REGIONAL INTEGRATION GLOBALISATION & DEVELOPMENT IN AFRICA

(ECOSOC/SADC/ECOWAS EDITION)

VOL. 1



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N O Nwaodu | E O C Ijeoma | B P Wanda

REGIONAL INTEGRATION GLOBALISATION & DEVELOPMENT IN AFRICA

(*ECOSOC, SADC/ECOWAS EDITION*)

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EDITORS

Nnamdi O. Nwaodu
GMRDC Desk Researcher, School of Government and Public Administration, University of Fort Hare, South Africa, and Associate Professor of International Relations and Development Administration, Igbinedion University, Okada, Nigeria

Edwin O.C. Ijeoma
Professor of Policy Public Sector Economics, and Chair, School of Government and Public Administration, University of Fort Hare, South Africa

Brice P. Wanda
Professor of Law, Faculty of Law, University of Namibia, Namibia

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Chapter Nineteen

Appraising the Global Rights Issue: A Focus on Protection of Dignity and Rights of Persons in Nigeria

BY

Dr Josephine A.A. Agbonika*

Adebayo M.K*

Olatoke J.O*

Afolabi S.*

ABSTRACT

The turmoil and atrocities of the first and second world wars resulting in genocide and holocaust executed by Hitler's Nazi Germany against the Jewish people throughout Europe, as well as wanton destruction of cities, persecutions, discriminations, lack of basic liberties, ethnic cleansing among others were caused by disregard and contempt for human rights. People and cities were massacred in numbers by the warring camps. This outraged the conscience of mankind and brought about the need for protection of fundamental rights of human beings in the form of Covenants, Protocols and Declarations. One of such was Universal Declaration of Human Rights by members of the United Nations. The declaration, not being a legal document was only binding morally on the conscience of members. Any State wishing to give it legal force had a duty to adopt it through its country's legislative powers. It is important to note that the Declaration covers a wide gamut of human right breaches. The starting point was to recognize equality of mankind even though this was totally at variance with Hitler's view of superiority of the German race.

In this paper protection of human right to dignity is the focus and it would highlight the various forms of violations of the human right to dignity. In this regard, violations resulting in humiliation, instrumentalization, degradation, dehumanization, trafficking, prostitution, traditional widowhood practices among others will be considered. Specific attention will be given to violence against women and children born and unborn as well as rights in armed conflicts because of their vulnerability.

The paper concludes by looking at the impact of insurgencies in Nigeria in the face of all the laws protecting human rights.

*Dr. J. A. A, Agbonika, LL.B, BL, LL.M, Ph.D, ACTI, ACIArb, LSM, JP, Faculty of Law, Associate Professor, Kogi State University, Anyigba; Dean College of Law, Salem University, Lokoja (on Sabbatical 2017-2018); Former, Tax Appeal Tribunal Commissioner Enugu State from 2010-2016; Legal Practitioner.

* LL.B, LL.M,. Ph.D. Reader, Department of Public and Private Law, Faculty of Law, University of Ilorin

* LL.B, LL.M,. M.Phil. Ph.D. (SAN) Reader, Department of Jurisprudence and International Law, Faculty of Law, University of Ilorin

* LL.B, LL.M,. Ph.D. Lecturer, Department of Public and Private Law, Faculty of Law, University of Ilorin

Key words: *human rights, humanitarian rights, dignity, violation.*

INTRODUCTION:

This topic is apt at a time when there are so many violations of human rights especially by those in positions of power in the society who think they are untouchable. Man's position is special to God and so he did not only make man in his own image and likeness,[88] but also gave man the first set of rules to govern human activities in the form of the Ten Commandments through Moses.[89] The commandments which set out the ground work and foundation for religious and moral duties, obligation and commitments on adherents, are immensely important not only for the Jews and Christians but also for other persons seeking to find moral foundation for their lives and these of their children, their religious community and their society.[90] The lists of commandments include the following duties to have total love of God and not having other gods, keeping the Sabbath holy by not working on Sabbath, to honour our father and mother, not killing, not stealing or committing adultery among others. This was in recognition that human beings without law can be naughty, wicked, brutal and sometimes ruthless on the basis of the theory of survival of the fittest where only the strongest people or things continue to live or be successive while the others die or fail.[91] The killing of Abel by his brother Cain is an example of such wickedness.[92] All other man made laws flow from these commandments. Throughout history, most societies through oral or written traditions have worked out ways of tending to issues of health, welfare, propriety rights and justice of their members. Membership in a group is a prerequisite for enjoyment of such rights. The groups could include a family, class, indigenous community, religious community, nation or State. Some of the oldest written sources which address rights and responsibilities of human beings include the Bible, the Quran, and the Babylonians code of Hammurabi, the Hindus Vedas and the Analects of Confucius.[93]

The horror of slave trade and wars went on unabated until the 19th century when various nations began to abolish slavery. Before the 20th century, certain instruments were made for the protection of individual rights.[94] When translated into policy,

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[88] Genesis 1:26-28 KJV, Holy Bible.

[89] Exodus 20:2-17, KJV, Holy Bible.

[90] Walter J. Harrelson. The Ten Commandments & Human Rights Mercer University Press 1997- https://www.amazon.com/commandme....accessed on 15/11/17

[91] Survival of the fittest – Wikipedia available at https://en.m.wikipedia.org/wiki/surviv..accessed on 20/8/18
Survival of the fittest is a phrase that originated from Dar winian evolutionary theory as a way of discriminating the maechanism of natural selection or the preservation of the favoured races in the struggle for life.

[92] Genesis 4:8

[93] David. Shiman."Teaching Human Rights."Denver: Center for Teaching International Relations Publications, University of Denver, 1993. Pp 6-7

[94] Such as the Magna Carta (1215), English Bill of Rights (1689), The French Declaration on the Rights of Man and Citizen (1789); and the US Constitution and Bill of Rights (1791)

some of the rules had the effect of excluding women, people of colour and members of certain social, religious, economic and political groups.[95]

In the first half of the twentieth century, at the close of the First World War, international concerns with human right were expressed in certain provisions of the covenant of the League of Nations. After the end of the 1st world war which lasted from 1914 to 1918, the victorious English Allies formed the League of Nations in 1919 to bring about international peace, cooperation and security.[96] Although, the League raised concern over certain minority groups, it failed for various reasons such as; the refusal of United State to Join, the inability of the League to prevent Japan's invasion of China and Manchuria in 1931, as well as Italy's attack on Ethiopia in 1935.[97] State members of the League accepted the obligation to endeavour to secure and maintain fair and humane conditions of labour for men, women and children, and also to ensure the just treatment of the indigenous inhabitants of their colonies. Certain Powers accepted the responsibility for the well-being and development of the peoples placed under their mandate by this covenant. In addition, some of the post-1919 peace treaties and declarations created a system for the protection of linguistic, racial and religious minorities under the guarantee of the League of Nations.[98]In 1919, the International Labour Organization (ILO) was established by countries to oversee treaties protecting workers in respect of their rights to health and safety. The onset of the Second World War in 1939 finally saw the end of the League.

The commitment by nations to establish the United Nations was with the primary goal of bolstering international peace and preventing conflict. Nations wanted to ensure that no one would again be unjustly denied life, freedom, food, shelter, and nationality.The experience of that war resulted in the widespread convictions in statements, declarations and proposals while the war was still being fought that effective international protection of human rights was one of the essential conditions of international peace and progress. For example, in the Atlantic Charter of 14 August 1941, which was subsequently endorsed by 47 nations, the President of the United States and the Prime Minister of the United Kingdom expressed the hope to see established a peace which will afford assurance that all men may live their lives in freedom from fear and want. The Declaration by United Nations, was initially signed on 1 January 1942

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[95]Olakanmi & co. Handbook on Human Rights.Landlords Publications.Panat Press Dawaki, Rockville, Gwarinpa, Abuja p. 1.

[96] History of the United Nations/ United Nations-UN.org www.un.org/sections/history-united-nat...accessed on 9/9/18

[97] Fact Sheet No. 2 (Rev.1) The International Bill of Human Rights UN OHCHR June 1996. Archived from original on 13 March 2008: Accessed 10-07-18; International Covenant on Civil and Political Rights- Wikipedia https://en.m.wikipedia.org accessed on 10/07/18

[98]Olakanmi & Co. Handbook on Human Rights: LawLords Publications

by 26 nations then at war, and subsequently adhered to by 21 other nations. Four nations selected to police and enforce this peace were United States, Great Britain, Soviet Union and China.[99] This led to the formation of the United Nations in 1945 with the aim of fostering cooperation between nations in order to solve economic, social, humanitarian, and cultural problems.[100]

The signatory Governments were of the conviction that complete victory over the enemies was essential to defend life, liberty, independence, religious freedom, and to preserve human rights and justice not only on their own land but also on other lands.[101] These emerging human right principles were captured in President Franklin Roosevelt's State of the Union Address of 1941 when he spoke of a world founded on four essential freedoms; namely, freedom of speech and expression, freedom to worship God of any form, freedom from want and fear.[102] There was need all over the world for human rights standards to protect citizens from abuses by their governments. It was also a welcome development that Nations could be held accountable for the treatment of those living within their borders. The awareness of human rights increased after World War II especially with the extermination of over six million Jews, Sintis and Roman (gypsies), homosexuals and persons with disabilities by Nazi Germany in concentration or extermination camps and gas chambers.[103] Trials were held in Nuremberg and Tokyo after World War II and officials from defeated countries were punished for committing war crimes, crimes against peace, and crimes against humanity.[104]

The Human Rights Covenants

At the San Francisco Conference, where the drafting of the United Nations Charter was completed and opened for signature and ratification in 1945, a proposal to embody a declaration on the Essential Rights of Man was put forward but was not examined because it required more detailed consideration than was possible at that time. The idea of promulgation of an "international bill of rights" was, however, considered by many as implicit in the Charter.

Although, different views were initially expressed about the form the bill of rights should take, the commission decided, late in 1947, to apply the term "International Bill of Human Rights" to a declaration of human rights which was a convention. That formula led to the adoption and proclamation of the Universal Declaration of Human Rights in 1948

[99] ibid

[100] What is the United Nations? Definitions, history, members of http://study.com/academy/lesson/what-is-un...

[101] Olakanmi& Co. Op cit. note 6

[102] Frankling D. Roosevelt speaks of four freedoms- Jan 06, 1941 www.history.com/this-day-in-history accessed on 11/5/18

[103] The Holocaust-wikipedia. https://en.m.wikipedia.org/wiki/The-holocau...accessed on 10/7/18

[104] The formation of the United Nations, 1945- office of the Historian. Available at https://history.state.gov/milestones

as the first of these projected instruments. Much later, in 1966, two covenants on Human Rights were completed (instead of the one originally envisaged) namely: the International Covenant on Civil and Political Rights (ICCPR) and its optional Protocol and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[105] Together with the Universal Declaration, they are commonly referred to as the International Bill of Human Rights.[106] Each contains measures for international supervision of the rights which it set out and for the settlement of complaints by States that another State is not giving effect to its provisions. In addition, the optional protocol to the International Covenant on Civil and Political Rights provides international machinery for dealing with communications from individuals claiming to be victims of violations of any of the rights set forth in that covenant

The ICCPR focuses on such issues as food, education, health and shelter while ICESCR relates to economic, social, and cultural rights. Both covenants stress on the extension of rights to all persons and prohibit discrimination.Over 167 nations have ratified these covenants. Another 5 have signed but are yet to ratify. The United States, however, has ratified only the ICCPR, but with many reservations, or formal exceptions, to its full compliance.[107]

Apart from the covenants in the International Bill of Human Rights, the United Nations has adopted more than 20 principal treaties further elaborating human rights. These include conventions to prevent and prohibit specific abuses like torture[108] and genocide[109] and to protect vulnerable populations, such as refuges,[110] women,[111] children[112] and persons with disabilities.[113] The United States has only ratified a few conventions.[114] Its reluctance in signing or ratifying international covenants is sometimes attributed to the fact that it needs the consent of the two-third of the Senate[115] which is

[105] ICCPR and icescr summary/US Human Rights Network https://www.ushrnetwork.org/iccpr-ices...accessed on 9/7/18

[106] Fact sheet No 2 (Rev. 1) the International Bill of Human Rights UN OHCHR June 1996: accessed 10-07-18; https://en.m.wikipedia.org

[107] International Covenant on Civil and Political Rights-Wikipedia https://en.m.wikipedia.org/wiki/inter... accessed on 5/7/2018

[108] Convention against Torture and other Cruel, inhuman or Degrading Treatment or punishment. CAT 10 December, 1984.

