN trial for Khmer Rouge, demonstrating the importance of witness protection as an essential factor in obtaining justice.¹²⁹³

Victims of rape crimes requires assistance in seeking justice and support, and it is imperative that they are protected during trials. In many countries in Africa, including Nigeria, such protective measures pose serious challenges and are frequently inadequate. This protection during a trial offers the witness a sense of clarity, provides them with adequate information of past cases, and experience to testify to strengthen their cases. The UN also highlighted the importance of integrating gender perspectives into existing criminal trials,¹²⁹⁴ stressing the negative impact of the lack of special protective measures during rape trials as being the reason why rape victims have, in the past, refused to appear in court, thereby enabling perpetrators to escape justice.¹²⁹⁵

¹²⁹² Premium Times. October 14th, 2016 Katsina Emirate says marriage of 'abducted' 14-year-old to Emir's aide irreversible.

¹²⁹³United Nations Assistance to the Khmer Rouge Trials. Resolution adopted by the General Assembly on 2 April 2015, authorizing a subvention to the Extraordinary Chambers in the Courts of Cambodia, 2 Apr 2015.

¹²⁹⁴ John Chuks Azu: Nigeria: Witness Protection Law - Enter Masked Witnesses: Recent trials of terror suspects in some courts in Nigeria has provided a good platform to test the Prevention of Terrorism Act passed in 2011 by the National Assembly. But it is the adoption of witness protection measures by the courts that has highlighted the value of this new legislation in the bid to suppress terrorism and all forms of criminality in the society. Daily Trust (Abuja): 28 MAY 2013.

¹²⁹⁵ Ibid.

The trials of ICTY,¹²⁹⁶ ICTR,¹²⁹⁷ and the Special Court for Sierra Leone had witness protection provided,¹²⁹⁸ which proved to have a great impact in the success of those proceedings.¹²⁹⁹ Testimonies of witnesses during the ICTY trials confirm evidence provided against the accused, thus reaffirming the rationale for the trial and created report for incidences of conflict-related rape. Many witnesses recounted their experiences, thereby further supporting the Tribunal's judges to render justice and establish the truth.¹³⁰⁰ In reviewing past cases of sexual abuses in Nigeria (domestic and conflict-related), the study additionally reveals that the low rate of rape trials and prosecutions results from the lack of testimonies to establish evidences on the part of the prosecution. This has been stated as a major reason why numerous rape cases have been withdrawn.¹³⁰¹

The complexity within the Nigerian system, the lack of funds or continuity in government -funded programmes, and corruption in the system are among hindrances to establishing and maintaining witness protection. NGOs providing

¹²⁹⁶ United Nations Assistance to the Khmer Rouge Trials. Resolution adopted by the General Assembly on 2 April 2015, authorizing a subvention to the Extraordinary Chambers in the Courts of Cambodia, 2 Apr 2015.

¹²⁹⁷ Art 5 of the ICTY Statute states that the ICTY 'shall have the power to prosecute persons responsible for crimes committed in armed conflict, whether international or internal in character, and directed against any civilian population: (g) Rape'. Also, art 3 of the ICTR Statute stipulates that 'the [ICTR] shall have the power to prosecute persons responsible for the following crimes when committed as part of the widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds: (g) Rape'. It should be noted that the ICTR Statute does not require the existence of an armed conflict for the prosecution of crimes against humanity.

¹²⁹⁸ Anne-Marie de Brouwer 2005. *Supranational Criminal Prosecution of Sexual Violence: the ICC and the practice of the ICTY and ICTR* School of Human Rights Research Series, Volume 20, Intersentia, the Hague.

¹²⁹⁹ The Special Court for Sierra Leone was created because of an Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone (16 January 2002). It is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. It is reported that, throughout the ten-year civil war, thousands of Sierra Leonean women were subjected to widespread and systematic sexual violence, including rape and sexual slavery. Human Rights Watch "we'll kill you if you cry": Sexual violence in the Sierra Leone conflict' (2003) 15 Human Rights Watch 25.

¹³⁰⁰ Ibid.

¹³⁰¹ *Delalic v prosecute*. Case no IT-96-21-A. Judgement, 2 Sept. 1998 (. *Akayesu v prosecutor*. Case no. ICTR-96-4-T. Judgement: Louise Arbour sex crimes against women in conflicts seldom punished.

services to rape victims report major challenges in these dimensions, and they advocated change in the identity of victims, rehabilitation, and re-integration into different communities. They stressed that most victims are still being threatened by their perpetrators and, in most instances, have lost their lives. The Nigerian government, unlike other countries, has provided no assistance in terms of funds or manpower to these organisations. This has resulted in closure of some victim aid centres.¹³⁰² Therefore, there is need for the federal government to step up in the witness protection program to encourage victims to testify during trials and punish perpetrators to deter future offenders.

10.11. How can government stem the ideology or truncated perception towards women?

When examining rape under the Nigerian Criminal Code, it is defined as “vaginal penetration” of a female against her will by force or threat of force without her consent.¹³⁰³ The Nigerian Criminal and Penal Codes prohibits rape, but then again continue to define rape to include only the penetration of the vagina by the penis.¹³⁰⁴ This definition has provided a loophole for perpetrators to escape the anger of the law, because *de facto* rape is much broader than these crude biological determinants. Several women’s rights organisations in Nigeria have advocated the adoption of a broader definition to encompass all other forms of sexual abuse against women, including the use of objects, in conformity with the

¹³⁰² Usifo Ebhuomhan Investigation: Inside Nigeria’s growing rape epidemic November 22, 2014.

¹³⁰³ Mirabel Centre- Sexual Assault centre: sexual assault referral: the first centre supporting rape survivors in Nigeria. Set up in 2013.

¹³⁰⁴ In the Criminal Code Cap 38, LFN 2004, which applies in the South, any person who has unlawful carnal knowledge of a woman or girl without her consent, or with her consent if the consent is obtained by force or by means of threat or intimidation of any kind or by fear of harm, or by means of false and fraudulent representation as to the nature of the attack or in the case of a married woman by personating her husband, is guilty of an offence which is called rape; section 252 of the Penal Code Cap pg. 3 LFN 2004 f Northern Nigeria.

ICTR & ICTY definition,¹³⁰⁵ including the Country Women Association of Nigeria (COWAN), the Federation of Muslim Women's Association in Nigeria (FOMWA), Gender Equity Action Planners (GEAP), the Grassroots Health Organization of Nigeria (GHON), and the International Federation of Women Lawyers (FIDA).

The definition of rape in Nigeria, emerged from the fact that, historically, women were viewed as the legal property of their fathers and husbands, therefore rape was considered a crime against a man's property rather than against the woman.¹³⁰⁶ Thus, to establish rape, a woman is expected to resist, with proof of the non-consensual nature of sex acts perpetrated.¹³⁰⁷ Physical resistance and evidence of non-consensual sex must therefore be established.

Women grassroots organisations' such as FIDA have advocated for change in the proof of non-consent and ways to change perceptions towards women in court.¹³⁰⁸ This study has recognized that the government alone cannot achieved this positive effect, since Nigerian society is a male-dominated culture.¹³⁰⁹ Hence, there should be a holistic change in all spheres within society, including the judicial system, towards rape victims. This will produce lasting changes in attitudes within the populace. Similarly, this study advocates for a clear distinction

¹³⁰⁵Muehlenhard, C. L., & Linton, M. A. 1987 Date rape and sexual aggression in dating situations: Incidence and risk factors. *Journal of Counselling Psychology*, 34, 186-196.

¹³⁰⁶ Wolfgang Schomberg and Ines Peterson 'Genuine consent to sexual violence under international criminal law' *the American Journal of International Law*, Volume 101:121-141, 2007; Alison Cole 'Prosecutor v Gacumbitsi: the New Definition for Prosecuting Rape under International Law' *International Criminal Law Review* 8(2008) 55-86; Kristen Boon 'Rape and forced pregnancy under the ICC Statute: human dignity, autonomy and consent' *32 Columbia Human Rights Law Review* page 625-675, 2001; significant texts include Anne-Marie L. M. de Brouwer 'supranational Criminal Prosecution of Sexual Violence: the ICC and the Practice of the ICTY and the ICTR' *Intersentia*, the Hague, in 2005. Anne-Marie L. M. de Brouwer, Case note on Gacumbitsi, André Klip and Göran Sluiter (Eds) *Annotated Leading Cases of International Criminal Tribunals, The International Criminal Tribunal for Rwanda*, Volume 24, page 583.

¹³⁰⁷Temkin, Jennifer. *Rape and the legal process*. Oxford Monographs on Criminal Law and Justice 13 Feb 2003 Oxford University Press.

¹³⁰⁸ Ibid.

¹³⁰⁹Ward Colleen A, *Attitudes toward rape: Feminist and social psychological perspectives*, vol 8 (Sage 1995). Victoria University of Wellington, New Zealand.

between cultural and religious norms from national legislation,¹³¹⁰ and to enhance the roles played by the different arms of law.

In view of this, dominant traditional and religious influences that have hitherto stalled the eradication of violence against women should be eliminated. Consequently, abolishing extreme practices, engaging in foundational awareness by educating younger generations and encouraging families to participate in reporting cases, rather than leaving it to the victims alone, will probably improve attitudes towards women.

10.12. Nigerian government responses to rape and abuses of women during internal armed conflicts

Chapter 8 addressed Nigerian government responses to rape and abuses of women during internal armed conflicts.

10.12.1. Assessment of the Nigerian criminal legal system during internal armed conflicts

The Northern and Southern Protectorates, themselves artificial colonial constructs containing myriad ethnic groups and territories, were amalgamated by Britain to form the basis of modern Nigeria. Since this merger, Nigeria has been experiencing unrest due to civil war.¹³¹¹ There was sectarian civil unrest after the 1970 Biafran war,¹³¹² precipitated by the Movement for the Survival of the Ogoni

¹³¹⁰ Clarke, Amanda. (2006). Qualitative interviewing: Encountering ethical issues and challenges. Nurse researcher. 13. 19-29.

¹³¹¹ Nigeria's Minister for Women Affairs, 'Tripartite Legal System Hinders Progress towards Gender Equality in Nigeria,' (Evidence of Nigeria's Commitment to Implementing Obligation under Women's Convention Also Cited 637th & 638th Meetings.

¹³¹² Stremlau, J. J. 2015. The international politics of the Nigerian civil war, 1967-1970. Princeton University Press.

People,¹³¹³ the Movement for the Emancipation of the Niger Delta,¹³¹⁴ the Niger Delta Avengers¹³¹⁵ and currently Boko Haram.¹³¹⁶ These militia groups have in the last two decades changed war strategy and tactics.¹³¹⁷ These militants have employed the use of women and children as combatants and suicide bombers in conflict,¹³¹⁸ contrary to Human Rights Laws,¹³¹⁹ ROE,¹³²⁰ and Laws of Armed Conflicts.¹³²¹ The UNSC, in response to the plight of women, adopted several resolutions in favour of women during conflict.¹³²² However Nigeria, a member of the UN, has been struggling with human right problems within its territories.¹³²³ It has been observed that there are disparities between law in books and law in action within Nigerian territory.

¹³¹³Madiebo, A. A. The Nigerian revolution and the Biafran war. Fourth Dimension Publishers, 1980.

¹³¹⁴Movement for the Survival of the Ogoni People. Nigeria. The Ogoni Crisis. A Case-Study of Military Repression in South-eastern Nigeria. July 1995'. Human Rights Watch Report. Vol. 7, No. 5.

¹³¹⁵Courson E, Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and Petro-insurgency in the Niger Delta (Nordiska Afrikainstitutet 2009).

¹³¹⁶Chris, Ewokor, The Niger Delta Avengers: Nigeria's Newest Militants. BBC Africa, Nigeria. 2 June 2016.

¹³¹⁷Madiebo, A. A. 1980 The Nigerian revolution and the Biafran war. Fourth Dimension Publishers, Enugu (1980), 411 pages.

¹³¹⁸Zenn, Jacob, and Elizabeth Pearson., "Women, Gender and the evolving tactics of Boko Haram." (2014) 5.1 Journal of terrorism research.

¹³¹⁹307September 2006Politics & Society.

Elizabeth Pearson, 'Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons (October 16, 2014).

¹³²⁰The Committee on the Elimination of All Forms of Discrimination against Women (11th session, 1992), paragraph 7), identified gender-based violence, including rape and sexual violence, as a form of discrimination.

¹³²¹Nigerian Institute of Strategic Studies Rules of engagement for the Nigerian military chapter II section 14 (2) (b)

¹³²²Schindler, D and Toman J, the Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents (Brill 1988).

¹³²³United Nations, Declaration on the Protection of Women and Children in Emergency and Armed Conflict, General Assembly Resolution 3318 (XXIX), See preamble para. 9 and para 3.' (14 December 1974.).

Nigeria has ratified numerous international treaties,¹³²⁴ and enacted its own legislation¹³²⁵ in compliance with international law.¹³²⁶ However it is still challenged by defects arising in the implementation of this legislation. As discussed in Chapter 7, enacting new laws to bridge the gaps of existing laws is a drive in the right direction. On the other hand, the major challenge established by this study was the execution of existing legislation. Previous literature has identified the tripartite legal system in Nigeria as a possible impediment in the execution of relevant laws,¹³²⁷ emanating from a situation wherein Muslim-majority Northern Nigeria applies Sharia,¹³²⁸ while Christian-majority Southern Nigeria is governed by the Criminal Code.¹³²⁹

These two regions are always at loggerheads over jurisdiction. Though Sharia law prohibits the crime of rape and sexual abuse of women, it creates impossible conditions within which women can obtain justice in a court of law.¹³³⁰ These conditions include the provision of four credible male witnesses to testify to the

¹³²⁴Nwoliase, B. C. 2006 National security and sustainable democracy. Ibadan: John Archers Publisher Limited, Nigeria, 2006), p. 348

¹³²⁵ African Charter on Human and Peoples Rights African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10 Laws of the Federation 1990 which domesticates the African Charter. See also Abacha V. Fawehinmi [2000] 6 NWLR 228 where the Nigerian Supreme Court stated that '[c]ap 10 [African Charter] is a statute with international flavour [...] if there is a conflict between it and another statute, its provisions will prevail over those of that other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation.'

¹³²⁶ Rome Statute of the International Criminal Court, July 17, 1998 Arts. 7(1) (g), 8(2) (b) (xxii), U. N. Doc. A/CONF.183/9.

¹³²⁷ The Criminal Code Act, Chapter 77 of the Laws of the Federation of Nigerian. 1990

¹³²⁸ Nigeria's Minister for Women Affairs, 'Tripartite Legal System Hinders Progress towards Gender Equality in Nigeria,' (Evidence of Nigeria's Commitment to Implementing Obligation under Women's Convention Also Cited 637th & 638th Meetings.

¹³²⁹Yerima, the former Governor of Zamfara state (the first state in northern region to introduce Sharia laws in 2000).

¹³³⁰ In the Criminal Code Cap 38, LFN 2004, which applies in the South, any person who has unlawful carnal knowledge of a woman or girl without her consent, or with her consent if the consent is obtained by force or by means of threat or intimidation of any kind or by fear of harm, or by means of false and fraudulent representation as to the nature of the attack or in the case of a married woman by personating her husband, is guilty of an offence which is called rape; section 252 of the Penal Code Cap pg. 3 LFN 2004 f Northern Nigeria

crime of rape,¹³³¹ and victims have to prove that they were virgins at the time of rape or face stoning to death.¹³³² In addition, when a married woman accepts being a victim of rape, she is convicted for having sex with someone other than her husband.¹³³³ This confirms the issue of blaming the victims, contradicting the law on protecting women from abuse. These laws are arguably a reflection of the attitude of religion towards women. They reaffirm societal perceptions concerning the low values accorded women, and the fact that no special consideration is given to the protection of children and women in conflict.

10.12.2. The evaluation of legal responses to violence in Nigeria

When examining the legal response in Nigeria to crimes committed during internal conflicts, there is a conspicuous pattern of government action, including poor investigation in most cases, a lack of fully equipped forensic laboratories with trained personnel, poor regulation and implementation of national laws, and ineffective prosecution of offenders. The current legal framework on the protection of women in Nigeria is inadequate in its definitions, thereby creating an avenue for offenders to escape prosecution.¹³³⁴

During the examination of the 1999 Criminal Code of Southern Nigeria, the research discovered gaps in the definition of the criminal offences relating to the

¹³³¹Amnesty International. How Sharia law punishes rape women. Rape victim sentenced to 200 lashes and six months in jail. November 2007.

¹³³²Nmehielle, V. O. O. 2004. 'Sharia law in the northern states of Nigeria: to implement or not to implement, the constitutionality is the question,' Human Rights Quarterly 26, 3: 730 –59. Oba, A. A. 2002. 'Islamic law as customary law: Nnoli O, Ethnic conflicts in Africa. Council for the Development of Social Science Research in Africa (African Books Collective 1998).

¹³³³ Ibid.

¹³³⁴Sandesh Sivakumaran 'Male/Male Rape and the "Taint" of Homosexuality' Human Rights Quarterly 27 (2005) 1274-1306. P. Oosterhoff, P. Zwanikken, E. Ketting Sexual torture of men in war-time Croatia was common' British Medical Journal, 29 May 2004; BMJ 2004;328:1280; 'sexual torture of Men in Croatia and Other Conflict Situations: An Open Secret,' Reproductive Health Matters, 2004; 12(23):68-77. Amnesty International has documented one example of rape of a civilian man by a woman, an armed combatant, in Democratic Republic of Congo: North Kivu. No end to war on women and children AI Index 62/005/2008, 29 September 2008, page 12.

sexual abuse of women.¹³³⁵ The Criminal Code of Nigeria was found to be ambiguous in this area, and this shortcoming has caused a sizeable amount of cases to go down the drain in an attempt to obtain justice.¹³³⁶ To achieve conviction under the Criminal Code, proof of penetration is a legal prerequisite.¹³³⁷ The prosecutrix must prove beyond reasonable doubt non-consent, an account which must be easily and independently corroborated,¹³³⁸ therefore raising the issue of corroboration.

The issue of corroboration has been subject to debate by scholars over the years.¹³³⁹ Often, this has always centred on whether its requirement is to some

¹³³⁵ In the Criminal Code Cap 38, LFN 2004, which applies in the South, any person who has unlawful carnal knowledge of a woman or girl without her consent, or with her consent if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of harm or by means of false and fraudulent representation as to the nature of the attack or in the case of a married woman by personating her husband, is guilty of an offence which is called rape; section 252 of the Penal Code Cap pg. 3 LFN 2004 f Northern Nigeria.

¹³³⁶The Latin Maxim "silent enim leges inter arma" is generally attributable to Cicero, the famous Roman philosopher and politician (106-43BC). Justice Scalia wrote in his dissent in *Hamdi v Rumsfeld*, 542 us 507(2004) "many think it's not only inevitable but entirely proper that liberty gives way to security in times of national crisis that, at the extremes of military exigency, inter arma silent leges. whatever the general merits of the view that war silences law or modulates its voice, that view has no place in the interpretation and application of a constitution designed precisely to confront war and in a manner that accords with democratic principle to accommodate it.

¹³³⁷Beltz, Amanda (2008) "Prosecuting Rape in International Criminal Tribunals: The Need to Balance Victim's Rights with the Due Process Rights of the Accused," *Journal of Civil Rights and Economic Development*: Vol. 23: Iss. 1, Article 5.

¹³³⁸ Rape is a particular kind of sexual violence, where the definition is confined to the act of penetration of the body, whereas the definition of other kinds of sexual violence is potentially extremely wide, due to the variety of methods chosen by perpetrators to commit these crimes: as stated in the Triffterer Commentary, "Sexual violence is a term broader than rape. The term is used to describe any kind of violence carried out through sexual means or by targeting sexuality" (Otto Triffterer Commentary on the Rome Statute of the International Criminal Court" Hart Publishing, 2008, page 214). According to their in the *Akayesu* judgement, sexual violence, which includes rape, is considered "any act of a sexual nature committed under circumstances that are coercive." (*Akayesu*, above, note 8: paragraph 598). The ICTR continued: "Sexual violence is not limited to a physical invasion of the human body and may include acts that do not involve penetration or physical contact. Sexual violence covers both physical and psychological attacks directed at a person's sexual characteristics." (*Akayesu*, Trial Judgment above, note 8: paragraph 688) However, the aspects of coercion and violation of sexual autonomy are common to both the definition of rape and the definition of sexual violence, and are of relevance to the investigation and prosecution of both crimes.

¹³³⁹ According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South 'any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.' Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

extent necessary. Should this prerequisite be retained or removed? And more importantly, is there any legal justification for requiring it in rape cases where, corroboration requirement has merely been a matter of practice?¹³⁴⁰ This has been identified by the study to be an essential requirement by courts in determining a crime of sexual penetration, force, and lack of consent. By law, a raped victim is expected to have put up some level of physical resistance to her utmost power otherwise the perpetrator cannot be convicted of rape.¹³⁴¹ Besides the proof of consent, this research has also identified the difficulty of determining whether there was actual penetration during the act as required by the definition under the Criminal Code.¹³⁴²

Furthermore, ascertaining the level of penetration accepted under the law proves challenging.¹³⁴³ In comparing the definition of rape under Criminal Code with the ICTY definition, rape (in broad terms “sexual violence”) was defined as “penetration however slight. In other words, if any part of the male organ touches

¹³⁴⁰ Williams G, ‘Corroboration in Sexual Cases’ (1962) Criminal Law Review p. 662

¹³⁴¹ Such as rape in section 357 of the Criminal Code; defilement of a girl under 13 in section 218 of the Criminal Code; defilement of girls under 16 and above 13, and of idiots in section 221 of the Criminal Code, etc.

¹³⁴² Rape is a particular kind of sexual violence, where the definition is confined to the act of penetration of the body, whereas the definition of other kinds of sexual violence is potentially extremely wide, due to the variety of methods chosen by perpetrators to commit these crimes: as stated in the Triffterer Commentary, “Sexual violence is a term broader than rape. The term is used to describe any kind of violence carried out through sexual means or by targeting sexuality” (Otto Triffterer Commentary on the Rome Statute of the International Criminal Court” Hart Publishing, 2008, page 214). According to the ICTR in the Akayesu judgement, sexual violence, which includes rape, is considered “any act of a sexual nature committed under circumstances that are coercive.”(Akayesu, above, note 8: paragraph 598). The ICTR continued: “Sexual violence is not limited to a physical invasion of the human body and may include acts that do not involve penetration or physical contact. Sexual violence covers both physical and psychological attacks directed at a person’s sexual characteristics.” (Akayesu, Trial Judgment above, note 8: paragraph 688) However, the aspects of coercion and violation of sexual autonomy are common to both the definition of rape and the definition of sexual violence, and are of relevance to the investigation and prosecution of both crimes.

¹³⁴³ Ibid.

the vagina lip, known in medical terms as the labia menorrh, rape is deemed to have occurred.”^{1344,1345}

However under the definition in the Nigeria Criminal Code, there must be corroborated proof of penetration.¹³⁴⁶ Penetration under Nigerian law must be via the vagina, and not the anus or any other part of the female body.¹³⁴⁷ The Nigerian court can only accept rape, when the penis is said to have penetrated the vagina and not with any other object.¹³⁴⁸ Also there is a challenge in the Nigerian court in determining consent.¹³⁴⁹ Similarly, the Penal Code of Northern Nigeria also poses controversy on the standard behaviour expected of a victim. Under Sharia law, it is very difficult for a victim to prove the crime of rape.¹³⁵⁰

¹³⁴⁴ According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South ‘any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.’ Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

¹³⁴⁵ Iko v State Edet Okon Iko v the State SC.177/2001

¹³⁴⁶ Rape is a particular kind of sexual violence, where the definition is confined to the act of penetration of the body, whereas the definition of other kinds of sexual violence is potentially extremely wide, due to the variety of methods chosen by perpetrators to commit these crimes, as stated in the Triffterer Commentary, “Sexual violence is a term broader than rape. The term is used to describe any kind of violence carried out through sexual means or by targeting sexuality” (Otto Triffterer Commentary on the Rome Statute of the International Criminal Court” Hart Publishing, 2008, page 214). According to the ICTR in the Akayesu judgement, sexual violence, which includes rape, is considered “any act of a sexual nature committed under circumstances that are coercive.” (Akayesu, above, note 8: paragraph 598). The ICTR continued: “Sexual violence is not limited to a physical invasion of the human body and may include acts that do not involve penetration or physical contact. Sexual violence covers both physical and psychological attacks directed at a person’s sexual characteristics.” (Akayesu, Trial Judgment above, note 8: paragraph 688) However, the aspects of coercion and violation of sexual autonomy are common to both the definition of rape and the definition of sexual violence, and are of relevance to the investigation and prosecution of both crimes.

¹³⁴⁷ According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South ‘any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.’ Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

¹³⁴⁸ Ibid.

¹³⁴⁹ R v. Gatson 78 CAR 164. This position can be contrasted with what obtainable in states such as England where ‘A’ is said to have committed an offence “if... (a) He intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else”

¹³⁵⁰ According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South ‘any person who has unlawful carnal knowledge of a woman or girl, without her consent,

According to the definition in the Penal Code of Northern Nigeria, rape can only be committed by a man against a woman, and not vice-versa.¹³⁵¹ Islamic law accepts the commission of rape only if the rapist confesses or if there are four male witnesses to the crime.¹³⁵² It also stipulates under Sharia law that a woman's testimony is worthless in court.¹³⁵³ Therefore, four male witnesses are required for the crime of rape to be established by a Sharia Court,¹³⁵⁴ which will be impossible for a victim to provide. The rape of Muslim women is against Islamic law; however, non-Muslim women captured in battle or bought as slaves is accepted under sharia. In functioning Sharia systems (e.g. in some GCC states) slavery is considered a legal fiction, as all states are signatories to international legislation banning enslavement, but terrorist groups like Boko Haram reject nation state governments and religious/ Sharia establishments and resort to their own *ad hoc* interpretations, by which they enslave and rape women in Nigeria and elsewhere. Also, the rape of a Muslim woman is almost impossible to prove

or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.' Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

¹³⁵¹ Julie Norman, "Rape Law in Islamic Societies" CSID 6th Annual Conference [iii] Annual report of the US Commission on International Religious Freedom, May 2004 – Ref - National Commission on the Status of Women in Pakistan.

¹³⁵² Ruth Olurounbi Section 282 of the Penal Code and section 357 of the Criminal Code exempts perpetrators of rape within marriage from punishment.

¹³⁵³ Quran 24:30.

¹³⁵⁴ Quran (2:282) O you who believe! When you contract a debt for a fixed period, write it down. Let a scribe write it down in justice between you. Let not the scribe refuse to write as Allah has taught him, so let him write. Let him (the debtor) who incurs the liability dictate, and he must fear Allah, his Lord, and diminish not anything of what he owes. But if the debtor is of poor understanding, or weak, or is unable himself to dictate, then let his guardian dictate in justice. And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her. And the witnesses should not refuse when they are called on (for evidence). You should not become weary to write it (your contract), whether it be small or big, for its fixed term, that is more just with Allah; more solid as evidence, and more convenient to prevent doubts among yourselves, save when it is a present trade which you carry out on the spot among yourselves, then there is no sin on you if you do not write it down. But take witnesses whenever you make a commercial contract. Let neither scribe nor witness suffer any harm, but if you do (such harm), it would be wickedness in you. So be afraid of Allah; and Allah teaches you. And Allah is the All-Knower of each and everything.

under strict Sharia law. If the man claims that the act was consensual, there is very little the woman can do to refute his claim since she cannot produce four males witness to testify to the claim. Therefore, Sharia law places the burden of avoiding sexual encounters of any sort on the woman.

The immediate past government in Nigeria passed two pieces of legislation. The Child's Rights Bill was aimed principally at enacting into Nigerian Law the principles enshrined in the Convention on the Rights of the Child and the AU Charter on the Rights and Welfare of the Child.¹³⁵⁵ Although Nigeria is a party to many international and national treaties,¹³⁵⁶ the rights of children in Nigeria are far from being respected. Years after the legislation had been passed, it has only been enacted into law *de jure* (and not necessarily *de facto*) in fifteen out of the thirty-six states of the federation.¹³⁵⁷ This explains the wide gap between the provision of the Act, and the actual practice of the law.

Similarly, the Violence against Persons Prohibition Act 2015 provided a foundation for effective legal action against abuses of women in Nigeria.¹³⁵⁸ However, Nigeria currently has different pieces of legislation, which do not address violence against women or gender-based violence uniformly across the country. Few states have successfully passed legislation on domestic acts of violence, harmful traditional practices, and gender-based violence.¹³⁵⁹ Others,

¹³⁵⁵ Quran (24:13) Why did they not produce four witnesses? Since they (the slanderers) have not produced witnesses! Then with Allah they are the liars.

¹³⁵⁶Murray R, 'Human Rights In Africa, From the OAU to the African Union; The African Charter on Human and Peoples' Rights' (1981-1982) 22 Virginia Journal of International Law 694; E Bello "The mandate of the African Commission on Human and Peoples' Rights" (1988) "The African Commission on Human and Peoples' Rights: A five year report and assessment" (1992) 14 Human Rights Quarterly 46; HJ Steiner & P Alston International human rights in context: Law, politics and morals 920' (2000)(1 African Journal of International Law 55; CE Welch) (For an account of early writings criticizing the implementation mechanism of the Charter, see R Gittleman).

¹³⁵⁷ Ibid.

¹³⁵⁸Supra 1409

¹³⁵⁹Golda Olanrewaju, Violence against Women in Nigeria.... Myth or Fact? March 8th, 2013 was the International Women's Day.

mostly states in Northern Nigeria, have been unsuccessful since these new legislations contradict the Islamic beliefs.¹³⁶⁰

10.13. The protection rape and sexual abuse of women during internal conflicts in Nigeria

Chapter 9 explored international and national legislation on the protection rape and sexual abuse of women during internal conflicts in Nigeria.

10.13.1. ROE practical reality in Nigerian conflicts

Nigeria is a very complex country where politics affects all spheres of its existence, including the military and police forces. A historical review of conflicts in Nigeria can be traced back to politics.¹³⁶¹ This study unveils that the practicality of rules of engagement in Nigerian conflicts is non-existent.¹³⁶² In reviewing past conflicts in the country,¹³⁶³ it was recognized that brutality, torture, and sexual abuses of both men and women have been a common phenomenon.¹³⁶⁴ There is no protection of civilian communities during conflict in the country,¹³⁶⁵ and lives of non-combatants such as women and children are not protected. Rather, these groups are recruited as combatants, suicide bombers, and sex slaves.¹³⁶⁶

¹³⁶⁰Lagos State of Nigeria Art. 15(a), A Law to Provide Protection Against Domestic Violence and For Connected Purposes. 18th May 2007).

¹³⁶¹ Domestic Violence Legislation. Nigeria Jigawa State of Nigeria Projection against Domestic Violence Law 2005 Cross River State of Nigeria Lagos State of Nigeria Violence against Persons (Prohibition) Act 2015.

¹³⁶² Osaghae, Eghosa E., and Rotimi T. Suberu. *A history of identities, violence and stability in Nigeria*. Oxford. '(2005.) Centre for Research on Inequality, Human Security and Ethnicity, University of Oxford.

¹³⁶³ Nigerian Institute of Strategic Studies Rules of engagement for the Nigerian military chapter II section 14 (2) (b)

¹³⁶⁴Yusufu Turaki. Historical roots of ethno-religious crises & conflicts in Northern Nigeria. (1982) Jos ECWA Theological Seminary (JETS).

¹³⁶⁵ Ibid.

¹³⁶⁶Carreiras H, 'sexual Violence in Armed Conflicts: A Global Overview' (2013) cadernos 16. Cartwright DE and Zander AE, 'Group dynamics research and theory.' (1953).

Insurgents have turned to these tactics to gain entry into secure or public places to unleash maximum damages during attacks.¹³⁶⁷

The Nigerian military is not left out from these allegations.¹³⁶⁸ There were reports of the government security forces engaging in torture, killings, illegal arrests, and rapes of captured families of Boko.¹³⁶⁹ Likewise, it has been ascertained through the review of Laws of Armed Conflicts that the Nigerian Army does not have any binding rules of engagement in internal armed conflicts,¹³⁷⁰ only a draft document from the Nigerian Institute of Strategic Studies. However, it is still obliged by international law to abide by law of armed conflicts which prohibit the abuse of women and the advocates for the protection of civilians or non-combatants during conflicts.¹³⁷¹

The Nigerian Army have a belief in brutality¹³⁷² to justify or to achieve any goal.¹³⁷³

All military rules and training are disregarded during conflicts in Nigeria. Both the army and rebels (which in most cases are organised) do not obey any rules.¹³⁷⁴

¹³⁶⁷Elizabeth Pearson, 'Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons (October 16, 2014).

¹³⁶⁸ Hassan, Muritala Babatunde. Boko Haram Insurgency and the Spate of Insecurity in Nigeria: Manifestation of Governance Crisis. Research on Humanities and Social Sciences. 2014, Volume: 4 Issue: 1 Page: 9 -18.

¹³⁶⁹ Human Rights Watch. 'In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside the premises of Willbros Nigeria Ltd., a subsidiary of an American contractor to the oil and gas industry, based in Oklahoma. The soldiers killed four people and raped several women from the community. The Nigerian federal government dismissed the reports of rapes, asserting that photographs alleged to show the soldiers assaulting the women were staged, and the police have refused to investigate. Human Rights watch found the women's claims of rape to be fully credible and believes that contesting the accuracy of the photographic evidence is an inappropriate response by the government to serious allegations of human rights violations.' (December 23, 1999).

"'We'll kill you if you cry": sexual violence in the Sierra Leone Conflicts, 3-4, 46.' (2003).

¹³⁷⁰Nigerian Army Accused of Excessive Force, Rape in Niger Delta (12/22/99), Human Rights Watch called on the Nigerian government to initiate criminal proceedings against soldiers responsible for abuses in two recent incidents in the oil producing Niger Delta region.

¹³⁷¹ Nigerian Institute of Strategic Studies Rules of engagement for the Nigerian military chapter II section 14 (2)(b).

¹³⁷² Schindler, D and Toman J, the Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents (Brill 1988).

¹³⁷³ Sokari Ekine. "Women's responses to state violence in the Niger Delta. '(2008) 10 Feminist Africa.

¹³⁷⁴ Peter Takirambudde, 'Nigerian Army accused of Excessive Force, Rape in Niger Delta. Destruction of Odi and rape in Choba. December 23, 1999'.

As per the definition of conflicts under international law,¹³⁷⁵ the level of organisation of militants in Nigeria during conflicts, amounts to the application of international law.¹³⁷⁶ However, the Nigerian government has still not shown any dedication or enthusiasm for investigating crimes committed within its territory during conflicts.

