

Appraisal of Boko Haram Insurgency and Human Rights Violations by the Joint Task Force (JTF) in North-East Nigeria.

Dr. Musa Alkali Lawan¹, Abdullah Usman², Abatcha Umar²

¹Lecturer Department of Public Law Faculty of Law, University of Maiduguri, Nigeria

²Lecturer Mohammed Goni College of Legal and Islamic Studies Maiduguri, Nigeria.

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ABSTRACT

Human rights are the foundation of human existence. One of the greatest objective of the post-independence Nigerian Constitution is the protection of human rights. The 1999 Constitution (as amended), set the tone by dedicating itself to promote good governance and welfare of all persons on the principles of freedom, equality and justice. Despite the fortification of human rights by the 1999 Constitution and the International and regional instruments, Nigeria still faces widespread of human rights violations, particularly by the JTF in the North-East Nigeria, which ranged from extra-judicial killings, torture and forms of ill-treatment, enforced disappearance, rape and unlawful detention. The aim of the paper, is to examine the extent to which the JTF engaged in human rights violations. To achieve this, the paper adopted doctrinal methodology otherwise known as theoretical method consisting of consultation of statutory legislation, case laws, books, journal conference papers, magazine as well as internet materials both in printed form and electronic means. The findings revealed that the JTF engaged in serious human rights violations of the citizens. The paper recommends that the investigative penal report constituted by government to investigate and identify perpetrators of human rights violations among the JTF be made public and the perpetrators be brought to face justice.

INTRODUCTION

Nigeria experiences series of crises since independence in 1960 by non-state actors. The country is battling with numerous conflicts occasioned by overlapping ethnic, religious, political and regional dichotomies.¹ There were *Maitasine* crisis between 1980 and 1981², the insurgency of the Movement for the Emancipation of the Niger Delta (MEND) between 2000 and 2010³, the *Ombatse* Cult group in 2016, the agitation for the State of *Biafara* and the activities of the extremist Islamic Fundamentalist group *Boko Haram*.⁴ Section 14 (2) (b) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) makes the protection of lives and property the essence of government. This cardinal responsibility of government seems to be eroded in the northeast of Nigeria as a result of activities of *Boko Haram* insurgency. The sense of security which entails a state of being safe and the absence of fear, anxiety, danger, poverty and oppression have been completely obliterated.⁵ *Boko Haram* has waged a protracted insurgency against the Nigerian state since 2009 which have led to serious human rights violations. The insurgent group has been declared as an international terrorist organization and described as having links with a dreaded terrorist group, the *Al Qaeda* by the United States of America.⁶

¹ E.E.Aloba and J. Inaku, and R. O. Opuole., The Asymmetric Nature of Boko Haram Insurgency and its Implications on Human Rights and International Humanitarian Law, (2018), Vol. 3, Issue 5, *International Journal of English Literature and Social Sciences*, (IJELS), 882.

² S. o. Anyanwu, and I. Nwangu, (eds.) *Boko Haram: Religious Conflicts and Dialogue Initiatives in Nigeria*, Vol. 1 (Oweri Edu-Edu, Publication, 2010), 124.

³ Cyril Obi, *Nigeria's Niger Delta: Understanding the Complex Drivers of Violent Oil-Related Conflict*, 2009, Vol. XXXI, (2) 103-128.

⁴ Soni Daniel, *Why Ombatse Cult Killed Policemen, DSS Operatives*, Vanguard June 13-2013, 9.

⁵ E.E. Aloba, and J. Inaku, and R. O. Opuole, (n882) 883.