[109] The Convention on the Prevention and Punishment of the Crime of Genocide 12 January, 1951 accessed on 6/7/2018

[110] Convention Relating to the Status of Refugees, 1951 and Protocol Relating to the Status of Refugees CEDAW 18 December

[111] Convention on the Elimination of All Forms of Discriminations against Women, 1979

[112] Convention on the Rights of the Child (CRC), 20 November, 1989

[113] Convention on the Rights of Persons with disabilities CRPD 13 December 2006

[114] The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 21 December, 1965

The Convention on the Prevention and Punishment of the Crime of Genocide

The Convention on the Political Right of Women

The Slavery Convention of 1926

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment CAT, 10 December, 1984

[115] Lain Murray. Why America Doesn't Ratify Treaties. Op-Eds and Articles https://

sometimes cumbersome. Most of the conservative members feel that it will be giving more strength to such conventions or treaties as against their own national Constitution. In 2008 Obama expressed his embarrassment over the fact that America was one of the three UN countries that were yet to sign the Convention on the Rights of the Child.[116] The other two countries were Somalia and Sudan,[117] which did not have the same political strength with America on the world globe.

In Europe, America, and Africa, regional documents for the protection and promotion of human rights extend to the International Bill of Human Rights.[118]

Non-governmental organizations (NGOs) have also played important roles in drawing global attention to unprecedented human rights issues. For example, the 1995 United Nations Fourth World Conference on Women in Beijing, China, drew attention to serious violations of the human rights of women.

Amnesty International, the Antislavery Society, the International Commission of Jurists, the International Working Group on Indigenous Affairs, Human Rights Watch, Minnesota Advocates for Human Rights, and Survivors International among others, have stood as watchdogs to monitor the actions of governments and put pressure on them to act according to human rights principles.Government officials who understand the human rights framework can also effect far reaching change of freedom.[119] Many United States Presidents such as Abraham Lincoln, Franklin Roosevelt, Lyndon B. Johnson and Jimmy Carter have taken strong stands for human rights. Leaders like Nelson Mandela and Vaclav Havel have brought about great changes under the banner of human rights.[120] In Nigeria, activists like Gani Fawehinmi, Femi Falana among others have also championed the struggle for human rights.

The Universal Declaration of Human Rights

In 1948, the Universal Declaration of Human Right brought human rights into the realm of international law. Since then, the organization has deligently protected human rights through legal instruments and other ground activities and has made the promotion and protection of human rights a key purpose and guiding principle.

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cei.org/content/why-America-doesn...accessed on 5/10/17

[116]Sophie McBain. Why is the US so relunctant to sign Human Rights Treaties? – New Stateman America. Available at https://newstateman.com/2013/10. accessed on 22/08/18

[117] ibid

[118]For example, African states have created the African own Charter on Human and Peoples Rights (1981), and Muslim states have created the Cairo Declaration on Human Rights in Islam (1990) as well as the Arab Charter on Human Rights (ACHR). Popular movements in China, Korea and other Asian nations reveal a similar commitments to these principles

[119]Human Rights Resource Centre. A short History of Human Rights-Human Rights Library. Available at Hrlibrary.umn.edu/hereandnow/part-1 accessed on 10/10/17

[120] Ibid

To advance this goal of the United Nations which pledged to promote respect for the human rights of all, the UN established a Commission on Human Rights and charged it with the task of drafting a document spelling out the meaning of fundamental rights and freedoms proclaimed in the Charter.[121] The Universal Declaration of Human Rights (UDHR) contains a list of human rights inherent in all human beings regardless of race, sex, nationalities, ethnicity, language, religion or other states. Members of the UN pledged in the United Nation Chatter of 1945 to protect and promote these rights.[122] The largest concentration of rights in the UDHR can be categorized as "civil rights," which are rights related to one's physical integrity and protection under the law, as well as economic, cultural and social rights.

The Universal Declaration of Human Rights (UDHR) sometimes referred to as the Magna Carta was adopted by the 56 members of the United Nations on December 10, 1948. Although eight nations chose to abstain from voting, the votes in favour were overwhelming. The UDHR extended the revolution in international law ushered in by the United Nations Charter that, how a government treats its own citizens is now no longer a domestic issue but a matter of legitimate international concern. Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.

The influence of the UDHR has been substantial. Its principles which claim to be interdependent and indivisible have been incorporated into the constitutions of most of the more than 185 nations now in the UN.[123] Although a declaration is not a legally binding document, the Universal Declaration has achieved the status of customary international law because people regard it as a common standard of achievement for all people and all nations. It consists of a preamble and 30 articles, setting forth the human rights and fundamental freedoms to which all men and women everywhere in the world are entitled, without any discrimination.

The Universal Declaration of Human Rights[124] in its preamble states that it was set;

> ***As a common standard of achievement for all peoples and all nations, to the end that, every individual and every organ of society keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive***

[121]Ibid

[122] This was agreed upon by member states in San Franisco through a Charter establishing an international organization to be known as the United Nations. Available at www.un.org/section/un-charter-full-text accessed on 12/10/17

[123]Human Rights Resource Centre n. 32

[124]Adopted and proclaimed by the General Assembly of the United Nations on 10 December 1948,

> ***measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.***

Article 1 lays down the philosophy upon which the Declaration is based, in the following words;

> ***All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.***

Article 2, which sets out the basic principles of equality and non-discrimination as regards the enjoyment of human rights and fundamental freedoms, forbids distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3, being the cornerstone of the Declaration, proclaims the rights to life, liberty and security of persons. These are rights which are essential to the enjoyment of all other rights. It introduces a series of articles from article 4 to 21 in which the human rights of every individual is elaborated further. The civil and political rights recognized in these articles include: the right to life, liberty and security of person freedom from slavery and servitude; freedom from torture or cruel, inhuman or degrading treatment or punishment; the right to recognition everywhere as a person before the law; the right to an effective judicial remedy; freedom from arbitrary arrest, detention or exile; the right to a fair and public hearing by an independent and impartial tribunal; the right to be presumed innocent until proven guilty, freedom from arbitrary interference with privacy, family, home or correspondence; freedom of movement and residence; the right of asylum; the right to a nationality; the right to marry and to found a family; the right to own property; freedom of thought, conscience and religion; freedom of opinion and expression; the right to peaceful assembly and association; and the right of everyone to equal access to public service in his country.

Article 22, the second cornerstone of the Declaration, introduces articles 23 to 27, in which economic, social and cultural rights-the rights to which everyone is entitled 'as a member of society"- are set out.These rights establish the conditions that are necessary for individuals to prosper, live freely and to have an adequate standard of living. The economic and social rights, set forth include:

- The right to social security.[125]
- The right to participate in desirable work and to join trade unions.[126]
- The right to rest and leisure including reasonable working

[125] Article XXII Universal Declaration of Human Rights

[126] Article XXIII ibid

hours and periodic holidays with pay.[127]

- An adequate living standard for one's health and well-being, as well as the right of motherhood and childhood.[128]
- The right to education, which is free during elementary and fundamental stages of development.[129]

The articles characterize these rights as indispensable for human dignity and the free development of personality, and indicate that they are to be realized "through national effort and international co-operation". At the same time it points out the limitations of realizations, the extent of which depends upon the resources of each State and of the international community.

The concluding articles, being articles 28 to 30, recognize that everyone is entitled to a social and international order in which all human rights and fundamental freedoms may be fully realized, and stress the duties and responsibilities which each individual owes to his community. Article 30 warns that no State, group or person may claim the right, under the Declaration, "to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth" in the Declaration. Adopted in 1948, the UDHR has inspired a rich body of legally binding international human rights treaties and has continued to inspire and address injustices at all times including times of conflict or when suffering repressions.The Universal Declaration of Human Rights is a call to freedom and justice for people throughout the world. Everyday governments that violate the rights of their citizens are challenged and called to task. Everyday human beings worldwide mobilize and confront injustice and inhumanity. They wear down the forces of oppression and move the world closer to achieving the principles expressed in the Universal Declaration of Human Rights.[130]

Although the legal foundations of human rights in terms of discrimination are found in the Universal Declaration of Human Rights (UDHR), the ICESCR and ICCPR, these rights, aside from being viewed from the perspectives of men, have been trodden with complexities in terms of defining what 'discrimination' is. However, a concise definition is found in the case of Baker v. California Land Title Company[131] as:

> ***The effect of statute or established practice which confers particular privileges on a class arbitrarily selected from a large number of persons, all of whom stand in the same relations to the privileges, or a class arbitrarily selected from a***

[127] Article XXIV ibid
[128] Article XXX ibid
[129] Article XXVI ibid

[130] David Shiman, Teaching Human Rights, (Denver: Center for Teaching International Relations Publications, U of Denver, 1993): 6-7.
[131] D.C. Cal, 349 F Sapp. 235, cited in Black's Law Dictionary 5th Edition.

> ***large number of persons, all of whom stand in the same relation to the privileges granted and between whom those favoured and those not favored, no reasonable distinction can be found; Unfair treatment or denial of normal privileges to persons because of race, age, nationality or religion a failure to treat all persons equally where no reasonable distinction can be found between those favored and those not favored.***

It represents the recognition that basic rights and fundamental freedoms are inherent to all human beings. It is inalienable and equally applicable to all and that everyone is born free and equal in dignity and rights irrespective of nationality, place of residence, gender, origin, colour, religion, language or other status.[132] Although, there are many angles to the issue of human rights this paper seeks to concentrate on the issue of human dignity.

CONCEPTUAL CLARIFICATIONS HUMANITARIAN AND HUMAN RIGHTS LAW:

Very often, people seem to mix up these two terms. They are mainly obligations which States are bound to obey. International Humanitarian Law and International Human Rights Law are two distinct but complementary bodies of law. They are both concerned with the protection of the health and dignity of individuals. International Human Rights Law (IHL)refers to that body of international law created to promote and protect human rights at the international, regional and domestic levels.[133] While International humanitarian Law applies in armed conflicts, human rights laws apply at all times, in peace and in war.[134]

Under humanitarian law, protection is conditioned by participation in hostilities and nationality requirements. On the other hand, human rights laws assign a set of rights to an individual as a human being, regardless of the situation.[135] It applies to combatants and non-combatants alike and does not depend on distinguishing one from another. Also, it is not dependent on the existence of the state of armed conflict and applies in peace as much as in war.