During conflicts in Nigeria, no special emphasis is placed on the protection of women and children by the government. Current legislation is not enforced to protect women in conflict.¹³⁷⁷ Discrepancies were found with the different enacted laws,¹³⁷⁸ therefore, raising the need for tougher sanctions, strict legislation and implementation of laws to prohibit sexual abuses during conflicts.

10.13.2. Are the existing legal principles in Nigeria adequate to protect women, prosecute and obtain conviction?

When rules are not obeyed during conflicts, there are bound to be crimes committed, with resulting casualties. This was found to be the situation occurring during internal conflict in Nigeria. Human right abuses were reported to have been committed by both government forces and militants.¹³⁷⁹ As indicated earlier, conflicts in Nigeria do not obey any rules of engagement.¹³⁸⁰ Both sides to the

¹³⁷⁵ ICRC (2007), International Humanitarian Law and the challenges of contemporary armed conflicts, Geneva, (30IC/07/8.4).

¹³⁷⁶ American Journal of International Law, 1988. Certain non-international conflicts may be more violent, extensive and consumptive of life and value than international one. See W. Michael Reisman & James Silk, "Which Law Applies to the Afghan Conflict?"

¹³⁷⁷ The ILC has noted that this is a theory that appears to be 'gaining ground in modern times. See International Law Commission, Report covering its 10th Session, 1958, pp. 16-17

¹³⁷⁸ In the Criminal Code Cap 38, LFN 2004, which applies in the South, any person who has unlawful carnal knowledge of a woman or girl without her consent, or with her consent if the consent is obtained by force or by means of threat or intimidation of any kind or by fear of harm, or by means of false and fraudulent representation as to the nature of the attack or in the case of a married woman by personating her husband, is guilty of an offence which is called rape; section 252 of the Penal Code Cap pg. 3 LFN 2004 f Northern Nigeria

¹³⁷⁹ The Criminal Code Act, Chapter 77 of the Laws of the Federation of Nigerian. 1990

¹³⁸⁰ Idowu, J., Aregbesola, M. O. Internal Security Operations and Human Rights Abuses in Nigeria: Issues and Challenges.

conflicts were found liable to committing war crimes, including rape.¹³⁸¹ This study establishes that the Nigerian criminal legal framework is insufficient to bring about the prosecution of soldiers who committed crimes during conflicts, therefore creating loopholes for future crimes to be committed.

International treaties ratified by Nigeria expect each state party to enact into its national law all obligations stipulated in the treaties. However, this is not the situation with Nigeria. States in Nigeria are permitted to enact their laws but there is still need for the country to unify vital laws for consistency in its regulation and prosecution processes. An additional measure suggested by this research is the introduction of an independent enforcement agency, which should advocate for rape victims. The Nigerian government should establish safe houses and rehabilitation centres with non-interference from government forces in the management of the centres.

10.14. Summary

This research evaluates the efficacy of the existing Nigerian criminal legal framework. The study examines the extent to which the existing national legislation protects civilians from abuses in conflicts. It also reviews the ability to prosecute offenders of war crime during internal conflicts in Nigeria. The research identifies that victims of rape encounter difficulties which are not addressed by the current criminal legislation in Nigeria. The study further discloses that the changing war strategy by militants is a major challenge to the government, hence prompting the government to enact new legislation against terrorism. However, the Terrorism Prevention Act has its own deficiencies with no provision in the Act for the protection of women against rape and sexual abuse. This therefore, further

¹³⁸¹ Rules of engagement for the Nigerian military. Section 217 (2) (b) and (c).

justifies the rationale for this research study with the contribution and recommendations stated below.

In addition, the study reveals the use of women as combatants and suicide bombers. This raises the question of individual responsibility for crime committed by these suicide bombers. Are they victims or accomplices based on the level of damage caused? This may be a question for future research.

10.15. Contributions

In conclusion, this study evaluates the relative efficacy of the existing criminal legal framework in Nigeria, and its ability to protect women and children and to bring about prosecution of alleged offenders of war crime during internal armed conflicts. To determine the potency of this legal framework, intricate questions were asked. This section outlines the outcome of the study, suggestions for possible political reforms based on findings from empirical evidence, and its contribution to existing academic literature pertaining to conflict-related rape in Nigeria.

Rape and sexual violence against women are identified by this study to be an extremely complex phenomenon, deeply rooted in the power imbalance between men and women. Therefore, it could be concluded that underlying religious and social structures contribute to the rationale offered by men as the reason for violating women. It is generally held that some African cultural beliefs and mores exacerbate the abuse of women, and public awareness campaigns for the abolition of harmful practices and embracing gender equality, as enjoyed to some extent in the more “developed world,” would go a long way to bridge the gap between men and women.

Nigeria lacks a comprehensive information database system on conflict-related rape and sexual violence. No statistics or comprehensive electronic records of conflict-related rape cases are kept by courts in Nigeria. Case files (paper files) must be identified by names of parties involved rather than types of cases, which proved challenging when seeking records to distinguish conflict-related rape cases from domestic rape, making it difficult to determine the accuracy of statistics.

A personal identification and verification database are non-existent for criminal cases. No central biometric system is available in Nigeria for identifying criminals. Provision of these databases could improve forensic investigation of rape crimes in Nigeria. Also, to support the accuracy of any investigation, the use of DNA should be a vital technique in identifying offenders. It is revealed during the interview discussions with police officers that the Nigerian police do not implement the use of DNA in solving crimes in the country. This could result in false accusations of innocent people. All Nigerians, as well as military and para-military personal information, should have their data stored in such a system. This could assist in identifying deaths within conflict, investigation of crimes committed during conflict, and accountability. However, due to the high rate of corruption in Nigeria, such systems should be encrypted, impossible to delete, centrally controlled, and universally accessible from any state in Nigeria.

The new fingerprinting system, or what is referred to as a Person Verification Number, was recently introduced by banks in Nigeria to reduce financial fraud. This could also be introduced as a universal identification system, due to the uniqueness of everyone's fingerprints, to represent national security identification. This verification number could represent an exceptional means of identifying Nigerian citizens, irrespective of their state of origin. Individuals who

are arrested and do not have the unique number could be photographed, finger printed and issued an identity number. This could be fed into the universal database and be accessible from any government database office. As earlier indicated, due to the level of corruption, all input information would be protected from alteration by any office within the region. Rather, only changes to status should be updated.

All Nigerians at birth should be issued a unique personal identification number (like the social security number), which must be presented before certain services are rendered, such as registration in school, opening bank accounts, and accessing public services. This would encourage all Nigerians to register births and deaths and discourage people from committing crimes in the knowledge that they would be traced.

The formal legal system in Nigeria is very expensive and beyond the reach of the ordinary citizen, who is most in need of such services. The Nigerian government should introduce free public prosecution services to advocate on behalf of victims, to encourage rape reports and empower victims to pursue cases further.

The Violence against Persons (Prohibition) Act 2015 designates the High Court in Nigeria as the court of competent jurisdiction to hear cases of sexual abuse against women. The customary and magistrate courts in Nigeria apply customary law extracted from customs and traditions which discriminate against and enforce the subjugation of women. However, the High Court is not easily accessible to rape victims because of their sense of fear and intimidation by such institutions. English is the language used at the High Court, and this is not understood by most victims. In addition, the High Court does not permit ordinary citizens to file cases, only certified legal practitioners can do so, who are very expensive and

out of reach of the ordinary woman on the street. This study therefore proposes that Customary Courts in Nigeria be accorded the same jurisdiction as High Courts to hear cases of sexual abuse and rape in conflicts. It should be made affordable to ordinary citizens and the process of filing a case should be simplified, also incorporating the use of local dialects, to enhance the understanding of ordinary citizens.

This research calls for the unification of the Criminal Code of Southern Nigeria and the Penal Code of Northern Nigeria. The country should make it mandatory for all states to adopt any new legislation, irrespective of which criminal code is being practiced within the region. Furthermore, re-definition of rape in both codes is essential, to update existing definitions. Under the current criminal code, rape can only be established when there is contact of the penis of the perpetrator and the vagina of the victim, which conflicts with the definition under the ICC statute, whereby rape could occur with the use of an object or about other orifices.

The corroboration clause, whereby courts insist on the use of evidence, and prove of possible resistance from victims in order to prosecute offenders should be abolished. Equally, the Sharia Courts should abolish the corroboration clause, where victims are expected to produce four reputable male witnesses to the crime, before an accused can be incarcerated. This demand by the law is practically impossible to establish even in conflict situations, where gang-rape occurs. No soldier (man) will testify against his colleague on rape charges, which leaves the victim unable to produce any witness. GCC states have made great progress in adapting their Sharia systems to the requirements of modern law, and some consultation with legal experts from those countries could help drive progress in this area by making changes more palatable to conservatives and

undermining the misogynistic and brutal interpretations of Boko Haram and their sympathisers.

The problem with Nigeria is not a need to enact new laws *per se*, rather the full force (enforcement) of existing laws is not imposed. Corruption, greed and poverty are major elements that hinder justice in Nigeria and this cuts across all sectors of society.

The government should invest in independent investigations of conflict-related rape crimes and the provision of witness protection services for rape victims, including security, medical, psychological, and legal (advocacy) services for rape victims.

Incorporating gender awareness and non-violence conflict resolution programs into military training could assist in eliminating cultural perception on the low value bestowed upon women.

Establishing a special task force in collaboration with human rights and NGOs, and training first-response security professionals on how to identify and respond to rape victims would be a highly effective and pragmatic way to immediately improve rape response.

The government should invest in the provision of more functional shelters and safe houses in collaboration with grassroots agencies.

The Nigerian legal system needs overhauling by abolishing all discriminatory laws, practices, and procedures, and by unification of its criminal codes. However, enacting laws alone cannot protect women. Rather strict implementation of these laws could go a long way to improve cultural perceptions towards rapes.

10.16. Limitations

In any research, there are limitations. Constraints encountered while conducting this research were mostly the limited time spent in conducting interviews. This was due to ongoing conflict in certain parts of Nigeria, hampering movement around the country. Also, there were restrictions of movement placed by my university (UCLAN) on traveling to Nigeria, which reduced the time frame initially set for interviews. The purpose of this thesis was to highlight the failures on the part of the Nigerian security system, and uncover the difficulties encountered by rape victims in seeking justice. Past studies offered much useful information, but as revealed in the summary of interview analysis of this study, there was an urgent need to re-evaluate the practicability of Nigerian criminal legal system law based upon experiences and testimonies of victims in compliance to international standard.

During the research, there were impediments caused by the questionable accuracy of statistics of rape victims, reports of incidence of attacks, and threats against victims, because there was no direct contact with victims. Due to the sensitivity of the topic and in due consideration to guidelines laid down by the UCLAN ethics committee, direct contact with victims was prohibited. Therefore, all data on victims' testimonies were from reports or third-party information.

Nigerian courts lacked comprehensive records of all rape cases (conflict and domestic). No databases were set up to collect such vital information. Rape cases were identified through the names of parties involved, which made it very tedious and cumbersome to collect large datasets on conflict-related rape cases.

It was very challenging to get comprehensive records of rape reported cases at the police stations, because there are no electronic data storage facilities. All

cases were manually written, and when the cases were closed, all files are dumped in a room, which made it virtually impossible to obtain any substantial information within the short time that was available for data collection.

10.17. Suggestions for further research

During this study, I have identified several related areas that may benefit from further research, particularly regarding the instrumentalization of women during conflicts. In a situation where women captured by rebels during conflicts are forced into combat to perpetrate violence or acts of terror against the general population (e.g. female suicide bombers), how does the law define these women? Are they victims or perpetrators? How can accomplices be distinguished from victims in court? Also, can the introduction of witness protection during rape cases eliminate the effect of cultural perception towards the report of rape incidences in Nigeria? These are just some of the significant issues relating to conflict rape in Nigeria that warrant further investigation.

10.18. Recommendations

In conclusion, rape is an impediment to socio-economic development, as well as the public security of the civilian population. It is also a violation of women's fundamental human rights. This violation is entrenched in archaic cultural practices and stereotypes. The failure of the government to investigate conflict-related rape accusations against the military and militants in Nigeria is a violation of the International Human Rights Law on the protection of civilians, and it encourages further future attacks in conflict situations. Therefore, the federal government should focus on improving investigative mechanisms, with greater emphasis on dealing with conflict-related rape according to international norms.

Current existing legislation on gender violence should be updated and should be more specifically oriented, to bridge any gap that perpetrators exploit to escape justice. Due to corruption within the Nigerian system, there is need to establish an independent task force, fully empowered, with less influence from government, and full funding for its stability and sustainability. Also, it should engage qualified personnel with modern facilities. Finally, re-orientation on male perceptions toward women and abolishing damaging cultural practices against women is necessary at all levels. This should involve participation of the national and local governments, religious clergy, tribal elders, community leaders, women's representatives, and media coordinators as part of a general national campaign. This is to make it clear that rape and sexual assault are unacceptable crimes in modern Nigeria. It will be met with severe consequences, and to improve the conceptualisation of women's role and value in society for future generations.

References

Reference

A.A. Abreu 1998 "Mozambiquean women experience violence in Turshen M. and Twagiramariya; C. what women do in war time. Gender and conflict in Africa. Zed books. London. Harsch E. 1993 Mozambique: Out of the ruins of war, Africa Recovery Briefing paper. 8 May Aall, Pamela, (2000). NGOs, conflict management and peacekeeping. International Peacekeeping. 7. 121-141.

A. Patricia JR, 'Interpers violence. Pg. 8: 223. Journal of interpersonal violence. Sage journal.

June 1993.

A. Owoade, 'Note on Rape. KIU Journal of Humanities, Vol. 2, No.1, June 2017. Ogun state

University press.

Abayomi ADEBAYO, Anthony & Akanle, Olayinka. (2014). Gender and The Academy In

Nigeria. African Journal for the Psychological Study of Social Issues. 17. 147-154.

Abimbola Adesoji, ' 'The Boko Haram Uprising and Islamic Revivalism in Nigeria'(2010) Vol.

45 No. 2, pp. 95–108 Africa Spectrum.

A. Bashma, 'Written and customary provisions relating to the conduct of hostilities and

treatment of victims of armed conflicts in ancient India - Volume 29 Issue 271.

According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the

South 'any person who has unlawful carnal knowledge of a woman or girl, without her

consent, or with her consent, if the consent is obtained by force or by means of threat or

intimidation of any kind, or by fear of arm, or by means of false and fraudulent

representation as to the nature of the act, or in the case of a married woman, by personating

her husband is guilty of an offence which is called rape.' Similar provisions can be found

in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern

part of Nigeria.

Adedoyin Samuel Adebayo, "Advantages and Disadvantages of Empirical Methods of Data Collection." Methods of Data Collection StudyMode.com. Retrieved 02, 2013, from <https://www.studymode.com/essays/Methods-Of-Data-Collection-1407505.html>.

Alffram, ' Ignoring Executions and Torture: Impunity for Bangladesh's Security Forces. Human Rights Watch.' (2009)

Albert Lau, 'Southeast Asia and the Cold War '. New York: Routledge. 2012.

Adikema-Ajaegbo, G International Federation of Women Lawyers. Memories of 36th Triennial Convention for the International Federation of Women Lawyers (FIDA). FIDA executive council 2017.

Adler P. AP, 1987. 'Membership roles in field research. Newbury Park, CA: Sage.

African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap 10 Laws of the Federation 1990 which domesticates the African Charter. See also Abacha V. Fawehinmi [2000] 6 NWLR 228 where the Nigerian Supreme Court stated that '[cap 10 [African Charter] is a statute with international flavor [...] if there is a conflict between it and another statute, its provisions will prevail over those of that other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation.'

African commission on Human and Peoples Rights 2003 Protocol of the African Charter on Human Rights of Women in Africa.

Africa & Agbu, Osita, (2019). West Corruption and Human Trafficking: The Nigerian Case.

African War Zones Rape Epidemic: Feb 2008 BBC.

Agar M, 'the Professional Stranger: An Informal Introduction to Ethnography. Academic Press.

American Heritage Dictionary 2000. Houghton Mifflin.' (1996.).

Agbese P, 'Federalism and the minority question in Nigeria.' (2003) Federalism in Africa 237.

Agbiboa DE, "No Retreat, No Surrender: Understanding the Religious Terrorism of Boko Haram in Nigeria.' (2013) 34(2) African Study Monographs 65–84.

Agence France-press, 'Boko Haram destroys at least 16 villages in NE Nigeria: officials'. Business Insider.' (8 January 2015.).

Aghedo, IRO, and Oarhe Osumah., ' "The Boko Haram uprising: How should Nigeria respond." '(2012) 33.5 Third World Quarterly 853-869.

Ahmed T and others, "Kamaruzzaman to hang". BD News 24.' (9 May 2013).

Akira Fujiwara BW, 'the Nanking Atrocity 1937-1938: Berghan Books.' ((2007).

Akhavan, Payam (1996) The International Criminal Tribunal for Rwanda: the politics and pragmatics of punishment.

Akpobibibo Onduku, 'Environmental Conflicts: the case of the Niger Delta' (2001)

A paper presented at the One World Fortnight Programme, University of Bradford, UK. A Paper.

Alexandra Stiglmayer. 'Mass rape: The war against women in Bosnia-Herzegovina. ' U of Nebraska Press.

Alexander Rofe, "'The Laws of Warfare in the Book of Deuteronomy: Their Origins, Intent and Positivity." 'Journal for the Study of the Old Testament 10 32 23-44.

Alex Obote-Odora, 'Rape and Sexual Violence in International Law: ICTR Contribution' (2005) 12 New Eng. J. Int'l & Comp.L. 135.

Alexei V. Matveev, 'The advantages of employing quantitative and qualitative methods in intercultural research: Practical implications from the study of the perceptions of intercultural communication competence by American and

Russian managers' (2002) 1 Bulletin of Russian Communication Association
Theory of Communication and Applied Communication 59.

Alfred Obiora Uzokwe, Surviving Biafra, 2002. Links:
<http://www.dawodu.com/barrack7.htm>.

Aljazeera, Boko Haram in Nigeria. The UNICEF reports that one in five "suicide bombers" used by Boko Haram has been a child.

Alffram H, 'Ignoring Executions and Torture: Impunity for Bangladesh's Security Forces. Human Rights Watch. ' (2009).

All Japanese Class A war criminals were tried by the International Military Tribunal for the Far East (IMTFE) in Tokyo. The prosecution team was made up of justices from eleven Allied nations: Australia, Canada, China, France, Great Britain, India, the Netherlands, New Zealand, the Philippines, the Soviet Union and the United States of America. The Tokyo trial lasted two and a half years, from May 1946 to November 1948. Other war criminals were tried in the respective victim countries. War crime trials were held at ten different locations in China. May 3, 1946 to November 12, 1948. (The Tokyo war crime trials :) All Japanese Class A war criminals were tried by the International Military Tribunal for the Far East (IMTFE) in Tokyo. The prosecution team was made up of justices from eleven Allied nations: Australia, Canada, China, France, Great Britain, India, the Netherlands, New Zealand, the Philippines, the Soviet Union and the United States of America. The Tokyo trial lasted two and a half years, from May 1946 to November 1948. Other war criminals were tried in the respective victim countries. War crime trials were held at ten different locations in China. MAY 3, 1946 to November 12, 1948. (The Tokyo war crime trials.

Allan B, 'Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia. Minneapolis: University of Minnesota press.' (1996).

Alan Soble, The fact that the attack was meant to weaken the opponent fighter, which – despite the Amazons mostly were men, and the factual assault (mainly) concentrated on women, who were – and in some countries still are seen more as an object than a human being, leads to the assumption that the physical attacks against women which were supposed to affect men, must be on a mental or psychological level when it comes to weakening the enemy. See also: Sex from Plato to Paglia: a philosophical encyclopaedia, Vol2 M-Z, Westport: Greenwood Publishing Group 2006, p. 686.

Allen, Tim & Vlassenroot, Koen. (2010). The Lord's Resistance Army: myth and reality.

Allison Adams-Alwine, Gender Mainstreaming in the United Nations: A History, Resource Guide, and Agenda for the Future 2 (May 1, 2009).

Allmark P and others, 'Ethical issues in the use of in-depth interviews: literature review and discussion' (2009) 5(2) Research ethics review 48.

A. Maedl, 'Rape as Weapon of War in the Eastern DRC: The Victims' Perspective.

' (February 2011) Volume 33, Number 1pp. 128-147 |
10.1353/Hrq.2011.0005

American Journal of International Law, 1988. Certain non-international conflicts may be more violent, extensive and consumptive of life and value than international one. See W. Michael Reisman & James Silk, "Which Law Applies to the Afghan Conflict?"

Amnesty International's 2004 reports on 'Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes Against Women in Times of Conflict: Stop Violence against Women', and Human Rights Watch's 2000.

Amaratunga, Dilanthi & Baldry, David. (2001). The debate about quantitative and qualitative research in built environment: A question of method or epistemology.

Amedeo Giorgi, The descriptive phenomenological method in psychology: A modified Husserlian approach. (Duquesne University Press 2009).

Amnesty International, 'Nigeria: Rape - the silent weapon. Rape of women and girls ... Amnesty International'. 'It's in our hands: Stop violence against women.' (2004).

Amnesty international, 'state of the world's Human Rights. Annual report deteriorated' (2012).

Amnesty International UK, 'Exposed: War crimes by Nigeria's military: Nigeria's Military Unlawfully Killed 1,200 People during Hunt for Boko Haram'.

Amnesty International. How Sharia law punishes rape women. Rape victim sentenced to 200 lashes and six months in jail. November 2007.

Amnesty International. October 31, 2008 Somalia: Girl stoned was a child of 13".

Amnesty International's, ' 'Women and War: Rape as Weapon of War' and 'Lives Blown Apart: Crimes Against Women in Times of Conflict: Stop Violence against Women' (2004)'.

Amann, Diane Marie 1999 Prosecutor v. Akayesu. Case ICTR-96-4-T. International Criminal Tribunal for Rwanda, September 2, 1998.

Anne-Marie de Brouwer 2005. *Supranational Criminal Prosecution of Sexual Violence: the ICC and the practice of the ICTY and ICTR* School of Human Rights Research Series, Volume 20, Intersentia, the Hague.

Amy Grubb and Emily Turner. 'Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming' (2012) 17(5) *Aggression and Violent Behavior* 443

Amy Grubb and Emily Turner. 'Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming' (2012) 17(5) *Aggression and Violent Behaviours* 443

Amy Grubb and Emily Turner. 'Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming' (2012) 17(5) *Aggression and Violent behaviour* 443

Amy Grubb and Emily Turner. 'Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming' (2012) 17(5) *Aggression and Violent behaviours* 443.

A non-exhaustive list of examples of situations of tensions and internal disturbances are provided in Article 1(2) of Protocol II to the Geneva Conventions, and include "riots, isolated and sporadic acts of violence and other acts of a similar nature." Article 1(2) expressly provides that Protocol II does not apply to situations of tensions and disturbances.

Anthony Clark Arend. 'The United Nations and the New World Order' (1992) 81 *Geo.LJ* 491.

Antonio Cassese. "On the Current Trend towards Criminal Prosecution and Punishment of Breaches of International Humanitarian Law" *European Journal of International Law*, vol.9 (1998), p.17.

Arend AC, 'The United Nations and the New World Order' (1992) 81 Geo.LJ 491.

Art 5 of the ICTY Statute where it states that the ICTY 'shall have the power to prosecute persons responsible for ... crimes ... committed in armed conflict, whether international or internal in character, and directed against any civilian population: ... (g) Rape'. Also, art 3 of the ICTR Statute stipulates that 'the [ICTR] shall have the power to prosecute persons responsible for the following crimes when committed as part of the widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds: ... (g) Rape'. It should be noted that the ICTR Statute does not require the existence of an armed conflict for the prosecution of crimes against humanity.

Art. 64(6)(e). Rome statute of the international criminal court.

Art 6(c) of the Nuremberg Charter defines crimes against humanity as 'murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated'.

Article 8(b), "(xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions.

Aro OI, "Boko Haram Insurgency in Nigeria: its implication and way forwards toward avoidance of future Insurgency." (2013) 3.11 International Journal of Scientific and Research Publications 1-8.

Arsanjani MH and Reisman WM, 'The law-in-action of the International Criminal Court' (2005) 99(2) *The American Journal of International Law* 385.

'Article 111 of LII (legal information institute). Law Cornell, edu.' (2011—10-24).

Article 6.5 of Protocol II provides that 'at the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict'. This provision was understood by some commentators and courts to support amnesties of serious violations of the laws of war in internal conflicts. The ICRC is, however, clear that this article is inapplicable to amnesties that extinguish penal responsibility for persons who have violated international law. It only encourages amnesties for those detained or punished for the mere fact of having participated in hostilities, L. Gibson, 'The developing jurisprudence on amnesty' (1998) 20 *Human rights quarterly* 865. See also the whole vol. 59 of *Law and contemporary problems* entitled 'Accountability for international crime and serious violations of fundamental human rights. M. Scharf, 'The letter of the law: the scope of international legal obligation to prosecute human rights crime' (1996) 59 *Law and contemporary problems* 41; K. Ambos, 'Impunity and international criminal law, a case study on Colombia, Peru, Bolivia, Chile and Argentina' (1997) 18 *Human rights law journal* 1; T. Farer, 'Restraining the barbarians: can international criminal law help?' (2000) 22 *Human rights quarterly* 90–117; M. Freeman Harris et al., 'Bringing war criminals to justice: obligations, options, recommendations' in D. Orentlicher et al. (ed.), *Making justice work: the report of the Century Foundation* (New York: Century Foundation Press, 1998) pp. 27–32; L. Olson, 'Provoking the dragon on the patio. Matters of transitional justice: penal repression vs. amnesties' (2006) 88 *IRRC* 275–94.

Arundale RB, ' "Face as a research focus in interpersonal pragmatics: Relational and emic perspectives." (2013) 58 Journal of Pragmatics 108-120.

'As at Jan 2008, 29 African countries have ratified the statute of the international criminal court.' (2008).

Asia Watch, 'Rape in Kashmir: a crime of war. New York, NY, Human Rights Watch, 1993'

Asiyanbola A, 'Patriarchy, male dominance, the role and women empowerment in Nigeria' (Poster presented en la XXV International Population Conference Tours, Francia 2005).

Askin KD, 'Prosecuting wartime rape and other gender-related crimes under international law: extraordinary advances, enduring obstacles' (2003) 21 Berkeley J. Int'l L. 288.

Askin KD, 'War crimes against women. Prosecution in international war crimes tribunal. Martinus Nijhoff publishers.pp.12-13.' (1997).

Askin, K.D. Women and International Human Rights Law vols I and II: R Cook Human Rights of Women: National and International Perspectives.

Astbury J. Services for victim/survivors of sexual assault: Identifying needs, interventions and provision of services in Australia (ACSSA Issues No. 6). Melbourne: AIFS. Available from <<http://www.aifs.gov.au/acssa/pubs/issue/i6.html>>.' (2006).

Asuni JB, ' "Understanding the armed groups of the Niger Delta." (2009) New York: Council on Foreign Relations 215-219.

At its inception, IHL generally regulated interstate conflicts involving two or more sovereigns, with few exceptions. On the "recognition of belligerency" and the

“recognition of insurgency,” see, e.g., Yoram Dinstein, *Non-International Armed Conflicts in International Law* 108–14 (2014) [hereinafter, Dinstein, *NIACs in International Law*]; Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* 9–20 (2012).

Atina Grossmann. 'A question of silence: The rape of German women by occupation soldiers' (1995) 72 *October* 43–63. doi:10.2307/778926.

Atkinson P and Delamont S, 'Rescuing narrative from qualitative research' (2006) 16(1) *Narrative Inquiry* 164.

Awad Joumaa & Khaled Ramadan *Journalism in times of war*. Al Jazeera Media Institute Legal Deposit No. 623/2017.

Boko Haram in Nigeria. The UNICEF reports that one in five "suicide bombers" used by Boko Haram has been a child.

Aydelott D, "Mass rape during war: Prosecuting Bosnian rapists under international law." (2003) 7 *Emory Int'l L Rev* 585.

Ayo Peters. 'Understanding Kidnapping as a Political Act. A Case of the Niger Delta' (2016) Ayo Peters. 'Understanding Kidnapping as a Political Act. A Case of the Niger Delta' (2016) Ayo Peters. 'Understanding Kidnapping as a Political Act. A Case of the Niger Delta' (2016) {{1371 Peters, Ayo 2016}}.

Ayua, Ignatius Akaayar; Okagbue, Isabella E. *The rights of the child in Nigeria*. 1996. Nigerian Institute of Advanced Legal Studies.

B. Carnahan, 'Lincoln, Lieber and the laws of war: the origins and limits of the principle of military necessity' (1998) 92 *AJIL* 213–31 at 215'.

B. Das. "' Rape victims or war heroes: war women in Bangladesh'" (28 June 2011).

B. Minegar. ' "Bangladesh war crimes tribunal sentences Jamaat-e-Islami member to death". Jurist.' (21 January 2013).

Baaz, M and Stern, M, 'The Complexity of Violence: A Critical Analysis of Sexual Violence in the Democratic Republic of Congo (DRC), Sida Working Paper on Gender based Violence.' (2010,).

Baird, Julia. "Oil's shame in Africa." The Daily Beast. Newsweek. July 18 (2010).

Bachman Ronet. 'Predicting the reporting of rape victimizations: Have rape reforms made a difference?' (1993) 20(3) Crime Justice Behave 254
Ronet Bachman. 'Predicting the reporting of rape victimizations: Have rape reforms made a difference?' (1993) 20(3) Criminal Justice Behav 254.

Bachman, Ronet. (1998). The Factors Related to Rape Reporting Behavior and Arrest New Evidence from the National Crime Victimization Survey. Criminal Justice and Behavior. 25. 8-29. 10.

Bagaji, Ali S Yusufu 2012 Boko Haram and The Recurring Bomb Attacks in Nigeria: Attempt

to Impose Religious Ideology Through Terrorism? /Boko Haram Et Les Attentats a La

Bombe au Nigeria: Tenter D'imposer Les Ideologies Religieuse a Travers Le Terrorisme?

Bagaji, Ali S Yusufu; Etila, Moses Shaibu; Ogbadu, Elijah E. Boko Haram and the Recurring

Bomb Attacks in Nigeria: Attempt to Impose Religious Ideology through Terrorism? Boko Haram Et Les Attentats a La Bombe au Nigeria: Tenter D'imposer Les Ideologies

Religieuse a Travers Le Terrorisme? Cross-Cultural Communication.
2012. Volume: 8,

Issue: 1. Page: 33

Bamgbose O.A. Reflection on the past, present and future of rape Law. (2002).
Vol II JPBL p.128 at p. 129.

Bamidele O, ' "Boko Haram Catastrophic Terrorism–An Albatross to National
Peace, Security and Sustainable Development in Nigeria." ' (2015) 14.1 Journal
of Sustainable Development in Africa 32-44.

Banakar, Reza, and Max Travers, 'Theory and method in socio-legal research.'
(2015.) Bloomsbury Publishing.

'Bangladesh War: The article that changed history of Asia. BBC News. 16
December 2011.

Basit T, ' "Manual or electronic? The role of coding in qualitative data analysis."
' (2003) 45.2 Educational research 143-154.

Bateson N, 'Familiarization, group discussion, and risk taking' (1966) 2(2) J Exp
Soc Psychol 119.

Baron L, Straus MA 1989. 8(3):209-3 Rape and its relation to social
disorganization, pornography and inequality in the USA.

Barroso J. Sandelowski M. 'Classifying the findings in qualitative studies. ' 13
Qual Health Res 905–923.

Barreiro-Bobadilla, Olinda 2010. Convention on the Elimination of All Forms of
Discrimination against Women. (CEDAW), adopted in 1979 by the UN General
Assembly.

Beltz, Amanda (2008) "Prosecuting Rape in International Criminal Tribunals: The Need to Balance Victim's Rights with the Due Process Rights of the Accused," *Journal of Civil Rights and Economic Development*: Vol. 23: Iss. 1, Article 5.

Benedict H, "'Why soldiers rape -culture of Misogyny, illegal occupation fuel sexual violence in military".' (08-13-2008).

Benjamin Chuka Osioma. *Conflict Management and Peace Building in Nigeria: Finding the Common Ground*. September 2016. September 2016. Page: 14. South-East Zonal Summit of the NIM at Abakaliki, Nigeria.

Benjamin Obi Nwabueze. 'A constitutional history of Nigeria. Longman, 1982, University of Virginia. 1982 - Law - 272 pages' Addison-Wesley Longman Ltd.

Bennett, W Lance, 2006. *None dare call it torture: Indexing and the limits of press independence in the Abu Ghraib scandal*.

Berg, B. L., Lune, H., & Lune, H, ' *Qualitative research methods for the social sciences (Vol. 5)*.' (2014) Boston, MA: Pearson.

Bernheimer, Teresa, and Andrew Ripping. *Muslims: their religious beliefs and practices*. Routledge, 2013.

Bernard Victor Aloysius Röling and Christiaan Frederik Rüter, *The Tokyo Judgment: The International Military Tribunal for the Far East (IMTFE), 29 April 1946-12 November 1948, vol 2 (APA-University Press Amsterdam 1977)*.

Bernard HR, *Research methods in anthropology: Qualitative and quantitative approaches (Rowman Altamira 2011)*.

Best SG and Von Kemedi D, 'Armed groups and conflict in rivers and plateau states, Nigeria' (2005) Nicolas Florquin and Eric Berman 13.

Beshiru Salawu. 'Ethno-religious conflicts in Nigeria: Causal analysis and proposals for new management strategies' (2010) 13(3) European journal of social sciences 345.

Beverly Allen, Rape warfare: The hidden genocide in Bosnia-Herzegovina and Croatia (U of Minnesota Press 1996).

Bob Wakabayashi Akira Fujiwara. 'The Nanking Atrocity 1937-1938: Berghan Books.' ((2007).)

Bloom M, 'Female suicide bombers: a global trend' (2007) 136(1) Daedalus 94.

Bloomberg L.P., 'Business week ' (2013).

Blum W, Killing hope: US military and CIA interventions since World War II (Zed Books 2003).

Boed R, 'Individual criminal responsibility for violations of article 3 common to the Geneva conventions of 1949 and of additional protocol II thereto in the case law of the International Criminal Tribunal for Rwanda' (Criminal Law Forum Springer, 2002) 293.

Boko haram: 85 dead and counting in northeast Nigeria village, Wednesday, 29 January 2014 12:36.

Boele, Richard 1995 Ogoni: report of the UNPO mission to investigate the situation of the Ogoni of Nigeria, February 17-26, 1995.