⁶ *Ibid.*

This declaration is not unfounded, it fits the definition contained in a recent United Nations (UN) document which describes terrorism as any ‘act which is intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act.’⁷ The government in an efforts of tackling the security challenges with the aim of restoring law and order, established and deployed the Joint Military Task Force popularly known as (JTF) to the terror-riddled states in what has become one of the largest peace time military operation in Nigeria. The deployment has not stopped the *Boko Haram* violence but rather increased resentment in the local community where the force is located. The Nigerian government through the counter-insurgency operations of the JTF has been accused of committed serious human rights violations by the Amnesty International and other human rights organizations as well as civil liberty organizations across the globe. Some of the typical human rights violations alleged to have been committed by the JTF include, extra-judicial killings, torture, inhuman and degrading treatment and punishment, rape, sexual violence, enforced disappearance, unlawful detention among others. These counter-insurgency operations of the JTF contravened the force’s Rules of Engagement which according to the Code of Conduct of Nigerian Forces shall use internal security and aid to civil power operations quoted in the National Human Rights Report, which stated inter-alia that:

In enforcing domestic law and order, members of the Nigerian Armed Forces shall use firearms as a last resort with maximum restraint, and respect for the principle of minimum force even in situations of self-defense. Force may only be used when absolutely necessary and to the extent required to perform their duty.

However, the JTF and the government denied the allegation of human rights violations leveled against it by the Amnesty International and other human rights and civil liberty organizations. Hence, this paper seeks to appraisal whether the JTF have committed human rights violations and the extent of the violations and the North-East Nigeria and to proffer recommendations for the problem.

MEANING AND ORIGIN OF BOKO HARAM.

Book Haram is a combined term derived from Hausa and Arabic. The term “*Boko*” comes from the Hausa word Animist western or otherwise non-Islamic education.⁸ And the Arabic word “Haram” means western education is a sin.⁹ “*Boko Haram*” is therefore an Arabized-Hausa terminology which simply translates into western education is sinful and propagated by “*Jama’atulAlhulSunnahLidda Watiwal Jidda*” sect who believed that they are committed to the Hadith of Prophet Muhammed (SAW) teachings and Islamic Jihad.¹⁰ However, one of the sect member denied that the above nickname or appellation given to the sect, he stated that, the name was given by outsiders. He stated that:

This appellation appeared first among the general public. On one side, that was a result of their difficulties in pronouncing the true name, and from another side, it an appellation derived from what our scholars frequently mentioned in order to counsel people, especially parents and the students of institutions and universities, and the rest of those concerned with education in any case we are dissatisfied with this appellation and we do not call ourselves by it. Calling us by it is a form of derisive nicknaming.

According to Halima, *Boko* means “Book”, while Haram means “Bad” so, *Boko Haram* implies learning at school is bad but they are really referring to western school and not Arabic schools.¹¹ *Boko Haram* roughly translated to mean western education if forbidden, which was given to the sect by outsiders based on their understanding of the budding sect and its beliefs.¹² The sect opposes not only western education but also

⁷ Ban Ki-Moon, UN Secretary-General, Keynote Address, Closing Plenary of the International Summit on Democracy, Terrorism and Security. A Global Strategy for Fighting Terrorism’ Madrid, Spain, 10, March, 2005.

⁸ E.E. Aloba, and J. Inaku, and R. O. Opuole, (n882) 884.

⁹ Ibid.

¹⁰ Adetoro, R. A., *Boko Haram Insurgency in Nigeria as a Symptom of Poverty and Political Alienation*, <https://www.researchgate.net/publication/271293888bOKOHaramInsurgencyinNigeriaasasymptonofpovertyandpoliticalalienation>> accessed on 30/8/2024.

¹¹ Halima, C. C., *Meaning of Boko Haram*, *New Watch Magazine*, 11, November, 2011, 4.

¹² Mike Smith, *Boko Haram: Inside Nigeria’s Unholy War*, (I. B. Tauris, 2015) 19.

western culture and modern science.¹³ It is an indigenous “Salafist group” which only turned itself into a Salafist Jihadist group in 2009.¹⁴ The sect is a Nigerian Islamic Fundamentalist group that seeks the imposition of Sharia Law in 12 Northern States of Nigeria.¹⁵ Muhammad Yusuf, the founder of *Boko Haram* argued that Islam itself forbid western-style education.¹⁶ According to this foreign, global colonialist schools have embrace matters that violate Islamic Law, and it is forbidden to operate them, support them, study and teach in them.¹⁷ It is just like western education can simultaneously evoke suspicion and aspiration, so too, can its products be despised and admired. However, whatever the meaning connotes it still stands against westernization.