The most important distinction between humanitarian and human rights law rests in the approach they adopt. Under humanitarian law the protection is granted on the basis of individuals belonging to a certain group with a specific kind of relationship to the State under whose power the individuals find

[132] Ibid.

[133]International Human Rights Law and legal definition Available at ...https://definition.uslegal.com/internatio...

[134]IHL and Human Rights Law-International Committee of the Red Cross (CRC). https:llwww.icrc.org/eng/war-and-law accessed on 7/10/17

[135]Provost, R. (2002) *International human rights and humanitarian law*, Cambridge University Press

themselve.[136] The law relating to Human rights does not condition applicability of individual rights to belonging to particular groups. The emphasis is typically placed on the interests of individuals rather than any collective. This is in marked contrast to the humanitarian law, which focuses on protection of the collective rights of non-combatants in time of conflict.[137]

Protection of civilians in armed conflict and provision of relief for them builds upon the provisions of the Universal Declaration of Human Rights (1948). The General Assembly Resolution on Respect for Human Rights in Armed Conflicts provides that:[138]

> **The basic principles for the protection of persons in armed conflict are fundamental human rights, as accepted in international law and laid down in international instruments, which continue to apply fully in situations of armed conflicts.**

Article 3 of the Geneva Convention IV, provides that persons taking no part in hostilities shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or any other similar criteria and prohibits:[139]

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) Passing of sentences and the carrying out of executions without previous judgment by a regularly constituted court.
e) Additionally, Protocol II also provides protection from dangers arising from military operation.

To open the discussion of human rights law in respect of protection of civilians during armed conflicts, it needs to be said that protection of human right is one of the basic principles of the international humanitarian system by the United Nations.[140]

References to instruments concerning universal human rights are sometimes mixed with references to international humanitarian law norms, which suggest the dominant view of humanitarian law being an extension of human rights law within the UN.[141]

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[136] *Ibid*

[137] *Ibid*

[138] UN (1968) 'Resolution 2444 (XXIII) on Respect for Human Rights in Armed Conflicts', 19 December, available at: http://www.icrc.org/ihl.nsf/INTRO/440? Open Document, accessed on 6 January 2016

[139] Gandi M., Common Article of Geneva Conventions and Human Right Law. 1949 in the Era of International Criminal Tribunals.

[140] Human rights and their protection have been sanctioned in The Universal Declaration of Human Rights adopted by the UN General Assembly on 10 December 1948. Principles stated in the Declaration have been upheld by the international community ever since and led to various sanctions against States that fail to protect, or violate them.

[141] Durham, H. and McCormack, T. (1999) *the changing faces of conflict and the efficacy of*

In essence, it seems clear that human rights law is directed towards the same goal as the humanitarian law which gives room for protection of human beings caught in the whirlwind of armed conflict. However, mutual differences between humanitarian and human rights law suggest that they present distinctive, even though complementary, international legal regimes.

The inalienable fundamental rights of Nigerian citizens are protected by the Constitution of the Federal Republic of Nigeria. Chapter IV of the Constitution lists out the basic Fundamental Human Rights enjoyed by citizens of the country.

To preserve respect for the human beings both humanitarian and human right laws protect human dignity, rights from servitude and slavery, cruelty, torture, inhuman, degrading treatment or punishment.

DIGNITY:

Defining the concept of human dignity has been complex and expresses the idea that a human being has the right to be honoured, valued and respected for their own sake and to be treated ethically and with nobility.[142] Every citizen has a right to dignity as a label for humanity.

In ordinary modern usage, the word dignity denotes "respect" and "status", and it is often used to suggest that someone is not receiving a proper degree of respect, or even that they are failing to treat themselves with proper self-respect.[143]Although there is also a long history of usage of this term, it is rarely defined in political, legal, and scientific discussions. International proclamations have thus far left dignity undefined,[144] and scientific commentators, such as those arguing against genetic research hardly, cite dignity as a reason but are ambiguous about its application.[145]

English-speakers often use the word "dignity" in proscriptive and cautionary ways: for example, in politics it can be used to critique the treatment of oppressed and groups and peoples such as women, children, or disabled but it has also been applied to cultures and sub-cultures,

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international humanitarian law, MartinusNijhoff Publishers. Accessed on 18/4/18

[142] Dignity/ Definition of Dignity by Oxford Dictionaries http:llen.oxforddictionaries.com/dignity accessed on 11/12/17

[143] Dignity –Dictionary Definition: vocabulary.com https://www.vocabulary.com/dictionary accessed on 11/12/17

[144]Those provisions concerning human dignity have not been authoritatively interpreted or applied by any of the competent, independent, international institutions." Bartha Maria Knoppers, *Human Dignity and Genetic Heritage: Study Paper* (Law Reform Commission of Canada, 1991), note, at 23. None of the international proclamations make dignity the rare quality that some commentators say it should be. Myres S. McDougal, Harold D. Lasswell, and Lung-chu Chen, Human Rights and World Public Order: The Basic Policies of an International Law of Human Dignity (New Haven: Yale UP, 1980), note, at 376.

[145]Harees, Lukman (2012-01-16). The Mirage of Dignity on the Highways of Human 'progress': - the Bystanders' Perspective -. AuthorHouse (published 2012). p. 79. ISBN 9781467007733. Accessed on 20/12/2017. Even in recent times, when dignity of the human came into scientific discourses especially in the area of genetic related research, the scientific commentators, such as those arguing against such researches and algeny, cite dignity as a reason but are ambiguous about its application. [Italics in original]

to religious beliefs and ideals, to animals used for food or research, and to plants.

"Dignity" also has descriptive meanings pertaining to the worth of human beings. In general, the term has various functions and meanings depending on how the term is used and on the context.[146]

Human dignity is considered as Buddhahood in Mahayana Buddhism in which is rooted the idea that we are able to choose the path of self-perfection as human beings.[147] After the 1st and 2nd world wars the degrading activities that followed especially the holocaust brought about Universal Declaration of Human Rights, to among other things protect the dignity of human persons:

In 1998, the United Nations mentioned dignity in the United Nations Educational, Scientific and Cultural Organization (UNESCO) Declaration on the Human Genome and Human Rights. Article 2, of the declaration states, **"Everyone has a right to respect for their dignity."** In Article 24, the declaration warns that treating a person to remove a genetic defect "could be contrary to human dignity." The Commentary that accompanies the declaration says that, as a consequence of the possibility of germ-line treatment, **"it is the very dignity of the human race which is at stake."**

Immanuel Kant[148] an 18th Century Philosopher opined that there are things that should not be discussed in terms of value, especially when they relate to the right to have dignity, when he said;

> ***man regarded as a person... is exalted above any price... he is not to be valued merely as a means....he possesses a dignity (absolute inner worth) by which he exacts respect for himself from all other rational beings in the world. He is often considered to be the source of the contemporary idea of human dignity but his conception of human dignity and its relation to human value and the requirement to respect others have not been widely understood.***

'Value' he said, is:

> **Necessarily relative, because the value of something depends on a particular observer's judgment of that thing. Things that are *not* relative – that are *"ends in themselves", and are* by extension beyond all value, and a thing is an *end in itself* only if it has a moral dimension; if it represents a**

[146]Shultziner, Doron (2003). "Human Dignity - Functions and Meanings" (PDF). Global Jurist. 3 (3): 1–21. Accessed 28 February, 2018

[147]Gelernter, David (April 2008). "The Irreducably Religious Character of Human Dignity".In Bernan. Human Dignity and Bioethics: Essays Commissioned by the President's Council on Bioethics. Government Printing Office.p. 388. ISBN 978-0-16-080071-9. Accessed on 29/04/18

[148] Immanuel Kant, 1797/1996 Die Metaphysic der Sitten translated as 'The Metaphysics of Morals' in Immanuel Kant Practical Philosophy, Mary Gregor (trans and ed.) MM,6:434-435) New York: Cambridge University Press. Accessed on 28/4/18

> **choice between right and wrong.**[149]

Specifically with respect to human dignity, which his writings brought from relative obscurity in Western philosophy into a focal point for philosophers, Kant held that:

> **Free will is essential; human dignity is related to human agency, and the ability of humans to choose their own actions.**[150]

Kant's literature carefully examines the different ways of construing the relationship between dignity, value and respect for others.[151]

Philippe-André Rodriguez has also argued that human dignity is best understood as an essentially contested concept.[152] According to him,

> **It seems that it is this very nature of the concept that has allowed, on the one hand, human rights to receive such international acceptance as a theoretical enterprise and, on the other hand, has led the concept to be constantly challenged by different cultures worldwide.**[153]

Human dignity is a central consideration of **Christian philosophy**.[154] The Catechism of the Catholic Church posits that the:

> **Dignity of the human person is rooted in his or her creation in the image of God." The right to the exercise of freedom belongs to everyone because it is inseparable from his or her dignity as a human person...** it is essential to a human being freely to direct himself to this fulfillment...[155]

The Church's view of human dignity is like Kant's insofar as it springs from human agency and free will,[156] with the further understanding that free will in turn springs from human creation in the image of God.[157]

The fundamental human right to dignity of human person is enshrined in **section 34** of the Constitution of the Federal Republic of Nigeria 1999: (as amended) as follows;

> 34. **(1) every individual is entitled to respect for the dignity of his person, and accordingly -**
> **(a) No person shall be subject to torture or to inhuman or degrading treatment;**

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[149] Ibid.

[150] O'Hara, Phillip Anthony (1999). "Human dignity". Encyclopedia of political economy.Routledge.p. 471. ISBN 978-0-415-18717-6.

[151] Ibid.

[152] Rodriguez, Philippe-André (2015). "Human dignity as an essentially contested concept". Cambridge Review of International Affairs. 28 (2): 3.

[153] ibid

[154] *Ibid*

[155] Catechism of the Catholic Church the Dignity of the human person Available at www.vatican.va/ccc-css/archive/catechis... accessed on 13/8/18

[156] White, Mark D. (1 May 2009). "Dignity".In Jan Peil. Handbook of Economics and Ethics.Edward Elgar Publishing.p. 85. ISBN 978-1-84542-936-2. Accessed on 13/8/18

[157] "Catechism of the Catholic Church". Op cit note 69

(b) No person shall he held in slavery or servitude; and
(c) No person shall be required to perform forced of compulsory labour.

(2)For the purposes of subsection (1) (c) of this section, "forced or compulsory labour" does not include:-

(a) Any labour required in consequence of the sentence or order of a court;

(b) Any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;

(c) In the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;

(d) Any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or
(e) Any labour or service that forms part of:-

(i) Normal communal or other civic obligations of the well-being of the community.

(ii) such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or

(iii) Such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.

Every person is therefore entitled to respect of his/her dignity. No person shall be subjected to torture or inhuman treatment, be held in slavery or servitude or be required to perform forced or compulsory labour.Examples of abuse and violation of this right can be found in modern day slavery and torture and brutality by law enforcement officers.