Boserup, Ester; Kanji, Nazneen. Woman's role in economic development. 2007. Earthscan.

Borys, Debra S., and Kenneth S. Pope., 'A national study of psychologists, psychiatrists, and social workers.' ' in "Dual relationships between therapist and client :(20.5th edn, Professional Psychology: Research and Practice 2009).

Bothe, Michael; Partsch, Karl Josef; Solf, Waldemar A. New rules for victims of armed conflicts: commentary on the two 1977 protocols additional to the Geneva Conventions of 1949. 1982. Martinus Nijhoff Publishers.

Bourgois P, 'The power of violence in war and peace Post-Cold War lessons from El Salvador' (2001) 2(1) Ethnography 5.

Bowman v. State 103 Ariz. 482 (1968), 445 P.2d 841. Donald BOWMAN, Petitioner, v. The STATE of Arizona; the Superior Court of Arizona; the Honourable William C. Frey, a Judge thereof, Respondents.

No. 9323.

Bradburn NM and others, improving interview method and questionnaire design: Response effects to threatening questions in survey research (University Microfilms 1992).

Braun, Virginia, and Victoria Clarke., "Using thematic analysis in psychology." (2006) 3.2 Qualitative research in psychology 77-101.

Brigneti, P. and Egbonimali, S. 2002. "Rape in Nigeria: Theory & Reality".

British Broadcasting Corporation 8 January 2015. Retrieved 8 January 2015.

Boko Haram crisis: Nigeria's Baga town hit by new assault". BBC World News.

Brownmiller, Susan. (1978). Against Our Will: Men, Women and Rape. The Family Coordinator. 27.

Bronislaw Malinowski. 'Argonauts of the western Pacific' (1922) New York: Dutton.

Bryman A, ' "The debate about quantitative and qualitative research: a question of method or epistemology?" 'British journal of Sociology 75-92.

Bunch C, 'Women's rights as human rights: Toward a re-vision of human rights' (1990) 12(4) Hum Rights Q 486.

Bunch ', ' Rights as Human Rights: Towards a Re-Vision of Human Rights'. (1990).

Burgers JH, The United Nations Convention against Torture: A handbook on the Convention against Torture and other cruel, inhuman, or degrading treatment or punishment, vol 9 (Martinus Nijhoff Publishers 1988).

Burgess AW, 'Rape trauma syndrome' (1983) 1(3) Behav Sci Law 97.

Burke JR, "'Examining the validity structure of qualitative research.'" (2007) 118.2 Education 282-293.

Burton JW, Global conflict: The domestic sources of international crisis (Univ of Maryland Centre for Intl 1984).

Buss, D., Liebert, J. M., Rutherford, B. A. 1, Sharkey, D., & Aginam, O Understanding sexual violence in armed conflict: cutting ourselves with Occam's razor. Journal of International Humanitarian Action 2016:6.

Buss DE, 'Rethinking 'rape as a weapon of war"' (2009) 17(2) Feminist legal studies 145.

Campbell, Donald T., and D. W. Fiske," Convergent and discriminant validation by the multitrait- mutimethod matrix." *Psychological Bulletin*, 56: 81 -105.' (1959).

Cassese, Antonio 2002. *The Rome statute of the International Criminal Court: a commentary Volume 1.*

Casmir Igbokwe. "Odi Cop Killers Storm P/H," *P.M. News (Lagos)*, December 13, 1999.

Castelli, E.A. *Reverberations: On violence, special issue of scholar and feminist. The Scholar & Feminist Online*, Issue 2.2 Winter 2004.

Campbell R, 'The psychological impact of rape victims.' (2008) 63(8) *Am Psychol* 702.

Carmel Budiardjo and Liem Soei Liong., 'The war against East Timor' (1984.).

Carpenter CR, 'recognizing gender- based violence against civilian: men and boys in conflicts situations' *security dialogue*. 37, 83-103.' (2006).

Carr LT, "'The strengths and weaknesses of quantitative and qualitative research: what method for nursing.'" (2004) 20.4 *Journal of advanced nursing* 716-721.

Carreiras H, 'Sexual Violence in Armed Conflicts: A Global Overview' (2013) *cadernos* 16.

Cartwright DE and Zander AE, 'Group dynamics research and theory.' (1953).

C.E. Brand *Roman military Law*. Austin University of Texas. (1968), 195-6.
Timothy L.H. McCormack; *from Sun Tzu to the sixth committee; The Evolution of an International Criminal Law. Regime.*

CEDAW. Conference of the International Women's Year, Mexico City. International Women's Year Plan of Action. G.A. Res. 3520 (XXX), U.N. Doc. A/RES/3520(XXX) (Dec. 15, 1975).

Chang I, *The rape of Nanking: The forgotten holocaust of World War II* (Basic Books 2012).

Chapman, T. H. A. N. D. E. K. A., and V. A. L. E. R. I. E. Kinloch., "Emic perspectives of research. "Handbook of research on teaching the English language arts (2011).

Chapman TL and Chaudoin S, 'Ratification patterns and the international criminal court¹' (2013) 57(2) *Int Stud Q* 400.

Chappell, L. (2014). *Conflicting Institutions and the Search for Gender Justice at the International Criminal Court*. *Political Research Quarterly*, 67(1), 183–196.

Charmaz K, "Grounded theory methods in social justice research." (2011) 4 *The Sage handbook of qualitative research* 359-380.

Charles Lysaght. 'Scope for Protocol II and Its Relation to Common Article 3 of the Geneva Conventions of 1949 and Other Human Rights Instruments, (1983) 33 *Am. UL Rev.* 9.

Charter of the International Military Tribunal for the Far East (IMTFE). Article 5. IMTFE was a military trial convened on April 29, 1946, to try the leaders of the Empire of Japan for joint conspiracy to start and wage war (categorized as "Class A" crimes), conventional war crimes ("Class B") and crimes against humanity ("Class C").

Charter, Nuremberg 1945 Charter of the International Military Tribunal. EISIL.

Chelimo, G. C. (2011). "Defining Armed Conflict in International Humanitarian Law." *Inquiries Journal/Student Pulse*, 3(04). Retrieved from <http://www.inquiriesjournal.com/a?id=1697>

Casmir Igbokwe, December 13, 1999. "Odi Cop Killers Storm P/H,"

Chelala C., 'Algerian abortion controversy highlights rape of war victims. *Lancet*, 1998, 351:1413'.

Cherry K, 'Kohlberg's Theory of Moral Development Stages of Moral Development'.

Chen Reis and others. 'Discriminatory attitudes and practices by health workers toward patients with HIV/AIDS in Nigeria' (2005) 2(8) *PLoS Med* e246.

Chineze J. Onyejekwe. 'Nigeria: The Dominance of Rape' (2008) 10(1) *Journal of International Women's Studies* 48.

Chinkin C, ' "Rape and sexual abuse of women in international law." (1994b) 5.3 *European journal of international law* 326-341.

Chris, Ewokor, *The Niger Delta Avengers: Nigeria's Newest Militants*. BBC Africa, Nigeria. 2 June 2016.

Christine Chinkin. "Rape and sexual abuse of women in international law." (1994) 5.3 *European journal of international law* 326-341.

Christopher W. Mullin, 'We Are Going to Rape You and Taste Tutsi Women': Rape during the 1994 Rwandan Genocide. ' Vol. 49, No. 6 (November 2009), pp. 719-735 *The British Journal of Criminology*.

Chun, Suk & Inger Skjelsbæk (2010) *Sexual Violence in Armed Conflicts*, PRIO Policy Brief, 1. Oslo: PRIO.

Cihan Aksan and Jon Bailes. Editors of the book U.S. State Terrorism, Morality, Justification and Responsibility.

C. J. Saunders, Rape and ravishment in the literature of medieval England, D.S. Brewer: Cambridge, 2001, p. 140.

C. Lynch. 'United Nation says its worker abused women in Congo., ' (27 November. 2004) Washington post.

Clarke, Amanda. (2006). Qualitative interviewing: Encountering ethical issues and challenges. Nurse researcher. 13. 19-29.

Clark Moustakas, Phenomenological research methods (Sage 1994).

Cockburn C, 'Gender, armed conflict and political violence' (1999).

Codified Islamic Law Volume 1 Law#133.

Cohn, Carol. Women, Peace and Security Resolution 1325. Centre for Gender in Organizations and Wellesley College, Helen Kinsella University of Minnesota & Sheri Gibbings York University, Toronto.

Cohen DK, Green AH and Wood EJ, 'Wartime sexual violence: Misconceptions, implications, and ways forward' (2013).

Cohen, Dara Kay. "Female combatants and the perpetration of violence: wartime rape in the Sierra Leone Civil War." World Politics 65.03 (2013): 383-415.

Colleen A. Ward, Attitudes toward rape: Feminist and social psychological perspectives, vol 8 (Sage 1995).

Coliver, Sandra. United Nations Commission on the Status of Women: Suggestions for enhancing its Effectiveness. Whittier Law Review Pub Year: 1987 Volume: 9,435. HeinOnline.

'Control Council Law No. 10, Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity, December 20, 1945, 3 Official Gazette Control Council for Germany 50-55.' (1946).

Conrad Phillip Kottak, *Mirror for Humanity: A Concise Introduction*. To Cultural Anthropology (McGraw-Hill. Higher Education 2005).

Corbin, J., & Morse, J. M., ' the unstructured interactive interview: Issues of reciprocity and risks when dealing with sensitive topics. *Qualitative inquiry*, ' (2013) 9(3), 335-354.

Corner J, "In search of more complete answers to research questions. Quantitative versus qualitative research methods: is there a way forward?." 16.6 *Journal of Advanced Nursing* 718-727.

Corroboration requirement. *The Rape Corroboration Requirement: Repeal Not Reform*, 81 *YALE L.J.* 1365 (1972). For a list of common types of corroborating evidence, see *Allison v. United States*, 409 F.2d 445, 448 n.8 (D.C. Cir. 1969).

Corti, L., Day, A., & Backhouse, G., 'Confidentiality and informed consent: Issues for consideration in the preservation of and provision of access to qualitative data archives. In *Forum Qualitative Sozialforschung/Forum:*' (2002).

Courson E, *Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and Petro-insurgency in the Niger Delta* (Nordiska Afrikainstitutet 2009).

The Criminal Code Act 1 is currently a legislation of general application penalizing criminal acts in Southern Nigeria while the Penal Code Act applies in the North.

Criminal Code Act, Chapter 77 of the Laws of the Federation of Nigerian. 1990.

Criminal Code of Nigeria. The English sexual offence Act 1956 (as amended in 2003) where "sexual intercourse" a term synonymous to our own carnal knowledge is said to be complete upon penetration. In trial of any offence under this Act, it is necessary to prove sexual intercourse and not necessary to prove completion of the intercourse by the emission of sperm.

Cremer C, 'Civil war is not a stupid thing. Accounting for violence in Developing countries. Hurst and Company. London' (2006).

Creswell J, Research design: Qualitative, quantitative, and mixed method approaches I by John W. Creswell. - 2nd ed '.

Creswell JW, Qualitative inquiry and research design: Choosing among five approaches (Sage 2013).

Crome, S., & McCabe, M. P., ' The impact of rape on individual, interpersonal, and family functioning. Journal of Family Studies, 1 (1), 58–70' (1995).

Crisan, I. U. L. I. A. "The principles of legality "nullum crimen, nulla poena sine lege" and their role." Effectus Newsletter 5 (2010): 1-3.

Cynthia Cockburn. 'Gender, armed conflict and political violence' (1999). The World Bank, Washington DC, June 1.

Cyril I. Obi, 'Oil Extraction, Dispossession, Resistance, and Conflict in Nigeria's Oil-Rich Niger Delta'.

Cyril Obi. 'Nigeria's Niger Delta: Understanding the complex drivers of violent oil-related conflict' (2009) 34(2) Africa Development.

David Crouch. The Birth of Nobility: Constructing Aristocracy in England and France 900-1300 (Harlow, UK: Pearson, 2005), p.7.

Danny Hoffman. ' The war machines: young men and violence in Sierra Leone and Liberia. Durham: Duke University Press, 2011.

Danise Aydelott. '. "Mass rape during war: Prosecuting Bosnian rapists under international law." ' (2003) 7 Emory Int'l L Rev 585.

David M. Fetterman, *Ethnography: Step-by-step*, vol 17 (Sage 2010).

David N. Livingstone and RT Harrison. 'Immanuel Kant, subjectivism, and human geography: a preliminary investigation' (1981) *Transactions of the Institute of British Geographers* 359.

David L. Morgan, *Focus groups as qualitative research*, vol 16 (Sage publications 1996).

David C. Ormerod, Karl Laird, Brian Hogan, John Cyril Smith Oxford University Press, 2015 - *Criminal law* - 1352 pages.

David Shearer. 'Africa's great war 89'. 41(2). *Survival*, Volume 41, 1999 - Issue 2.

David Silverman, ed. *Qualitative Research* (4th edition). London: SAGE, 2016. 277-293.

D.Schindler and J. Toman, 'The Laws of Armed Conflicts' (1988,) PP.3-23. Henry Dunant Institute Geneva.

Das B, "' Rape victims or war heroes: war women in Bangladesh'" (28 June 2011).

De Brouwer A, *Supranational Criminal Prosecution of Sexual Violence: The ICC and the Practice of the ICTY and the ICTR*, vol 20 (Intersentia nv 2005).

Defining Rape Internationally: A Comment on Akayesu." Pp. 237-246 in *Are Women Human?* 2006. The Belknap Press of Harvard University Press (Catherine A. MacKinnon).

Defeis Elizabeth F. UN peacekeepers and sexual abuse and exploitation: an end to immunity. *Washington University Global Studies Law Review* Volume 7|Issue 2 2008 U.N.

Delalic v prosecute. Case no IT-96-21-A. Judgement, 2 Sept. 1998 (. Akayesu v prosecutor. Case no. ICTR-96-4-T. Judgement: Louise Arbour sex crimes against women in conflicts seldom punished.

De Waal A and Stanton GH, 'Should President Omar al-Bashir of Sudan Be Charged and Arrested by the International Criminal Court? An Exchange of Views' (2009) 4(3) *Genocide Studies and Prevention* 329.

D. Morris 2006. 'The chance to go deep: US energy interests in West Africa. *American Foreign Policy Interests*,' 28 (3), 225–238.

Degni-Ségui R, ' Report about human rights in Rwanda E/CN.4/1996/68 paragraph 16, Geneva: UN, ' ((1994)).

D. Robinson. 'Ogoni: the struggle continues. Geneva world council of churches. ' (1996).

Denzin NK, ' Triangulation 2.0., ' (2012) 6(2) *Journal of Mixed Methods Research*, 80-88.

Denzin NK, 'The logic of naturalistic inquiry.' (1971) (50) *Social Forces*, 166-182.

Denzin NK, 'Interpretive interactionism. *Applied social research methods series*' (1989).

Denzin NK, ' Symbolic interactionism and cultural studies: The politics of interpretation.' (2008.) John Wiley & Sons. Triangulation 2.0. Journal of Mixed Methods Research. 2012 6:2, 80-88.

Denzin, Norman K., and Yvonne S. Lincoln., 'Handbook of qualitative research. (2004) Sage publications, Inc.

Dept. of the Army FM 27-10; The Law of Land Warfare, w/change 1(DC: GPO,1956), Para 4.

Dietrich Schindler and Jiří Toman. The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents (Brill 1988).

Department of Veterans Affairs. 'Military Sexual Trauma.' Veterans' Health Administration

Washington, DC 20420 July 14, 2010.

Dhram. Veer Singh Krishnawat, 'Redefining the rape laws in India: A comparative and constructive approach.' (2012)., National Law University – Jodhpur.

Dionne, Searcey. Article Title: 2 Female Suicide Bombers Attack Mosque near Maiduguri, Nigeria, Killing over 20. Continue reading the main story Share This Page Share Tweet Email More. Newspaper Name: New York Times. Pub Date Free Form: MARCH 16, 2016.

Dode, R.O. 2012, Nigerian Security Forces and the Management of Internal Conflict in Niger Delta: Challenges of Human Security and Development. p. 411.

Dode RO, "The political economy of resource curse and the Niger Delta crisis in Nigeria: Matters arising." European Journal of Sustainable Development' (2012) 1.2 235.

Dodge CP, 'Health implications of war in Uganda and Sudan' (1990) 31(6) Soc Sci Med 691.

Douglass Mann. 'Society as Symbols or Constructs. Understanding Society: A Survey of Modern Social Theory. ' (Pp. 210-212) 2008 Ontario, Canada: Oxford University Press.

Dolan C, 'Collapsing Masculinities and weak states-a case study of Northern Uganda in Cleaver F. Masculinities matter? Men, Gender and development. London. Zed books' (2002).

Dorell, Oren 21 April 2014. "Terrorists kidnap more than 200 Nigerian girls".

Doris E. Buss, Rethinking 'Rape as a Weapon of War' Feminist Legal Studies, Vol. 17, pp. 145-163, 2009.

Domestic Violence Legislation, Nigeria. Jigawa State of Nigeria Projection against Domestic Violence Law 2005 Cross River State of Nigeria Lagos State of Nigeria Violence against Persons (Prohibition) Act 2015.

Dominus Okon Essien. 'The Pre-Colonial Economy of Akwa Ibom' 1995. Trans African Journal of History 186.

Dormann K, 'Elements of War Crimes under the Rome Statute of the International Criminal Court' (2003) Sources and Commentary.

Dörmann K, Elements of war crimes under the Rome Statute of the International Criminal Court: sources and commentary (Cambridge University Press 2003).

Dripps, Donald A 1992. Beyond rape: An essay on the difference between the presence of force and the absence of consent.

Dr. Kemi DaSilva-Ibru. Rape stats in Nigeria- WARIF. warifng.org/rape-stats-in-Nigeria.

Duffield M, 'The political Economy of Internal War: Asset Transfer, Complex Emergencies and International Aid', in Macrae, Jand A. B Zwi (eds) War and Hunger: Rethinking International Responses to Complex Emergencies, Zed books. London.' (1994).

E. G. Guba. '(Naturalistic inquiry. Improving Human Performance Quarterly, ' (8(4), 268-76.).

E. Husserl. 'A General Introduction to Pure Phenomenology. Trans. W. R. Boyce Gibson. New York: Collier Books. From the German original of 1913, originally titled Ideas pertaining to a Pure Phenomenology and to a Phenomenological Philosophy, First Book. Newly translated with the full title by Fred Kersten. Dordrecht and Boston: Kluwer Academic Publishers, 1983. Known as Ideas I.' (1963,)

Eagleton T, 'An introduction to literary theory'. Published by Basil Blackwell, Oxford (1983)

Easteal P, 'Voices of the survivors. North Melbourne: Spinifex Press.' (1994.).

Eileen Meier. "Prosecuting Sexual Violence Crimes during War and Conflict: New Possibilities for Progress." 83.' (2004) 10 Int'l Legal Theory Zenn, J., & Pearson, E. 'Women, Gender and the evolving tactics of Boko Haram. Journal of terrorism research, 5(1).' (2014) Zenn, J., & Pearson, E. 'Women, Gender and the evolving tactics of Boko Haram. Journal of terrorism research, 5(1).' (2014) Zenn, J., & Pearson, E. 'Women, Gender and the evolving tactics of Boko Haram. Journal of terrorism research, 5(1).' (2014).

Eleventh session, 1992), paragraph 7. The Committee on the Elimination of All Forms of Discrimination against Women identified gender based violence, including rape and sexual violence, as a form of discrimination, and stated that: "Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention.

Elias Courson, Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and Petro-insurgency in the Niger Delta (Nordiska Afrikainstitutet 2009).

Elbadawi, I. and Sambanis, N. 'How much war will we see? Estimating the incidence of civil War in 161 countries.' Washington DC: World Bank.

Eiji Takemae, R. Ricketts, S. Swann, 'Inside GHQ: The Allied occupation of Japan and its Legacy. p. 67.'

Ejibunu HT, ' "Nigeria's Niger Delta crisis: Root causes of peacelessness." EPU research papers ' (2007) 7.7 1-41.

Ekine S, "'Women's responses to state violence in the Niger Delta. (2008) 10 Feminist Africa.

Elbadawi, Ibrahim; Sambanis, Nicholas. 2001. How Much War Will We See? Estimating the Incidence of Civil War in 161 Countries. Policy Research Working Paper; No. 2533. World Bank, Washington, DC.

Elisabeth Jean Wood. ' "The social processes of civil war: The wartime transformation of social networks." ' (2016) 11 Annu Rev Polit Sci 539-561.

Elisabeth Jean Wood. 'Variation in sexual violence during war' (2006) 34(3) Politics & Society 307 September 2006 Politics & Society.

Elizabeth Pearson, 'Nigeria's Female Suicide Bombers: Why Boko Haram are Turning Women into Weapons (October 16, 2014).

Emeka, Okafor Monica. Ewomazino, Akokuwebe Monica. Women and Leadership in Nigeria: Challenges and Prospects. Department of Sociology, University of Ibadan, Nigeria. July 2015.

Enloe C, 'When soldiers Rape, The international politics of militarizing women's live. Berkeley. University of California Press, 1 Feb 2000 - Social Science -Pg. 437.

Enloe C, Maneuvers: The international politics of militarizing women's lives (Univ of California Press 2000b).

'Encausse, Hélène Carrère. The End of the Soviet Empire: The Triumph of the Nations. 1993. Basic Books.

Ensign J., ' Ethical issues in qualitative health research with homeless youths. J Adv Nurs 2003; 43(1):43-50.'

Erica-Irene A. Daes, 'Status of the Individual and Contemporary International Law: Promotion, Protection and Restoration of Human Rights at National, Regional and International Levels 1-14" New York: United Nations, 1992).'

Essien DO, 'The Pre-Colonial Economy of Akwa Ibom' (1995) Trans African Journal of History 186.

Ethel Innocent Amadi. Federal Republic of Nigeria. National Gender Policy Strategic Framework. Vol. 5(5), pp. 145-160, Academic research journals. August 2017.

Evans, M.D; Murray, RH. *The African Charter on Human and Peoples' Rights*. Cambridge University Press. 2008.

Evelyn Okakwu. Investigation: In search for justice, shoddy prosecution frustrates Nigeria's child rape victims. *Premium Times*. October 21, 2017.

Evidence Act 2011. Section 200 of the Evidence Act 2011 which provides that "Except as provided in sections 201 to 204 of this Act, no particular number of witnesses shall in any case be required for the proof of any fact".

Evidence Act 2011 section 197. Evidence Act 2011 section 197 (breach of promise to marry); section 201 (treason and treasonable felony); section 202 (evidence on charge of perjury); section 203 (exceeding speed limit); section 204 (sedition).

Ewelina U. Ochab. *Sexual Violence as a Weapon of War. The story of Daesh and Boko Haram*. Mar 2, 2017.

Ewokor Chris. 'The Niger Delta Avengers: Nigeria's Newest Militants' (2016) 2 *BBC Africa, Nigeria*.

Eze-Anaba I, 'Domestic violence and legal reforms in Nigeria: Prospects and challenges. ' (2007) 14(21) *Cardozo JL & Gender*.

Fareda Banda. *Women, Law and Human Rights: An African Perspective*. Hart Publishing, 2005. pg. 407.

Farr, Kathryn "Extreme war rape in today's civil-war-torn states: A contextual and comparative analysis." *Gender Issues*. . 2009

F.C Wilson, 'Violence against Women.' (Sage 1981). University of Kentucky, USA

Ferguson N, 'The War of the World: Twentieth-Century Conflict and the Descent of the West.' in the war of the world. 2006-09-21.

Ferdinand O. Ottoh. 'Changing the Pattern of Warfare in Africa: Boko Haram Insurgency in Nigeria' (2015) Conflict Studies Quarterly 23.

Fetterman DM, Ethnography: Step-by-step, vol 17. Applied Social Research Methods) (Sage 2010 – 05-21).

Finch, George A 1947 The Nuremberg Trial and international law. The American Journal of International Law Volume 41 Issue 1.

Foa EB and Riggs DS, 'Post-traumatic stress disorder in rape victims' (1993) 12 American Psychiatric Press review of psychiatry 273.

Forest J.J, 'Confronting the terrorism of Boko Haram in Nigeria (No. JSOU-12-5). Joint Special Operations Univ Macdill Afb Fl.' (2012).

Folayan, Morenike O; Odetoynbo, Morolake; Harrison, Abigail; Brown, Brandon. Rape in Nigeria: a silent epidemic among adolescents with implications for HIV infection Periodical, Full: Global health action. Pub Year: 2014. Volume: 7.

Frank Aigbodun, November 22, 1999. "Officials: thousands of soldiers deployed in Niger Delta," AP.

Francis Lieber, 'Then a professor of Columbia College in New York, revised by a board of officers and promulgated by President Lincoln, formed the origin of the project of an international convention on the laws of war presented to the Brussels Conference in 1874 and stimulated the adoption of the Hague Conventions on land warfare of 1899 and 1907'.

Françoise Nduwimana, 'The Right to survive sexual violence, women and HIV/AIDS'. Montreal - Quebec: International Centre for Human Rights and Democratic Development 2004. 83p.

Freeburg, Emily 2003 "U.N. Pact Sinks on Issue of Violence against Women | Woman's news". womensenews.org/2003/04/un-pact-sinks-issue.

Fresh torture allegations against Nigeria's security forces. Thursday 18 September 2014 - 4:04pm Johannesburg - Amnesty International has released a chilling report on torture by Nigeria&39.

G. Adikema-Ajaegbo. Article Title: 'International Federation of Women Lawyers'. Fédération Internationale des Femmes Juristes – Federación Internacional De Abogadas – Federazione Internazionale Donne Avvocato Constitution as Amended through October 1990. 36th Triennial Convention for the International Federation of Women Lawyers (FIDA).

Galvin, Harriett R. Shielding rape victims in the state and federal courts: A proposal for the second decade. 70 *MInN. L. Rnv.* 763, 765-66 (1986). 3. See id. 4. See id. 5. See id. At 787. 6.

Garcia-Moreno C, et al., ' "Violence against women." '(2005) 310.5752 *Science* 1282-1283.

Gardner J and El Bushra J, *Somalia-The Untold Story: The War Through the Eyes of Somali Women* (CIIR 2004).

Gasser, H. (1994). *International Humanitarian Law an Introduction*. *International Review of the Red Cross*, 34(298), 88-88. doi:10.1017/S0020860400081845.

Garfinkel H, 'Seeing Sociologically: The routine grounds of social action, ' (2006) Boulder CO, Paradigm Publishers.

Garfinkel H, 'Studies in Ethnomethodology. Cambridge: Polity.3 04 pages; Polity Press; 2Rev Ed edition (20 Sept. 1984).

Geneva Conventions (1949). Many IHRL treaties, including the ICCPR (Articles 12, 13, 18, 21 and 22) and the CRC (Articles 10, 14 and 15), contain limitation clauses that permit governments to lawfully restrict the free exercise of certain rights in such situations. For example, a government may legitimately impose restrictions on freedom of movement in an environ in which riots are occurring without violating the right to freedom of movement of affected persons. However, such restrictions are in general only permissible to the extent that they are (i.) prescribed by law, and (ii.) strictly necessary for achieving their legitimate purposes. Some IHRL treaties also contain derogation clauses which permit states to temporarily derogate from (i.e., suspend) certain guarantees in times of genuine public emergency. However, treaties containing derogation clauses typically list several rights that cannot be suspended even in times of emergency.

Gemma Lucy Burgess (2012) When the personal becomes political: using legal reform to combat violence against women in Ethiopia, *Gender, Place & Culture*, 19:2, 153-174, DOI: 10.1080/0966369X.2011.573142.

Gerdi Weidner, William Griffitt. Rape: A sexual Stigma. 1Gerdi Weidner, William Griffitt. Rape: A sexual Stigma. *Journal of Research in Personality*, 18, (359), (1984). Crossref Volume 51, Issue 2.

George Herbert Mead., 'Major Theorists of Symbolic Interactionism:' (2011). Sage Publications.

George L. Hicks. 'The comfort women: Sex slaves of the Japanese Imperial Forces. Souvenir Press Ltd; 1st Edition (23 Mar. 1995).

George Psathas. "Reflections on the history of ethnomethodology: The Boston and Manchester "Schools"." ' (2008) 39.1 *The American Sociologist* 38.

Ghobarah, Hazem, Paul Huth, and Bruce Russett, "Civil Wars Kill and Maim People – Long After the Shooting Stops." *American Political Science Review* 97 (April): 189–202.'

(2003.). *The Post-War Public Health Effects of Civil Conflict. Social Science and Medicine* 59 (4): 869–84.' (2004b.).

G. S Steward 2003. *Towards a single definition of Armed Conflicts in International Humanitarian Law.*

Gill, Terry. (2013). *Chivalry: A Principle of the Law of Armed Conflict.* 10.1007/978-90-6704-918-4_2.

Gingerich T and Leaning J, *The use of rape as a weapon of war in the conflict in Darfur, Sudan (Program on Humanitarian Crises and Human Rights, François-Xavier Bagnoud Centre for Health and Human Rights, Harvard School of Public Health 2004).*

Giorgi A, *The descriptive phenomenological method in psychology: A modified Husserlian approach.* (Duquesne University Press 2009).

Glasier, Anna 2006 *Sexual and reproductive health: a matter of life and death. The Lancet Sexual and Reproductive Health Series, October 2006.*

Glaser BG, ' "The constant comparative method of qualitative analysis." *Social problems.* 12.4 436-445.

Global Terrorism Index Report 2014 - Measuring and Understanding. The Impact of Terrorism. Institute for Economics and Peace Published on 16 Nov 2015.

Golda Olanrewaju, Violence against Women in Nigeria.... Myth or Fact? March 8th, 2013 was the International Women's Day.

Godiya Allanana Makama. 'Patriarchy and gender inequality in Nigeria: the way forward' (2013) 9(17) European scientific journal.

Goode E, Deviant behavior. Eleventh edition published by Routledge. 711 Third Avenue, New York, NY 10017 (Routledge 2016).

Gottschall, Jonathan (2004) Explaining wartime rape, *The Journal of Sex Research*, 41:2, 129-136, DOI: 10.1080/00224490409552221.

Greenwood C (2008) Historical development and legal basis. In: Fleck D, Bothe M (eds) *The handbook of international humanitarian law*, 2nd edn. Oxford University Press, Oxford, pp 1–43.

Greenspan M, 'The modern law of land warfare. Berkeley.' University of California Press. 1959.

Godiya Allanana Makama. 'Patriarchy and gender inequality in Nigeria: the way forward' (2013) 9(17) European scientific journal.

Grossmann A, 'A question of silence: The rape of German women by occupation soldiers' (1995) 72 October 43.

Grubb A and Turner E, 'Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming' (2012) 17(5) *Aggression and Violent Behavior* 443.

Gutteridge, Joyce AC. Geneva Conventions of 1949. *The Brit.YB Int'l L.* 1949.

Guba EG, '(Naturalistic inquiry. *Improving Human Performance Quarterly*, (8(4), 268-76.).

Harriet P. Lefley Ph.D. Clarissa S. Scott Ph.D. Maria Liabre. Ph.D. Dorothy Hicks M.D. Cultural Beliefs about rape and Victims' Response in three ethnic groups.: American Journal of Orthopsychiatry.

Hanafi Law-Page 176, 353, Shafi'i Law- page 638 Law#o.24.9, Criminal Law in Islam and the Muslim World –page 251, The Penal Law of Islam – Kazi Publications Lahore- page 44, 45, Tafsir of Translation of the Quran by Muhiuddin Khan pages 239 and 928.

Hanafi Law-Page 176, 353, Shafi'i Law- page 638 Law#o.24.9, Criminal Law in Islam and the Muslim.

Hanafi Law Hedaya 178, Codified Islamic law #129. Sunan Abu Dawood book. 38, 4457 & 4423.

H. Garfinkel. 'Seeing Sociologically: The routine grounds of social action, ' (2006) Boulder CO, Paradigm Publishers.

H. Russell Bernard, Research methods in anthropology: Qualitative and quantitative approaches (Rowman Altamira 2011)

Hagan J and Levi R, 'Crimes of War and the Force of Law' (2005) 83(4) Social Forces 1499.

Hamish MacDonald and Bola Omisore 9 May 2014."Nigeria Had 4-Hour Warning on School Raid, Amnesty International Says".

Hammersley M, What's wrong with ethnography? Methodological explorations (Psychology Press 1992).

Hankins CA, Samuel R. Friedman, Tariq Zafar and Steffanie A. Strathdee, 'Transmission and prevention of HIV and sexually transmitted infections in war

settings: implications for current and future armed conflicts' (2002) 16(17) AIDS 2245.

Hannum H, 'Status of the Universal Declaration of Human Rights in National and International Law, the' (1995) 25 Ga.J. Int'l & Comp.L. 287.

Harriet P. Lefley Ph.D. Clarissa S. Scott Ph.D. Maria Liabre Ph.D. Dorothy Hicks M.D. Cultural Beliefs About Rape and Victims 'Response in Three Ethnic Groups. American journal of Orthopsychiatry.

Harris M, Cultural Materialism: The struggle for a science of culture (AltaMira Press 2001).

Harry F. Wolcott, Ethnography: A way of seeing (Rowman Altamira press 1999).

Harsch E., 'Mozambique: Out of The Ruins of War, Africa Recovery Briefing Paper. 8 May' (1993).

Hart, Nicola, and Anne Crawford-Wright., "Research as therapy: Ethical dilemmas in new-paradigm research." (27.2nd edn, British Journal of Guidance and counselling 205-214.).

Hassan, Muritala Babatunde. Boko Haram Insurgency and the Spate of Insecurity in Nigeria: Manifestation of Governance Crisis. Research on Humanities and Social Sciences. 2014, Volume: 4 Issue: 1 Page: 9 -18.

Hassan T. Ejibunu. ' "Nigeria's Niger Delta crisis: root causes of peacelessness." EPU research papers ' (2007) 7.71-41.

Hayden RM, 'Rape and Rape Avoidance in Ethno-National Conflicts: Sexual Violence in Liminalized States' (2000) 102(1) American Anthropologist 27.

Heise LL, Lori L. Heise, Alanagh Raikes, Charlotte H. Watts, Anthony B. Zwi, 'Violence against women: a neglected public health issue in less developed countries' (1994) 39(9) Soc Sci Med 1165.

Helena Carreiras. Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector (Geneva: DCAF). Bridge D. and Horsfall D. (2009).

Helen M. Hintjens. ' "Explaining the 1994 genocide in Rwanda." The Journal of Modern African Studies ' ((1999)) 37.02241-286.

Hereafter referred to as ICTY. International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, hereafter referred to 'ICTY' or 'International Tribunal'.

Henry N, War and Rape: Law, Memory, And Justice. Pg. 184 1st Edition (Routledge 2011).

Herbert P. Bix, Hirohito and the Making of Modern Japan, p.594. New York: Harper Collins, 2000.

Hibey, Richard A. Trial of a Rape Case: An Advocate's Analysis of Corroboration, Consent, and Character.

Hicks, George L. 1995. The comfort women: Sex slaves of the Japanese Imperial Forces.

London Souvenir Press.

Hintjens HM, ' "Explaining the 1994 genocide in Rwanda." The Journal of Modern African Studies ' (1999) 37.02 241-286.

Hoeffler A, 'Dealing with The Consequences of Violent Conflicts in Africa' (2008) Background Paper for The African Development Bank Report.

Hoffman D, ' the war machines: young men and violence in Sierra Leone and Liberia '(1972).

Hofstede G, 'Hofstede's Culture Dimensions' (Jul 27, 2016) SAGE Journals.

Hossain, M; Zimmerman, C; Kiss, L; Kone, D; Bakayoko-Topolska, M; Manan K A, D; Lehmann, H; Watts, C; (2014) Men's and women's experiences of violence and traumatic events in rural Cote d'Ivoire before, during and after a period of armed conflict. *BMJopen*,4(2). e003644.

Hibey, Richard A 1972. Trial of a Rape Case: An Advocate's Analysis of Corroboration, Consent, and Character.

Holy Bible, New International Version. The husband should fulfil his marital duty to his wife, and likewise the wife to her husband. 4 The wife does not have authority over her own body but yields it to her husband. In the same way, the husband does not have authority over his own body but yields it to his wife. 5 Do not deprive each other except perhaps by mutual consent and for a time, so that you may devote yourselves to prayer. Then come together again so that Satan will not tempt you because of your lack of self-control.

Howard, Keith. The true stories of Korean Comfort Women. Cassell, 1995.

Human Rights Watch May 1999. Crackdown in the Niger Delta," A Short Report,

Human right watch: world report 2013.'This 23rd annual World Report summarizes human rights conditions in more than 90 countries and territories worldwide in 2012. www.hrw.org/world-report/2013.

Human Right Watch, ' The Destruction of Odi and Rape in Choba: The Nigerian Army Accused of excessive force, Rape in Niger Delta. December 22, 1999 '.

Human Right Watch 1995. The Human Rights Watch. Global Report on Women's Human Rights. Human Rights. New York: Human Rights Watch, 1995.

Human Right Watch. 'In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside the premises of Willbros Nigeria Ltd, a subsidiary of an American contractor to the oil and gas industry, based in Oklahoma. The soldiers killed four people and raped several women from the community. The Nigerian federal government dismissed the reports of rapes, asserting that photographs alleged to show the soldiers assaulting the women were staged, and the police have refused to investigate. Human Rights Watch found the women's claims of rape to be fully credible and believes that contesting the accuracy of the photographic evidence is an inappropriate response by the government to serious allegations of human rights violations.' (December 23, 1999).

"'We'll kill you if you cry": sexual violence in the Sierra Leone Conflicts, 3-4, 46.' (2003).

Human Rights Watch Interview, RSM Usman Salami, Adaka Boro Barracks, Elele, December

5, 1999.'Nigerian Army Accused of Excessive Force, Rape in Niger Delta' (December 22,

1999).'In Choba, in Rivers State, on October 28 soldiers dispersed demonstrators outside

the premises of Wilbros Nigeria Ltd, a subsidiary of an American contractor to the oil and

gas industry based in Oklahoma. The soldiers killed four people and raped several women

from the community. The Nigerian federal government dismissed the reports of rapes,

asserting that photographs alleged to show the soldiers assaulting the women were staged,

and the police have refused to investigate. Human Rights watch found the women's claims

of rape to be fully credible and believes that contesting the accuracy of the photographic

evidence is an inappropriate response by the government to serious allegations of human

rights violations.' (December 23, 1999).

Human Right Watch July 2009 Soldiers who Rape, Commanders who Condone: Sexual Violence in Congo.

Human Rights Watch, Everyday Victims: Civilians in the Burundian War, 22 December 2003.

Husserl E, 'A General Introduction to Pure Phenomenology. Trans. W. R. Boyce Gibson. New York: Collier Books. From the German original of 1913, originally titled Ideas pertaining to a Pure Phenomenology and to a Phenomenological Philosophy, First Book. Newly translated with the full title by Fred Kersten. Dordrecht and Boston: Kluwer Academic Publishers, 1983. Known as Ideas I.' (1963).

Hurst Hannum. 'Status of the Universal Declaration of Human Rights in National and International Law, The' (1995) 25 Ga.J. Int'l & Comp.L. 287.

LaFree, Gary, and Laura Dugan. 2007. "Introducing the Global Terrorism Database." *Terrorism and Political Violence* (May): 181-204

Land Use Act - Nigeria Law. [www.nigeria-law.org/Land Use Act](http://www.nigeria-law.org/Land%20Use%20Act).

Liamputtong, Pranee, and Douglas Ezzy. "" (2013). *Qualitative research methods*, 4th edition.

Incorporation as part of Nigerian Law of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap.A9 Laws of the Federation of Nigeria 2004.

Ian Parker (ed), 'Qualitative Research' in Peter Banister, Erica Burman, Ian Parker, Maye Taylor, Carol Tindall (eds)., vol 2 (*Qualitative Methods in Psychology: A Research Guide*. 1994)

Ibeanu O, 'Oiling the friction: Environmental conflict management in the Niger Delta, Nigeria' (2000) 6(6) *Environmental change and security project report* 19.

ICC. 'The Office of the Prosecutor (OTP) conducts investigations by gathering and examining evidence, questioning persons under investigation and questioning victims and witnesses, for finding evidence of a suspect's innocence or guilt.' (2016).

ICRC. "Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II),' (8 June 1977.)'.

Idowu, J., Aregbesola, M.O. *Internal Security Operations and Human Rights Abuses in Nigeria: Issues and Challenges*.

LD Wright, 'River Deltas', *Coastal Sedimentary Environments* (Springer 1978) 5.

IHL: At its inception, IHL generally regulated interstate conflicts involving two or more sovereigns, with few exceptions. On the “recognition of belligerency” and the “recognition of insurgency,” see, e.g., Yoram Dinstein, *Non-International Armed Conflicts in International Law* 108–14 (2014) [hereinafter, Dinstein, *NIACs in International Law*]; Sandesh Sivakumaran, *The Law of Non-International Armed Conflict* 9–20 (2012).

Iko v State 35 W.R.N.I; *Rv Khan* (1990) 2 All E.R. 788.

Laing, L., & Bobic, N. *Addressing Gender-Based Violence: A Critical Review of Interventions*. *The World Bank Research Observer*, Vol. 22, No. 1 (spring, 2007), pp. 25-51. Published by: Oxford University Press.

Lemkin, Raphael. *Axis rule in occupied Europe: Laws of occupation, analysis of government, proposals for redress*. The Law book Exchange, Ltd., 2005.

Intercourse with a slave woman is not regarded as Zina (adultery). Islam Q&A, Fatwa No. 10382, November 24, 2005.

International centre for criminal law reform and criminal justice policy (ICCLR). *International criminal law: manual for the ratification and implementation of the Rome Statute*.

Institute for Economics and Peace. *Global Terrorism Index 2014: Measuring and Understanding the Impact of Terrorism*. ' (2014).

International Criminal Tribunal for Rwanda, 'The Prosecutor v. Jean-Paul Akayesu (ICTR-96-

4-T), Judgement of the Trial Chamber.' (2 September 1998.)'

International Review of the Red Cross, 'A detailed analysis of the legislation and case laws covering common article 3. See Thomas Graditzky, "Individual Criminal Responsibility for Violations of International Humanitarian Law Committed in Non-International Armed Conflicts"' (1998,) No 322. pp. 29-56.

International review of the Red Cross: Humanitarian debate: Law, policy, action Engaging armed groups' (a). The International Tribunal for Rwanda (ITR) sentencing Judgement against

Jean Paul Akayesu.2 September 1998 b.

London Agreement of 8 August 1945'. BEVANS, Charles I. Treaties and other international

agreements of the United States of America (1776-1949), 1931-1945. Department of State

(Ed.). Volume III: Multilateral. Washington: Department of State Publication, 1969. 1430

p. p. 1238-1247.

Ito Eze-Anaba. 'Domestic violence and legal reforms in Nigeria: Prospects and challenges. '

(2007) 14(21) Cardozo JL & Gender.

Jacob Zenn. 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014) 7(5) CTC

Sentinel 1Jacob Zenn. 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014)

7(5) CTC Sentinel 1 Jacob Zenn. 'Boko Haram and the kidnapping of the Chibok

schoolgirls' (2014) 7(5) CTC Sentinel 1 Jacob Zenn. 'Boko Haram and the kidnapping of

the Chibok schoolgirls' (2014) 7(5) CTC Sentinel 1.

Jason Stearns, *Dancing in the glory of monsters: The collapse of the Congo and the great war*

of Africa. Public Affairs 2012.

Janice M. Morse, *Critical issues in qualitative research methods* (Sage 1994).

J. Hanlon., 'Peace without profit. How the IMF black. Rebuilding in Mozambique.' (1996) James Hurry Oxford'.

J. J. Forest. 'Confronting. The Terrorism of Boko Haram in Nigeria (No. Jsou-12-5). Joint Special Operations Univ Macdill Afb FI.' (2012) J. J. Forest. 'Confronting. The Terrorism of Boko Haram in Nigeria (No. Jsou-12-5). Joint Special Operations Univ Macdill Afb FI.' (2012) J. J. Forest. 'Confronting. The Terrorism of Boko Haram in Nigeria (No. Jsou-12-5). Joint Special Operations Univ Macdill Afb FI.' (2012).

J. Petrak., *The psychological impact of sexual assault. The trauma of sexual assault:*

Treatment, prevention and practice. pg.54. West Sussex: John Wiley & Sons' (2002)' In J Petrak & B Hedge (Eds).

J. Pictet. Some of these criteria are included in the ICRC commentary to common Article 3 and are presented by the ICRC as 'convenient criteria' to determine the

existence of an internal armed conflict., [The Geneva Conventions of 12 August 1949– commentary on the IV Geneva Convention relative to the protection of civilian persons in times of war (Geneva: ICRC, 1958) pp. 35–36.]

JT Kelly and others. 'Experiences of female survivors of sexual violence in eastern Democratic Republic of the Congo: a mixed-methods study' (2011) 5(1) Conflict and health 25.

J. Riley. ', Getting the Most from Your Data: A Handbook of Practical Ideas on How to Analyse Qualitative Data. (Technical and Educational Services. Bristol, UK).

James Thomas and Angela Harden. 'Methods for the thematic synthesis of qualitative research in systematic reviews' (2008) 8(1) BMC medical research methodology.

James III WM, A Political History of the Civil War in Angola: 1974-1990 (Transaction Publishers 2011).

James R. Miles, 'Francis Lieber and the Law of War, Review of Military Law and the Law of War, 253, 255 (1990). Stating that the Lieber Code represented the first codification of the modern law of war and formed the basis for early European codes.

Janie Leatherman, Sexual Violence and Armed Conflict (Polity Cambridge 2011). (ISBN: 978-0-7456-4188-1). 176pp.

Jeanne Ward and Mendy Marsh. 'Sexual Violence Against Women and Girls in War and Its Aftermath: Realities, Responses and Required Resources' (Symposium On Sexual Violence In Conflict And Beyond 2006) 23.

Jewkes R, Penn-Kekana L and Rose-Junius H, "If they rape me, I can't blame them": Reflections on gender in the social context of child rape in South Africa and Namibia' (2005a) 61(8) Soc Sci Med 1809. If they rape me, I can't blame them": Reflections on gender in the social context of child rape in South Africa and Namibia' (2005b) 61(8) Soc Sci Med 1809.

Jick TD, 'Mixing qualitative and quantitative methods: Triangulation in action' (1979) 24(4) Adm Sci Q 602.

Jike VT, "Environmental degradation, social disequilibrium, and the dilemma of sustainable development in the Niger-Delta of Nigeria." Journal of Black.' (2004) 34.5 686-701.

John Creswell. ' Research design: Qualitative, quantitative, and mixed method approaches I by John W. Creswell.- 2nd ed, Qualitative inquiry and research design: Choosing among five approaches (Sage 2013).

Jon Gambrell November 4, 2011. "Nigeria: Radical Muslim Sect Grows More Dangerous,"

Johnson Burke R. "Examining. The Validity Structure of Qualitative Research." (2007) 118.2 Education 282-293.

John Chuks Azu. Nigeria: Witness Protection Law - Enter Masked Witnesses: Recent trials of terror suspects in some courts in Nigeria has provided a good platform to test the Prevention of Terrorism Act passed in 2011 by the National Assembly. But it is the adoption of witness protection measures by the courts that has highlighted the value of this new legislation in the bid to suppress terrorism and all forms of criminality in the society. Daily Trust (Abuja). 28 MAY 2013.

John Desmond Patrick Keegan, 'The Face of Battle, Soldiers, A History of Men in Battle,'2008.

John Hagan and Ron Levi. 'Crimes of War and the Force of Law' (2005) 83(4) Social Forces 1499.

John Hooper. 'Nazi war crimes trials opens in chaos. Opening of Erich Priebkes's Military Trial in Rome on the charge that he committed multiple. Homicide' (May 9, 1996) The Guardian.

John J. Stremlau, The international politics of the Nigerian civil war, 1967-1970 (Princeton University Press 2015).

John Thompson. 'Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma. (May 9th, 2014) Canada Free post.

John, Hagan; Levi, Ron: Crimes of War and the Force of Law, Full: Social Forces: 2005. Pg. 1499, 1534.Oxford University Press.

John Rabe, 'The Good Man of Nanking. 1937-1938.'. John Thompson, 'Boko Haram and Islamic Rape: Sunni Muslims who subscribe to the Salafist doctrines that inspire the Muslim Brotherhood and al-Qaeda. Their aim is to subject all of the Hausa and Fulani peoples of Nigeria to Sharia law and go on from there to build the Caliphate of the Umma) ' (May 9th, 2014) Canada Free post.

Jonathan A. Smith, "Reflecting on the development of interpretative phenomenological analysis and its contribution to qualitative research in psychology." (1.1st edn, Qualitative research in psychology 2004) 39-54.

Jonathan Gottschall. 'Explaining wartime rape' (2004) 41(2) J Sex Res 129.

Joseph A. Maxwell. "Designing a qualitative study." The SAGE handbook of applied social research methods 2 214-253.

Josephine Ensign. 'Ethical issues in qualitative health research with homeless youths' (2003) 43(1) J Adv Nurs 43.

Joshua H. J. 2008. Gender and International Law: How International Criminal Court can bring justice to victims Sexual Violence. academic journal article Texas Journal of Women, Gender, and the Law. Gender and International Law.

Judith Burdin Asuni. ' "Understanding the armed groups of the Niger Delta." (2009) New York: Council on Foreign Relations 215-219.

Judith Gardner and Judy El Bushra, Somalia-the untold story: the war through the eyes of Somali women (CIIR 2004).

Julie Norman, "Rape Law in Islamic Societies" CSID 6th Annual Conference [iii] Annual report of the US Commission on International Religious Freedom, May 2004 – Ref - National Commission on the Status of Women in Pakistan.

Judge Blasts Nigerian Police over Poor Handling of Rape Case". federal High Court Judge, Justice Abimbola Ogie, has condemned the Nigeria Police for alleged disregard for the tenets of the rule of law, especially in the handling of criminal cases

Junod S, 'Additional Protocol II: history and scope' (1983) 33 Am. UL Rev. 29.

Justice Haleem, 'the Domestic Application of International Human Rights Norms London: Commonwealth Secretariat.' (1988).

Kaleck, Wolfgang 2010 Corporate Accountability for Human Rights Violations Amounting to International Crimes. The Status Quo and its Challenges.

Kalgo. Law Pavilion Electronic Law Report (LPELR) - NIGERIA ... At p.22.

Karen Rich and Patrick Seffrin. 'Police officers' collaboration with rape victim advocates: Barriers and facilitators' (2013) 28(4) Violence Vict 681.

Karl Marx. 'Das Kapital: kritik der politischen ökonomie' (1867) 1885 Verlag von Otto Meisner, Germany 1894 George Herbert Mead. 'Major Theorists of Symbolic Interactionism:' (2011).

Karibi-Whyte, A. G. 1993, History and sources of Nigerian criminal law / A.G. Karibi-Whyte Spectrum Law Publishing Ibadan, Nigeria.

Kirsti Malterud. Qualitative research: standards, challenges, and guidelines. (2011).358.9280. The lancet 483-488.

Kaar M, ' A critical investigation of the merits and drawbacks of in-depth interviews'

Seminar Paper, 11 Pages, Grade: 1,2 (2007).

Kathy Charmaz. "Grounded theory methods in social justice research." (2011) 4 The Sage handbook of qualitative research 359-380.

Kawu, I.M. 2013. "Nigeria's Troubling Epidemic of Rape". Rape Epidemic in Nigeria: Cases, Causes, Consequences and Responses. International Journal of Research in Applied, Natural and Social Sciences (Impact: Ijranss) Issn(E): 2321-8851; Issn(P): 2347-4580Vol. 2, Issue 1, Jan 2014, 31-44.

Kebetkache Women Development. 16 days activism against gender violence: The Kebetkache Women Development & Resource Centre decries the rape of 13

female students of the University of Port Harcourt on November 14, 2009 by ex-militants who are camped in nearby Aluu community.

Kelly, D. Askin: Prosecuting Wartime Rape and Other Gender-Related Crimes under International Law: Extraordinary Advances, Enduring Obstacles. Berkeley J Int'l L 2003, 21(2), 288.

Kelly, D Askin. War crimes against women: Prosecution in international war crimes tribunals (1997) 140; MC Bassiouni Crimes against humanity in international criminal law (1999).

Kelly J and others, 'Experiences of female survivors of sexual violence in eastern Democratic Republic of the Congo: A Mixed-Methods Study' (2011) 5(1) Conflict and Health 25.

H. Kelsen, "Will the Judgment in the Nuremberg Trial constitute a Precedent in Inter-national Law?", in The International Law Quarterly, Vol. 1, No. 2, Summer 1947, p. 153-171.

Ken Saro-Wiwa. 1995 Trial Speech of Ken Saro-wiwa. Taylor & Francis, Ltd.

Kerr, Blake. Sky burial: An eyewitness account of China's brutal crackdown in Tibet. 1997. Shambhala Publications

Killander M and Adjolohoun H, 'International Law and Domestic Human Rights Litigation in Africa: An Introduction' (2010).

Kim, Dong Choon. Forgotten war, forgotten massacres—the Korean War (1950–1953) as licensed mass killings. Journal of Genocide Research. Pub Year: 2004. Volume: 6. Issue: 4 Page: 523, 544. Taylor & Francis.

Klaus 2010. Human Rights Violations in Africa: How to File Complaints on Human Right Violations.

Knut Dörmann, *Elements of War Crimes under the Rome Statute of the International Criminal Court: Sources and Commentary* (Cambridge University Press 2003).

Kohn, Elizabeth A 1994 *Rape as a weapon of war: Women's human rights during the dissolution of Yugoslavia*.

Kolmar W and Bartowski F, 'The Changing Woman" (Navajo Origin Myth).' (2005) *Feminist Theory: A Reader*. 2nd Ed. New York: McGraw-Hill, 64.

Koo, Katrina Lee 2002 *Confronting a disciplinary blindness: Women, war and rape in the international politics of security*. *Australian Journal of Political Science*, 2002.

Koss, Mary P 2006. *Restoring rape survivors. Justice, advocacy, and a call to action*. *Annals of the New York Academy of Sciences*, 2006.

Kottak CP, *Mirror for Humanity: A concise introduction to cultural anthropology* (McGraw-Hill Higher Education 2005).

Kretzmann, Susan. (2005). *Drilling into Debt: An Investigation into the Relationship Between Debt and Oil*.

Krug, E.G. et al., eds., ' *World report on violence and health*. Geneva, World Health Organization' (2002).

G Krug, Etienne & A Mercy, James & L Dahlberg, Linda & Zwi, Anthony. (2003). *World Report on Violence & Health*. Biomédica.

Kruttschnitt, Candace. (1993). *Violence By and Against Women: A Comparative and Cross-National Analysis*. *Violence and victims*. 8. 253-70. 10.1891/0886-6708.8.3.253.

Laden M, "Issues in domestic implementation of the Rome Statute of the international criminal court in Nigeria, a round table presentation with parliament on the implementation of the Rome Statute in Nigeria. Organized by Nigerian Coalition on The International Criminal Court (NCICC).'¹ (12 November 2002).

Lagos State of Nigeria Art. 15(a), A Law to Provide Protection Against Domestic Violence and For Connected Purposes. 18th May 2007).

Laing, L., & Bobic, N. Addressing Gender-Based Violence: A Critical Review of Interventions. *The World Bank Research Observer*, Vol. 22, No. 1 (Spring, 2007), pp. 25-51. Published by: Oxford University Press.

Land Use Act - Nigeria Law. Chapter 202. Laws of the Federation of Nigeria 1990. [www.nigeria-law.org/Land Use Act](http://www.nigeria-law.org/Land%20Use%20Act).

Lau A. Southeast Asia and the Cold War. The Philippines search for security in the first years of the Cold War Ricardo T. Jose 3. Decolonization and the Cold War in Singapore, 1955-1959 Albert Lau 4. (2012).

Laura Smith-Spark. Women's bodies have become part of the terrain of conflict. BBC December 8, 2004

Laurie Hanna and Jennifer Newton 16 January 2015 Boko Haram fanatics abducted '500 women and children' after massacring 2,500 in one town.

Lauren Wolfe. "Syria has a massive rape crisis." 'All across the war-torn country, regime soldiers are said to be sexually violating women and men from the opposition, destroying families and, in some cases, taking lives. (2013) 3. *The Atlantic*.

Law Dictionary Adapted to the Constitution and Laws of the United States.by John Bouvier. 1856.

Leatherman J, *Sexual violence and armed conflict* (Polity Cambridge 2011).

Lee, R. M., & Renzetti, C. M., ' 'The problems of researching sensitive topics.' (1990) 33 *American Behavioural Scientist*, 510-528.

Lenning, Emily; Brightman, Sara. *Oil, rape and state crime in Nigeria*. 24 December 2008 Springer Science Business Media B.V. 2008

Lewis S, 'Protecting the women of Congo. The war being waged against women in Congo is an act of criminal international misogyny. *The Nation*. 6 April.2008.

Liberation Tigers of Tamil Eelam defeated; Sri Lanka liberated from terror". Ministry of Defence. 18 May 2009.

Liamputtong, Pranee, and Douglas Ezzy, "Qualitative research methods." (2005-03-24).

Lind, William S. *Understanding fourth generation war*. *Military Review*. 2004. Volume: 84 Issue: 5 Page: 12 US Army CGSC.

Linda de Hoyos, *Liberia/Sierra Leone: Warlords reap from a 'children's war'*. *News and Views on Africa from Africa*. *African News*. December 1999. Issue 45.

Lieber Code Lieber Code, Articles 44 and 47 (cited in Vol. II, Ch. 43, *ibid.*, 27–28); *Oxford Manual*, Article 84 (*ibid.*, 29); *First Geneva Convention*, Article 49 (*ibid.*, 7); *Second Geneva Convention*, Article 50 (*ibid.*, 7); *Third Geneva Convention*, Article 129 (*ibid.*, 7); *Fourth Geneva Convention*, Article 146 (*ibid.*, 7); *Hague Convention for the Protection of Cultural Property*, Article 28 (*ibid.*, 8); *Second Protocol to the Hague Convention for the Protection of Cultural Property*, Article 15 (*ibid.*, 22); *Additional Protocol I*, Article 85 (adopted by consensus) (*ibid.*, 10); *Amended Protocol II to the Convention on Certain Conventional Weapons*, Article 14 (*ibid.*, 14); *Ottawa Convention*, Article 9 (*ibid.*, 15); *Optional*

Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Article 4 (ibid., 23).

Lieb K and others, 'Borderline Personality Disorder' (2004) 364(9432) *The Lancet* 453.

Lijun Yang. 'On the principle of complementarity in the Rome Statute of the International Criminal Court' (2005) 4(1) *Chinese Journal of International Law* 121.

Linda de Hoyos, 'Liberia/Sierra Leone: Warlords reap from a 'children's war News and Views on Africa from Africa. *African News* (Issue 45 December 1999).

Littleton, H., & Bretkopf, C. R., 'Coping with the experience of rape. *Psychology of Women Quarterly*, 30, 106–116.' (2006).

Littlewood, Roland. *Military rape Anthropology today*. 1997. Page: 7 Other Pages: 16. JSTOR.

Livingstone DN and Harrison R, 'Immanuel Kant, Subjectivism, And Human Geography: Preliminary Investigation' (1981) *Transactions of the Institute of British Geographers* 359.

'London Agreement of 8 August 1945'. The London Agreement, signed August 8, 1945, established an International Military Tribunal for the trial of Nazi war criminals. The Charter of the IMT (Nuremberg)...

Louw L, "An analysis of state compliance with the recommendation of the African commission on human and peoples' rights" ' (2005) Pretoria, University of Pretoria.

L. Perna. *The formation of the treaty law of non-international armed conflicts* (Leiden, Boston: Martinus Nijhoff Publishers, 2006), her chapters 1 and 2.

L. Penna. 'Written and customary provisions relating to the conduct of hostilities and treatment of victims of armed conflicts in ancient India' (1989) IRRC 340–41.

Lynch C, United Nation says its worker abused women in Congo, ' (27 November. 2004) Washington post.

Lysaght, Charles 1983 Scope of Protocol II and Its Relation to Common Article 3 of the Geneva Conventions of 1949 and Other Human Rights Instruments.

M. Hossain and others. 'Men's and women's experiences of violence and traumatic events in rural Cote d'Ivoire before, during and after a period of armed conflict' (2014) 4(2) BMJ Open e003644.

Mar. 21, 1950 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others, G.A. Res. 317 (IV), U.N. Doc. A/RES/317(IV).

M. Kaar. 'A critical investigation of the merits and drawbacks of in-depth interviews' (2007).

M. Watts, 'Petro-Insurgency or criminal syndicate? Conflict and violence in the Niger Delta' (2007) pp. 637–660.

Machel G, Impact of Armed Conflict on Children. UN Monday, 26 August 1996.

Mackinnon A, 'Rape, Genocide and women's Human Right in A Stiglmeier(ed) Mass Rape. The war against women Bosnia-Herzegovina. University of Nebraska.' (1994).

"Defining Rape Internationally: A Comment on Akayesu." Pp. 237-246 in *Are Women*

Human? 2006. The Belknap Press of Harvard University Press (Catherine A. MacKinnon).

Madiebo, A. A. 1980 The Nigerian revolution and the Biafran war. Fourth Dimension Publishers, Enugu (1980), page 411.

Maedi A, "Rape as Weapon of War in the Eastern DRC: The Victims" Perspective. (February 2011) Volume 33, Number 1 pp. 128-147 | 10.1353/hrq.2011.0005.

Mahnoush H. Arsanjani and W. Michael Reisman. 'The law-in-action of the International Criminal Court' (2005) 99(2) The American Journal of International Law 385.

Maiangwa, Benjamin. "Baptism by fire": Boko Haram and the reign of terror in Nigeria." 59.2 (2012): 40-57. Africa Today. 2016.

Makama GA, 'Patriarchy and gender inequality in Nigeria: the way forward' (2013) 9(17) European scientific journal.

Malinowski B, 'Argonauts of the western Pacific' (1922) New York: Dutton.

Malone, David (2004). The UN Security Council: from the Cold War to the 21st century.

Malterud K, ' "Qualitative research: standards, challenges, and guidelines." (2011) 358.9280 the lancet 483-488.

M. Laden. "'Issues in domestic implementation of the Rome Statute of the international criminal court in Nigeria, a round table presentation with parliament on the implementation of the Rome Statute in Nigeria. Organised by Nigerian coalition on the international criminal court (NCICC)..'" (12 November 2002)

Mann D, 'Society as Symbols or Constructs. Understanding Society: A Survey of Modern Social Theory.' (Pp. 210-212) 2008 Ontario, Canada: Oxford University Press.

Mack, Kathy 1993 Continuing barriers to women's credibility: A feminist perspective on the proof process.

Martyn Hammersley, What's wrong with ethnography? Methodological explorations (Psychology Press 1992).

Mathebula, Brian. Patriarchy and the Informal Economy: The Case for Women Empowerment. 2015.

Matthew R. Smallman-Raynor and Andrew D. Cliff. 'Civil war and the spread of AIDS in Central Africa' (1991) 107(01) Epidemiology Infect 69.

Marx K, 'Das Kapital: kritik der politischen ökonomie' (1867) 1885 Verlag von Otto Meisner, Germany 1894.

Margaret M. Deguzman. 'Crimes Against Humanity' (2011) Research Handbook On International Criminal Law, Bartram S. Brown, Ed., Edgar Elgar Publishing 2010.

Margaret E. Hartford, "Group Dynamics: Research and Theory. Dorwin Cartwright, Alvin Zander," Social Service Review 27, no. 4 (Dec. 1953): 437-438.

Marie Vlachová and Lea BIASON, Women in an insecure world: violence against women: facts, figures and analysis (Geneva Centre for the Democratic Control of Armed Forces (DCAF) 2005).

Martins D. Battered wives. San Francisco: Del Martin Glide Publications San Francisco, 1976.

Mary Buckley and Sally N. Cummings., 'Kosovo: perceptions of war and its aftermath' Duijzings, G; (2003) "Kosovo: perceptions of war and its aftermath" (Mary Buckley and Sally N. Cummings). *Political Studies Review*, 1 (3) pp. 478-479.

Matveev AV, 'the advantages of employing quantitative and qualitative methods in intercultural research: Practical implications from the study of the perceptions of intercultural communication competence by American and Russian managers' (2002) 1 *Bulletin of Russian Communication Association Theory of Communication and Applied Communication* 59.

Marvin Harris, *Cultural materialism: The struggle for a science of culture* (AltaMira Press 2001).

Mausi Segun and Samer Muscati. "Those terrible weeks in their camp': Boko Haram violence against women and girls in Northeast Nigeria' (2014) Mausi Segun and Samer Muscati. "Those terrible weeks in their camp': Boko Haram violence against women and girls in Northeast Nigeria' (2014) Mausi Segun and Samer Muscati. "Those terrible weeks in their camp': Boko Haram violence against women and girls in Northeast Nigeria' (2014) Mausi Segun and Samer Muscati. "Those terrible weeks in their camp': Boko Haram violence against women and girls in Northeast Nigeria' (2014)

Maxwell JA, "Designing a qualitative study." *The SAGE handbook of applied social research methods* 2 214-253.

Mayhew, P. (2003) 'Counting the Costs of Crime in Australia', *Trends & Issues in Crime and Criminal Justice*, No. 247. Canberra: Australian Institute of Criminology.

Mbembé, J-A 2000. At the edge of the world: boundaries, territoriality, and sovereignty in Africa. December 2000 *Public Culture* 12(1):259-284.

McElroy, Damien 6 July 2013 "Extremist attack in Nigeria kills 42 at boarding school".

McEvoy-Levy, Siobhán 2007 Human rights culture and children born of wartime rape. Bloomfield 2007: 1-20

Megan Bastick, Karin Grimm and Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector* (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2007), p. 8.'

Meier E, "Prosecuting Sexual Violence Crimes during War and Conflict: New Possibilities for Progress."83.' (2004a) 10 *Int'l Legal Theory*.

Meier E, "'Prosecuting Sexual Violence Crimes during War and Conflict: New Possibilities for Progress."83. (2004b) *Int'l Legal Theory* 10.

Mertus, Julie; Goldberg, Pamela. *Perspective on Women and International Human Rights after the Vienna Declaration: The Inside/Outside Construct*, A *NYUJ Int'l L. & Pol.* 1993. Volume: 26 Start Page: 201. Hein Online.

Meron, Theodor 1996. The continuing role of custom in the formation of international humanitarian law. *Oxford Scholarship Online*.

Meron T, ' "Rape as a crime under international humanitarian law."87.3 (1993): 424-428. *The American Journal of International Law*.

M. H. Hoffman. 'The customary law of non-international armed conflict: evidence from the US Civil War' (1990) *IRRC* 322–43 and T. Meron, 'Francis Lieber's code and principle.

Mia Bloom. 'Female suicide bombers: a global trend' (2007) 136(1) *Daedalus*
94
Mia Bloom. 'Female suicide bombers: a global trend' (2007) 136(1) *Daedalus*
94
Mia Bloom. 'Female suicide bombers: a global trend' (2007) 136(1) *Daedalus*
94
Mia Bloom. 'Female suicide bombers: a global trend' (2007) 136(1) *Daedalus*
94.

Michael Agar. 'The Professional Stranger: An Informal Introduction to
Ethnography. Academic Press. American Heritage Dictionary. 2000. Houghton
Mifflin.' (1996.).

Michael Olugbode 5 March 2015 Nigeria: NHRC - 2,000 Human Rights Violation
Recorded in Borno.

Michael Salter and Julie Mason, 'Writing Law Dissertations: An Introduction and
Guide to the Conduct of Legal Research' (2007) Pearson 31.

Michael Quinn Patton, how to use qualitative methods in evaluation. Volume 4 of
Program evaluation kit 176 pages. Sage, 1991.

Michael Watts, ' Petro-Insurgency or Criminal Syndicate? Conflict, Violence and
Political Disorder in the Niger Delta. (2008).

Michael Watts, Ike Okonta, and Dimieari Von Kemedi, "Economies of Violence:
Petroleum, Politics and Community Conflict in the Niger Delta, Nigeria,"
Washington DC: U.S. Institute of Peace, 2004), p. 2.

Mike Albo. Greenwood C (2008) Historical development and legal basis. In:
Fleck D, Bothe M (eds) *The handbook of international humanitarian law*, 2nd edn.
Oxford University Press, Oxford, pp 1–43.

Miller, Robert H 1971. *The Convention on the Non-Applicability of Statutory
Limitations to War Crimes and Crimes against Humanity.*

Minegar B, "Bangladesh war crimes tribunal sentences Jamaat-e-Islami member to death". *Jurist.* (21 January 2013).

'Ministry of Justice, office of National Statistics and Home Office. Statistics on sexual violence, an overview of sexual violence in England and Wales'.

Mirabel Centre- Sexual Assault centre: sexual assault referral: the first centre supporting rape survivors in Nigeria. Set up in 2013.

Mofoluwawo Esther Omoniyi. Rape Endemic in Nigeria: Causes, Effect and Probable Way Out the *Journal of Social Sciences Research*. ISSN (e): 2411-9458, ISSN(p): 2413-6670 Vol. 3, No. 12, pp: 120-125, 2017.