CATEGORIES OF HUMAN DIGNITY VIOLATIONS:

Human dignity can be violated in number of ways. The main categories of violations are:[158]

Humiliation

Humiliation means to cause a loss of self respect, dignity, pride or the painful feeling arising from dishonorablebehavior. Removal of

[158]Paulus Kaufmann, HannesKuch, Christian Neuhäuser, and Elaine Webster (Eds.). Humiliation, Degradation, Dehumanization: Human Dignity Violated. Springer. ISBN 9789048196616.

such dignity is by human doing to reduce another person's self worth[159] Humiliation comes from the Latin word humiliare which means to humble.[160] It describes a strong feeling of embarrassment or mortification, shame, disgrace or humbling that leads to a state of submission or degradation. Violations of human dignity in terms of humiliation refer to acts that humiliate or diminish the self-worth of a person or a group. Acts of humiliation are context dependent but we normally have an intuitive understanding where such a violation occurs. A person's self worth will be diminished if he is for example, insulted in the presence of his peers or beaten publicly by a person to whom he can have no equivalent reply. He would suffer humiliation. As Schachter noted,[161]

> ***It has been generally assumed that a violation of human dignity can be recognized even if the abstract term cannot be defined. According to Oscar, I know it when I see it even if I cannot tell you what it is.***

More generally, the word "humiliation" has a universal characteristic in the sense that in all languages the word involves **"downward spatial orientation in which something or someone is pushed down and forcefully held there".**[162] This approach is common in judicial decisions where judges refer to violations of human dignity as injuries to people's self-worth or their self-esteem.[163]

Instrumentalization or objectification

This refers to treating a person as an instrument or as means to achieve some other goalor objective. This approach builds on Immanuel Kant's moral imperative which stipulates that people should be treated as ends or goals in themselves, namely as having ultimate moral worth which should not be instrumentalized.[164]

Objectification is a notion central to feminist theory.[165] It is a focus on the utility of a person's sexual functions or body parts which are perceived as mere instruments or as if they represented the whole person. This involves seeing and /or treating a person usually a woman as an object. The following features have been identified in the

[159]Marisa Lyon on Prezi.Violation of Human Dignity. Available at https://prezi.com/violations-of-human-... accessed on 28/10/17

[160]Humiliation dictionary definition: vocabulary.com available at https://www.vocabullary.com/dictionary

[161]Shultziner, Doron; Rabinovici, Itai (2012). "Human Dignity, Self-Worth and Humiliation: A Comparative Legal–Psychological Approach". Psychology, Public Policy, and Law. **18** (1): 105. Doi:10.1037/a0024585.

[162]Linder, Evelin (2006). Making enemies: Humiliation and international conflict. Westport, CT: Praeger Security International. p. 5

[163]Shultziner, Doron; Rabinovici, Itai (2012). "Human Dignity, Self-Worth and Humiliation: A Comparative Legal–Psychological Approach". Psychology, Public Policy, and Law. **18** (1): 105. Doi:10.1037/a0024585.

[164] Immanuel Kants Lectures on Ethics. Louis Infield (trans) New York: Harper and Row Publishers 1963 p.163

[165]Papadaki E.L. Feminist perspectives on objectification (Stanford encyclopedia of philosophy). https://plato.stanford.edu/entries/femini...accessed on13/6/18

idea of treating a person as an object.[166]

(a.) Instrumentality: this is the treatment of a person as a tool for the objectifier's purpose; such as sex, cook, house keeper etc.

(b.) Denial of autonomy: the treatment of a person as lacking in autonomy and self determination, such as a person who feels like a prisoner held against his will or a slave.

(c.) Inertness: a person in agency and activity.

(d.) Fungibility: a person capable of being interchanged with other objects;

(e.) Violability: a person lacking in boundary integrity.

(f.) Ownership: treated as something that is owned by another and can therefore be bought or sold.

(g.) Denial of subjectivity: a person whose experiences and feelings (if any) need not be taken into account.

(h.) Reduction of a person's status by making reference to their body: identifying a person with their body or body parts.

(i.) Reduction to appearance: reducing a person to their looks or how they appear to the senses.

(j.) Silencing: compelling a person to be silent or lacking the capacity to speak.

Immanuel kant's view[167]on sexual objectification have been particularly influential for contemporary feminist discussion on this topic. He thinks that sexuality is extremely problematic when exercised outside the context of monogamous marriage and could lead to objectification.He sees an unequal submission in concubine age with the woman being the object of usage. According to Paxton,[168]

> **Sexual love makes of the loved person an object of appetite. As soon as that appetite has been stilled, the person is cast aside as one casts away lemon which has been sucked dry... As soon as a person becomes an object of appetite for another, all motives of moral relationships cease to function, because as an object of appetite for another, a person becomes a thing and can be treated and used as much as everyone.**[169]

He also argued that due to men's consumption of pornography, women as a group are reduced to the status of mere tools for purpose of satisfaction of men's viewing.[170]

The English offence of rape ties objectification closely to instrumentalization, by convertion of subjects into instruments or tools

[166]Kants lectures on Ethics, op cit p.163

[167] Ibid.

[168]Michael Paxton. Nussbaum on Sexual Instrumentalization Criminal Law and Philosophy March 2016, vol.10. issue 1 pp 1-16

[169] ibid

[170] ibid

Even in situations of sexual touching in close relationships, unless there is consent express or implied, it could lead to intrumentalization[171] allowing a person to simply use and dump.

Degradation

Degradation comes from the word degrade and means the act of lowering something or someone to a less respected status. The process of degrading involves declining or reducing to a low, destitute or demoralized state.[172] Removing a person from a place of honour to a lower position is degrading.Violations of human dignity through degradation refer to acts that degrade to reduce the value of human beings. These are acts that, even if done by consent, convey a message that diminishes the importance or value of all human beings. They consist of practices that human beings should not be subjected to, regardless of whether or not subjective humiliation is involved. For example, selling oneself to slavery, or when a State authority deliberately puts prisoners in inhuman living conditions, or when a human being is made to sleep in a pig's sty or poultry house etc. as if he is of equal status with those animals.

Dehumanization

Dehumanization is a central component to intergroup violence. It is an important precursor to moral exclusion in that a person's individuality is debased or reduced to an abstraction.These are acts that strip a person or a group of their human characteristics and are reduced to an animal or subhuman. It may involve describing or treating them as animals or as a mentally sick or a challenged type of human being such as a moron or person with down syndrom. This has occurred in genocides or Holocausts.[173] In Rwandanholocaust, the minorities were compared to insects and therefore, the Hutu majority murdered the Tutsi minority in large numbers. Any act to make a person look or feel less than human being is dehumanizing.A lot of house helps find themselves in situations where they are stigmatized and placed outside moral values, rules and considerations of fairness. They are usually the ones that are identified as witches, prostitutes, thieves and other activities that can bring about their exclusion from other members of the society. Once people are treated as if they are not human beings, they are dehumanized. Any act calculated to demean, disgrace, degrade take down,

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[171] Ibid.

[172] Dehumanization-wikipedia https://en.m.wikipedia.org/wiki/deliumanisa...accessed on 15/6/18

[173] The difference between the two is mainly semantic as they both involve massive murder. Between 1933 and 1945 the Nazi and their collaborators murdered six million European Jews and five million Non-Jews in a holocaust or shoah, meaning destruction calamity in Hebrews in a bid to persecute or exterminate the Jewish race from their midst. The initial intention was to get Jews to leave Germany but as that was posing a lot of difficulty; they turned to violence causing a lot of deaths in gas chambers and concentration camps. A lot of innocent civilians' women and children in a particular were killed in the process. Available at Holocaust/Holocaust and Genocide Studies/College of Liberal Arts,https://cla.umn.edu/chgs/holocaust.l accessed on 14/7/18

put down, reduce in worth or character is dehumanization.[174]

Trafficking in Persons:

Human trafficking is the crime of buying and selling people or making money from the jobs they are forced to do.[175] Trafficking means to be engaged in the antics of trading in something or commerce which is illegal.[176] Every year, thousands of women and girls from poor countries are lured, abducted, or sold into forced prostitution and other forms of servitude, mostly in the West. Trafficking is a complex transnational issue which has its roots in gender inequality and socio-economic factors. Issues related to migration, criminal activity and law enforcement come into play and need to be addressed at different levels.

Various **Conventions and Protocols** have issued recommendations and guidelines to prevent, suppress and punish trafficking in person. For example,in 2002, the United Nation's office of the High Commission for Human Rights (OHCHR) issued the 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' and, in 2003, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was made providing a key supplement to the Convention on Transnational Organised Crime (2000). In ratifying the Protocol, States arecommited to criminalise trafficking, to provide assistance, protection, and reparations to victims. Article 3(a) defines trafficking in persons as;

> ***the recruitment, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion of abduction, of deception, of the abuse of power of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.*** **Exploitation shall include... the prostitution of others or other forms or sexual exploitation, forced labour services, slavery or practices similar to slavery, servitude or the removal of organs.**

Article 9 sets out measures for the prevention of trafficking. In December 2008, the United Nations General Assembly (UNGA) adopted two resolutions aimed at strengthening the international efforts to prevent trafficking and to protect the victims of trafficking, especially women and girls: Resolution 63/156 prohibits 'Trafficking in women and girls' and 63/194 provides for 'Improving the coordination of efforts against trafficking in persons'. UNGA called

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[174] Dehumanize- definition of dehumanize by – the free dictionary https://www.the freedictionary .com/dehumani...

[175] Human Trafficking meaning in the Cambridge English Dictionary Available at https:// dictionary.cambridge.org/human-trafficking.... accessed on 12/1/17

[176] Trafficking dictionary definition, available at www.yourdictionary.com/.../trafficking accessed on 11/12/17

upon governments to, *inter alia*, discourage the demand that fosters the trafficking of women and girls for all forms of exploitation, and to enhance preventive measures, including legislative measures, to deter exploiters of trafficked persons, as well as ensure their accountability. It also called upon governments to take appropriate measures to address the factors that increase vulnerability to being trafficked, including poverty and gender inequality, as well as other factors that encourage the particular problem of trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriage and forced labour. In order to prevent and eliminate such trafficking, it must engage strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing perpetrators, through both criminal and civil measures.[177]

The **Council of Europe** pays particular attention to trafficking in women. On 1 February 2008, the Convention on Action against Trafficking in persons entered into force. It has been particularly praised for its attention to the rights and needs of victims. Under the Convention victims are to be given all due assistance, including access to emergency medical care, education for children and translation and counselling services. Once someone is deemed to be a victim, a 30-day 'recovery and reflection period' is triggered. This is envisioned as a way for victims to escape the power and influence of their traffickers. The Convention is innovative in adopting a generalised approach to trafficking. The principle of non-discrimination applies in aiding victims. Trafficking occurs whether or not it is transnational or national in character, and regardless of whether or not it is affiliated with organised crime. The supposed consent of a trafficked person is also irrelevant. Finally, the Convention establishes a monitoring mechanism to evaluate implementation. Although many States have identified trafficking of human beings as a horrendous form of maltreatment, more concrete steps need to be taken to end the practice and ensure that women and girls are protected, that traffickers are prosecuted and that victims are provided with effective redress.

Nigeria became a signatory to the United Nations Transnational Organized Crime Convention and its Trafficking in Persons Protocol on 13th December, 2000. Article 5 of the Trafficking Protocol enjoins State Parties to criminalize practices and conduct that subject human beings to all forms of exploitation which include sexual and labour exploitation.[178] In Nigeria the **National Agency for the Prohibition of Trafficking in Persons** (NAPTIP) was created on 14th of July 2003 by the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003.[179] However, in 2015, as a result

[177](UNGA Resolution 63/156).