Mookherjee N, "Remembering to Forget': Public Secrecy and Memory of Sexual Violence in The Bangladesh War Of 1971' (2006) 12(2) *Journal of The Royal Anthropological Institute* 433.

Mooney LA, Knox D, Schacht C, 'Understanding Social Problems.' (2007.) 5th Edition. USA.

Morgan DL Focus groups as qualitative research, vol 16 (Sage publications 1996).

Morenike O Folayan, Morolake Odetoynbo, Brandon Brown, Abigail Harrison. Addressing the Socio-Development Needs of Adolescents Living with HIV/AIDS in Nigeria: A Call for Action. *African Journal of Reproductive Health*. Vol 18, No 3 (2014)

Morris D, 2006. 'The chance to go deep: US energy interests in West Africa. *American Foreign Policy Interests*,' 28 (3), 225–238.

Morris, Michael W., et al., "Views from inside and outside: Integrating emic and etic insights about culture and justice judgment." (1999) 24.4 *Academy of Management Review* 781-796.

Morrison, Z., Quadara, A., & Boyd, C., "Ripple effects" of sexual assault (ACSSA Issues No. 7). Melbourne: AIFS. Available from <<http://www.aifs.gov.au/acssa/pubs/issue/i7.html>>. ' (2007.).

Morse JM, *Critical issues in qualitative research methods*. University of Utah, USA (Sage 1994).

Moustakas C, *Phenomenological research methods* (Sage 1994). Thousand Oaks, CA.

Mouthaan S, 'Sexual Violence against Men and International Law—Criminalizing the Unmentionable' (2013) 13(3) *International Criminal Law Review* 665.

Movement for the Survival of the Ogoni People. Nigeria. *The Ogoni Crisis. A Case-Study of Military Repression in South-eastern Nigeria*. July 1995'. Human Right Watch Report. Vol. 7, No. 5.

Movement for the Survival of the Ogoni People. In Ken Saro-Wiwa ...broadened the reach of the Movement for the Survival of the Ogoni People Nigerian Institute of Strategic Studies. new.ismng.org.

Movement for the Survival of the Ogoni People. *Ogoni: Oral Intervention on the Human Rights Situation of States and Territories threatened with Ex'* Aug 07, 2006.

Muehlenhard, C. L., & Linton, M. A. 1987 Date rape and sexual aggression in dating situations: Incidence and risk factors. *Journal of Counselling Psychology*, 34, 186-196.

Murray R, 'Human Rights In Africa, From the OAU to the African Union; The African Charter on Human and Peoples" Rights" (1981 – 1982) 22 Virginia Journal of International Law 694; E Bello „The mandate of the African Commission on Human and Peoples" Rights" (1988) „The African Commission on Human and Peoples" Rights: A five year report and assessment" (1992) 14 Human Rights Quarterly 46; HJ Steiner & P Alston International human rights in context: Law, politics and morals 920' (2000)(1 African Journal of International Law 55; CE Welch) (For an account of early writings criticizing the implementation mechanism of the Charter, see R Gittleman „).

Mullins, Christopher, 'We are Going to Rape You and Taste Tutsi Women': Rape During the 1994 Rwandan Genocide (November 2009). The British Journal of Criminology.

N. Ferguson, 'The War of the World: Twentieth-Century Conflict and the Descent of the West.', The war of the world. Published September 21st, 2006 by Penguin Press HC.

Nafziger EW, the Economics of Political Instability: The Nigerian-Biafran War (Westview Press 1983).

Nancy Gallagher. Amnesty International and the Idea of Muslim Women's Human Rights. Journal of Middle East Women's Studies. 2005. Volume: Vol. 1, Issue: No. 3. Page: pp. 96-107.

National Human Rights Commission Act Cap.N46 Laws of the Federation of Nigeria 2004.

National Legislative Bodies / National Authorities. 'Nigeria: Violence Against Persons (Prohibition) Act, 2015 (VAPP)' (25 May 2015).

National Institute of Mental Health, 'Borderline Personality Disorder,'" (August 24, 2010).

Nayanika Mookherjee. "Remembering to forget': public secrecy and memory of sexual violence in the Bangladesh war of 1971' (2006) 12(2) *Journal of the Royal Anthropological Institute* 433.

Naylor, L. (2009). Violence against women. In H. T. Greene & S. L. Gabbidon (Eds.), *Encyclopaedia of race and crime* (pp. 866-868). Thousand Oaks, CA: SAGE Publications, Inc. doi: 10.4135/9781412971928.n355.

Nduwimana, Françoise. *United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security Understanding the Implications, Fulfilling the Obligations*. 2006. New York.

Nduna S GL, 'Pain too deep for tears: Assessing the prevalence of sexual and gender violence among Burundian refugees in Tanzania. Kibondo, International Rescue Committee, 1997.'

Neill KG, 'Duty, Honor, rape: Sexual assault against women during war' (2013) 2(1) *Journal of International Women's Studies* 43.

Newman, Isadore, and Carolyn R. Benz., ' *Qualitative-quantitative research methodology: Exploring the interactive continuum*.(1998.) SIU Press.

Niarchos, Catherine N. 1995. "Women, War, and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia." *Human Rights Quarterly* 17 (4): 649-90.

Nifem & Dpko., 'UN Department of Peacekeeping Operations. *Addressing Conflict-related Sexual Violence: An Analytical Inventory of Peacekeeping Practice*, UN, New York." (2010).

N. K. Denzin. 'The logic of naturalistic inquiry.' (1971) (50,) Social Forces, 166-182.

Nicholas Bateson. 'Familiarization, group discussion, and risk taking' (1966) 2(2) J Exp Soc Psychol 119.

Nicola Henry, War and rape: law, memory, and justice (Routledge 2011).

Nigerian Army Accused of Excessive Force, Rape in Niger Delta (12/22/99), Human Rights Watch called on the Nigerian government to initiate criminal proceedings against soldiers responsible for abuses in two recent incidents in the oil producing Niger Delta region.

Nigerian Army. Nigeria, Operational Code of Conduct: Operational Code of Conduct for the Nigerian Army.

Nigerian Institute of Strategic Studies Rules of engagement for the Nigerian military chapter II section 14 (2) (b).

Nigeria's Minister for Women Affairs, 'Tripartite Legal System Hinders Progress towards Gender Equality in Nigeria,' (Evidence of Nigeria's Commitment to Implementing Obligation under Women's Convention Also Cited 637th & 638th Meetings.

Nigerian Terrorism Prevention Act 2011'. Legal Framework for the Prevention of Terrorism in Nigeria (May 2011).

Nigeria says 219 girls in Boko Haram kidnapping still missing". Fox News. 26 June 2014. Retrieved 30 June 2014.

Nixon, Rob 1996 "Pipe Dreams: Ken Saro-Wiwa, Environmental Justice, and Micro-Minority Rights".

Nmehielle, V.O.O. 2004. 'Sharia law in the northern states of Nigeria: to implement or not to implement, the constitutionality is the question', Human Rights Quarterly 26, 3 : 730 –59. Oba, A.A. 2002. 'Islamic law as customary law: Nnoli O, Ethnic conflicts in Africa. Council for the Development of Social Science Research in Africa (African Books Collective 1998).

Noble Quran. 2: 228. Wives have the same rights as the husbands have on them in accordance with the generally known principles. Of course, men are a degree above them in status . . . (Sayyid Abul A'La Maududi, the Meaning of the Qur'an, vol. 1, p. 165).

Noble Quran. 2: 228.

Noble Quran. 4:1,7:189. 42:11

Nolen S, ' Not Women Anymore...' The Congo's rape survivors face pain, shame and AID.' (2005.).

Norman M. Bradburn and others, improving interview method and questionnaire design: Response effects to threatening questions in survey research (University Microfilms 1992).

Nona Zicherman. 'Addressing sexual violence in post-conflict Burundi' (2007) 27(48-49) Forced Migration Review.

Nowrojee B, Shattered lives: sexual violence during the Rwandan genocide and its aftermath, vol 3169 (Human Rights Watch 1996).

NY 374 1874 (People v Dohring 59. Court of Appeals of the State of New York Dec 22, 1874.

Nwabueze B.O, ' A constitutional history of Nigeria. Addison-Wesley Longman Ltd, 1982 - Law - 272 pages.

Nwajah, O: A Tale of Military Massacres: From Ogoniland to Odi Town. December 6, 1999.

Nwilo, P.C and Badejo, O.T., 'Oil spill problem and management in Niger Delta. (2005) Paper presented at international oil spill conference miami, Florida.

Nwolise, B.C. 2006 National security and sustainable democracy. Ibadan: John Archers Publisher Limited, Nigeria, 2006), p. 348.

Nwolise, O.B.C. "Military Assistance to Civil Authority as a Constitutional Duty of the

Nigerian armed Forces: Sources of Public Agonies and Outcries, Bad Military Image, and

their challenges for Political Leadership, Military Command and Professionalism" in A.

Ogomudia (ed), Peace Support Operations, Command and Professionalism: Challenges for

the Nigerian Armed Forces in the 21st Century. Ibadan: Gold Press.

Nwogugu, Edwin I 2014 Family Law in Nigeria. Heinemann studies in Nigerian law.

Ibadan, Nigeria: HEBN Publishers Plc., 2014.

Oba, Abdulmumini A. 2004 The African Charter on Human and Peoples' Rights and ouster clauses under the military regimes in Nigeria: before and after September 11.

Obi, Cyril. (2010). Nigeria's Niger Delta: Understanding the Complex Drivers of Violent Oil-related Conflict. Africa Development. 34. 10.4314/ad. v34i2.57373.

Obijiofor Aginam, Martins R. Rupiya., (2012). 'HIV/AIDS and the security sector in Africa. Unu press Tokyo, pages 281'.

Obilade A.O. 1979. The Nigerian Legal system. Customary Law, Social Development and Administration of Justice in Nigeria. Beijing Law Review, Vol.7 No.4, December 30, 2016.

Obote-Odora A, 'Rape and Sexual Violence in International Law: ICTR Contribution' (2005) 12 New Eng. J. Int'l & Comp.L. 135.

Ofer Zur. 'The Psychohistory of Warfare: The Co-Evolution of Culture, Psyche and Enemy' (1987) 24(2) J Peace Res 125
Ofer Zur. 'The Psychohistory of Warfare: The Co-Evolution of Culture, Psyche and Enemy' (1987) 24(2) J Peace Res 125
Ofer Zur. 'The Psychohistory of Warfare: The Co-Evolution of Culture, Psyche and Enemy' (1987) 24(2) J Peace Res 125.

Ogoni". Unpo.org. Unrepresented Nations and Peoples Organization. March 25, 2008. Retrieved December 13, 2014.

Okechukwu Ibeanu. 'Oiling the friction: Environmental conflict management in the Niger Delta, Nigeria' (2000) 6(6) Environmental change and security project report 19. Environ Change Secure Proj Rep. 2000 summer ;(6):19-32.

Okoli, Al Chukwuma, and Philip Iortyer., (2014). "'Terrorism and humanitarian crisis in Nigeria: Insights from Boko Haram insurgency.'" Global Journal of Human social science' 39-49.

Volume 14 Issue 1 Version 1.0 Year (2014) Type: Double Blind Peer Reviewed International Research Journal Publisher: Global Journals Inc. (USA).

Okonkwo and Naish on Criminal Law in Nigeria. Spectrum book. 1990. 2nd. Ibadan.

Okpaga, Adagba, Ugwu Sam Chijioke, and Okechukwu Innocent Eme.,
"Activities of Boko Haram and insecurity question in Nigeria.' (2012) 19(77)
Arabian Journal of Business and management Review.

Old Testament, Zechariah 14, For I [God] will gather all the nations against
Jerusalem to battle, and the city shall be taken, and the houses looted, and the
women raped;"

Oludotun Ogunbayo v The State (SC. 272/2005) [2007] NGSC 76 (9 March 2007)
Nigeria-Law.org.

Olusola Fabiyi March 2013 Obasanjo should face trial for Odi masscare.
punchng.com/page/1899.

Olugbenga A. Olatunji. 'Penetration, corroboration and non-consent: examining
the Nigerian law of Rape and addressing its shortcomings' (2012) 8 Univ Ilorin
Law J 79.

Oluwaseun Bamidele. "Boko Haram Catastrophic Terrorism—An Albatross to
National Peace, Security and Sustainable Development in Nigeria." (2015) 14.1
Journal of Sustainable Development in Africa 32-44.

Olatunji OA, 'Penetration, corroboration and non-consent: examining the Nigerian
law of Rape and addressing its shortcomings' (2012) 8 Univ Ilorin Law J 79.

Olaide I. Aro. "Boko Haram Insurgency in Nigeria: Its Implication and Way
Forwards Toward Avoidance of Future Insurgency." (2013) 3.11 International
Journal of Scientific and Research Publications 1-8.

Oliver Wendell Holmes Jr. "The Path of the Law" (1897) 457, 465–6 10:8. 10
Harvard Law Review 457.

Olsen W, "Triangulation in social research: qualitative and quantitative methods can really be mixed." (20th edn, *Developments in sociology* 2004). Nigeria-Law.org (Oludotun Ogunbayo v The State)

Omede AJ, 'Nigeria: Analysing the Security Challenges of the Goodluck Jonathan Administration/Nigeria: L'analyse Des Defis De La Securite D'administration De Goodluck Jonathan.' '(2011) 90(7.5) *Canadian social science*.

Omeje, Kenneth 2004. *The state, conflict & evolving politics in the Niger Delta, Nigeria. Review of African Political Economy No.101:425-440? ROAPE Publications Ltd., 2004.*

Zenn, J., & Pearson, E 2014. *Women, Gender and the evolving tactics of Boko Haram. Journal of terrorism research, 5(1).*

Omoba Oladele Osinuga Esq 'Nigeria and the ICC: The Dawn of a new era? Supreme Court of Nigeria; European Union Rule of Law Mission EULEX. December 25, 2011.

Onapajo, Hakeem, Ufo Okeke Uzodike, and Ayo Whetho, "'Boko Haram terrorism in Nigeria: The international dimension.'" '(2012) 19.3 *South African Journal of International Affairs* 337-357.

Onduku A, 'Environmental Conflicts: the case of the Niger Delta' (2001) A paper presented at the One World Fortnight Programme, University of Bradford, UK.

Onapajo, Hakeem, Ufo Okeke Uzodike, and Ayo Whetho. "'Boko Haram terrorism in Nigeria: The international dimension.'" '(2012) 19.3 *South African Journal of International Affairs* 337-357.

O'Neill O, 'Some limits of informed consent' (2003) 29(1) *J Med Ethics* 4.

Onyebuchi Ezigbo: Nigeria: Obasanjo's Aide Justifies Odi Massacre. This Day
Lagos: 20 November 2012.

Onyejekwe CJ, 'Nigeria: The dominance of rape' (2008) 10(1) Journal of
International Women's Studies 48.

Orb, A., Eisenhauer, L., & Wynaden, D., ' Ethics in qualitative research. (2011)
Journal of nursing scholarship, 33(1), 93-96.

Ottoh, Ferdinand O. Changing the Pattern of Warfare in Africa: Boko Haram
Insurgency in Nigeria. Conflict Studies Quarterly. 2015. Page: 23.

Osaghae, Eghosa E., and Rotimi T. Suberu., ' A history of identities, violence and
stability in Nigeria. Oxford. (2005.) Centre for Research on Inequality, Human
Security and Ethnicity, University of Oxford.

Ovid, *Methamorphoseon, liber secundus*; the rape of Europa, 850 ff.; Apollodorus
libris 3.10.7, Leda and the swan; Tryphiodorus, Ajax and Cassandra, section 635.

Ouguergouz, Fatsah 2003 *The African Charter of Human and People's Rights: A
Comprehensive Agenda for Human Dignity and Sustainable Democracy in Africa.*

Oyebode, Akin 2012 *Legal Responses to the Boko Haram Challenge: An
Assessment of Nigeria's Terrorism (Prevention) Act, 2011* Akin Oyebode. 'Legal
Responses to the Boko Haram Challenge: An Assessment of Nigeria's Terrorism
(Prevention) Act, 2011' (Forum on Public Policy: A Journal of the Oxford Round
Table Forum on Public Policy, 2012).

Park R, McKenzie RD and Burgess E, 'The city: Suggestions for the study of
human nature in the urban environment'. University of Chicago Press, (2006).

Parsons, Rymn J. *Combatant Immunity in Non-International Armed Conflict, Past
and Future.*

Pascale Harter. Libya rape victims facing honour killing. BBC News, Tunisian-Libyan border. 14 June 2011.

Pateman, C. (1980). Women and Consent. *Political Theory*, 8(2), 149–168. <https://doi.org/10.1177/009059178000800202>.

Patricia Viseur Sellers, the Prosecution of Sexual Violence in Conflict: The Importance of Human Rights as Means of Interpretation (Women's Human Rights and Gender Unit (WRGU) 2007).

Patton MQ, how to use qualitative methods in evaluation (Sage 1987).

Paul Atkinson and Sara Delamont. 'Rescuing narrative from qualitative research' (2006) 16(1) *Narrative Inquiry* 164.

Paust, Jordan L., et al., 'International criminal law.' Durham NC: (2000). Carolina Academic Press.

Per Lord Coleridge. In *R v Day* 1841 C & P 722 t 724.

Peters A, 'Understanding Kidnapping as a Political Act. A Case of the Niger Delta' (2016).

Peter Allmark and others. 'Ethical issues in the use of in-depth interviews: literature review and discussion' (2009) 5(2) *Research ethics review* 48.

Peter Malanczuk, Akehurst. *Modern Introduction To laws of war through 1980*, including the Geneva Conventions of 1864 and 1906, the three Hague Conventions of 1899 concerning the laws of land and maritime warfare, and the thirteen Hague Conventions of 1907, dealing with many remaining military issues).

Peter Takirambudde, 'Nigerian Army accused of Excessive Force, Rape in Niger Delta.

Destruction of Odi and rape in Choba. December 23, 1999'.

Peter Warwick, Black people and the South African war 1899-1902 (Cambridge University Press 1983).

Petrak, J. 2002. (The psychological impact of sexual assault. In J. Petrak & B. Hedge (Eds.).

Philippe Bourgois. 'The power of violence in war and peace Post-Cold War lessons from El Salvador' (2001) 2(1) Ethnography 5.

Pictet, Jean S 1994 Geneva Convention. Geneva Convention " Commentary on the Geneva Conventions of August 12, 1949. Volume I,

Pita Agbese. 'Federalism and the minority question in Nigeria' (2003) Federalism in Africa 237.

Plumper, Thomas 2006. The unequal burden of war: the effect of armed conflict on the gender gap in life expectancy.

Pratt M, Werechick.L, 'Sexual Terrorism: Rape as A Weapon of War in Eastern Democratic Republic of Congo. USAID/ DCHA, 9.' in (January 2004).

Premium Times. October 14th, 2016. Katsina Emirate says marriage of 'abducted' 14-year-old to Emir's aide irreversible.

Prosecuting Wartime Rape and Other Gender-Related Crimes under International Law: Extraordinary Advances, Enduring Obstacles. 21 Berkeley J. Int'l Law. 288 (2003).

Prosecutor V Anto Furundzija Trial Chamber II Judge Florence Mumba, presiding in the case; The Prosecutor V Anto Furundzija at the International Criminal Tribunal of former Yugoslavia ICTY. Dec 10, 1998

Prosecutor v. Simić and others, case no. IT-95–9-PT, Prosecutor v. Simić and others, case no. IT-95–9-PT, decision on the pre-trial motion by the prosecution requesting the Trial Chamber to take judicial notice of the international character of the conflict in Bosnia- Herzegovina, 25 March 1999.

'Prosecutor v. Tadic, Case No. IT-94-1-T, Sentencing Judgment (July 14, 1997), Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, (Sept. 2, 1998).'

Protocol relating to the Establishment of the Peace and Security Council of the African Union (adopted in Durban, South Africa, July 2002 and entered into force in December 2003), where member states are concerned 'by the fact that conflicts have forced millions of our people, including women and children, into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope' (PSC Protocol).

Psathas G, 'Talk and Social Structure and Studies of Work in Human Studies,' Human Studies Vol. 18, No. 2/3, Ethnomethodology: Discussions and Contributions (July 1995) pg. 139-155.

Psathas G, 'Reflections on the history of ethnomethodology: The Boston and Manchester "Schools. The American Sociologist vol. 39, no. 1, 2008, pp. 38-67.

Puechguirbal, Nacline. Women and war in the Democratic Republic of Congo. Signs journal of woman in culture and society. Pub Year: 2003.

P. V. Kane History of Dharmasastra (vol. 3, 1973), p. 210, as well as, Sacred Books of the East, vol. 14, 1882, I.10.18, 11 cited in L. Penna, 'Written and

Customary provisions relating to the conduct of hostilities and treatment of victims of armed conflicts in ancient India' (1989) IRRC 340–41.

Pyszczynski, Tom 2003. In the wake of 9/11: Rising above the terror. The Psychology of Terror.pg. 227

Quenivet, Noelle. (2017). Sexual Violence in Armed Conflict.

Quincy Wright. "The law of the Nuremberg trial."41(38.) Am J Int'l L. 1947), International Criminal Law 239.

'Quran 5:5'

'Quran 24:30'

'Quran 2:191'

'Quran 2:282'

'Quran 24;4, 24;13'

Quran (2:282) O you who believe! When you contract a debt for a fixed period, write it down. Let a scribe write it down in justice between you. Let not the scribe refuse to write as Allah has taught him, so let him write. Let him (the debtor) who incurs the liability dictate, and he must fear Allah, his Lord, and diminish not anything of what he owes. But if the debtor is of poor understanding, or weak, or is unable himself to dictate, then let his guardian dictate in justice. And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her. And the witnesses should not refuse when they are called on (for evidence). You should not become weary to write it (your contract), whether it be small or big, for its fixed term, that is more just with Allah; more solid as evidence, and more convenient to prevent doubts among

yourselves, save when it is a present trade which you carry out on the spot among yourselves, then there is no sin on you if you do not write it down. But take witnesses whenever you make a commercial contract. Let neither scribe nor witness suffer any harm, but if you do (such harm), it would be wickedness in you. So be afraid of Allah; and Allah teaches you. And Allah is the All-Knower of each and everything.

Quran, Rape of Muslim women is against Islamic law - although the rape of non-Muslim women is not, if they are 'captured in battle' or bought as slaves. Even the rape of a Muslim woman is almost impossible to prove under strict Islamic law (Sharia). If the man claims that the act was consensual sex, there is very little that the woman can do to refute this. Islam places the burden of avoiding sexual encounters of any sort on the woman.

Rape in section 357 of the Criminal Code; defilement of a girl under 13 in section 218 of the Criminal Code; defilement of girls under 16 and above 13, and of idiots in section 221 of the Criminal Code, which applies to the Southern part of Nigeria as: Any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband is guilty of an offence which is called rape.

Rape is a particular kind of sexual violence, where the definition is confined to the act of penetration of the body, whereas the definition of other kinds of sexual violence is potentially extremely wide, due to the variety of methods chosen by perpetrators to commit these crimes: as stated in the Triffterer Commentary,

“Sexual violence is a term broader than rape. The term is used to describe any kind of violence carried out through sexual means or by targeting sexuality” (Otto Triffterer Commentary on the Rome Statute of the International Criminal Court” Hart Publishing, 2008, page 214). According to the ICTR in the Akayesu judgement, sexual violence, which includes rape, is considered “any act of a sexual nature committed under circumstances that are coercive.” (Akayesu, above, note 8: paragraph 598). The ICTR continued: “Sexual violence is not limited to a physical invasion of the human body and may include acts that do not involve penetration or physical contact. Sexual violence covers both physical and psychological attacks directed at a person’s sexual characteristics.” (Akayesu, Trial Judgment above, note 8: paragraph 688) However, the aspects of coercion and violation of sexual autonomy are common to both the definition of rape and the definition of sexual violence, and are of relevance to the investigation and prosecution of both crimes.

Rape of Nanking, 1937, Eyewitness to History, www.eyewitnesstohistory.com ' (2009).

R. Copelon 1995 "Gendered war crimes" Reconceptualizing Rape in time of war. Women's

Rights Human Right

R. Degni-Ségui. ' Report about human rights in Rwanda E/CN.4/1996/68 paragraph 16,

Geneva: UN, ' ((1994))

R. Murray. 'Human Rights in Africa, From the OAU to the African Union; The African

Charter on Human and Peoples' Rights" (1981 – 1982) 22 Virginia Journal of International

Law 694; E Bello „The mandate of the African Commission on Human and Peoples

"Rights" (1988), The African Commission on Human and Peoples' Rights: A five year report and assessment" (1992) 14 Human Rights Quarterly 46; HJ Steiner & P Alsto

International human rights in context: Law, politics and morals 920' (2000) (1 African Journal of International Law 55; CE Welch) (For an account of early writings criticising the implementation mechanism of the Charter see R Gittleman).

Rehn, Elisabeth; Sirleaf, Ellen Johnson. Rehn, Elisabeth; Sirleaf, Ellen Johnson. Women,

R v. Gatson 78 CAR 164. This position can be contrasted with what obtainable in states such as England where 'A' is said to have committed an offence "if... (a) He intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else".

R v Olugboja [198] 3 All ER 443. This cast the victim was raped by to Nigeria brothers. When she was raped by the 1st accused, she fought tooth and nail to prevent her violation, but she was beaten blue and black by the sad accused until he had his way. On being approached by bthe2nd accused for the same purpose, she submitted/ succumbed without putting up any resistance. The court held that non-resistance the part of the proseutrixin the second rape was not consent but mere submission.

Reis C and others, 'Discriminatory attitudes and practices by health workers toward patients with HIV/AIDS in Nigeria' (2005) 2(8) PLoS Med e246.

Reilly, Niamh. "Violence against Women". *Feminist Review*. March 2011, Volume 97, Issue 1, pp 5–31.

Reno W, "'The politics of insurgency in collapsing states.'" *Development and Change* ' ((2002)) 33.5 837-858.

Réseau des Femmes pour un Développement Associatif, Réseau des femmes pour la Défense des Droits et la paix and International Alert (2005) *Women's Bodies as Battleground: sexual violence against women and girls during the war in the DRC*, 45-51.

Resick PA, 'The psychological impact of rape' (1993) 8(2) *J Interpers Violence* 223.

Reynolds, Jefferson D. *Collateral damage on the 21st century battlefield: enemy exploitation of the law of armed conflict, and the struggle for a moral high ground.* *AFL Rev.* 2005. Volume: 56 -1 HeinOnline.

Reyntjens, Filip 1999. *Briefing: the second Congo War: More than a remake.* *African Affairs*, Volume 98, Issue 391, 1 April 1999, Pages 241–250.

Rich K and Seffrin P, 'Police officers' collaboration with rape victim advocates: Barriers and facilitators' (2013) 28(4) *Violence Vict* 681.

Richard A. Aborisade. *Barriers to Rape Reporting for Nigerian Women: The Case of female University Students.* *International Journal of Criminology and Sociological Theory*. December 2014. Volume: Vol. 7.

Richard Akinjide, QC, SAN. *The Amalgamation of Nigeria Was A Fraud.* June 2000.

Richards HM SL, ' Ethics of qualitative research: Are there special issues for health services research. Family Practice. 2002; 19(2):135-9.' Highlands and Islands Health Research Institute, The Green House, Beechwood Business Park, Inverness IV2 3ED, UK.

Richard Vernon. 'What is crime against humanity?' (2002) 10(3) Journal of Political Philosophy 231.

Riley J, ' in Getting the most from your data: A handbook of practical ideas on how to analyse qualitative data. (Technical and Educational Services. Bristol, UK).

Ritchie, Jane, and Liz Spencer., "Qualitative data analysis for applied policy research." (2002) 573.2002 the qualitative researcher's companion 305-329.

Robinson D, 'Ogoni: the struggle continues. Geneva world council of churches. (1996).

Robinson, Darryl. (1999). Defining "Crimes Against Humanity" at the Rome Conference. The American Journal of International Law. 93. 43. 10.2307/2997955.

Roberts, Adam 2000. Documents on the Laws of War. The handbook of international humanitarian law, 2nd edn. Oxford University Press, Oxford, pp 1–43.

Robert B. Arundale. "Face as a research focus in interpersonal pragmatics: Relational and emic perspectives." (2013) 58 Journal of Pragmatics 108-120.

Robert D. Stolorow, Barth, F. (2010).: Trauma and Human Existence: Autobiographical, Psychoanalytic and Philosophical Reflections: The Analytic

Press, New York and London, 2007, Psychoanalytic Inquiry Book Series. *Clinical Social Work Journal*. 38. 10.1007/s10615-009-0208-2.

Roberts, Guy B. *New Rules of Waging War: The Case against Ratification of Additional Protocol I, the Va.J. Int'l L.* 1985. Volume: 26 Page: 109. Hein Online.

Robert O. Dode. "The political economy of resource curse and the Niger Delta crisis in Nigeria: Matters arising." *European Journal of Sustainable Development* (2012) 1.2235.

Robert Park, Roderick D. McKenzie and Ernest Burgess. 'The city: Suggestions for the study of human nature in the urban environment' (1925). *The city: suggestions for the study of human nature in the urban environment*.

Rofe A, "The Laws of Warfare in the Book of Deuteronomy: Their Origins, Intent and Positivity." *Journal for the Study of the Old Testament* 10 32 23-44.

Rogers, Anthony Peter Vernon 2004 *Law on the Battlefield*. *The JUSTICE Journal*.

Röling BVA and Rüter CF, *The Tokyo Judgment: The International Military Tribunal for the Far East (IMTFE), 29 April 1946-12 November 1948, vol 2* (APA-University Press Amsterdam 1977).

Roman Boed. 'Individual criminal responsibility for violations of article 3 common to the Geneva conventions of 1949 and of additional protocol II thereto in the case law of the International Criminal Tribunal for Rwanda' (*Criminal Law Forum Springer, 2002*) 293; UN Conventions. 'The term 'international crimes' refer to crimes recognized by international law which impose criminal responsibility directly on individuals. They are the subject of specific conventions that define the offence and create a framework of extra-territorial jurisdiction over those

crimes for states parties. Where such conventions have been ratified, they may contribute to a system of universal jurisdiction available to all states. Examples are the core crimes covered by the Rome Statute of the International Criminal Court, which include genocide, war crimes and crimes against humanity together with torture and enforced disappearance as separately defined in the relevant UN conventions.

Rome Statute of the International Criminal Court, 17 July 1998, (as corrected by the procèsverbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002), Article 7: Crimes against humanity 1. For this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (...) (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (...) 2. For the purpose of paragraph 1: (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack; (...) (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy; (...) 3. For the purpose of this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above

Rome Statute of the International Criminal Court, 'Arts. 7(1) (g), 8(2) (b) (xxii), U.N. Doc. A/CONF.183/9.' (July 17, 1998).

Rome Statute Art. 7(l)(g), July 17, 1998, 2187 Rome Statute of the International Criminal Court, 17 July 1998, (as corrected by the procèsverbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002), Article 7: Crimes against humanity 1. For this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (...) (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity; (...) 2. For the purpose of paragraph 1: (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack; (...) (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy; (...) 3. For this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above.

ICC-ASP/1/3, 9 Sept. 2002, p. 119.

Rome Statute of the International criminals court N Doc. A/CONF.183/9 hereinafter ICC statute.' (July1 7, 1998,).

Rome Statute of the International Criminal Court, 1998 Article 8(b). “(xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;”.

Rosand, Eric, 2003. Security Council resolution 1373, the counter-terrorism committee, and the fight against terrorism.

Rothbaum BO., Foa, E.B., Riggs, D.S. et al., 'A prospective examination of post-traumatic stress disorder in rape victims' (1992) 5: 455. Kluwer Academic Publishers-Plenum.

Section 282 of the Penal Code and section 357 of the Criminal Code exempts perpetrators of rape within marriage from punishment.

Rotimi Ajayi Texts of two reports by Nigerian TV on November 22, 1999, as reported by BBC Summary of World Broadcasts; text of government statement reported in Rotimi Ajayi, "FG denies military action in Bayelsa," Vanguard (Lagos), November 23, 1999; BBC interview with Governor Alamiyeseigha, November 24, 1999.

Rules of engagement for the Nigerian military Section 217 (2) (b) and (c).

Ruth Olurounbi. Section 282 of the Penal Code and section 357 of the Criminal Code exempts perpetrators of rape within marriage from punishment.

Rylance G, ' Privacy, Dignity, and Confidentiality: Interview study with structured questionnaire. Bmj, 318(7179), 301-301. (1999).

SB. 332 - National Assembly. Witness Protection Programme Bill, 2017. The Senate at its plenary session on Thursday 8th June, 2017 passed the Witness Protection Programme Bill into an Act to provide for the establishment and

operation or a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions. 23 Jun 2017.

S. Lewis. 'Protecting the women of Congo.' (16 April.2008) (The nation,).

S. Nolen. 'Not Women Anymore...' The Congo's rape survivors face pain, shame and AID.' (2005.)

Saikia Y, 'Women, war, and the making of Bangladesh: remembering 1971 '(2011).

Saipira Furstenberg, Male Rape in Armed Conflicts: Why We Should Talk About It" _2014. Global Perspectives on Human Rights. Oxford Human Rights Hub. Oxford University Press.

Salawu B, 'Ethno-religious conflicts in Nigeria: Causal analysis and proposals for new management strategies' (2010) 13(3) European journal of social sciences 345.

Saltzman LE and others, 'Violence against women as a public health issue' (2000) 19(4) Am J Prev Med 325.

Salzman T, 'Rape Camps, Forced Impregnation and Ethnic Cleansing' in Ann L. Barstow (ed.) War's Dirty Secret: Rape, ' (2000).

Salzman TA, 'Rape camps as a means of ethnic cleansing: Religious, cultural, and ethical responses to rape victims in the former Yugoslavia' (1998) 20(2) Hum Rights Q 348.

Sampson, Isaac Terwase. The dilemmas of counter-boko haramism: Debating state responses to Boko Haram terrorism in northern Nigeria. Security Journal.2016, Volume: 29. Issue: 2 Page: 122- 146. Springer.

Sampson, Isaac Terwase. The dilemmas of counter-boko haramism: Debating state responses to Boko Haram terrorism in northern Nigeria. *Security Journal*.2016, Volume: 29. Issue: 2 Page: 122- 146. Springer.

Samson I.O, Lucky. Odiya, ' Oil Exploitation and Conflict in the Niger-Delta Region of Nigeria ' (2009) *J Hum Ecol* 25-30.