[178]*Ibid*

[179] TIPLEA was amended in 2005 by Traficking in Persoons (prohibition) Law Enforcement and

of the new trends in the crime of trafficking in persons and the need to further strengthen the institutional framework, the Act was repealed and the Trafficking in Persons (Prohibition), Law Enforcement and Administration Act, 2015 was enacted. The new Act received Presidential assent on 26th March 2015.[180]

The Agency is the Federal Government of Nigeria's response to addressing the scourge of trafficking in persons. It is a fulfillment of the country's international obligation under the Trafficking in Persons Protocol to prevent, suppress and punish trafficking in persons, especially women and children.It supplements the United Nations Transnational Organized Crime Convention (UNTOC).[181]

Traditional Practices

Many societies adhere to traditional and cultural practices that violate women's rights, perpetuate gender discrimination and the subordination of women. These practices include female genital mutilation (FGM); early marriage; various taboos or practices which prevent women from controlling their own right of reproduction fertility; forced inheritance of women as wives;[182] traditional birth practices; son preference and female infanticide; early pregnancy; dowry price; and honour killings disinheritance of female children among others. These practices persist 'because they are not questioned and take on an aura of morality in the eyes of those practicing them.[183]

A particularly dreadful traditional practice of female genital mutilation (FGM) is medically harmful and involves cutting off or otherwise damaging the female genital. It is mostly carried out on young girls, generally between infancy and 15 years of age. The procedure has its roots in custom of some African countries, as well as some Middle-Eastern states and many Diasporas from these regions which practice FGM. There are four main methods of FGM namely;

1) Type I: taking away/cutting of the clitoral hood, the skin around the clitoris with or without fractional or complete taking away of the clitoris;
2) Type II: taking away/cutting of the clitoris with partial or complete removal of the labia minora;
3) Type III: taking away/cutting of all or part of the labia minora and labia majoraand suturing a seal across the vagina, for the passage of urine and menstrual blood.

Administration Amendment Ast 2005 to expand its scope from investigation to prosecution of human traffickers, seizure of properties and forfeiture.

[180] http://www.law nigeria.com/lawsofthe federation/traficking-in-persons-(prohibition)-law-enforcement-and-andadministration-act.html accessed on 16/9/18

[181] *Ibid*

[182] J.A.A. Agbonika. Human Rights Implications of Violence against Guns in Nigeria.St. Pauls Publishing House, Soka, Ibadan, Oyo State.P41-43

[183] (OHCHR, Fact Sheet No. 23, Harmful Traditional Practices Affecting the Health of Women and Children).

4) Type IV: this includes pricking, piercing or scrapping in the vagina or the introduction of corrosive substance into the vagina with the aim of tightening or narrowing the vagina.[184]

Although there is no medical justification for FGM, the Circumcision Descendants Association of Nigeria, advocatethat as a precondition for ending FGM, an alternative means of livelihood is provided for their members since they survive on such mutilation.[185]

Some of the traditional flimsy reasons for such excision include the need to reduce a female's supposed sexual urge in adulthood. Unfortunately, they do not see the need to reduce the sexual urge of men as they sometimes indulge in polygamy.

World Health Organisation **(WHO)** estimates that 100 to 140 million women and girls have suffered some form of mutilation and another three million run the risk of being subjected to it annually - in Africa alone.[186] There is extensive documentation of the health hazards caused by FGM, including severe pain, anaemia, shock, hemorrhage, infections, urine retention, stones in the bladder or urethra, scarring, cysts, development of fistulae or holes between the vagina and the bladder, urinary or anal incontinence, infertility, difficulty in childbirth, and even death.[187] Sexual and psychological difficulties are also common consequences of the procedure. Countless women and girls have been maimed or even died as a result of the practice and several countries in Africa, as well as in the West, have criminalised the practice, FMG is firmly rooted in tradition in many societies and efforts to curtail it have had limited effects.

Reasons for the persistence of FGM are complex. In many communities, it is seen as a rite of passage from girlhood to adulthood, it is a means to reduce women's sexual desire and increase male sexual pleasure, it is supposed to guard virginity until marriage and maintain fidelity on the part of the woman during marriage. In some communities women that have not undergone the procedure are not eligible for marriage.[188] Although, certain regions, associate FGM with Islam, it is also practised by Jews, Christians, and other religious groups. Whatever the traditional justifications that may have been put forth, FGM seems to support the long-established subordination of women and the taboo of their sexuality. In recent years, increased awareness of FGM as a violation of women's right to physical integrity has led several

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[184] Epiphany Azinge and LilianUche, Law of Domestic Violence in Nigeria, edsAzinge and Uche, Nigerian Institute of Advanced Legal Studies, Lagos, 2012, p. 297.

[185] At their meeting held at Ibadan on 23rd May, 2016.

Princeton Publishing Co. 9 Ezekiel Street, Off Toyin Street Ikeja, Lagos. Pp66-67

[186] Sarah Baseley. What is Female Genital Mutilation and where does it happen? Available at https://www.theguardian.com/...accessed on 15/7/18

[187] *Ibid*

[188] Suzanne Mubrarak. The Afro-Arab Expert Consultation on Legal Tools for the Prevention of Female Genital Mutilation. www.npwj.org/FGM/Afro-Arab-Exp... accessed on 15/7/18

international bodies to take up the issue. In 1998, the UN Commission on Human Rights established the post of Special Rapporteur on Traditional Practices affecting the Health of Women and the Girl Child. In addition, the Special Rapporteur on Violence against Women, its Causes and Consequences has discussed FGM in reports to the Human Rights Council.

A special international initiative to eradicate FGM took place in 2003, when more than a hundred experts representing governments of 28 African and Arab countries, national and international non-governmental organizations gathered in Cairo for Expert Consultation on Legal Tools to Prevent Female Genital Mutilation. The meeting concluded with the Cairo Declaration for the Elimination of FGM, affirming, *inter alia*, that 'the prevention and the abandonment of FGM can be achieved only through a comprehensive approach promoting behavioural change, and using legislative measures as a pivotal tool.[189] The Declaration was reaffirmed by the Cairo Declaration + Five in 2008 with participants to this high level meeting drawn from twenty countries committing themselves to a redoubling of efforts.[190] In communities where this is practiced a woman who is not circumcised is considered promiscuous and stands a little chance of getting married. She is considered a social outcast and is ostracized from her community as someone who is yet to experience passage into adulthood and womanhood.[191] Although, most adherents to the Christian and Muslim Faith claim to use God's command to Abraham that everyone be circumcised, it is pertinent to note that the order is in respect of male descendant of Abraham.[192] Neither the Bible nor the Quran recommends circumcision for females. Any attempts to remove the God given part for enjoyment of sex are an attempt to restructure the female organ and a challenge to God's authority to create a woman the way he did. The later teachings of the church as found in the teaching of Christ in the New Testament of the Bible clearly clarify that the circumcision referred to is one that relates to the heart and not of physical cutting[193]

Since Africa is the continent most affected by FGM, the African Union has adopted the Optional Protocol to the African Charter on Human and Peoples' Rights to deal with the rights of women in Africa. The Protocol provides in Article 5 that State parties to the Charter must undertake to provide 'prohibition, through legislative measures backed by

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[189] Cairo Declaration on FGM+5 High Level Meeting 14-15 December 2008 organised under the Patronage of H.E. Suzanne Mubarak the First lady of Egypt, H.E. Mrs Chantal Compaore The First Lady of Burkina Faso and delegates representing 20 affected countries of the Region such as Mali, Senegal, Sierra Leone and Togo among others.www.npwj.org/FGM/cairo-Declaratio... accessed on 14/12/17

[190] ibid

[191] Yinka Olomojobi. Human Rights on Gender, Sex, and the Law in Nigeria. Princeton Publishing Company, Ikeja Lagos, 2013 pp 66-71

[192] Genesis 17:9-14 of the Bible
Quran 32:6-7 says that the Almighty Dispenser of Grace makes excellent everything he creates.

[193] Romans 2: 25-29

sanctions, all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them'.To eliminate female genital mutilation, education, outreach and quality reproductive health care for women is imperative and women's rights to physical integrity, equality and health, need to be respected and promoted.[194] Unfortunately cultures seem to have a great influence on the promotion of this unwarranted practice.

Violence against Women

Every day, millions of women around the world face abuses that result in violation of their right to life, safety, dignity physical and psychological wellbeing. Physical and mental violence is perpetrated against women both in the home and outside and may even be inflicted by the public authorities or by coercive institutions. The least visible form of abuse, domestic violence, remains the most widespread and results in the deaths of thousands of women every year.[195]Physical violence includes assault,battery, pushing, stoning, cutting, burning, bitting, hitting with objects, punching, choking, kicking, shaving, pulling of hair, pouring of acid or other chemicals which could lead to death, emotional and physical depression.[196]Those belonging to minority groups, indigenous women, refugees, migrants, women living in rural or remote communities, destitute, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict are especially vulnerable.

In the Preamble to the Declaration on the Elimination of Violence against Women (1993), the General Assembly declare thatViolence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and that, violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.[197]

The definition of discrimination includes gender based violence. That is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender based violence may breach specific provisions of Convention on the Elimination of All forms of Discrimination Against Women [CEDAW], regardless of whether or not those provisions expressly mention violence.[198]

General launched an in-depth study on violence against women[199]

[194]J.A.A. Agbonika., Human Rights Implications of Violence against Girls in Nigeria. St Pauls Publishing House, Soka, Ibadan, Oyo State. Pp23-43

[195] ibid

[196]Yinka Olomojobi supra note 104

[197]UNGA Resolution 48/104.

[198] Convention on the Elimination of all forms of Discrimination.www.un.org/daw/cedaw

[199](A/61/122/Add.1)

followed in December 2006 by the UNGA adopting a resolution calling for an intensification of efforts to eliminate all forms of violence against women. In February 2008, UN Secretary-General Ban Ki-moon launched his campaign titled 'Unite to End Violence against Women', a multi-year effort aimed at preventing and eliminating violence against women and girls in all parts of the world.[200]

In its Resolution 63/155, on 'Intensification of efforts to eliminate all forms of violence against women, the UNGA, inter alia, called upon member States to end impunity for violence against women and girls by investigating, prosecuting with due process and punishing all perpetrators, by ensuring that women have equal protection of the law and equal access to justice and by holding up to public scrutiny and eliminating those attitudes that foster, justify or tolerate all forms of violence against women and girls.[201]

The Resolution sets out a number of measures in the fields of legislation, prevention, law enforcement, victim assistance and rehabilitation. Furthermore, in March 2009 the UN Secretary- General launched the coordinated Database on Violence against Women, containing materials on the extent, nature and consequences of all forms of violence against women.[202] According to a 2013 global renewal of available data, 35% of women worldwide have experienced either physical and or sexual intimate partner violence or non-partnersexual violence. The Global data base provides easy access to comprehensive and up-to-date information on measures undertaken by United Nations Members States to address all forms of violence against women.[203]

The mandate of the Special Rapporteur on Violence against Women established in 1994. was extended by the Human Rights Council, to seek and receive information on violence against women, its causes and its consequences from relevant actors such as international organisations, States and women's organisations, and to respond effectively to such information, recommending measures ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences.[204] The intermittent debates about enacting a law against Domestic Violence in Nigeria have been on since the year 2000, bringing about the Domestic Violence and Other Related Matters Bill, 2006. In 2007, Lagos State also passed into Law the Bill to provide Protection against Domestic Violence and other

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[200] Orange Day Unite to end violence against Women Campaign k UN.org. Available at; www.un.org/women/endviolence Accessed on 7/7/2018

[201] The End of Impunity for Violence against women? The Istanbul Convention in Europe.LSE. 2013. Available at www.lse.ac.uk/human Rights/documents accessed on 17/7/18

[202] ibid

[203] global Database on violence Against women-UN Women Un.org/vawdatabase/home.action); evaw-global-database.unwomen.org/... accessed on 19/7/18

[204] (E/CN.4/RES/ 1994/45)

connected purposes. Other States like Ekiti, Ebonyi, Jigawa and Cross River States have also enacted similar legislation.

This was a welcome innovation since it allows the Police to arrest and investigate allegation of Domestic Violence. The Violence against Persons Prohibition Act 2015 has to a large extent streamlined issues of violence against Domestic Violence. This Act only applies to the Federal Capital Territory.

Widowhood Practices

Education has provided many women with access to wage labor, but they are often still restrained by social expectations and boundaries. When they have employment opportunities, tradition in Nigerian society dictates that career is secondary to a woman's primary role in the family as a mother or housewife.[205] Such women are made to depend solely on their husband for all their finances. Nigerian women face particular problems and injustices once they become widows. The women are subject to cultural pressures that are inconsistent with human rights. In some cultures, widowhood practices demand that when a man of significance within the community dies, his widow must act in a certain way either to show her pain over the death, or purge herself of any guilt relating to his death. In some cultures; the woman is initially required to go into seclusion, forced to neglect her body in that, she is not allowed to shave, shower, or change her clothing. She may also be made to rub cow dung and palm oil on her body or be required to sleep on the floor. Widows are also expected to wear black, the color of mourning, for a period ranging from 6 months to two years to properly show their loss and respect for their late husband.[206] These practices widely vary in severity and methods, based on the individual is cultural backdrop. Sometimes she is turned into an accused person over the death of her spouse and is required to drink the water that has been used to wash his corpse to prove her innocence, contrary to the mode of proof provided by our Criminal Jurisprudence in criminal cases.[207] Ordinarily, a person is presumed to be innocent until proven guilty, but under such traditions, she is adjudged guilty until she purges herself of guilt by doing something which could be injurious to her own life.

Apart from mourning, the widow has immediate concerns involving living situations and property to deal with. In most cases, the sons and not the widow inherit the entire property.[208] Women are culturally viewed as property and can be inherited like the rest of a husband's estate. Whether or not the widow can continue to reside on the property of her deceased husband is dependent on her relationship with his family or her

[205] Okeke, Phil (2000). "Reconfiguring Tradition: Women's Rights and Social Status in Contemporary Nigeria". Africa Today.

[206] Ako Nai Ronke, Gender and Power Relations in Nigeria", Lexington Books 2012

[207] KharisuS. Chunkkol: The Law of Crimes in Nigeria. Ahmadu Bello University Press, Zaria, Kaduna State. 2010 Revised Edition pp1-69

[208] *Ibid*

sons who inherit the property and if there are no sons, the eldest male relative of her deceased husband.[209] There have also been instances where the woman must return to her premarital home after refunding the bride price.[210] The lack of sufficient property right make these women to remain dependent on men while single, married, or widowed.

Because of the patrilineal nature of Nigerian cultures, it is often seen as justifiable for a man who has only female children from his wife, to have another wife or concubine to give him other children with the hope that they will be male, to ensure that there will be a male heir to carry on the lineage of the family. In custody decisions, women's opinions are often ignored, and decisions concerning children are usually made in men's favor.[211]

Some other widowhood practices that violate human dignity include torture, rape, social exclusion, labor exploitation, bonded labor, and slavery. However, there has been a major decline of such practices in recent years.

Poverty

Both absolute and relative poverty are violations of human dignity, which could have significant dimensions, such as political and social injustice. Involuntary poverty is unusual among violations of human dignity because it is usually the result of acts of omission rather than acts of commission. Absolute poverty is associated with overt exploitations connected to humiliation (for example, being left penniless or forced to eat food from other people's garbage). Being dependent upon others to stay alive is a violation of dignity even in the absence of more direct violations. Relative poverty, on the other hand, is a violation because of the cumulative experience of not being able to afford clothes, entertainment, social events, education, or other features which are typical to life in that society and could result to subtle humiliation; social rejection; marginalization; and consequently, a diminished self-respect. Women are usually paid paltry sums for jobs either for reasons of glass ceiling[212] imposed by the society or because their reproductive and family responsibility impose heavy burdens on them that reduce their rate of progression in comparism to men of the same qualification.[213] Most families show preferences towards education of the male than their female children. The long term effect is to reduce the economic progression of the female children.Sometimes a man could insist that hiswife cannot go to work even if she is imminently qualified to do so. The aim is to make her totally dependent on him economically. This is obviously a violation of her fundamental human rights.

[209]ibid
[210] Ibid.
[211]*Ibid.*

[212]This is an acknowledge barrier to advancement in a profession, especially affecting women and members of minorities. Glass Ceiling Definition and Meaning/ Collings English Dictionary. https://www.collingsdictionary.com/...
[213]Ndunam N. (2004) Gender Based Violence within African Region. An Overview of United Nation Wilaf News.

Lack of Sanitation

Another example of violation of human dignity, especially for women in developing countries, is lack of sanitation. Having no access to toilets leaves about 2.4 billion people of the world as at 2015 with no choice other than to defecate in open places, and this has been declared by the United Nations as an affront to personal dignity.[214]It also undermines other human rights including health and gender equality.[215]Human dignity is also violated by the practice of employing people in places like India for **"manual scavenging"**of human excreta from unsanitary toilets – usually by people of a lower caste, and more often by women than men.[216]The Bhangi and Dahit are derogatory terms used to identify broken people or people of broken identity who traditionally occupy the lowest place in the Indian caste system. These people are usually responsible for evacuation of dry toilets daily since they have no septic tank or sewage system. According to Manisha fromMainpuri District, in India, she cleans toilets in about 20 houses every day, by using tin plate and broom to remove the excrement and sewage which she then collects in her basket to take to where she would throw it away.[217]She says it is so awful that when she finishes her work, she is unable to eat.[218] One can only imagine how many days she could stay without eating if this is her main and usual work.

Prostitution:

Sex work always goes hand in hand with degrading, inhuman treatment. Sex workers are vulnerable to Sexually Transmitted Diseases (STD) and are also subjected to inhumane activities. Prostitutes exchange their body for money and drugs or other related items.

There are various theories and divergent views on Sexual activities and prostitution, some of these views shall be delved into in a summary form as enumerated by the following schools of thought.[219]

1. **Functionists feminism:** They define prostitution as a natural and normal phenomenon in the society and thus support and complement marriage as men are deemed to have a natural craving for variety and sexual gratification. This school of thought holds that it cures sexual frustration of married men and it is caused by poverty and makes women to use what they have to get what they want. The argument is that they could do other menial jobs to meet their daily needs rather than sell their body.
2. **Liberal feminism:** They define prostitution as a contract or agreement between the prostitute

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[214] Sanitation as a Global Right/ Human Right watch https://www.hrw.org/news/2017/04/19 Accessed on 19/03/18

[215] Amanda Klasing a senior Woman's Rights researcher at Human Rights Watch quoted ibid.

[216] India: caste forced to clean Human Waste/ Human Right Watch. Httos://www.hrw.org /news/2014/08/25 Accessed on 05/08/18

[217] Ibid.

[218]Ibid.

[219]Yinka Olomojobi; Human Rights on gender, Sex and the Law in Nigeria page 7 – 97.

and her client and thus the society should not restrict sexual freedom if both parties consent to it. This is the basis for legalization of prostitution in some European countries like Holland and Italy. This concept seeks further to define sex workers as independent and liberated persons but the argument is whether or not women are born to sell their bodies as sex subjects or objects.

3. **Radical feminism:** This theory frowns at prostitution and holds the view that it creates an unequal balance between men and women. Prostitution has also made women to become slaves and victims of exploitation. The theory goes side by side with the moralist school of thought to the extent that that it abhors prostitution in its totality.

4. **Marxists feminists:** See prostitution as a means to an end. Prostitution could be connected to poor standard of living and that women must do that which is expedient to survive. This creates class distinction and oppressive discrimination to the extent that the woman whose body is defiled by way of prostitution is seen as a nonentity.

5. **Socialist feminist:** As an off shoot of the Marxists theory holds that prostitution is an unavoidable aspect of human interaction in the society. As a result of class structure, there exist class distinction and class contradiction. The class distinction as enunciated by the theorists propounds that the woman that prostitutes is inferior to a man by any standard.

6. **Moralist school:** They view the issue of prostitution from the moral standard. The UN has established several institutions and laws in order to legalize prostitution of adults as an individual choice. These institutions seek to also guarantee prostitution as a human right and civil liberty issue. The question is whether or not prostitution is a personal choice or work.In March 1990, the UN Human Rights Commission appointed the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography,[220] whose mandate was renewed by the Human Rights Council. In her 2008 report the Special Rapporteur called for the implementation of a comprehensive child protection system, founded on national, regional and global coordination. The Optional Protocol to the Convention on the Rights of the Child entered into force on 18 January, 2002. This Protocol supplements the CRC with detailed requirements for criminalizing violations of children's rights in relation to the

[220] The United Nations Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography OHCHR https://www.ohchr.org/issues/children accessed on 24/3/18

sale of children, child prostitution and child pornography. The European Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse was opened for signature in October 2007. The Convention is the first of its kind aimed at criminalising the diverse situations in which child sexual abuse occurs. It also works towards concrete preventive measures (e.g., the screening of child care workers) and provides the means by which victims should be supported. Two Optional Protocols to the CRC were adopted by the UNGA in 2000. The first Optional Protocol on Children in Armed Conflict aims at, inter alia, raising the minimum age of individuals taking part in armed conflict to 18 and includes a unique provision regulating the acts of non-State actors, stipulating that non-State forces should not recruit persons under 18. The second Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography stipulates, inter alia, that states have to ensure that certain acts against children are criminalized, and that States are obliged to prosecute or extradite offenders under their jurisdiction.The overall aim is the furtherance of prevention and care for medical, psychological, social and legal support for child victims.[221] Furthermore, three world congresses have been held to combat sexual exploitation of children. The first, the Stockholm World Congress against Commercial Sexual Exploitation of Children was held in 1996.[222]

The second World Congress, held in **Yokohama in 2001,** adopted the 'The Yokohama Global Commitment',[223] where parties pledged, *inter alia*, to reinforce efforts against commercial sexual exploitation of children by addressing root causes that put children at risk of exploitation, such as poverty, inequality, discrimination, persecution, violence, armed conflicts, HIV/AIDS, dysfunctional families, the demand factor, criminality, and violations of the rights of the child, through improved access to education and other social measures. The Congress also set out action to criminalise the sexual exploitation of children.

The Third World Congress against Commercial Sexual Exploitation of Children, held in **Rio de Janeiro** in 2008, adopted the 'Rio de Janeiro Pact to Prevent and Stop Sexual Exploitation of Children and Adolescents'[224] where states pledge to undertake as a matter of priority the necessary measures to prevent and stop the sexual exploitation of children and adolescents and raise

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221 Human Rights Documents-OHCHR A/HRC/9/21 Available at ap.ohchr.org/documents/alldocs accessed on 2/9/18

222 World Congress against Commercial Sexual Explanation of Children https://digitallibrary.un.org/record accessed on 8/8/18

223 The Yokohama Global Commitment 2001-Unicef; https://www.unicef.org/events/outcome accessed on 8/8/18

224 The Rio de Janeiro Act to Prevent and stop Sexual Exploitation available at https://polis.osce.org/node accessed on 10/8/18

issues of concern, inter alia, in relation to trafficking, impunity for perpetrators and HIV/ AIDS. The Nigerian legal system vehemently abhors prostitution. And there are penal sanctions for the act of prostitution and other activities connected thereto in the Nigerian penal and criminal code.