Sandesh Sivakumaran 'Male/Male Rape and the "Taint" of Homosexuality' *Human Rights Quarterly* 27 (2005) 1274-1306. P. Oosterhoff, P. Zwanikken, E. Ketting Sexual torture of men in war-time Croatia was common' *British Medical Journal*, 29 May 2004; *BMJ* 2004;328:1280; 'Sexual torture of Men in Croatia and Other Conflict Situations: An Open Secret', *Reproductive Health Matters*, 2004; 12(23):68-77. Amnesty International has documented one example of rape of a civilian man by a woman, an armed combatant, in Democratic Republic of Congo: North Kivu. No end to war on women and children *AI Index* 62/005/2008, 29 September 2008, page 12.

Sanday PR. the socio-cultural context of rape: A cross-cultural study' (1981) 37(4) *J Soc Iss*.5.

Sandelowski M BJ, 'Classifying the findings in qualitative studies. 13 *Qual Health Res* 905–923.

Sara Meger, Rape in Contemporary Warfare: The Role of Globalization in Wartime Sexual Violence. *African Conflict and Peacebuilding Review*. Vol. 1, No. 1 (Spring 2011), pp. 100-132.

Sarantakos, S. (1998). *Social research* (2nd ed.). London MacMillan Press Limited.

Sara Weir and Constance Faulkner, *Voices of a new generation: A feminist anthology* (Pearson College Division 2004).

Sarah Taylor. Stop Sexual Abuse by Peacekeepers Women's rights advocate. New Report Reveals Lack of Justice, Protection for Victims. Human right watch. March 4, 2016.

Sarbah, John Mensah Fanti customary laws: a brief introduction to the principles of the native laws and customs of the Fanti and Akan districts of the Gold Coast with a report of some cases thereon decided in the law courts 1968.

Sarkin Yakin Keffi. Ethnic conflicts in Nigeria. Executive Governor of Nasarawa State. www.abdullahiadamu.net/speeches. 27 Jan 2002.

SC Res. 820, 17 April 1993; SC Res. 827, 25 May 1993 (Statute of the International Criminal Tribunal for the Former Yugoslavia).

S. C. Stewart. "Nigeria's Boko Haram Militants remains a regional threat", *Stratfor Global Intelligence* (2012).

Schleunes, Karl A 1990 *The twisted road to Auschwitz: Nazi policy toward German Jews, 1933-1939*.

Schwartz LJ Richards HM. ' Ethics of qualitative research: are there special issues for health services research. *Family Practice*. 2002; 19(2):135-9.'

Schabas, WA, *The UN international criminal tribunals: the former Yugoslavia, Rwanda and Sierra Leone* (Cambridge University Press 2006).

Schwarzenberger, Georg. *International Law as Applied by International Courts and Tribunals*. Stevens, 1957.

Schindler, D and Toman J, the Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents (Brill 1988).

Scott Stewart, "Nigeria's Boko Haram Militants Remain a Regional Threat," Stratfor (January 26, 2012).

Sjoberg, Laura & Via, Sandra. 'Gender, war, and militarism: feminist perspectives' (2010.) Westport, CT: Prager Security International.

Sect 12 of Nigerian constitution of 1999.

Section 4(2) of the Constitution of the Federal Republic of Nigeria. 1999.

Section 282(1) of the Nigerian Penal Code. Penal Code contained in the Schedule to the Penal Code Law, 1959, of the Northern States (hereinafter referred to as the Penal Code of the Northern States).

Section 357 of the Criminal Code which applies to the Southern part of Nigeria as: Any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of 2 harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband is guilty of an offence which is called rape.

Segun, M and Muscati S, "Those terrible weeks in their camp': Boko Haram violence against women and girls in Northeast Nigeria' (2014).

Sellers, PV, the Prosecution of Sexual Violence in Conflict: The Importance of Human Rights as Means of Interpretation (Women's Human Rights and Gender Unit (WRGU) 2007).

Sexual violence against women and girls during war in the Democratic Republic of Congo. 45-51 (, a)

Sexual Violence during the Rwandan Genocide and its Aftermath Human Rights Watch Women's Rights Project Fédération Internationale des Ligues des Droits de l'Homme. Human Rights Watch September 24, 1996.

Sexual V, 'Sexual violence in armed conflict' (2007a).

Sexual violence in armed conflict' (2007b).

Sharlach L, 'Rape as Genocide: Bangladesh, the Former Yugoslavia and Rwanda. New Political Science 22 (1): 89–104.' (2000.).

Shana Swiss and Joan E. Giller. 'Rape as a crime of war: a medical perspective' (1993) 270(5) JAMA 612.

Shannon E French. (2003) The code of the warrior: exploring warrior values past and present. Rowman & Littlefield Publishers.

Shearer, D. 'Africa's great war' (1999) 41(2) Survival 89.

Shedrach Gaya Best and Dimieari Von Kemedi. 'Armed groups and conflict in rivers and plateau states, Nigeria' (2005) Nicolas Florquin and Eric Berman 13; Zenn, Jacob, and Elizabeth Pearson. "'Women, Gender and the evolving tactics of Boko Haram.'" (2014) 5.1 Journal of terrorism research.

Sheppard BH, Lewicki RJ and Minton JW, Organizational justice: The search for fairness in the workplace. (Lexington Books/Macmillan 1992).

Simons, Marlise. "For first time, Court Defines Rape as War Crime". The New York Times. (June 1996).

Silverman D, *Doing qualitative research: A practical handbook* (SAGE Publications Limited 2013).

Silverman D, 'Qualitative research. ', May 2016 | 480 pages | SAGE Publications Ltd.

Sivakumaran S, 'Sexual violence against men in armed conflict' (2007) 18(2) *European journal of international law* 253.

Smalley RE, 'Smalley Institute Grand Challenges' (2008).

Smallman-Raynor MR and Cliff AD, 'Civil war and the spread of AIDS in Central Africa' (1991) 107(01) *Epidemiology Infect* 69.

Smillie, I., Gberie, L., and Hazleton, R., 'the heart of the matter: Sierra Leone, diamonds and Human security...' Ottawa: Partnership for Africa.

Smith JA, 'Reflecting on the development of interpretative phenomenological analysis and its contribution to qualitative research in psychology' (2004a) 1(1) *Qualitative research in psychology* 39.

Sokari Ekine. November 27, 2012 Gendered Violence in Nigeria #16Days.

Solf, Waldemar A 1986. *Protection of Civilians against the Effects of Hostilities under Customary International Law and Under Protocol I.*

Soldiers who Rape, Commanders who Condone: Sexual Violence in Congo "The worst Place" to be a woman or child (, July 2009).

Sotirios Sarantakos, (1998). *Working with social research* (2nd ed.). London MacMillan Press Limited).

Stabel, Tessel 2013 *United Nations Security Council Resolution 1820: Why sexual violence became framed as a threat to international security.*

Strauss, A. L., & Corbin, J. M. ' Basics of qualitative research: Grounded theory procedures and techniques (2nd ed.). Thousand Oaks, CA: Sage. ' (1998).

The Special Court for Sierra Leone was created as a result of an Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone (16 January 2002). It is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. It is reported that throughout the ten-year civil war, thousands of Sierra Leonean women were subjected to widespread and systematic sexual violence, including rape and sexual slavery. Human Rights Watch "'We'll kill you if you cry": Sexual violence in the Sierra Leone conflict' (2003) 15 Human Rights Watch 25.

Stark L and others, 'Measuring violence against women amidst war and displacement in northern Uganda using the "neighbourhood method"' (2010) 64(12) J Epidemiology Community Health 1056.

State v. Barker: 1989: Nebraska Supreme Court Decisions.

Statute of the International Criminal Tribunal for Rwanda attached to prosecution of persons responsible for Genocide and other serious violations of international humanitarian law committed on the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of the neighbouring states between Jan 1994 to Dec 1994. S.C.Res. 955'.

Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, adopted 25 May 1993 by SC Resolution 827/1993 ; "Le Tribunal international pénal pour l'ex-Yougoslavie",

Revue belge de droit international, 1992, p. 565 ; A. Pellet, “Le tribunal criminal international pour l’ex-Yougoslavie — Poudre aux yeux ou avancée décisive ?”, Revue générale de droit international public, 1994, p. 7 ; D. Shrager/R. Zacklin, “The International Criminal Tribunal for the Former Yugoslavia”, European Journal of International Law, 1994, p. 360 ; A. Cassese, “The International Criminal Tribunal for the Former Yugoslavia”, in Study Panzera, Bari, 1995, I, p. 235 ; G. Carella, “Il Tribunale penale internazionale per la ex-Yougoslavia”, in P. Picone (ed.), Interventi delle Nazioni Unite e diritto internazionale, Padova, 1995, p. 463 ; P. Tavernier, “The experience of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda”, and M. C. Roberge, “Jurisdiction of the ad hoc Tribunals for the Former Yugoslavia and Rwanda over crimes against humanity and genocide”, IRRC, No. 321, November-December 1997, pp. 605 and 651 respectively.'United nations' S/25704.

Stearns J, Dancing in the glory of monsters: The collapse of the Congo and the great war of Africa (PublicAffairs 2012).

Stein, M. B., & Barrett-Connor, E., ' Sexual assault and physical health: Findings from a population-based study of older adults. Psychosomatic Medicine, 62, 838–843.' (2000).

Stewart SC, ' “Nigeria’s Boko Haram Militants remains a regional threat”, Stratfor Global Intelligence' (2012).

Stewart, G.S. Towards a single definition of Armed Conflict in International Law: A critique of Internationalized Armed Conflicts (850); 313-350.

Stiglmayer A, 'Mass rape: The war against women in Bosnia-Herzegovina, (1993) university of Nebraska Press.

Stolorow R, 'Trauma and Human Existence. ' (2007) The Analytic Press, New York.

Straus S, The order of genocide: Race, power, and war in Rwanda (2013). Cornell University Press.

Strauss, A. L., & Corbin, J. M., ' Basics of qualitative research: Grounded theory procedures and techniques (2nd Ed.). Thousand Oaks, CA: Sage. '(1998).

Stremlau JJ, The international politics of the Nigerian civil war, 1967-1970 (Princeton University Press 2015).

'Such as rape in section 357 of the Criminal Code; defilement of a girl under 13 in section 218 of the Criminal Code; defilement of girls under 16 and above 13, and of idiots in section 221 of the Criminal Code, etc.

Sue Orsillo, 'Sexual Assault against Females, National Centre for PTSD (2003).'.
'.

Sun Tzu. The art of war: Generally, in war the best policy is to take a state intact; to ruin it is inferior to this. To capture the enemy's army is better than to destroy it, to take intact a battalion, a company or a five-man squad is better than to destroy them ... to subdue the enemy without fighting is the acme of skill ... The worst policy is to attack cities. Attack cities only when there is no alternative.'
Cited in Green, 'What is – why is there – the law of war?' p. 147.

Susan Brown miller, against our will: Men, women and rape (Open Road Media 2013).

Surís A and Lind L, 'Military sexual trauma: A review of prevalence and associated health consequences in veterans' (2008) 9(4) Trauma, Violence, & Abuse 250.

Sylvie-Stoyanka Junod. Additional Protocol II: History and Scope. Washington College of Law, American University, 1983.

Sylvia Tamale. 'The right to culture and the culture of rights: a critical perspective on women's sexual rights in Africa' (2008) 16(1) Feminist Legal Studies 47.

Swiss S GJ, 'Rape as a crime of war: a medical perspective. Journal of the American Medical Association, 1993, 270:612–615.'

Swiss S and Giller JE, 'Rape as a crime of war: a medical perspective' (1993) 270(5) JAMA 612.

Swiss S and others, 'Violence against women during the Liberian civil conflict' (1998) 279(8) JAMA 625.

T. Ahmed and others. ' "Kamaruzzaman to hang". BD News 24.' (9 May 2013).

Tadeusz Mazowiecki, 'Special Rapporteur of the commission on Human Rights, Report Pursuant to commission Resolution 1992/S-1/1 of 14 August 1992, E/CN.4/1993/50. 10 February 1993.'

Tanaka Toshiyuki, and Toshiyuki Tanaka. 2016 Hidden Horrors: Japanese War Crimes in World War II. 13 June 1996.

Tamara L. Tompkins, Prosecuting Rape as a War Crime: ... Prosecuting Rape as a War Crime: Speaking the Unspeakable Tamara L. Tompkins Foca, Bosnia - 1992 On August 12.

Tamale S, 'the right to culture and the culture of rights: a critical perspective on women's sexual rights in Africa' (2008) 16(1) Feminist Legal Studies 47.

Tara Gingerich and Jennifer Leaning, The use of rape as a weapon of war in the conflict in Darfur, Sudan (Program on Humanitarian Crises and Human Rights,

François-Xavier Bagnoud Centre for Health and Human Rights, Harvard School of Public Health 2004).

Taylor CC, 'Sacrifice as terror: The Rwandan genocide of 1994 ' (1999).

Taylor SJ, Bogdan R and DeVault M, Introduction to qualitative research methods: A guidebook and resource (John Wiley & Sons 2015).

Terrence L. Chapman and Stephen Chaudoin. 'Ratification patterns and the international criminal court¹' (2013) 57(2) Int Stud Q 400.

Tehmina Basit. ' "Manual or electronic? The role of coding in qualitative data analysis." ' (2003) 45.2 Educational research 143-154.

Temkin, Jennifer. Rape and the legal process. Oxford Monographs on Criminal Law and Justice 13 Feb 2003 Oxford University Press.

Terrorism (Prevention) Act, 2011 Act No. 10. An Act to Make Provisions for And About Offences Relating to Conduct Carried Out Or Purposes Connected With Terrorism.

Terry Eagleton. 'An introduction to literary theory' (1983).

Terry Gill, 'Chivalry: a principle of the law of armed conflict?', Armed Conflict and International Law: In Search of the Human Face (Springer 2013) 33.

Tessel Stabel. 'United Nations Security Council Resolution 1820: Why sexual violence became framed as a threat to international security' (2013).

Todd D. Jick. 'Mixing qualitative and quantitative methods: Triangulation in action' (1979) 24(4) Adm Sci Q 602.

Todd A. Salzman. 'Rape camps as a means of ethnic cleansing: Religious, cultural, and ethical responses to rape victims in the former Yugoslavia' (1998) 20(2) Hum Rights Q 348.

Tomas-Rossello, Juana, et al. "United Nations office on drugs and crime international network of drug dependence treatment and rehabilitation resource centres: Treatnet." Substance abuse 31.4 (2010): 251-263.

Tonwe, Daniel A. and Eke, Surulola J. 'State fragility and violent uprisings in Nigeria', African Security Review, Vol. 22, No.4, pp. 232 – 243. 2013.

The comfort women: Sex Slaves of the Japanese Imperial Forces /By: Hicks, George L. Published: (1995).

The Criminal Code Cap 38, LFN 2004, which applies in the south, any person who has unlawful carnal knowledge of a woman or girl without her consent or with her consent if the consent is obtained by force or by means of threat or intimidation of any kind or by fear of arm or by means of false and fraudulent representation as to the nature of the act or in the case of a married woman by personating her husband is guilty of an offence which is called rape; section 252 of the Penal Code Cap pg. 3 LFN 2004 f Northern Nigeria

The Criminal Code Act, Chapter 77 of the Laws of the Federation of Nigerian. 1990.

The Committee on the Elimination of All Forms of Discrimination against Women (11th session, 1992), paragraph 7), identified gender-based violence, including rape and sexual violence, as a form of discrimination.

The Global Terrorism Index (GTI), ' the Global Terrorism Index (GTI) Measuring and Understanding the Impact of Terrorism. National Consortium for the Study of Terrorism and Responses to Terrorism' (2015).

The Guardian 19 April 2013 'French family seized in Cameroon by suspected Boko Haram Islamists freed' via

<http://www.theguardian.com/world/2013/apr/19/french-family-kidnapped-cameroon-freed> accessed 9/1/2014

The Handbook of Humanitarian Armed Conflicts. The conflicts in Lebanon during 1980s and Somalia after 1991 may be cited as examples of this kind. See Fleck, (1995), p.221.

The Human and Physical Characteristics of Nigeria' "The Human and Physical Characteristics of Nigeria". Geographical Alliance of Iowa.

The Latin Maxim "silent enim leges inter arma" is generally attributable to Cicero, the famous Roman philosopher and politician (106-43BC). Justice Scalia wrote in his dissent in *Hamdi v Rumsfeld*, 542 us 507(2004) "many think it's not only inevitable but entirely proper that liberty gives way to security in times of national crisis that, at the extremes of military exigency, inter arma silent leges. whatever the general merits of the view that war silences law or modulates its voice, that view has no place in the interpretation and application of a constitution designed precisely to confront war and in a manner that accords with democratic principle to accommodate it.

The World Health Organisation (WHO). 'Defines Rape as "physically-forced or otherwise coerced penetration, even if slight, of the vulva or anus, using a penis or body parts or an object".' (2002) According to section 357 of the Criminal Code, Cap C. 38, LFN 2004, which applies in the South 'any person who has

unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of arm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.’ Similar provisions can be found in section 252 of the Penal Code Cap P.3, LFN, 2004. This is applicable in the Northern part of Nigeria.

The International Tribunal for Rwanda (ITR) sentencing Judgement against Jean Paul Akayesu. ICTR, The Prosecutor v. Jean-Paul Akayesu, ICTR-96-4-T, Trial Chamber 1, 2 September 1998; <http://www.icty.org>.

The law of internal armed conflict (Cambridge: Cambridge University Press, 2002) cl pp. 30–132.

The Program for Humanitarian Policy and Conflict Research at Harvard University, "IHL PRIMER SERIES.
<http://www3.nd.edu/~cpence/eewt/IHLRI2009>.

The street Journal 10-05-2013 Baga Massacre & Monguno’s Kidnap: The Big Cover Up!

The Special Court for Sierra Leone was created because of an Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone (16 January 2002). It is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. It is reported that throughout the ten-year civil war, thousands of Sierra Leonean women were subjected to widespread and systematic sexual violence, including rape and sexual slavery.

Human Rights Watch "'We'll kill you if you cry": Sexual violence in the Sierra Leone conflict' (2003) 15 Human Rights Watch 25.

The Tokyo war crime trials: All Japanese Class A war criminals were tried by the International Military Tribunal for the Far East (IMTFE) in Tokyo. The prosecution team was made up of justices from eleven Allied nations: Australia, Canada, China, France, Great Britain, India, the Netherlands, New Zealand, the Philippines, the Soviet Union and the United States of America. The Tokyo trial lasted two and a half years, from May 1946 to November 1948. Other war criminals were tried in the respective victim countries. War crime trials were held at ten different locations in China. May 3, 1946 to November 12, 1948.

The terms "sexual contact" "sexual act" and "committing sexual acts" shall be used in this document to describe the physical acts through which crimes of rape or sexual assault are committed, to identify the physical conduct without making assumptions about whether it was sought or unsought, therefore identifying it as either legal or criminal activity. The use of this term is to allow a description in the text of the physical acts which occurred, while reflecting the reality that rape and sexual violence is not "sexual intercourse" (a term which implies agreement by the participants). The use of this term allows a clear differentiation to be made between conduct which is criminal, and conduct which is protected behaviour under human rights law, when it is actively wanted and agreed to by the participants. For a comprehensive overview of the issues, see "Sexuality and human rights" a discussion paper, published by the International Council on Human Rights Policy, 2009. ' (2010.)

'The various resolutions by the united nation Security Council established for tribunals for the prosecution of individuals responsible for acts committed in the

former Yugoslavia and in Rwanda contain provisions on acts punishable under international law [1]. In Articles 2, 3, 4 and 5 of the Statute of the International Tribunal for the former Yugoslavia which enumerates the different crimes coming under the jurisdiction of the court. Article 2, stresses on grave breaches of the 1949 Geneva Conventions, and gives the Tribunal the power to prosecute persons “committing or ordering to commit” such grave breaches. Article 3 enlarges the scope to cover violations of the laws and customs of war. Article 4 reproduces Articles 2 and 3 of the 1948 Genocide Convention.'

This is one of the important differences between the ICC and the two ad hoc Tribunals on the former Yugoslavia and Rwanda. Under Article 9 of the Statute of the Yugoslav Tribunal and Article 8 of that of the Rwanda Tribunal, in case of concurrent jurisdiction by the Tribunals and national courts, the Tribunals have primacy over national courts.

The Offence of rape is Punishable in Section 358 of the Criminal Code by life imprisonment while an attempt to commit the offence is punishable in section 359 of the code by 14 years imprisonment with or without caning.

T. Meron. 'Henry's wars and Shakespeare's laws: perspectives on the law of war in the later Middle Ages (Oxford: Clarendon Press, 1993) pp. 7–8, cited in L. Rosensweig Blank, 'The laws of war in Shakespeare: international vs. internal armed conflict' (1997–1998) 30 International law and politics 251–90. A few fundamental precepts of the code of chivalry were: granting of quarter between knights, respect for churches and the clergy, and fair treatment of prisoners where once a soldier is made prisoner, mercy needed to be shown and a ransom would generally be demanded. See also M. H. Keen, The laws of war in the late Middle Ages (London: Routledge and K. Paul, 1965).'

Thomas Pakenham, *The Scramble for Africa: The White Man's Conquest of the Dark Continent from 1876 to 1912*. New York: Random House, 768 pp., Publication Date: November 1991.

T. Johnson. 'Boko Haram'. 2 September 2011. http://www.efr.org/africa/boko-haram/p25739?cid¼nlc-public-the_- world_this_week-link7.

Thomas, James, and Angela Harden., "Methods for the thematic synthesis of qualitative research in systematic reviews." '(2008) 8.1 BMC medical research methodology 45.

Thomas J and Harden A, 'Methods for the thematic synthesis of qualitative research in systematic reviews' (2008) 8(1) BMC medical research methodology 1.

Thurmond VA, ' The point of triangulation.' (2011) 33(3), *Journal of nursing scholarship*, 253-258.

Totani Y, *Tokyo War Crimes Trial* (Wiley Online Library 2008).

The Tokyo war crimes trial: the pursuit of justice in the wake of World War II, vol 299 (Harvard Univ Council on East Asian 2009).

Turchik, Jessica A., and Katie M. Edwards., ' "Myths about male rape: a literature review." *Psychology of Men & Masculinity* ' (2012) 13 2 211.

Turshen, Meredith 2001 *The political economy of rape*. Chapter of Caroline and Fiona Clark -victims, perpetrator or actors? *Gender, armed conflicts and political violence*. London.

The political economy of rape: An analysis of systematic rape and sexual abuse of women during armed conflict in Africa (Na 2001b).

'The Rape of Nanking, 1937" Eyewitness to History, www.eyewitnesstohistory.com ' (2009).

Todd A. Salzman. 'Rape camps as a means of ethnic cleansing: Religious, cultural, and ethical responses to rape victims in the former Yugoslavia' (1998) 20(2) Hum Rights Q 348Todd

Udekwe, N.V. "Sexual Abuse among the Adolescents in Nigeria: Religious Implications and the Way Forward", M.A. Seminar Paper, University of Nigeria, Nsukka, Enugu State. Pub Year: 2013.

Umar, Mohammed Aminu. The perspective of Sharia's on domestic violence. Vol 3 2012. African Journals Online (Ajol).

United Nations General Assembly. 20 December 1993. 48/104. Declaration on the Elimination of Violence against Women.

United Nations 9 December 1948. The Convention on the Prevention and Punishment of the Crime of Genocide (adopted on 3 December 1948).

UN Security Council Resolution 1820, 19 June 2008; and United Nations Security Council demands immediate and complete halt to the acts of sexual violence against civilians in conflicts zones unanimously adopting Resolution 1820.

US the Department of Justice. 'Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.'

United Kingdom Sexual Offences Act 2003: legislation.gov.uk.

United Nations Department of Public Information, Global Gender Agenda and the United Nations, Feb. 1997.Legislative Body: U.N. Press Release DPI/1890.

United Nations Assistance to the Khmer Rouge Trials. Resolution adopted by the General Assembly on 2 April 2015, authorizing a subvention to the Extraordinary Chambers in the Courts of Cambodia, 2 Apr 2015.

UN Conventions, 'The term 'international crimes' refer to crimes recognized by international law which impose criminal responsibility directly on individuals. They are the subject of specific conventions that define the offence and create a framework of extra-territorial jurisdiction over those crimes for states parties. Where such conventions have been ratified, they may contribute to a system of universal jurisdiction available to all states. Examples are the core crimes covered by the Rome Statute of the International Criminal Court, which include genocide, war crimes and crimes against humanity together with torture and enforced disappearance as separately defined in the relevant UN conventions. '

UN Security Council Resolution 1820, 19 June 2008; and United Nations Security Council demands immediate and complete halt to the acts of sexual violence against civilians in conflicts zones unanimously adopting Resolution 1820.

UN Security Council, Statute of the International Criminal Tribunal for the Former Yugoslavia 1993 art.5 (g).

UN Security Council Resolution. 'Protocol on the Involvement of Children in Armed Conflict, Protocol on the Sale of Children, Child Pornography and Child Prostitution, S. Treaty Doc. No. 106–37 (2000); see also, Contemporary Practice of the United States, 94 AJIL 677 (2000)' (May 25. 2000) GA Res 54/263, Annexes I, II, respectively (May).

'United Nations, Declaration on the Protection of Women and Children in Emergency

and Armed Conflict, General Assembly Resolution 3318 (XXIX), See preamble para. 9 and para 3.' (14 December 1974.)

UN Office of the High Commissioner for Human Rights, ' Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, available at: ' ((2010)).

United Nations War Crimes Commission 1948 History of the United Nations war crimes commission and the development of the laws of war.

United Nations Special Representative on Sexual Violence in Conflict, Ms. Zainab Hawa Bangura, calls on the Intergovernmental Authority on Development (IGAD), to urge the Government of South Sudan to act to address sexual violence crimes. 03 Aug 2016

UNAIDS. 'Progress Report on the Global Response to the HIV/ AIDS Epidemic, 2003. Geneva: Joint United Nations Programme on HIV/AIDS.' (2003.).

UNECE Gender Statistics - About Violence against Women". United Nations Department of Economic and Social Affairs, 2015.

UNDP, 'Sexual Violence in Conflict'. 19 June 2018.
www.un.org/sexualviolenceinconflict

Union A, 'Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa' (2003) Maputo: African Union.

Umzurike, U Oji. The African Charter on Human and Peoples' Rights. The American Journal of International Law. 1983. Volume: 77. Issue: 4. Page: 902. Other Pages: 912. JSTOR.

Uwakwe Abugu and Same Onwemeodo, November 18, 1999. "Alternate account on police killings, Odi, Bayelsa,"

United Nations, Commission on the Status of Women, Ecosoc's mandate to include activities which promoted "Equality, Development and Peace," and monitored the implementation of international measures for the advancement of women.

The United Nations Parliamentary Hearing' (20-21 November 2008).

United Nations, Preliminary Report Submitted by the Special Rapporteur on violence against women, its causes and consequences, (E/CN.4/1995/42), paras. 288 and 290.' (1994).

US the Department of Justice, 'Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.'

Usher, K. J., & Arthur, D., 'Process consent: a model for enhancing informed consent in mental health nursing. '(2015) 27(4), 692-697. Journal of advanced nursing.

Usifo Ebhuomhan. Investigation: Inside Nigeria's growing rape epidemic November 22, 2014.

Van Bueren, Geraldine. The International Legal Protection of Children in Armed Conflicts. Volume 43, Issue 4 October 1994, pp. 809-826. International & Comparative Law Quarterly.

V. A. Thurmond. 'The point of triangulation. ' (2011) 33(3), Journal of nursing scholarship, 253-258.

V. Teddy Jike. "Environmental degradation, social disequilibrium, and the dilemma of sustainable development in the Niger-Delta of Nigeria." *Journal of Black.* (2004) 34.5686-701.

Vallely, A., Lees, S., Shagi, C., Kasindi, S., Soteli, S., Kavit, N., & Hayes, R. J., 'How informed is consent in vulnerable populations? Experience using a continuous consent process during the MDP301 vaginal microbicide trial in Mwanza, Tanzania. 'in (*BMC medical ethics*, 11(1), 10. 2010).

Vernon R, 'What is crime against humanity?' (2002) 10(3) *Journal of Political Philosophy* 231.

Villiger, Mark Eugen. 2009. *Commentary on the 1969 Vienna Convention on the Law of Treaties*. Martinus Nijhoff Publishers, Leiden and Boston, 2009, ISBN 9789004168046, xxxiv...

Viljoen, F. *An Introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, 2009.

Vite, S. Typology of armed conflicts in international humanitarian law: legal concepts and actual situations, 0RW1S34RfeSDcfkexd09rT2 *International Review* 91(873): 69-95. 2009.

Vlachová, Marie. 2005 *Women in an insecure world: violence against women: facts, figures and analysis*. Geneva, Switzerland: Geneva Centre for the Democratic Control of Armed Forces (DCAF), ©2005. Wakabi W, 'Sexual violence increasing in Democratic Republic of Congo' (2008) 371(9606) *The Lancet* 15.

Schindler, Dietrich 1988. *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions, and Other Documents*.

Walker Jr, Herman 1957. Modern treaties of friendship, commerce and navigation. Columbia Journal of Transnational Law, Vol. 51, p. 302, 2013. UNC Legal Studies Research Paper No. 2150260.

War Department Field Manual (FM) 27-10, Rules of land warfare, United States Govt. 1947.

Ward Colleen A, Attitudes toward rape: Feminist and social psychological perspectives, vol 8 (Sage 1995). Victoria University of Wellington, New Zealand.

Ward, Jeanne. Sexual violence against women and girls in war and its aftermath: Realities, responses and required resources. A Briefing Paper Prepared for Symposium on Sexual Violence in Conflict and Beyond 21-23 June 2006 Brussels (Belgium).

Warwick P, Black people and the South African war 1899-1902 (Cambridge University Press 1983).

Watts, Charlotte. Violence against women: global scope and magnitude. The Lancet. Volume 359, ISSUE 9313, P1232-1237, April 06, 2002.

Webley L, 'Qualitative approaches to empirical legal research' (2010) CANE, Peter e.

Weir S and Faulkner C, Voices of a new generation: A feminist anthology (Pearson College Division 2004).

Wendy Olsen, "Triangulation in social research: qualitative and quantitative methods can really be mixed." (20th edn, Developments in sociology 2004)) 103-118.

Westad OA and Quinn-Judge S, ' The Third Indochina War: conflict between China, Vietnam and Cambodia, 1972-79' (2006).

William A. Schabas, *The UN international criminal tribunals: the former Yugoslavia, Rwanda and Sierra Leone* (Cambridge University Press 2006).

William Blum, *Killing hope: US military and CIA interventions since World War II* (Zed Books 2003).

Williams G, 'Corroboration in Sexual Cases' (1962). *Criminal Law Review* p. 662.

William Reno. "The Politics of Insurgency in Collapsing States." *Development and Change* ' ((2002)) 33.5837-858.

which applies to the Southern part of Nigeria as: Any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of 2 harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband is guilty of an offence which is called rape.

World Scarred by history: The Rape of Nanking. December 13, 1997.

WHO Global Consultation on Violence and Health. *Violence: a public health priority*. Geneva, World Health Organization, 1996 (document WHO/EHA/SPI.POA.2).

Wolcott HF, *Ethnography: A way of seeing* (Rowman Altamira 1999).

Wolfe, Lauren. 2013 International, Violence against women Syria has a massive rape crisis. *The Atlantic*.

Wolfe L, "Syria has a massive rape crisis." (2013) Syria has a massive rape crisis. Across the war-torn country, regime soldiers are said to be sexually violating women and men from the opposition, destroying families and, in some cases, taking lives. *The Atlantic*

'Women's International War Crimes Tribunal on Japan's Military Sexual Slavery Judgement: "Symbolic War Crimes Tribunal for Japanese 'Comfort Women'", Crimes of War Project: ' (4 December 2001).

Women, War, Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-Building (Progress of the World's Women 2002, Vol.1.

Wolfgang Schomburg and Ines Peterson 'Genuine consent to sexual violence under international criminal law' the American Journal of International Law, Volume 101:121-141, 2007; Alison Cole 'Prosecutor v Gacumbitsi: the New Definition for Prosecuting Rape under International Law' International Criminal Law Review 8(2008) 55-86; Kristen Boon 'Rape and forced pregnancy under the ICC Statute: human dignity, autonomy and consent' 32 Columbia Human Rights Law Review page 625-675, 2001; significant texts include Anne-Marie L.M. de Brouwer 'Supranational Criminal Prosecution of Sexual Violence: the ICC and the Practice of the ICTY and the ICTR' Intersentia, the Hague, in 2005. Anne-Marie L.M. de Brouwer, Case note on Gacumbitsi, André Klip and Göran Sluiter (Eds) Annotated Leading Cases of International Criminal Tribunals, The International Criminal Tribunal for Rwanda, Volume 24, page 583.

Wood, E. J. (2006). Variation in Sexual Violence during War. *Politics & Society*, 34(3), 307–342. <https://doi.org/10.1177/0032329206290426>.

Wood EJ, ' "The social processes of civil war: The wartime transformation of social networks." (2016) 11 *Annul Rev Polit Sci* 539-561.

Wood, EJ. 2011. 'Rape is not Inevitable during War' in K Kuehnnast, C de Jonge Oudraat & H Hernes (eds), *Women and War: Power and Protection the 21st Century*, US Institute of Peace Press, Washington DC, pp. 37–63- 2006,

'Variations in Sexual Violence During War', *Politics & Society*, vol. 34, no. 3, September, pp. 307–41.

Wood, EJ 2011. 'Rape is not Inevitable during War' in K Kuehnnast, C de Jonge Oudraat & H Hernes (eds), *Women and War: Power and Protection the 21st Century*, US Institute of Peace Press, Washington DC, pp. 37–63- 2006, 'Variations in Sexual Violence During War', *Politics & Society*, vol. 34, no. 3, September, pp. 307–41.

Wright L, 'River deltas' in *Coastal sedimentary environments* (Springer 1978).

Wright Q, "'The law of the Nuremberg trial. '41(38.) *Am J Int'l L*.

Yang L, 'On the principle of complementarity in the Rome Statute of the International Criminal Court' (2005) 4(1) *Chinese Journal of International Law* 121.

Yasmin Saikia. 'Women, war, and the making of Bangladesh: remembering 1971' (2011). Durham: Duke University Press. 311 pages, ISBN: 9780822350385.

Yerima, the former Governor of Zamfara state (the first state in northern region to introduce Sharia laws in 2000).

Yuma Totani, *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II*, Cambridge, Mass.: Harvard University Asia Centre, 2008. Pp 335.

Yusufu Turaki. *Historical roots of ethno-religious crises & conflicts in Northern Nigeria*. (1982) Jos ECWA Theological Seminary (JETS).