Abuse of Children

When dealing with rights of children, certain issues such as the following are of major concern:

a. Right to Basic Needs

Every child has the right to grow to adulthood in health, peace and dignity. Young children are vulnerable and dependent on adults for their basic needs, such as food, clothing, health care, and education. In many countries they are forced to fend for themselves, often at the cost of their full development and education.[225] The United Nations Children's International Emergency Fund (UNICEF) has expressed its worry as follows:[226]

> **9.2 million children under the age of five die every year, mostly of preventable causes for which there are known and cost effective interventions, such as pneumonia diarrhea, malaria measles, neonatal conditions and infections; 101 million children, a majority of whom are girls, are not in primary school; and 148 million children in developing countries under the age of five are underweight due to malnutrition; approximately 884 million people lack access to safe water and only 62 per cent of the world's population have access to adequate sanitation. It is estimated that 4500 children die each day as a consequence of unsafe water and sanitation facilities. As for Child labour, 158 million children between the ages of five and fourteen years are forced to work yearly.**

b. Minimum Age for Employment of Soldiers

Evidence indicates that the recruitment and use of children has become common for many armed groups for waging war. Some of these boys and girls, who may be as young as 8 years old serve in government forces and armed opposition groups and may be forced to participate in suicide bombings, act as spies' messengers or look outs.[227] There are numerous and often interrelated factors that drive the recruitment and use of child soldiers. Children are either recruited by force or may 'voluntarily' join armed groups to safeguard themselves and their

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[225] Anthony Lake. Is the world a better place for Children?- Unicef https://www.unicef.org/crc/files/62_ accessed on 12/8/18

[226] Lisa Sch/ein, Unicef: Fewer Children Under Age 5 Dying from Preventable Disesases, https://www.Voanews.com/...; accessed on 10/9/18
World Health Organization (WHO) Child Mortality; www.who.int/fs-mdg4 childmortality accessed on 10/9/18

[227] Ibid.

families. Many are compelled by poverty and lack of livelihood opportunities, domestic violence or lack of parental care altogether. Some children have seen family members killed in conflict and may be motivated by a desire for revenge. For some the lack of legitimate avenues for political dissent and participation or ideologies of nationalism or ethnic identity become powerful motivating factors. In situations of protracted conflict that may have lasted for several decades and reduced the adult male population, the recruitment of children becomes imminent for urgent 'demand' for fighters.[228]

It is estimated that children are being recruited to the armed forces in approximately 18 countries worldwide in tens of thousands.[229] Many are recruited by force and threatened with death; others join out of desperation when conflicts break out leaving them without education, family or any coherent social structure. Child soldiers are commonly abused sexually or otherwise and when hostilities end many are left mentally and physically scarred, often stigmatized and unable to rejoin society. The emotional and physical strains the child soldiers suffer leave them particularly vulnerable after the conflicts end. Many are left physically disabled and suffer post-traumatic stress syndrome in the form of anxiety, bedwetting, nightmares as well as hyperactive and aggressive behaviour, to mention a few.The dehumanizing reality of child soldiers is seen as a taboo in some societies, therefore, this prevents the victims from seeking help to be able to rejoin society and reunite with their families. These strains lead to problems in relation to successful disarmament, demobilization and reintegration of child soldiers.

In 1996, the UN appointed a Special Representative to the UN Secretary-General for Children in Armed Conflict to promote and protect the rights of all children affected by armed conflict.[230] Furthermore, representatives from 58 countries committed themselves to putting an end to the unlawful recruitment and use of children in armed conflicts, as well as ensuring that conscription and enlistment procedures for recruitment into armed forces comply with applicable international law at an international conference convened in Paris in 2007.[231]

The **African Charter on the Rights and Welfare of the Child** (1990) was the first regional treaty to establish 18 years as the minimum age for all recruitment and participation in hostilities. Other instruments prohibiting child recruitment include;

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[228](Report by the Special Representative to the UN Secretary-General for Children and Armed Conflict, A/63/227).

[229] Human rights watch. Coercion and intimidation of child soldiers to participates in violence https://www.hrw.org/news/2008/04/16 accessed on 2/9/18

[230]Graca Machel Report the Impact of Armed Conflict on Children-1996; Office of the Special Representative of the Secretary General of United Nations. https://childrenand armedconflict.un.org accessed on 5/8/18

[231] Paris Principles and Paris Commitments, 2007/ Child Protection from Violence, exploitation and Abuse-UNICEF https://www.unicef.org

1. The **Rome Statute of the International Criminal Court** is another important development in the campaign against the use of children in armed conflict. It defines as war crimes: 'conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities' in an international armed conflict or using them to participate actively in hostilities' in a non-international armed conflict. The first trial to take place at the ICC, The Lubanga Case[232] involving the former president of the congo, was founded on, *inter alia*, two charges of enlisting child soldiers. He was found guilt on 14 March 2017 of the war crime of capturing children under the age of 15 years and using them to participate actively in hostilities.

2. The **UN Security Council** has also addressed the issue of child soldiers (and the situation of children in armed conflict more generally) in several resolutions. For example, In Resolution 1539, the Council strongly condemned: the use of children as soldiers.

3. **ILO 138** stipulates that the minimum age for admission to employment or work shall not be less than 15 years and that developing countries may initially specify a minimum age of 14 years. For employment under specified circumstances (e.g., in the case of health hazards), the minimum age is 18 years in ILO 138.[233] Mention should also be made of **ILO** 182 adopted in June, 1999 concerning the prohibition and immediate action for the elimination of the worst forms of child labour[234]

4. According to the U.S. Department of Labor (DOL), 31% of Nigerian children (around 14,000,000 children) aged 5 to 14 years old are working children who engage in forced labor in various sectors.[235] According to the Department's List of Goods Produced by Child Labor or Forced Labor,[236] it observed that, in the agricultural sector children participate in the production of cotton, sugar cane, coffee, cocoa, cassava, and rice and in the mining industry, they mine, quarry, and crush gravel and granite, gold, diamonds, etc. They have also been found in the garment making industry.[237]

Nigeria is characterized by many small farms that largely depend on family labor in the operations of the

[232]The Prosecutor v. Thomas Lubanga Dyilo ICC-01/04-01/06

[233]The CRC generally sets out the minimum age of 18 years (Article 1) so does ILO 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999), which defines persons younger than 18 as children.

[234]Ibid.

[235]Gankam Tambo.Ina.Child Domestic Work in Nigeria: Condition of Socialization, https://books.google.com.ng/books

[236] DOL List of Goods produced by Child Labour or Forced Labour, https://www.dol.gov/ilab/reports/list...accessed on 9/9/18

[237] ibid

farm. Most child labor situations are found in the informal agricultural sector. Instead of attending school, more than 50% of children living in the rural areas of Nigeria spend more than 20 hours a week working, and this is considered the point at which a child's education becomes significantly affected.[238] The International Labour Organization ILO like **DOL** has estimated that 250 million children between the ages of five and fourteen work in developing countries, often supplying an essential income for the survival of their family.

5. The Convention on the Right of the Child **CRC** addresses, *inter alia*, child labour which is harmful to a child's development. Aware that the abolition of child labour is a long term, structural issue, organisations such as the ILO and several international NGOs have initiated programmes aimed at the abolition of child labour while simultaneously improving the lives of those children that are forced to work.

c. Child Marriage

Early marriage is prevalent in Nigeria, especially in the north, where about 48% of girls are married by the age of 15 years,[239] due to the belief that early marriage prevents promiscuity. The major cause of early marriage has been attributed to poverty by Braimah.[240]Many girls are married off by the time they are 15, and some girls are married as early as age 9. Every year, 15 million girls are married as children, denied their rights to health, education and opportunities and robbed of their childhood.[241] Girls are extremely susceptible to disease and domestic violence and have restricted access to education due to the early age that they are exposed to giving birth and beginning to care for their own children.[242]

In 2003, the Child Rights Act was ratified to among other factors; protect children from abuses and discrimination. Section 21 and 23 of the Act maker it illegal to marry a child below the age of 18. If a person consummates a marriage with a child, it is considered rape.[243]

The Child Rights Act operates alongside with Sharia Law in some States as well as with customs and cultural expectations in different

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[238]Adeoti, Adetola; Coster, A.S.; Gbolagun, A.O. (2013)."Child Farm Labor in Rural Households of Southwest Nigeria". Global Journal of Human Social Science.

[239]MolobeIkennaDaniel.n Early Marriage of Young and Adolescent Girls: Causes and Impact on Children and Society. Co-founder/Trustee, Unified Initiative for a drug-free Nigeria (uifdfn), Lagos Nigeria. https://wyf.org.my/uploads/2016/06 accessed on 11/9/18

[240]Braimah, Tim (2014). "Child marriage in Northern Nigeria: Section 61 of Part I of the 1999 Constitution and the protection of children against child marriage". African Human Rights Law. 14 (2).accessed on 1/3/ 2018.

[241] WHO.http:llwww.who.int/mediacentre/news/release/2013/child_marriage_20130307/en/ accessed on 4/5/18

[242]Nnadi, Ine (25 August 2014). "Early Marriage: A Gender–Based Violence and a Violation of Women's Human Rights in Nigeria". Journal of Politics and Law. 7 (3).

[243]Toyo, Nyoko. "Revisiting Equality as a Right: The Minimum Age of Marriage Clause in the Nigerian Child Rights Act, 2003". Third World Quarterly, Vol. 27, No. 7, The Politics of Rights: Dilemmas for Feminist Praxis (2006), pp. 1299-1312

regions. The Child Rights Act has not been enacted in 13 of Nigeria's 36 states where other cultural factors are largely influencing the laws that are enacted.[244] Even in States with laws prohibiting child marriage, these laws have been ineffective since there remain many cases of child marriage.[245]

The 1993 Vienna World Conference on Human Rights placed great emphasis on the rights of children in its Vienna Declaration and Programme of Action. The Conference called for universal ratification of the CRC. It recognised the need to strengthen mechanisms for the protection of children and agreed that children's rights should be at the forefront within the UN system of actions for the protection and promotion of human rights.

d. Street Children

The plight of street children is an issue of major concern within the realm of children's rights. Female children are sent out hawking; they go into forced or early marriages; are used for forced labour etc. The International Convention on Economic, Social and Cultural Rights Committee (ICESCRC) has raised this issue a number of times in its observations.[246] The EU and its members have regularly taken positions on the situation of street children and called on governments concerned to take adequate measures, as well as taking positive steps to try to alleviate their plight, through the financing of different programmes. The American Court has elaborated on the issue, in the 'Street Children's case' of ***Villagrán Morales v. Guatemala,***[247] which refers to the murder by agents of the State, of five children who lived on the streets in a risky situation. The Court held that in relation to the street children, the right to life includes, not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence.

It is therefore imperative for every country to ensure the rights of children to health, nutrition, education, and social, emotional and cognitive development. Ensuring that children enjoy fundamental rights and freedoms, does not only advance a more equitable society, but fosters a healthier, more literate and, in due course, a more productive population. Clearly, children's rights are closely tied to women's rights. This is because, even before being born a child's survival and development is dependent on the mother's health and opportunities. Since, women are still primary care-givers for children,

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[244] Mark, Monica. "Nigeria's child brides". The Guardian 2 September 2013. Accessed on 1 March, 2018.

[245] Ibid.

[246] Summary of International Covenant on Civil and Political Right (ICCPR) and International Covenant on Economic, Social and Cultural Rights. The Minnesota Human Rights Resource Center based on UN center on Human Rights. The International Bill of Rights,, Fact Sheet #2. Available at www. Eycb.coe.int/compass/pdf accessed on 11/11/17

[247] https://www.escr-net.org /caselaw/case...ionter-American Court on Human Rights Case on Street Children November 19, 1999. Accessed on 12/11/17

ensuring women's rights are positively linked to children's enjoyment of human rights. In 1924, the League of Nations adopted a Declaration on the Rights of the Child (Declaration of Geneva), containing five basic principles reflecting the clear consensus that children were in need of special protection. In 1959, the UNGA unanimously adopted another more elaborate Declaration on the Rights of the Child, stating in the preamble that 'the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth'. Work on drafting a convention on the rights of the child began towards the 1970s, resulting in the UNGA adopting the Convention on the Rights of the Child (CRC) on 20 November 1989. The Convention entered into force on 2 September 1990 and a few years later the majority of the world's States had ratified it.

e. Rights before and after birth

Although, there are arguments that, human rights begin at birth,[248] which have been substantiated by the UDHR as well the other International and Regional Treaties justifying the right of a woman to abortion where pregnancy poses a risk to her life, modern International Human Rights Laws are of the view that unborn children are entitled to protection of the law. Based on scientific facts, pro-life movement has argued that a fetus or unborn baby is a living human being that is separate from the father and the mother and has the right to live. The debate as to whether or not it is alive or is a "person" is political, moral and religious not scientific. If it is a human being, then the woman's right to chose cannot override the fetus right to live. The woman has as much right as the child to live. Therefore her choice need not be restricted to abortion which involves killing another. She could get better option if she is well informed.[249] To exclude the child before birth from the protection of human rights law is to dehumanize a child.[250] The convention on the rights of the child which came into force on September 2, 1990 is the first binding international instrument embodying binding International Legal recognition of the human rights of children. This is the most universally accepted human rights instrument in history and has as at February 2009, been ratified by 193 countries to date.[251] Apart from Somalia and the United States of America, all other UN Member states have ratified the convention.

The Convention is meant to be all encompassing and sets out civil, political, social, economic and cultural

[248]Copelon R., Human Rights Begin at Birth:International Law and the Claim of Fetal Right,www.tandfonline.comldoi/full. Accessed on 10-12-17

[249]Myka killer. Pro-life movement: Does an Unborn Baby Have Rights?-Quora https://www.quora.com/pro-life-moreme... accessed on 12/11/17

[250] Do this Right Apply to the Unborn-Parliament of Australia, www.aph.gov.au/documentstore .accessed on 10/10/17

[251] UNICEF, Introduction: Convention on the Right of the Child, http://www. Unicef.org/crc.htm. Accessed on 10-12-17.

rights for 'every human being below the age of eighteen years. Four general principles have guided the authors of the Convention:

- The principle of non-discrimination (Article 2);
- The best interests of the child (Article 3);
- The right to life, survival and development (Article 6); and
- Respect for the views of the child (Article 12).

Underpinning the CRC are three core concepts relating to protection, provision and participation which are

a) protection, against, e.g., violence, abuse, neglect, maltreatment or exploitation,[252]
b) provision of name and nationality[253], social security, adequate standard of living and education,[254]
c) Participation through the right of a child to express his views, to freedom of thought and to freedom of association.[255]

Article 41 provides an explicit condition clause, that nothing in the CRC shall affect any provisions which is more conducive to the realisation of the rights of the child and which may be contained in the law of a State party or international law in force in that State.[256] While the Convention sets out many rights already proclaimed in other instruments such as the ICCPR (Articles 23(4) and 24) and ICESCR,[257] it is the first instrument to specifically grant children rights and protection as autonomous human beings. The value added by the CRC lies mainly in the fact that:

1. The general rights formulated in earlier Conventions and the UDHR have been reformulated with a special focus on the rights and needs of the child. Other rights only applicable to children are elaborated, such as the right to adoption, education and contact with parents.
2. New elements have been included, such as the provisions regarding parental guidance and international co-operation in the field of handicapped children.
3. The CRC covers children in difficult circumstances, such as the separation from parents; abuse and neglect; disabled and refugee children; indigenous children and children belonging to minorities; sale, trafficking and abduction of children; deprivation of liberty; and children in armed conflict.

f. Rights of children born in or out of wedlock

Relevant standards in the regional systems for the protection of children's rights include the African Charter on the Rights and Welfare of the Child (1990), which sets out in Article 18(3) that: States shall ensure protection of the rights of the woman and the child in international Declarations and Convention. The ACHR provides for equal rights of

[252]Article 19
[253]Article 7
[254]Articles 26 to 28
[255]Articles 12 to 15
[256]Article 41

[257]Article 10(3)

children born in and out of wedlock in Article 17(5) and that 'every minor has the right to measures of protection on the part of his family, society, and the State'[258]

In Nigeria, various communities and societies have different answers as to who owns a child born out of wedlock. While some will simply refer to such a child as a bastard, others especially from the Eastern part of Nigeria will maintain that as long as bride price is yet to be paid on the woman, any child she bears will belong to her family. It means therefore that the child can bear the woman's maiden name and not the biological father's name.

In the Nigerian Constitution there is nothing like an illegitimate child or bastard. Every child is born free and enjoys freedom from discrimination of every sort.[259] Discrimination means the unjust or prejudicial treatment of different categories of people or things on ground of race, age, sex, and indeed, circumstances of ones birth.

According to section 42(2) of 1999 Constitution as Amended,

No citizen of Nigeria shall be subject to any disability or deprivation merely by reason of the circumstances of his birth.

Under common law, the interpretation of illegitimacy was harsh and made no room at all for illegitimate children to share inheritance with legitimate children. In **Onwudinjoh v. Onwuudinjoh**[260] the court held that any custom according a right of legitimacy to an illegitimate child was repugnant to natural justice or contrary to public policy. In the more recent case of **Motoh v. Motoh**[261] it was held that a child whose paternity was acknowledged by the father was legitimate even if he was not born during the continuance of a statutory marriage. This position has been viewed [262] as throwing the child away with the bath water simply because he was not born during the pendency of a valid statutory marriage and that it runs contrary to the intendment of the Constitution which protects every product which turns out to be a human being.

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[258]Other relevant documents within the American context are, for instance, the Inter-American Convention on the International Return of Children (1989); the Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors (1984); and the Inter-American Convention on International Traffic in Minors (1994). Within the European system the European Social Charter sets out special protection for children with regard to employment (Article 7) and the right of children and young persons to social, legal and economic protection (Article 17). Other important European Conventions are the European Convention on the Adoption of Children (1967, with a revised Convention opened for signature in December 2008); the European Convention on the Legal Status of Children born out of Wedlock (1975). Article 19

[259]Nairaland- Who Own the Child Born Out of Wedluck (Unmarried Relationship). Available at www.nairaland .com/owns-child-born-of-wedlu...accessed on 11/12/17

[260] (1957) 1 ENLR 1

[261] (2011)16 NWLR part 1274 P. 474 @ 491

[262]MotunrayoOlaleye. Legal Perspective on Discrimination and Challenges Faced by Illegitimate children-LegalnaijaBlawg www.legalnaija.com/2017/04/discriminat...accessed on 15/9/18

g. Family life

The Human Rights Committee has also been active in the protection of children in relation to their right to family life. A number of cases decided by the European Court relate to contact rights between parents and children,[263] as well as the right to privacy and family life. For instance, in cases where a parent has abducted a child from one State to another to avoid an adverse custody decision, both States concerned are obliged to act with 'swiftness' in returning the child to the other parent.

Through activities such as participation in the Global Movement for Children and the Special Session on Children of the member States of UNGA, the need for global commitment to children's rights are reached and children and young people are encouraged to participate in decisions that affect their lives.

Most children lose their right to family life through transnational migration of one or both parents from the origin country. This occurs when a parent migrates leaving one or more children behind in the care of the other parent or another care giver who may not be related to the family.[264] Under such migrant family arrangement the relationship of children with the migrant parent is almost invariably lost. Mothers who suffer untold violence are usually the ones who suffer emotional pain of such migration and may never be allowed to reunite with their children, possibly for immigration reasons. Children in transnational families are disadvantaged with regard to psychological well-being. They encounter difficulties in coping with their transnational family life often feeling a sense of rejection or abandonment by the migrating parent and try to employ different tactics to get back at such parents for having left them, or get rebellious towards them when they are older.[265] This could involve tracing such a parent to kill him or her.

Other Human Rights Protection:

Apart from the right to human dignity other rights which are fundamental to man include the right to life, liberty, fair hearing, family life, thought and religion, etc.

Human rights in Nigeria are protected under Chapter IV of the 1999 Constitution. The American Human Rights Report of 2012 notes areas where significant improvement is needed, which include: abuses by Boko Haram, herdsmen attack, killings by governmental forces, government corruption, lack of social equality, and issues relating to freedom of speech.[266] The Human Rights Watch, 2015 World Report states that these violations of rights

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[263]Article 8

[264]Valentine Mazzucato.International Parental Migration and Psychological Well-being of Children in Ghana, Nigeria and Angola. Journal of Social Science & Medicine Vol UNE 132, May 2015 pp 215-224 https://www.science direct .com/pii. Accessed on 20/5/18

[265] ibid

[266][266]Bureau of Democracy, Human Rights and Labor.Human Rights Practices for 2012. 2012.

and continue to undermine the status of human rights in Nigeria.[267]

Although Nigeria has been active in signing and ratifying international human rights treaties, it has faced challenges when trying to implement these treaties domestically. Nigeria cannot apply international treaties unless they are ratified by the National legislative houses of Nigeria. Furthermore, the Nigerian Constitution protects civil and political rights, but international treaties like the African Charter also expand protection to cultural, socio economic, and group rights. Because the Nigerian Constitution is the ground norm and therefore the supreme law, the Courts of Nigeria often resolve conflicts in favor of the Constitution, thereby restricting the expansion of potential human rights.[268]

CONCLUSION:

Apart from the UDHR, several international conventions, protocols and respective constitutions of countries have enshrined human rights through ratification of international documents. The rights in Nigeria are stated from section 33 to 42 of the Constitution of the Federal Republic of Nigeria, and are referred to as Fundamental Human Rights. Any violations of these rights are actionable in a court of Law. The dignity of the human person is one of the rights so protected in section 34 of the Constitution. The following activities are no doubt, violations of such fundamental human rights which are perpetrated despite the existence of laws.

- The Boko-Haram attacks in the North East which have manifested in length and breadth to other parts of Nigeria causing wanton and destruction of lives and properties.
- The Niger Delta Militancy and Vandalism.
- The Fulani Herdsmen attacks on farmers especially in Benue State.
- Abduction of 246 students from Chibok and the recent 110 from Dapchi
- The burning of Churches and sometime Mosques in Kaduna, Kano, Kwara and Plateau States.
- The Christmas day bombing of St. Theresa Catholic Church Madala.
- The Nyanya Motor Park bombing among others
- The extra judicial killings of the Apo six, etc.

The government needs to stem the tide in ensuring that the perpetrators of these ugly escalations are fished out and prosecuted.

It is also apt in this period for every human being to know his rights so that he can recognize its violation and fight against it. A stitch in time they say saves nine.

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[267]"World Report 2015: Nigeria". Human Rights Watch.Human Rights Watch. Accessed on 27/6/18

[268]Egede, Edwin (2007). "Bringing Human Rights Home: An Examination of the Domestication of Human Rights Treaties in Nigeria". Journal of African Law. **51** (2): 249–284.