YouTube. 30 September 2012. A Message to the World' via <http://www.youtube.com/watch>.

Zabbey, 'Impact of extractive industries on the biodiversity of the Niger Delta region Nigeria.' (2004) Paper presented at the national workshop on the coastal and marine biodiversity management calabar, cross rivers state 7-9 September.

Zacklin, Ralph. Bosnia and beyond Periodical, Full: Ga.J. Int'l L. 1993. Volume: 34, 277. HeinOnline.

Zack-Williams, Alfred B. (2001) Child soldiers in the civil war in Sierra Leone, Review of African Political Economy, 28:87, 73-82, DOI: 10.1080/03056240108704504.

Zambara, Webster 2010. Africa's National Human Rights Institutions and the Responsibility to Protect.

Zanarini MC., 'Childhood experiences associated with the development of borderline personality disorder. Psychiatric Clinics of North America, 23(1): 89-101.' (2000).

Zapotoczny W, ' "The Rape of Nanking: Reasons and Recrimination." Reasons and Recrimination', <http://www.wzaponline.com/TheRapeofNanking.pdf>.

Zenn, J., & Pearson, E, 'Women, Gender and The Evolving Tactics of Boko Haram. Journal of Terrorism Research, 5(1).' (2014).

Zenn J, 'Boko Haram and the kidnapping of the Chibok schoolgirls' (2014) 7(5) CTC Sentinel.

Zenn, Jacob, and Elizabeth Pearson., "'Women, Gender and the evolving tactics of Boko Haram.'" (2014) 5.1 Journal of terrorism research.

Zeinab Hawa Bangura. Fight against Sexual Violence in Conflict Reaches 'New Juncture', Security Council Told. 5 April 2015. Security Council .7428th Meeting.

Zicherman N, 'Addressing sexual violence in post-conflict Burundi' (2007) 27(48-49) Forced Migration Review.

Zur O, 'The psychohistory of warfare: The co-evolution of culture, psyche and enemy' (1987) 24(2) J Peace Res 125.

Declaration of Proof-reading Services

Confirmatory Statement of Acceptance

Name of Candidate Mfoniso Katherine Ogunleye

Type of Award Doctor of Philosophy of Law

I declare that I have read, understood and have adhered to UCLan's Proofreading Policy (Appendix 1) when proof reading the above candidate's research degree thesis.

Signature of Proof
reader



Print name Thomas W. Marley

Name of Company Marley Editing

Contact Details

Telephone: N/A

Email: marleyediting@gmail.com

Appendix



INTERVIEW COVER LETTER

1 March 2015

Dear Sir/Madam,

RE: Sexual Abuse of Women during Internal Armed Conflicts

In Nigeria.

Mfoniso Katherine Ogunleye of the Lancashire Law School, University of Central Lancashire United Kingdom is undertaking a research project on the topic: Sexual Abuse of women during Internal Armed conflicts in Nigeria.

A vital aspect of this of this study requires us to obtain the views of your reputable professionals who are directly or indirectly involved with rape victims. We are investigating the legal principles that are set up in Nigeria to protect women and girls from sexual exploitation during internal armed conflicts, and the effectiveness of the existing laws.

Due to your educational, practical trainings and experiences, you have been selected to give us your views on the subject.

This research will produce a review of academic and policy literature which will help to bridge the gaps in the existing Nigerian judiciary system in protecting

women during conflicts as well as prosecuting offenders. The questions have been designed to take not more than 45 minutes. Please be assured that only the research members will have access to your responses. The result of the study will only be used for the sole purpose of academic research. All respondents' identities will be kept strictly confidentially.

Thank you for taking time from your busy schedule to participate in the interview.

Yours Sincerely.

Mfoniso Katherine Ogunleye. (B.Sc., MPH)

Doctoral student Lancashire Law School

University of Central Lancashire, United Kingdom.

Email: mkogunleye@uclan.ac.uk

Michael Salter

Professor of Law

Lancashire Law School

PrestonPreston

Email: MSalter@uclan.ac.uk

Dr. S.M.Twist

Solicitor, Senior Lecturer in Law,

University of Central Lancashire,

SMTwist@uclan.ac.uk

INFORMED CONSENT FORM

PROJECT TITLE: Sexual Abuse of women during Internal Armed conflicts

In Nigeria

PRINCIPAL INVESTIGATOR: Mfoniso Katherine Ogunleye Research student, Lancashire Law School. University of central Lancashire. Preston

Background

Nigeria is a country that has witnessed civil war between Northern and Southern part of the country as well as other internal conflicts. It was alleged that during the Nigerian Biafran war, soldiers from both the Nigerian and the Biafran sides engaged in raping of women and girls but no investigations were carried out to verify accuracy of the allegations. The country was focusing more hunger and malnutrition which had become a major issue and all other cases were pushed aside.

The past two decades, Nigeria has witnessed a dramatic change in inter-communal, political and sectarian conflicts. It has been identified that sexual abuse of women has been strategically introduced in conflicts in Nigeria and its now becoming a common feature in all conflicts in Nigeria irrespective of its nature.

Rape was carried out on the Ogoni women and girls during the fight between the Nigerian army and the people of Ogoniland, similar incidence occurred in Choba an Ikwerre community in the oil producing area of the Niger Delta, during a protest the multinational company (WILLBROS) over destruction of their environment and non-employment of indigenes by the company as promised. In Odi a small community in Bayelsa state, thousand were massacred; women and girls were alleged to be raped by members of the Nigerian Army. Currently is the issue of kidnapping, raping and the use of the kidnapped girls for domestic slavery and trafficking by the (Salafi-jihadi) Muslim Islamic militants groups Boko Harem in northern Nigeria. During all these civil conflicts, the burdens fall on the female gender.

According to international humanitarian law, Article III and Additional Protocol II of the Geneva Convention of 1949 stated that the state has the responsibility to protect the women and girls from abuse and torture during conflicts. This raises my research question.

Is Nigerian legal principle on the protection of women and children enough?

This study is carried out to identify the effectiveness of Nigerian criminal law on the protection of women and children during conflicts. Is it in conformity with IHL?

Aims, Justification.

Gender violence is now becoming a universal phenomenon. The United Nations General Assembly in 1993 adopted the Declaration on the Elimination of Violence against Women, the first collaborative international human rights declaration exclusively addressing the issue, emphasized that global problem of gender violence has crossed national boundaries into the realm of basic human rights. This study will critically examine the Laws in Nigeria that protect Sexual Abuse of

women during Internal Armed conflicts; the effectiveness of Nigerian criminal law system in enforcing the laws and Where gaps are found, to propose law and policy reform measures based on a combination of critical literature analysis and the results of empirical interviews conducted with NGOs and other professionals involved in this issue.

The study will involve you taking part in face to face interview lasting up to 45 minutes. The interview will also be audio recorded but it will not be possible for you to be identified as identity codes only know to me will be used and not your name in both audio recordings and transcripts. You will be given a transcript of your audio taped interview if requested.

DECLARATION:

I have read the information leaflet for this project and I understand the contents. I have had the opportunity to ask questions and all my questions have been answered to my satisfaction. I freely and voluntarily agree to be part of this research study, though without prejudice to my legal and ethical rights. I understand that I may withdraw from the study at any time and I have received a copy of this agreement. I also understand that data/material obtained from me for this study will not be used for any future unrelated studies without further specific permission being obtained from me. I also understand that I will be given access to the transcript of the audio recording of the interview.

PARTICIPANT'S NAME.....

CONTACT DETAILS.....

PARTICIPANT'S SIGNATURE:

Date:

Statement of investigator's responsibility:

I have explained the nature and purpose of this research study, the procedures to be undertaken and any risks that may be involved. I have offered to answer any questions and fully answered such questions. I believe that the participant understands my explanation and has freely given informed consent.

INVESTIGATOR'S SIGNATURE: **Date:**



Participant Information Sheet

Title of study: Sexual Abuse of women during Internal Armed conflicts

In Nigeria.

Principal Investigator: Mfoniso Katherine Ogunleye. Research student, Lancashire Law School. University of central Lancashire. Preston.

Invitation to participate in a research study:

You are invited to take part in a PhD research project. The findings of this study will be submitted to the Lancashire Law School for the award of Doctor of Philosophy. Before you decide, it is important that you understand why the research is being done and what will be involved. This Participant Information leaflet tells you about the purpose, risks and benefits of the research study. If there is anything which is unclear I am happy to answer any questions that you may have. Please take your time to read this information leaflet before deciding.

Introduction:

Violence against the female gender has been a phenomenon that the women have been fighting for centuries. Rape against women during conflicts has become a common phenomenon and it has been classified as the consequences of war rather than crime against humanity. The aim of this study is to explore Gender violence as a war crime (sexual abuse of women) and their implications with regards to the gap in Nigerian judiciary system prosecuting war crimes.

Procedures:

You have been invited to participate in this study because you are professionals from the different field of works who are directly or indirectly associated with war crime victims or female sexual abuse. I will appreciate professionals views as regards to the rape incident in Odi community in Bayelsa state where the peacekeeping troops (Nigerian soldiers) sent by the President Obasanjo's regime to investigate the killings of 12 policemen who were involved in a face-off between the foreign oil companies and the Ijaw militia groups. The study will involve you taking part in face to face interview. The interview will be audio recorded but it will not be possible for you to be identified as identity codes only known to me will be used and not your name in both audio recordings and transcripts. You will be requested to choose a convenient time and place for a face to face interview with the researcher. You will be invited to review both the transcript and the conclusion to ensure they are true reflection of your responses to the interview. Transcript of the audio taped interview will be given to you at the end of the review on request. The face to face interview will take about 20 minutes to complete and the review about 15 minutes. However, the whole research project would be completed and submitted by 31/12/2015

Benefits:

Your participation in this study would enable the researcher to explore the implication of rape as war crime. The findings of this study would produce a review of academic and policy literature, which will help to assess the magnitude and the effect of sexual abuse on the victims, and society. And it aims is to assess existing proposals for changes to law and policy and bridge the gap in the

Nigerian judiciary system in prosecuting war rape offenders. However, there is no financial benefit for taking part in this study

Risks:

There is no risk associated with your taking part in this study except your time which is highly appreciated. However, if you become distressed during the interview, the interview will be terminated, and you will be excluded from participation:

You cannot participate in this study if any of the following are true:

- You have not read the information leaflet
- You have not signed the consent form

Confidentiality:

Your identity will remain confidential. Your name will not be published and will not be disclosed to anyone outside the study group.

Audio recordings transcripts will be stored in a locked and secured facility while electronic data would be safe in a password protected work computer. In keeping with university of central Lancashire ethical committee requirements. All materials and data use for this study will be destroyed after 5 years.

Compensation:

This study is covered by standard institutional indemnity insurance. Nothing in this document restricts or curtails your rights.

Voluntary Participation:

If you decide to volunteer to participate in this study, you may withdraw at any time. If you decide not to participate or if you withdraw, you will not be penalised and will not give up any benefits that you had before entering the study.

Stopping the study:

You understand that the investigators may withdraw your participation in the study at any time without your consent.

Permission:

This study has Research Ethics Committee approval from university of central Lancashire, Preston.

Further information:

You can get more information or answers to your questions about the study, your participation in the study, and your rights, from Mfoniso Katherine Ogunleye,

Telephone number: +447790918039 or E-mail at mkogunleye@uclan.ac.uk

If the study team learns of important new information that might affect your desire to remain in the study, you will be informed at once.

Thank you for your time.

Aims and Objectives

1. Critically examine the security situation in Nigeria on protection of women and children from sexual abuse during conflicts
2. A critical assessment of Nigerian existing legal measures on protecting women and children during armed conflicts with reference to Criminal Code (South) and Penal Code (North) Nigeria and the 2011 Anti-Terrorism ACT of Nigeria.
3. A critical examination of the disparities between the Criminal code of southern Nigeria and Penal code; identifying the gaps in the definition of rape, and the extent which these laws can protect women from rape.
4. Assess the extent which the law prosecutes persons who commit crimes during the execution of duties; martial law and rules of engagement during internal conflicts
5. Examine the degree of implementation of international laws which have been domesticated within Nigerian territory

4 Themes

1. Difficulties and Obstacles Faced by Rape Victims (Women) in Nigeria
2. Government Response on Rape and Abuse of Women during Internal Conflict
3. Societal perception of Rape Victims in Nigeria
4. International and National Policies and Legislation on the protection of Women against Rape and the extent of Implementation in Nigerian.

Themes from Interview.

1. Complications and Obstacles Faced by Rape Victims (Women) in Nigeria

- I. What's your assessment on the high rate of conflict related rape cases in Nigeria, the problems faced by victims of rape at initial reporting of the incidence?
- II. Who do think are the most vulnerable during internal conflicts and how can they be protected?
- III. What is your opinion on the issue about the women who came out of hiding after rape and kidnapping by rebel forces? Is there any professional assistance rendered to these women?
- IV. Do you believe these women were abused because there are other opinion from some people that they don't actually believe these women were abused?
- V. How do you think women can be protected in Nigeria during internal conflicts?
- VI. Most people have claimed that statistics of conflict rape of women in Nigeria has been exaggerated. Do you agree?
- VII. What kind of changes would you propose regarding the negative treatment towards rape victims at police stations in the country?
- VIII. As a journalist how would you assist rape victims?

2. Government Response on Rape and Abuse of Women during Internal

- I. What is your Opinion on the Nigerian security situation regarding internal conflicts?
- II. What is your view on the security situation in Nigeria about women in conflict? The case of sexual abuse and kidnapping of women and girls.
- III. What should be the reaction of the government when these cases of rape and kidnap occurs?
- IV. What is your view on rape investigation in Nigeria?
- V. The Nigerian govt have been accused of not conducting thorough investigation on any alleged rape cases during conflicts. What are your concerns? Also, from experience, what are your views on the investigative methods in Nigeria regarding rape cases, when compared to investigation conducted in other civilized country?
- VI. What do you think should be the way of addressing the security situation during internal conflicts in Nigeria?
- VII. Reflecting on incidences of abuse of women during the Obasanjo's regime. Peace keeping soldiers sent out by the federal government were alleged to have raped women and girls even in the presence of most family members, and currently the boko haram situation in northern Nigeria. What are your concerns?
- VIII. There are allegations that some military officers were involved in the strategic planning's of boko haram. What's your views?
- IX. Our army were able to enforce peace and security in other countries, why aren't we seeing such professionalism back home.

- X. What is the position of the government regarding issue of witness protection? A situation where victims can be protected and given a new identity
- XI. Will proposing Regional policing make any difference?
- XII. As a legal practitioner what is your advice to the government to improve on rape matters in the country.
- XIII. If government introduce independent agencies, do you think there will make positive changes in the security situations?

3. Societal perception of Rape Victims in Nigeria

- I. What is your opinion on how the society views rape victims in Nigeria?
- II. What do you think the govt could do to help stem the ideology or truncated perception of security agents against rape victims?
- III. Most people think the abuse of women is an influence of cultural perception? Do you agree?
- IV. What are the supports given by NGO's to rape victims in Nigeria?
- V. Are rape victims provided with funds to support themselves in camps?

4. International and National Policies and Legislation on the Protection of Women against Rape and the extent of Implementation in Nigerian.

- I. What are the Rules of Engagement in Internal Conflicts in Nigeria? Are they applicable in internal conflicts in Nigeria?
- II. Do you think the existing legal measures in Nigeria is sufficient to protect women and children during conflicts?

- III. Do you think the new signed child protection will create any impact in the security of women and children?
- IV. How about the disparity between Northern Nigeria practicing Penal Code and Southern Nigeria practicing Criminal Code? Nigeria has laws that are meant to protect women. Do you think those laws are enough to protect them? How can the Law be improved when the Northern and Southern Nigeria are practicing different Criminal Legal Frame Work?
- V. The Nigerian security described the abuse of women during conflicts as collateral damage. What is your opinion on this?
- VI. Do you think lack of proper implication of legal principles on rape influences the increase of rape?
- VII. Examining the Criminal Codes of Southern Nigeria and Penal Code of Northern Nigeria, what are your concerns regarding the protection of women against rape.

Audio Interview Transcription December 2015

What is your opinion regarding rape in Nigeria.

My concern when it comes to rape in Nigeria starts with how the Nigerian society perceive rape or how does the culture and religion perceive rape. If people see rape as not something that happens to just a woman or to see it as something that is injurious to her health just as the way we see health as a challenge or the way we see poverty as a challenge, I think if the perception changes it will be better for women. In this country where you have female law-makers who do not have the power, but a few have pushed to improve legislation behind rape. Then we ask, what the process for testing rape crimes are. For the future of the county, I am concern that if we do not improve on the laboratory testing of crime in Nigeria we don't have proper forensic laboratory where semen can be tested when a crime is committed, testing blood samples, finger prints, cloths can be tested to be sure in fact in most cases victims of rape crimes have been ridiculed. They issue of ridiculing women and girls have led to young women or victims of rape not wanting to speak out. If we fine a situation where the law is tough and the government that enforces strict or tougher laws. The stigma of being a rape victim can it be removed, can it be eradicated in the African society. You find people now in Nigeria maybe in the younger generation are improving to see a rape victim as no problem to have a relationship. It is very difficult in Nigeria to see a woman who can identified herself as a rape victim. Maybe in recent times people are trying to accept rape victims but it has always been a problem for the victims or when it comes to relationship. Also, it's difficult for the parents or family of the victims to see her differently. They will always see her as a rape victim rather than their child. So, until the stigma perception changes in Nigeria as they are in India and the developed part of the world, also not just about legislation change alone,

change in attitude, being able to protect the woman who was raped. If she comes up and report as someone who has been raped, what the law will do about it, what will the Nigerian police do about it, are the police equipped to deal with it. Although there is a welcome idea in the provision of gender sensitive desk in the police station by the inspector general, maybe it will help, that has never happened in the Nigerian police force. Maybe the people taking over the desk will be trained to handle such sensitive issues. beyond that, things that the government and the civil society should do is to create awareness about rape so that victims not only see the laws but also know the laws and how to go about it and stand their grounds to obtain justice but if the justice has to be done or seems to be done means the issue of investigation has to be improved. Talking about the provision of good forensic laboratory, equipment that will ensure proper evidence when presenting it in court without only verbal accusation bases of self-recognition but with concrete forensic evidence from the lab, building a case beyond reasonable doubt, you can win a case in Nigeria.

As a journalist how would you report rape case?

The press has done their best. There is nothing the press can do if the victims are not willing to come forward and report. I know between 2013 to date, the number of rape cases has been brought forward, there are journalist who have taken to report rape cases brought to their attention to court and even to Human Right Commissions. They have even met with the victims even said, "I want to take your case report your story", But some victims because of pressure from family, religions, and threat from accused have not been forthcoming and have refused to pursue the cases further. "I don't want trouble, I just want this case to go away" or in most cases people find the jungle justice by taking the laws into their hands without proper investigation because the father is an influential person

in the government. If you talk about reporting the issue of rape, I think if rape is reported the way HIV has been reported to that scale to know the prevalence backing up with empirical data on this issue. If you come to rape cases you do not have convincing data because if out of 20 girls who might have been raped, how are you sure that 10 of them are willing to come forward and even those that tell you the story, they are not willing to go beyond that so even if you're writing the story you are writing in the condition of anonymity but when you put a name and a face to that character, it dives that reality home that this person was raped. But then again when the story begins to evolve, people start to blame the victims there are no comprehensive data when it comes to rape. Without any data, nor planned programmes. The society is not even making it easy for the victims. They are being castigated, some are even accused of their dressing mode before the rape incidences. Speculations are always there because the victims have refused to appear and there is nothing anyone can do beyond that. Some cases have gone to the Human Right Commission only for the victim to refuse to come forward and it becomes humanly impossible to pursue the case.

Well it is very difficult; one people are not forthcoming with information. There are times you get information from victims and the other side such as the soldiers, they are not willing to tell you what happened or if they were involved. As a journalist I will want to ensure I balance my report objectively with fairness. Instances where I get information from the one party and the other side is not ready or forthcoming is one factor, and then the second is a situation whereby you are threatening if you report rape cases or get arrested. The fear alone won't let you get into the case knowing fully well that I know what actually happened and that if reported it will come into full view of the public, it is going to be like letting the world know what women in the third world countries are going through.

These are the factors that the government must handle and beside that, there are instances where you get involved are told that you can't report the story and are being bribed as well as being asked not to report the story. This might have something to do with a rich or influential person in the society they won't want you to report cases that involve them, that is why journalist keep stories under the carpet and won't want to go through with the story.

What do you think of the security situation of Nigeria?

I don't think any special emphasis is placed on protecting women and children during internal armed conflict in Nigeria. This is because here our society has not developed to such an extent that the security forces will focus or place special emphasis on any group or gender.

The Nigerian govt have never carried out thorough investigation on any alleged rape cases during conflicts. What are your concerns?

I will say it's a big shame because we have not put special focus on these vulnerable set of people. There has been reports in the past and no government has holistically carried out any investigation. The national human right commission in its own capacity has tried to do the little it can but here because there are cultural and ethnic factors that affect issues relating to women. Sometimes when they go out t is very difficult to get to the root of the matter due to cultural factors. People keep quiet and nobody wants to speak out because of stigmatization. I think or fear for the future security of women especially in conflict areas.

What do you think are the implication of these actions on Nigeria Internationally?

It is very clear that this puts a dent on our international image. So many countries see and regard Nigeria as a very unserious country because we cannot protect the vulnerable people during conflicts.

Do you think the existing legal measures in Nigeria is enough to protect women and children during conflicts?

I will say in terms of legal provisions, states are waking up to their responsibility. In the last dispensation we saw the national assembly try to pass out legislations that will sanction and punish people who commit the crime of rape. In fact, one of the popular clauses of that amendment even stipulated death penalty for the crime of rape. In terms of legal measures, I think they are available because states like Lagos are really going ahead of their peers to ensure people that the abuse of women is prohibited, and offenders are prosecuted. *“A Law to Provide Protection against Domestic Violence and For Connected Purposes”* however it’s the part of implementation that is worrisome. Will the politicians have the will to make sure that the laws are implemented properly, in areas where so much abuses of women are happening? Places where women are subjected to different kind of abuses, not allowed to go out because of marriage, culture or religious believe. So, there is no body to advocate for them. I think there are legal measures, but lack of proper implementation is an angle the government should follow to conclusion.

What is your view on the methods of investigations of crime cases in Nigeria?

First of all, I will say that the Nigerian government must get serious on the issue of investigating cases. The medical angle of investigation is a serious setback, the psychological trauma it places on the victims with no help at all, the stigma from the society on the victims and even the method of reporting the case is very poor. Recently the inspector general of police said there will now be an establishment of gender desk in all police stations for reports of violence against women which is a welcome step, but the key problem will be its functionality. This lack of gender desk has deterred women from reporting rape cases. I will ask the government to put their acts together and realise that it is a fundamental problem that they need to take serious actions to solve the problem that if not will in time affect the community and eventually the entire nation because a woman who is psychologically traumatized cannot give the best to the family or her society. Let's not forget that the mother is a child's first teacher and if she is not psychologically sound, that will be transferred to the children. I think the government should take this issue serious for the development and stability of the country.

The problem with northern Nigeria practicing Penal Code and the issue of jurisdictions of military personnel.

I don't think it should be different. It is seen to be violation of military code of conduct. They should be trained on the same ethics and putting down military reputation. When it comes to crimes like abuse of women, children, murder are under the violation of military ethics. Whether you are practicing sharia law or the criminal code, under the sharia law am sure it does not support rape or abuse. A lot of people abuse the sharia law or the suna, just because it allows the marriage

of more than one wife. But actually, it doesn't say you should marry more than one wife. It is just being pragmatic, for example in a war situation where men are killed, and a man can afford more than one woman, he can bring her, marry her, devote to her. Yet some people use that issue to under rate the sharia law. But the issue is that the man doesn't have to marry more. There is a situation of an 80yr old man who has 120 wives, all of them said when interviewed that they won't leave him for any situation. People can use religion to cover abuse or the fact that they are military personal, I have the right to do anything and women should be docile, its normal. There are still codes that people should abide by, whether you practice sharia or criminal code, you are subject to the law of the land. The law of the land takes the constitution or priority, and everything comes under the law of the land. If you default the law of the land, you should be prosecuted under the law of the land either the criminal law or the Penal code.

As a legal practitioner, what are your opinion on rape and abuse of women and children?

There have been strong efforts made on sexual offence act, though not yet passed into law, am saying that people are making efforts to deal with issue of rape because it's becoming more prevalent than its being admitted in the society. It is there in our society especially the abuse of women more than children. But as an associate of FIDA a women legal body partnership with women group who deal with issue of abuse. Those issues are highlighted. I have seen terrible cases of abuse of women and children, it's not just young girls in the street but we have issue of men abusing their wives and domestic staff. There are some horrific cases where the man was angry with his wife's cooking, he used hot iron on her body, pour her acid on the face, crazy stuff and the issue of child rape is becoming

rampant. A lot of people are afraid to come out and report because there are no protective measures put up for the victims.

When it comes to war anybody could be abused. Child, women or even men. There is no distinction when it comes to war. Anybody who abuses has committed a crime.

What of crime of rape during conflicts

Rape is also part of war crime. I have not heard that because its rape it must be dealt with differently. It is crime against humanity and regarded as war crime depending on the severity of the crime, then sentence will be given, whether it is rape however where it is not considered under war crime or conflict situation, in fact there has been efforts made by human rights group, NGOs and different bodies to try to make sure that more laws are introduced to fill in the gaps. Of course, there are rules in the penal code or criminal code for the protection of children and women. But the laws are vague, indefinite and unclear. The new bill on sexual offenders act though with controversy, promotes all the law on the protection of women and the effect on offenders and also issue of the consent age under scrutiny. I think that Nigeria is a step backward and influential people in the country marry under age children and claim its culture, tradition or religion but I believe that any customary law or religion that run contrary to natural justice, equity and good conscience should be abrogated and rejected by the society. You can't have a governor of a state marrying a 9-year-old or a senator marrying a 12 years old. I call it crazy, there is no difference from rape. And where we have customs that runs against natural justice it's obviously immoral. It's a failure on the leadership of the country to allow such to continue without checks. In Nigeria we are fighting against homosexuality but indirectly promoting paedophile by

marrying young children which is abuse to the child. In developing countries offenders are arrested. In Catholic Church there are lots of issues on abuse of children where they should be punished. It is a terrible crime in any situation you will always have people who will kick against any legislation that will protect women and children.

Where there is armed conflict, local or national legislation is suspended and replaced by international law. The international law is usually codified. They are usually treaties, an agreement which member countries agree to sign when there are armed conflicts. There are international rules of engagement. In other words, we are fighting a war but there is a way in which both sides of combatants must fight, yes if one is shot in conflict its ok. But if one, the winning party encounters civilians or unarmed populations they can be taken in as POW even with that, the place of resident of POW should be of certain standard. You can't throw them into holes and keep them there if that is not done then they are committing war crimes. If you rape them or kill them.

The rules of engagement you talk about, are they applicable in internal conflicts.

Yes, when you, an organisation that declares rebellion against a state then it becomes an international matter not simply a national matter. Obviously, they are national laws if for example a group rise up and start killing people the force of law will arrest them when we get them they will be prosecuted, and penalty is execution by firing squad. It is considered a treason the international community might step in if they feel that the state is not handling the issue as it should through ICC.

How does our society view rape victims?

The society we live is a very pretentious society where people live a holier than thou kind of life. This brings on pressure of stigma. How the Nigerian society perceive a rape victim is responsible for why rape victims do not come out to report. The society sees victims as wayward. When you go to the police station where cases are reported the policeman will ask you first your mode of dressing before the rape incident. What has that got to do with the case? But that is the usual question at the station. This is a clear example of blaming the victim. You see the girl as wayward that was why she was raped and that she was responsible for the situation. No girl will want to be wayward even a professional sex worker won't like being addressed as a prostitute. She will fight against it. So, nobody wants that kind of stigma so that I why cases of rape are under reported even though we have the cause to believe that rape incidences are on the increase. Many girls are coming in privately to inform us. I can also say that cultural background matters and it regards the Nigerian society as a male dominated society. You even see the way we chastise those men found compromising in their marriages. A man can have a string of girlfriends, mistresses or concubines but if for once the wife strays it's enough for her to be thrown out of the house, that's how the society operates. But she has been complaining everyday about her husband no one gives a damn about it. They tell you the African man is polygamous by nature. I don't know what they mean by that. This all give you additional insight as to why victims are not ready to report. The person you are reporting to is also a male. If you walk into a police station, there is likelihood that the person you make a report to is a man and not a police woman. These men are not likely to make justice to your case and even where they do, advertising such an experience is not welcome in our culture. By

advertising I mean if she wants to pursue the case to court for example the girl herself has to appear as a star witness in the case on the side of the state for criminal responsibility to be apportioned to the aggressor, that means she will be further exposed making her case known to more people and if the press happens to cover an unrelated case in the court and gets hold of the story, her name and picture will be in the media. This sort of exposure is not welcome by families, so they will prefer the matter to be quiet and not report the rape at all.

What is your view on the security situation in Nigeria regarding women in conflict? The case of the missing girls.

We don't really know the actual truth with regards to those hundred plus missing girls in northern Nigeria. Take the case of 300 plus girls that came back, am not sure how many organizations have been able to get to them and find out what happened to them and their welfare. I know a person working for the United Nations who was allowed into the camp but that was the only organization that I know was allowed into the camp. These issues on the missing girls fizzle away after some time. No one was looking for them again but the parents. Another problem is that the few girls that came back are not even the celebrated girls which shows that women are adopted from their homes without the government making any efforts.

Opinion on the Nigerian security

On my own I feel very insecure and unsafe. I don't go out at night. I try to be home by 7pm. For me I get very worried if a policeman stops me at a check point. I don't trust them. You don't know what they are going to do to you next. You don't know the calibre of men in the uniform. That means no trust on the man with the uniform. I don't know them personally so can't trust them. Most times I ask for

security from known military personnel to move around. I don't feel safe in Nigeria. I don't feel safe because our security agents don't treat a normal civilian on the street with respect. They see the civilian as an enemy. They claim it's the Nigerian factor. You know what we call the Nigerian factor, "where everybody is looking for an opportunity to exploit the next man". The security agents look for every way to scam you. An example was one night where I lost my way back home about 8.30pm in Apapa. I happen to sight a group of policemen and decided to ask for direction. One of the policemen who had a gun and was very drunk jumped into my car with his gun saying he will direct me. Fortunately, an okada man "local motor bike rider" also stopped at the check point. He offered to show me my way out of the area and asked the policeman to get out of my car which he refused. So, the okada man rode his bike following me behind. The policeman was trying to give me a wrong direction which the okada man objected to. The okada man eventually led me to a known environment before the policeman was forced to leave my care. In that kind of a situation, I could trust an ordinary civilian than a drunk policeman who got into my car without permission. I think it's exceptionally difficult to live in Nigeria as a woman. Even as an educated person with access to `information's on her basic rights, it's still very difficult. This highlights what the rural uneducated woman is facing daily.

What do you think should be the way of addressing the security situation in Nigeria?

It's starting with the basic things. These men are not adequately trained for the roles they are sent to occupy in the society. They don't have facilities, resources, equipment's, enough manpower and good basic wages.

On the issue of kidnapping girl in northern Nigeria

Of course, the story is true. Girls were kidnapped and abused. It's not possible to take that number of girls unaccounted, unprotected for over a period without harming them. It's not possible.

What should have been the initial reaction of the government when these girls were kidnapped?

When the first girls were kidnapped, there should have been reactions from the whole country. You know the Nigerian attitude where if something doesn't happen on our doorstep then it doesn't exist or it's not our concern. The government acted as if it was the problem of the girls' families. Then you could hear people saying "it's their problem, those Hausa people" let them bear their cross, it's not our problem. Hausa is one of the tribes found in northern Nigeria. From being a small fraction of the religious set, the group was gaining momentum and becoming more daring in actions, expands its territory and now they are even terrorizing the non-Muslim communities. During the initial period, the federal government had turned a blind eye on the group, majority of Nigerians saw the attacks on northern Christian as war between brothers because the attackers and the attacked were northerners. "It's the Hausa problems". There were no intelligent conducted on these attacks. I recall long before Goodluck the president came into power, I was visiting family friend who is a two star in the air force, she said to me that the military is infiltrated, and they don't even know who is in support of the government. It means that the military officers don't even trust themselves.

There are allegations that some military officers are involved in the strategic planning's of boko haram.

That was the story from the beginning that some military officers knew those that were committing the atrocities; some big powers among the top government,

some traditional rulers and even rich influential citizens were backing these insurgencies for political reason. There was a time president Goodluck said that some of his top cabinet minister were found to be sympathetic to the ideology that drives this group. As far as am concern we are paying lip service to boko haram since the kidnapping is still on the increase and nothing is happening security wise. If there is any incident and you phone the Nigerian police, they will tell you there is no fuel in their cars to come out.

Let's go back to incidences of abuse of women during the Obasanjo's regime. Peace keeping soldiers sent out by the federal government were alleged to have raped women and girls even in the presence of most family members.

This reflects our male dominated society and the military are mostly men. They are not foreign to the values our society bestowed on women. It is a celebrated act. We see these acts in different sectors of our daily life. These exposes the training capabilities of the military. They are not properly trained for the jobs they are assigned to carry out. Let's consider the officer who is training them, he too is flawed by the ideology toward women. You see they are sent on a mission of peace keeping by the time they arrive at their destination, majority of them are drunk, and intoxicated by drugs so there is no self-control amongst them. The security in Nigeria always have these underling ideas that you must bully or torture to achieve any result. And who best to bully but the women who are the vulnerable in the society to boost their ergo. We the women will always be in a vulnerable position because of our cultural believes that men are the superior being. Whatever kind of decision that will be taken will be based or a reflection of their cultural believes; aside from the security situations, women are not positively reflected in our society. These manifest on the attitude toward women. You can

imagine a policeman calling a woman ashawo “prostitute” which shows lack of respect for the female gender. What you don’t value, you don’t respect. I like to view situations in a 360°. Looking at the way women are placed culturally has placed fear in the minds of women. These rape victims are afraid of stigma and segregation within the society so won’t want to report or speak up about their rape experience thinking that nothing will change, withdraw and accept the situation.

You specified on proper training of security officers. Do you think proper training will change cultural ideology?

There are other specific issues along with proper training that should be addressed. To achieve any positive change in Nigeria, you must boost the morale and motivate the officers with both physical as well as financial benefits.

What kind of changes would you propose regarding the bad treatment towards women?

It must be a mind field change. One must identify key issues that will influence change. Another important aspect is discipline and corruptions. You must do away with some people who are not of required standard for the job. These should cut across all sectors not just isolating one sector. This problem is all over the country because there are no checks and balances, so people can do things and get away with it, with no scape goats being singled for punishment as consequence for their actions.

Nigeria has laws that are meant to protect women. Do you think those laws are enough to protect them?

Let's look at the Lagos state, it just signed a bill for domestic violence, I even know that the security is set up to protect people and properties, but they go in and prey on people, rape the women, kidnap and commit all sort of atrocities against them and no one has bother to address the issue. Our security officers have not laid any good example. People white-wash situations and it comes to "security against civilians". No one owns up to any responsibility, the oga's cannot be bothered and most times sweep matters under the carpet and make empty promises. The average Nigerian mind is bombard with so many materialistic problems that justice is the last thing on their minds.

The security system in Nigeria describes abuse of women during conflicts as collateral damage. What is your comment on this?

It all goes back to the kind of leadership in the country. They should hold the perpetrators no matter who accountable for their actions and let them know the consequences of their actions is prohibited under the human right law and punishable. The Military should have applied a different strategy to achieve positive result without resulting to destructions of properties, raping, killing and kidnapping in the name of security. You know as I said, as far as am concern, our security officers have this opinion that the best way to obtain result is to bully, use force and aggression. Have you seen when they are making an arrest, interrogating a suspect? You are not even sure that person committed the crime before they are tortured and bullied. Everything about the security forces is about aggression and not on intelligent reports because they claim brutality is the language that Nigerians understand. It's a myth. I keep saying when you accept

a job, you admit to certain responsibilities. You should be held responsible for any actions you take. If you are not qualified and dedicated, you shouldn't take up the position. And here comes the question of those who train them. As a security officer you are expected to have undergone certain training, and how effective and comprehensive are these trainings before these men are handed weapons. You won't expect humane treatment from them if they are not properly trained and change their perceptions from what is generally seen and accepted in the society.

What is the way forward for Nigeria in respect of its security system?

Corruption is very cancerous in our society and security system. Maybe the whole system should be wiped off and a fresh set put in place. You talk about under-equipped security and some of them are poorly paid so looting will be their priority to make ends meet. They call it war trophy. They could do this because in the past fellow security officers did it and were not held accountable for it. So, another question I raises is the quality of senior officers that are responsible for these military men. What are their reactions when their juniors are faced with allegations of atrocities including rape? Who holds them accountable? There must be sanitized reforms in the system to put people in order and re-structure the system. Am not a military person but from what I know, when something is not working right, you must stop and ask yourself what is wrong, what you need to do and how to bring about positive change. But our leaders are not taking those positions on those vital problems. They regard everything as "business as- usual" you see some military officers looking very unfit, lack training and yet they are promoted all the time. Their attitude is very wrong, we have oga mentality in Nigeria "master" doing nothing. Am the oga who sits in the office and send out the boys. They make no contributions or improve themselves. The government has to sit

up and understand that without any proper structured security things will not change.

Let's go back to the issue where you said some women came out of hiding.

Is there any professional assistance rendered to these women?

We just hear things in the news, I have a friend who works with United Nations and she said they were allow into the camp and that's all I have to say about professional help they got. I just assume the United Nations should be able to provide professional counselling's and medical aids. The story has drizzle down and we don't hear anything about it. I have looked out for information on that story in the daily news and other media and no such case is ever mentioned again. With such cases, after the initial headlines, nothing is done about it. My organisation Life Coach Association, we offered assistance when they come back, we would like to see how we can re-oriented them, but it was a case of who to approach. No proper organization of the victims. A couple weeks ago, there was news about how soldiers had rescued 298 girls from Sambisa forest and nobody know which groups of girls they are talking about. But not the chibouk girls. Most of the girls found were pregnant, wounded, sick, poorly fed. A few pictures were taken but as far as am concern, those could be pictures from anywhere. That means nobody knows the actual truth. The point is that there are so many incidences before the chibouk girls and even after. A lot of girls and women have been taken by these militants, but the chibouk girls issue came into spotlights because of the way it had happened. Shortly before that there were some raised issues on kidnapping of women and children so when the chibouk case happened it was quickly blown open but even after that, there were still cases or incidences of kidnapping from different parts of northern Nigeria. In Badger community 16 villages were raided and up till now they have not been

found. It is funny that the soldiers claim that they went into Sambisa villages to recover 298 women and children and no simple casualties from both sides, no captures of boko haram militants. Are they just telling us that boko haram militant left those women to go without any resistant? Some of the women that came back are said to be wives and children of boko haram militants that ran away. All these stories are very difficult to verify because there are no records of any initial incidence so no accountability.

How would you describe the security situation in Nigeria?

The security situation in Nigeria, which is very interesting question. It depends on what perspective you're looking at. We have the crisis in the Niger delta, the boko haram in the north and the regular security problem such as domestic violence. We can also look at them generally because they are all interwoven. But we can also look at them in terms of gravity, intensity of the problems for instance. Looking at it generally we have a long way to go. A situation where you have one policeman to 1000 civilians is not good enough. I believe government can still do better in making sure that adequate security measures are put in place. At the same time, am an advocate for citizens' awareness when it comes to the security? I don't think we should leave every problem for the government alone. If the government can set up agencies and machineries that will create awareness in the mind of the people about some basic actions to contribute as citizens in terms of security. I think that will go a long way than just waiting for the government to do everything. No there are numbers of security issues that is beyond the agency's capabilities such as insurgencies, riots etc. that one the government has to go through trained officers to make sure they curb the situation but generally we are still not safe on the high way even though Lagos have agencies it's still not sufficient.

You were talking about government establishing agencies. What kind of agencies were you proposing and what will be their main duties.

I think they already have an agency like that. I remember in the days of IBB, I was much younger there was a body called macer, mass organization whose duty was to create awareness of new government national policies as well as complement the police force. But I think today it's called the national orientation agency. Equally their duties are creating awareness and educate the masses on national issues and policies. I believe what we need to do is to empower these agencies the more, give them the right kind of information, create a platform for them to reach more people. I think that agency needs empowerment to get them working.

If government create agencies, do you think there will be positive changes in the security situations?

For the facts that some people might want to exploit that opportunity does not mean that the government should not take risk. I believe that certain agencies will work well for instance the Lagos state my immediate environment and the society where I live, the agencies called lag mog they complement police services but it's an agency that is owned and operated by the Lagos state and over these years the guys have been quite effective and we have seen a departure from the norm or what the Nigerian police is doing, they enforce good traffic movement and road blocks. That agency has been successful. Am using them as a model that can be applied to other problems.

Your views on how the way government response to violence in the country.

Let me start with all the insurgencies. It is alien to the Nigerian society. I will not really blame the government for being slow to response to the situation. I have to admit that they are slow, fighting the insurgencies is quite different from casing armed robbers on the street or try to catch pick pockets. It takes a lot of intelligence to be able to achieve that because you are dealing with people that operate with ideology not just an issue of taking weapons and going into the community to fight. It is the ideology that keeps the force. For insurgency we have to go down the root who are the ones leading these people, identify their demands or what the extremist actually wants. If that is dealt with, then we would have touched something from root rather than just chasing them around and that will go a long way to achieve so much. But I believe government can do a lot better. On the response I have not really seen any improvement like example you have a robbery here in Lagos and the police only arrives after the robbers have gone and that has been a standard. You will never expect the police to come and meet the robbers in operation. The government still has a lot to do. Am not trying to paint the government bad but it's just based on experience.

Let's start with Niger delta issue, the odi massacre, Rape in choba between the community and wilbros an international oil company which resulted in women being raped. What is your perception on government reactions?

It comes down to what I will suggest such as community policing. If you have community police set up, the security agents will know and be able to identify each and everyone in the area you know the man on the next street. If a crime is committed you will know a stranger from an indigene of the area that makes it

easy for intelligent gathering, eventual arrest and prosecution. I had my reservations on community police. I thought politicians will take advantage of it to intimidate and harass people. Put aside from that I think community police might be a way forward. For example, when the USA army went to Somalia to catch Hussein Mohammed Farrah Aidid, they used community police who knew everyone and possible hiding places.

Let's come back to the issue of responsibility of the government during odi massacre. An interview of former president Obasanjo with BBC on the odi rape and killings which the president claims was a collateral damage.

His response was that killing and raping of women was classed as collateral when it happens during conflicts. Firstly, we must find out what the rules of engagement was during the conflicts when the troupe were sent out, what were the instructions given. Was kill everything living on sight, I heard one police said that when there is riots that they are given shot on sight order. Was this incident a shoot on sight instruction or go down bring everything on the ground kind of thing or just go and gather intelligent report on the situation, arrest. What happened in odi was rather unfortunate. I think we should find out from whoever oversaw the operation what the rules of engagement were and the again am not ruling out the fact that normally in war situation we have casualties that is standard, but I think that the odi situation was rather intentional.

From the odi situation there were no opposing side unlike the Boko Haram were the insurgents are shooting back at the soldiers to warrant the level of damages and destruction.

That's why when I started, I talked about the rules of engagement. What instructions were the military people given when we are also to established that

then we will be able to tell? I was in Akwa Ibom during the incidence and I met a young guy a military man and not more than 23years old. He happened to be part of the military team who raided odi. He was bragging about what they did. They went into the odi community and were destroying their houses but the impression he was trying to give us was that the young men in the village were shooting back at them and that they were only reacting so they destroyed that place. But I don't think any sane leader will want to run down any community the way odi was done. So, there is also a possibility that something had gone bad. Maybe some youth reacted when the soldier attacked their community. You know the Niger delta youths are very volatile.

When you look at odi community. It was already by the government for excessive demand on oil royalties. So many people were suggesting that it was a way that the government was trying to quiet the community down.

Let's not forget there is another aspect of the odi issue where the youths were accused of killing seven policemen. Let's look at another possibility in the odi situation. It is possible that the resident or indigenes of odi had had refused to release those youths wanted by the government and you know our military in the quest for information and get them identified, they had gone overboard that is another angle that we should explore but that still doesn't justify the actions of the military. They had overstepped the boundaries.

Let's move back to boko haram. What is your opinion on boko haram?

As I said earlier that what boko haram is doing is born out of ideology and that makes it very dangerous. It's an ideology that could be passed on through generations. You not just going to take one year to fight and stop such insurgency mind you. You might be able to drive them out of the Sambisa forest, but you

forget that they have tentacles (slipper cell) which may not necessarily be in the same state Bornu. They may be in different states or all over Nigeria. This is technology age, all they need is a mobile phone and they can communicate and make plan. All you will hear is that there is a bomb blast somewhere carried out by boko haram. We need to find out the root of the people that are encouraging this ideology then it will go a long way in trying to solve the problem of insurgency. It's going to take a while to destroy the boko haram nest and it's just not about their kidnapping people or trying to destroy their territory, there is an ideology behind what they are chasing and that makes it very dangerous and now they are linked with Isis and the rest. We have a real crisis at hand in Nigeria. It's going to take more than a multi-national course for boko haram to stop. I have seen a few videos of boko haram, they use small boys ages 9-11years. They have been able to pass this ideology down to that generation, we are in trouble.

Who do think are the most vulnerable during internal conflicts?

It is well known all over the world that when it comes to matter of conflicts women and children are the most vulnerable. They are always helpless. Well we believe that men are stronger sex and they will always find a way of escaping and when they do so they leave the women and children behind. The women, children and elderly are always the most vulnerable. All these insurgents that comes in are like sex starved animals, when they come and see free women that the men have left behind they take advantage of them.

Do you believe these women are being abused because some people don't believe they are abused?

Well between you and me, I will say yes. Like the issue of the girls that were kidnaped from chibouk. I always fear the worst for them because even if they are

found, they will never be the same again. I just don't want to imagine what they have gone through.

How do you think women can be protected in Nigeria?

Generally, there is a bill that the immediate past president just signed into law. It has to do with violence against people bill. It covers domestic violence, violence against women and children. It was given the prudential assent by Goodluck Jonathan. For a bill like that, there is some framework, that gives support for protection for women and children in abused environment, but we actually need a tougher legislation to follow this one.

Let's look back with the criminal codes of southern Nigeria and penal code of northern Nigeria which covers all these issues. The problem is the vagueness and implementation compared to international standard. Do you think this new bill will make any difference?

It should make a difference because I believe that it's been studied thoroughly over the years before it is approved. It has been through the senate and House of Representatives and I believe that they have thoroughly thrash out all necessary final details. It has been signed and ascended by the former president. What we have now is the enforcement. Simple case is the NAFDAC which was more of enforcement. We saw what they did. If the agency in charge of enforcement are empowered enough to enforce the bills to the final details. I believe they can make a great impact just a matter of enforcement. I hope the new government should be able to work more on enforcement.

From experience what is your view on the method of investigations in Nigeria including rape cases.

Am one person that believes that if people are encouraged they can work to bring out positive result? Our security agencies are not doing their jobs for some reasons. If someone reports a rape case today but the question that the security will ask is how sure it was not her fault. We have a lot of people not wanting to report their cases because they think that no proper investigation will be conducted. But if they are trained enough and I strongly believe that if they want to work they will. But so far, the strength of our investigation is not strong. They will rather torture someone to get confession than carry out proper investigation.

When compared to how investigation is conducted in other civilized country. How would you rate them?

Well I think the edge that the western world has over our security agent is in terms of technology to assist them. We really need to improve our technology in Nigeria. We cannot do without it. We can't continue to use the 60s method, so I suggest that we embrace technology that will give them a lot better result and will be able to compete with other security forces in other parts of the world. Take our army for instance, we have been able to enforce peace in other parts of Africa. If we are that good then other security agencies should be able to achieve that, they should embrace technology, professionalism. I think corruption is the problem with our security system. I don't know their take home pay. They are more interested in what goes into their pocket than their jobs so that makes room for a lot of compromise.

You just mentioned that our army were able to enforce peace on other countries, why aren't we seeing such professionalism back home.

The issue with Nigeria is very tricky in the sense that within the ranks of the army there are some officers that are sympathetic to the insurgencies. There is a lot of sabotage from within the army that alone is enough to hinder their being able to achieve their goals. You have people in the army that give out information. But back out at the peace keeping duty, there is nothing at stake for them but here we still have sympathetic officers for example let's take the leader of boko haram, we heard that the chiefs from his community were in support of his course the (Kanuri's) so if you have officers that are Kanuri then they will also be sympathetic to the course of boko haram. Another problem was that they were starved of funds. I heard that funds allocated to the security were not paid to them. The officers in leadership pocketed the money and there was no motivation. They didn't even have weapons so weapons that the government ordered didn't arrive on time.

Let's go back to the issue of motivation. As a professional soldier you're paid to defend and protect your country. Do you need money to be motivated to perform your duty?

Not necessary money, you signed up for something and you sold out for the course you signed for, but they are human with families. They need good weapons to fight. One soldier reported that the boko haram fighters had very good and sophisticated weapons. But eventually the former president imported good weapons which was part of motivation. Let them feel or there be little satisfaction in little things that they need and that will be good enough motivation.

So as a Nigerian what is your advice to the government on the way forward regarding the security system in Nigeria.

From lay-man's perspective first I think the whole security machinery need a bit of overhauling. We cannot operate with the mind of yesterday. There is always the issue of the security agents being corrupt, they need re-orientation. If someone needs to be fired, let them be. Let there be sanity. That is where I believe we should start from. A new mind-set away from what use to happen.

Perception on rape in Nigerian society.

How Nigerians perceive rape is one main reason that rape victims have refused to come out and report. The society sees the girl as wayward. Go to the police station where she is to report, the first question that the police will ask is about her dressing. What has that got to do with rape? But unfortunately, that is the usual question. If this is what you were wearing, it is a clear example of blaming the victims taking the girls as wayward that her dressing was responsible for her being raped. So, because no girl will want to be seen as wayward even a professional prostitute doesn't want to be tag prostitute. So, nobody wants that kind of tag that is why the issue is seriously under-reported even though we have course to believe it is on the increase because some victims snick into our office to report. Many of them are coming so we know it's on the rise. I can also tell that cultural background both in the north and southern Nigeria see the society as a male society. The woman has little right. You can see it in the way we chastise those men who are found compromising in their marriages. A man can have a strip of girlfriends, mistress but a wife just once is enough to throw her out of the house. That is our society just that one and the marriage is over. But she has been complaining about her husband and no one gives a dame. They tell you

that an African man is polygamous in nature. But it gives you an insight to the society and why most women don't report because the person you're reporting to is a male. If you walk into a police station, there is a likelihood that the first person that you will meet is a man and not a police woman and they are not likely to give you the kind of service you deserve and even where you do so, advertising such an experience is also not encouraged by our culture. Advertising it is that if you want to go to court in Nigeria, the girl herself will have to be a star witness on the side of the state for any criminal responsibility to be apportioned to the aggressor that means the girl will have to be exposed further to the ridicule, many people who were not aware of her ordeal will now know and if the tv or media happens to be at the court to cover even unrelated cases and stray into her case; her case will be reported and her picture will be all over the media. Many parents and family will not like this they will prefer to keep the matter quiet so there are among the reasons rape matters are not reported.

As an NGO what is your contribution to rape victims.

What I am doing is purely based on my own interest. What I try to do is provide support where I can. I donate. I have done a few donations to Project Alert to help support what they are doing. One of the things I am doing now is to register a foundation which I call Save Our Women. It is an NGO, but I won't be fighting domestic violence. I am opening it to provide support because a lot of these NGOs in Nigeria are self-funded. For instance, Project Alert provides shelter for abused women and the owner, a lady, runs the organisation from her pocket and few donations from kind-hearted Nigerians. She puts together few friends who combine and donate over a hundred thousand a month to be able to fund the shelter in a good situation for the women to come in. Similarly, Lagos state government also provides shelter but it's not in very good condition or well-

maintained as private shelter. So, I found it sad to and decided I should put up an NGO to support. Am in the registration process. I get people to donate as small as five hundred naira every month or one thousand depending on their capacities then we identify NGOs that are doing the work against violence and give to them to help pay salaries and fund the centres to ensure proper running. Most shelters, the first months lodging is free and subsequent months these women are asked to pay up to N15, 000 for feeding which shouldn't happen if the government are helping with funding.

Where do these battered women get the money to pay since they are supposed to be destitute?

That is the problem. Most victim rely on relations for support. A story I shared on my Facebook page about a woman who had fractured skull. It was caused by her husband (father of her three kids) when she discovered he was gay and bring men to have sex in her matrimonial house a habit he picked up while abroad. He didn't want her to make it public. When I heard the story, I called her in the hospital to find out what had transpired. She said her husband booted her on the head. I got other members of my group including celebrities' who are victims of domestic violence to donate money for her. With the support of her family, we and Project Alert wanted to relocate her and give her a new life, unfortunately, she went back to the husband because of material wealth. So, since the initial meeting, she has refused to contact the shelter. This is the problem NGOs are facing "non-corporation of victims". When a matter is reported, and the NGOs come out to intervene on behalf of the victims, only for the victims to withdraw from following up with the case. Most families don't want the publicity that goes with rape cases. With the initial anger of the incidence, they report but later when the cases is due in court, they withdraw due to stigma, disgrace upon the families and cultural

perception regarding rape is very strong in Nigeria. Most parent are ready to trade justice for monetary options. Poverty is another influential factor that hinders justice because there is a case that came to my attention. A primary school girl of about 8 years was raped by a 15-year-old boy in college. I had the opportunity to speak with the girl's mother who was ready to go all length for justice, I offered to link her with NGOs' that deal with rape victims. But all the efforts were disrupted by the head teacher of the little girl's primary school, the boy's parents and the girl's father who was threatening his wife to drop the case and eventually settled for financial benefit and that ruined the case. Cultural influence is one obstacle and people are not even ready to go further with their cases.

What is the position of the government regarding these cases and issue of witness protection? A situation where victims can be protected and given a new identity.

There are no such facilities in Nigeria. The little protection victims get are from NGOs' set up privately. They are limited in what they can offer victims due to financial constraints. There is very little that they can achieve if the govt does not support.

How would you describe the security situation in Nigeria?

The situation in Nigeria with regards to protection of women and children during conflicts is very poor. Like any other place, women, children and elderly are the most vulnerable people. They are uprooted from their known environment and sent to life in camps. Example the boko haram situation in Nigeria where they have been dropping bombs in villages, people have been displaced. I have a friend who is a journalist. She collects materials for internal displaced people from time to time. I partner with her and get people to donate items and money which

is sent to the camps in northern Nigeria. A lot of these women and girls since they don't have a home, they drop out of school and are put in funny camps. In the camps are reports of mal-nutrition. You can imagine coming to a place of refuge and you end up dying there. The situation in Nigeria is very bad when it comes to shelter for the needy. There are many people who are interested in gaining some sort of education even in such a situation.

What's your view about the high rate of conflict rape cases in Nigeria?

A lot of these soldiers that are sent on mission don't have their wives, so they look for the next available woman or girl around to have sex with. So, they look for the next available woman or girl to sleep with. So, if there is conflict and these sorts of men are sent there to where there are free women, of course they will rape them. You can't sit in your comfort office and know what is happening in the field. You are not where it is happening.

What is your assessment on the way rape investigations are being conducted in Nigeria?

I think the government is not doing enough because if you look, a lot of these rapist are even in government. Our government are patrachial kind of system. For instance, a woman who has been abused goes to the police station to report to report, the policeman she is reporting to abuses his wife at home. What kind of justice do you think you think she will get from such a man? There is a state in Nigeria where the speaker of the executive house abuses his wife. He threw her down the stairs. Can you imagine a law maker having such behaviours? They put up some happy pictures to the public. These women because of wealth pretend things are okay. I will say they are materialistic. Can you imagine these kinds of sick people in government? We hear of politicians sleeping with underage girls.

For instance, in Akwa Ibom State during the last regime, it was bad. They just useless these young girls. Will these kinds of law maker be interested in justice for rape victims? They are supposed to be in authority or leaders who make laws to help these kinds of situations. They will not fight passionately because they are doing the same thing. Our politicians do a lot of funny things that are not on record. What am trying to say is that if you have people in govt who are also guilty of sex crimes, you are not going to get the kind of response you expect from them because if it a responsible govt, they would have done something by now. Nigeria is not a country where accurate statistics are kept, so many things are under reported because of the gap in leadership. It affects the ways things are handled even in conflict situations. So, you noticed during Goodluck Jonathan, there was so much fighting, and nothing was done, and the same situation is still going on with the new govt. no reaction or actions at all from the govt to show concerns. I believe they can do better.

What do you think the govt can do to help stem the ideology or truncated perception about women?

It is a real dilemma, first they should make tougher laws like the Lagos state, which has laws on domestic violence and these laws should be applicable during conflicts. There is one saying to have the law and another to implement the said law because offenders are escaping prosecutions because of non- implementations of the laws. This is a big problem in the country. If they can make laws that protect women, then implement it strictly to the letters then people will know that they cannot commits these crimes and get on without any punishment which will make some people refrain from these crimes. But when these doesn't happen, all offenders' needs to do is bribe themselves out at the police station. Just any small amount of money and the case will be closed. That's how the

system works in Nigeria, providing loopholes for offenders to escape punishment so govt should work on the implementation of even the existing laws first. If we have these laws, let's feel the effect. You see people in conflict situations abusing the powers given to them. Let's see them convicted for crimes committed which will send out serious warning to deter others that they cannot commit crimes and get away. Govt should also be involved providing shelters especially for women. Like I said, in conflict situations, women are most vulnerable group followed by children and elderly are the most affected in conflict situation. If govt can put up shelter for women and children to access during conflicts, then it will go a long way to protect the women from danger of rape. I also know there is national orientation agencies in Nigeria, but not too sure of their functions because they are supposed to be responsible for enlightening people on laws in the county. But we are not feeling their impact of the agencies. There are so many things happening that the public should be sensitised such as how to handle issues in conflict situations etc. let's go back to the economic situation like the fall of naira against the dollar and pounds, the agency should be out educating the masses at the grassroots. This is very sad.

What do you think should be done to change the perception of the security forces against women?

You know one thing we do in my company is security clinic. It's like our CSR (corporate security report). We go to schools' organizations and even churches to give free security and safety trainings. If during the training, we notice any lapse in their security we can advise them. One of the things we teach them is that security does not start from the policeman on the street or the govt agency, but that security starts with you as the first responder to any situation. You are responsible for your security and safety. Another thing we teach is the onion

principle. Take off each layer after the other. So you put up layers of security around yourself for instance in a house, you ensure that you lock your doors as a security measure or your gate to prevent anyone from walking in. you make it secure, that means we should make things difficult for criminals to bridge our barriers so I believe that the same kind of mind-sets should be applied to the security situation of the country and it should start from the family because these police men come from families. Let the families take the first step of action of reporting the case. The male figures should be behind the victims. This should begin with family educating their son's so that when they grow up it will still be a part of the training gotten from home and transferred to their jobs. They will have that respect for women and want to protect them rather than abuse. These policemen are human, so if we instil that moral mind-set from childhood it will go a long way to turn around the society. Also try to erase the perception handed over generation by our fore fathers against girl child being an inferior sex. Let the boys know that their duty is to protect the girls.

Do you think the new signed child protection will create any impact in the security of women and children?

Like I said before, I still stress on the implementation of these laws, if we have few laws in place and feel the impact of the law then we can build on that. But a situation where the existing laws are not even implemented, then even if more laws are created it won't make any difference. Let's take that sharia law that is practiced in Northern Nigeria for e.g. it prohibits rape and has tough penalties. But the most difficult problem is the criteria set out for women to fulfil before prosecution can take place. This is impossible for a victim to fulfil. Likewise, in the criminal code of Southern Nigeria, the definition of rape is so vague that it gives room for offenders to escape punishment. The way forward is to identify those

loop holes and try to bridge these gaps. It is very different when it comes to the Sharia (Islamic Law) which is very difficult to change their law due to the facts that it's a religious law handed down from generations and take so many procedures and years for any changes to be made. We have Muslim women advocates so if that body can stand up and fight for the rights of their women which can't be done by people from other religion I came across a book where Muslim women share their experience under sharia and the book was banned because it was advocating for Muslim women liberation. So Muslim women should form advocacy group to tackle the problem. Unfortunately, the current Nigerian president is an extremist who is not in support of women advocacy. The Muslim men are even in support of the way women are treated and most of them play ignorance to their plight. Most unfortunate is the fact that their girls are married off at such tender age with no basic education or income which even render them voiceless in their marriages.

What support from Government can you propose for Rape victims?

The government should partner with local NGOs and empower them. Like e kind of women foundation, I want to set up. If government helps with the project, it will be far reaching, and the masses will feel the influence better. I know some people set up NGOs to be able to access grants, free money that they can use for their selfish reasons. There are NGOs like that, they are just in for the money though they say it is non-profit, but they use it to line their pocket. Also, there are actual NGOs that help people. These NGOs should be supported should be supported with funds so that they can do more. Government should appoint advisers on these matters to be advocates for rape victims. We have the Mirabel Rape which at one point there was a lot of campaign form abusers threatening them, so they were talking about closing up the centre and funds was another hindrance in

running the centre and paying of staffs. In Nigeria, that is the only centre that rape victims can go to get counsel and help. A lot of people went out to campaign for them for donations. There is a lady called wana-wana a Documentary writer and poet conducted a documentary on Mirabel centre for Aljazeera and it was aired internationally. We need more of this kind of centres if possible in every state in Nigeria so that if anything happens, the victims and their parents can quietly run for support.

What is the Job of ministry of Women Affairs in Nigeria?

They are doing nothing; their impact is not felt. The minister for women's affairs is a Hausa woman. What do you expect from a woman from that culture, where women are placed below men or subjugated at home? She already has that opinion behind her mind, so she will not want to offend her own people. You can see that there is a whole lot wrong with our society you will be wandering where one stand from or is there a limit to what an individual can do within the religion. The people that have the power are the wrong people that is why I stress on family values. If every mother or father teaches their children moral values by the time they are sending the children out into the society, they would have learnt responsibility, leadership traits from home. They will understand that leadership is not to enslave anyone or ride over other people, so they go out into the society with the right kind of mind setting. The families have failed in their responsibilities, we have all these half-baked people. They go out and perpetuate those bad characters gotten from home. That's what pay out all over the society. The families play a big role in preparing people for leadership.

How can we make much changes on the perceptions of the security men towards women?

This is where the orientation agency I mentioned earlier on comes in because they can organise trainings for the security personnel's, meeting them even within their platoon to educate them. There can even be some sort of exchange program where our security forces are sent outside the country to develop countries to have some sort of first-hand knowledge of what proper policing is all about. Witness how other countries carry out investigations and handle different types of crimes issues. Sending the leader of the group does not even solve the problem because he will not be the person on the street carrying out the duties. Those security officers being sent out, a lot of them don't even go for proper training. There has been reports of senior officers sent out for training courses abroad staying back in hotels with girls without attending any programme but at the end of the course, they threaten the organizers for certificates. The government should have a way of tracking the progress of these officers during training courses. These are the part of challenges facing the system. I know that Nigerians travel a lot and you wonder what goes on in their minds. They see development outside the country, doesn't it challenge them? The leaders also travel, they see all these things and yet they return to the same attitude. It makes me even wonder whether the black race has problems with development. So, if need be for training, then those who are directly involved should be sent for such trainings. The problem with Nigerians system is the issue of Godfather. Those officer's that is qualified will not be allowed to go unless they have some sort of top connections with high ranking officers. Foundation is everything. So, if the foundation of these leaders is bad, then their outputs will be bad.

Will proposing Regional policing make any difference?

Decentralising the power in security system will also help hasten some decision processes. Although our leaders will prefer the current system which gives them room to commit fraudulent crimes along the long-complicated processes.

How can you describe the security situation in Nigeria?

I think the security situation in Nigeria is precarious, particularly in the northern part of Nigeria due to the activities of the terrorist group Boko Haram. Also, there has been accounts in the southern part of Nigeria of Niger Delta militants who are fighting the government for resource control. So generally, I think the security situation in Nigeria could be better as of now, it appears too dangerous from multiple reports.

Who do you think are the most affected or vulnerable people during these conflicts and how do you think they and be protected from abuses.

Well generally in every conflict situation, usually it is the women, children, disabled and elderly of the society who are worst affected by abuses during conflicts and Nigeria is no exception to that in Nigeria as well, especially in the northern part of the country where Boko Haram operates. Where it has been known to be affected in several ways by the activities of the terrorist's groups. One incidence that has come to mind is the 2012 incidence report of 200 school girls kidnapped from Chibok village in northern Nigeria by the Boko Haram militants and current reports are that those girls have still not been rescued but rather married out to Boko Haram operatives. Few girls who have successfully escape captivity have reported being forcefully converted to Islam, used as sex slaves, married out to members of the group and others used as suicide bombers. So generally, it is the women and children who get most affected. And even in

the case of Nigeria, there is the unfortunate dimension being introduced in the manner by which women are affected by conflicts because current evidence shows that women have been turned from victims to perpetrators' by forcing them to carry out attacks on public places, disguising themselves, having access to public places and committing suicide bombing therefore increasing their target numbers. So when analysing these incidences from the surface, you see these women as converted Islamic women who are in solidarity with Boko Haram but critically, they are being forced against their wishes to carry out these mass attacks in public places. So, I will say the women and children are affected in an unfortunate way.

Do you think the abuse of women is an influence of cultural perception?

Well it depends on the part of the country you're referring to or the kind of abuse in question. Women are generally seen as the weaker sex, so they bear the brunt in conflicts. There may be cultural perception involved in the African community where women are regarded as second-class citizens or lower than men, so their rights are not properly protected only expected. There is this saying in Africa that women are only expected to be seen and not heard. So yes, certain cultural practices help perpetuate that discrimination against women.

Most people have claimed that statistics of conflict rape of women in Nigeria has been exaggerated

Well it is difficult to say. All is mere claims. We don't know the truth but what one can say is that the evidence is pretty much glaring where in current conflicts, women are used as sex slaves or raped as a war strategy to humiliate and defeat the opposing side. So, regarding rape being exaggerated it's difficult to ascertain because conflicting reports say that rape is under reported because most

women who are raped are reluctant to report to authorities due to shame, cultural stigma and the fact that they are not taken seriously. So, I tend to believe the argument on under reporting of rape cases.

As a Nigerian, what is your judgement on the existing legal system regarding the protection of women during conflicts?

I think that the current legal frame work on the protection of women is inadequate. It leaves much to be desired. There is needs for enough improvement and the system could do better. Now, the law doesn't appear to be structured in such a way that it provides protect the rights of women effectively.

What is your opinion on investigation of rape cases in Nigeria?

As I mentioned earlier on, there is a lot to be improved upon in terms of investigation and prosecution of rape cases in the country. It doesn't appear that enough is being done to nip the issue of using rape as a weapon of war in Nigeria and certainly, the government can do more to stem the rape epidemic in the country and bring more perpetrators to face the wrath of justice. In conflict situations like that of Nigeria, it is the military officers that are usually the culprits to these crimes. It's the case of government introducing Rules of Engagement for military engaging in internal conflicts 'and making sure perpetrators' face the book. Those found to have committed any kind of abuse against women should be prosecuted either under Marshal (Military law) or civil law but, more needs to be done to investigate rape cases because now the statistics shows that not enough is presently being done to investigate and prosecute offenders of rape cases.

How can the Law be improved when the Northern and Southern Nigeria are practicing different Criminal Legal Frame Work?

One way which the government can improve the legal frame work on the protection of women is to enact a universal but specific legislation that are designed and designated to protect women in conflict situations irrespective of their religion, culture or zone. Also, the country needs too domesticate most of the international treaties that they have acceded to. You find out that Nigeria is a member of many international treaties, but these treaties have not been made to have domestic legal force within the country because they have not been properly acceded into its National law. The country needs to improve on the security work force. It needs to introduce an independent enforcement agency with women protection being their priority. Trained separate task force in collaboration with police to conduct independent investigations without any disruption, interferences from high and powerful government personnel's, highly equipped forensic laboratory and provision of enough funds to carry out these tasks.

What do you propose as a way forward to the government on how to improve rape investigations?

Several things need to be done. First of all, laws needs to be in place; enacting of specific laws targeting abuse of women during internal conflicts; assigning roles and responsibilities to specific agencies (create task force) on investigating and prosecuting; encouraging rape victims to come forward; creating awareness amongst women on how to and were to report to rape incidences; empower women irrespective of cultural perception, educate them to change their mind set about their predicaments. More funds should be allocated by the government to

the protection of vulnerable during conflicts. The agencies created should be independent of external and internal influence or within the military.

As a legal practitioner what is your advice to the government on rape issues in the country.

Looking at the whole scenario from the legal perspective, I think government should start with improving National Legal Frame Work on the protection of women and children during internal armed conflicts. There is need for new definition of what constitutes rape in internal armed conflict situation and a task force in place to investigate and enforce the law.