The precise date and circumstances under which the Islamist sect *Boko Haram* which is officially known as *Jama'atul Ahlis Sunnah Lidda'awati Wal-jihad*, meaning (People Committed to the Propagation of the Prophet's Teaching and Jihad) emerged still remains unclear.¹⁸ However, *Boko Haram* is believed to have started as far back 1995 with the name '*Sahaba*' and it was led by one Abubakar Lawan.¹⁹ The said Abubakar Lawan later travelled to abroad to study at the University of Medina in Saudi Arabia, consequently, leaving the old cleric to concede the group's leadership to a self-proclaimed Nigerian spiritual leader, Muhammad Yusuf.²⁰ Yusuf was said to have abandoned the old cleric doctrines thus reorganising and coming up what become, *Boko Haram* in 2002 at the Northern city of Maiduguri where it headquarters was located.²¹ In Maiduguri, Yusuf established a religious complex that included a mosque and a school where many poor families from across Northern Nigeria and from neighbouring countries enrolled their children.²²

According to Mohammed, three different but related stages can be discerned in the origin of *Boko Haram*. The first stage is what can be termed as the *Kanama* phase (2003-2005) when a militia Jihadist group led by Muhammad Ali, a Nigerian radicalised by Jihadi literature in Saudi Arabia and believed to have fought alongside the *Mujahideen* in Afghanistan, waged war on the Nigerian State but repelled with casualties on both side.²³ The second stage commenced with the collapsed of the *Kanama* uprising and ended with the suppression of *Boko Haram* proper in July 2009. This period, which can be dubbed the *Dawa* phase, was dedicated to intensive proselytization, recruitment, indoctrination and radicalisation of its members.²⁴ This stage involved extensive criticism of the extant secular system, debates with opposing *Ulama* (clerics) on the propriety or otherwise of western education, westernisation, democracy, secularism, unceasing criticism of the corruption and bad governance under the then Governor of Borno, Ali Modu Shariff (2003-2011). In addition to the conspicuous consumption and opulence of the western education elite in the midst of poverty.²⁵ The third phase began with the killing of its leadership in gory and barbaric manner by the Nigerian security agencies. Muhammad posits further that, during this period, *Boko Haram* went underground, reorganised and resurfaced in 2010 with a remarkable prison break at Bauchi and has since changed tactics to targeted assassination, drive by shootings, suicide bombings, and massive deployment of Improvised Explosive Devices (IEDs), vehicles-borne IEDs and later kidnapping and hostage taking.²⁶ From 2010 onwards, *Boko Haram* committed to asymmetric warfare, the sect further tried to adopt the tactics and strategies of *Al-Qaeda* and

¹³ Thurston Alexander, *The History of an African Jihadist Movement*, (Princeton University Press, 2018) 24.

¹⁴ E. O. Innocent and J. Ibieta., *The Cost of Boko Haram Activities in Nigeria*, (2009) (2) (2) *Arabian Journal of Business and Management Review*, (OMAN CHAPTER) 17.

¹⁵ *Ibid.*

¹⁶ Muhammad Yusuf, *Hadith Aqidatunawa-Manhaj Da'watina*, (Maiduguri al-Ghuraba, 2009) 84.

¹⁷ *Ibid.*

¹⁸ Mohammed Kyari, 'The Message and Methods of Boko Haram' In Perouse de Mont close., (ed.) *Boko Haram: Islamism, Politics, Security and the State in Nigeria*, West African Politics and Society Series, (2014) (2) African Center, Leiden and French Institute, Ibadan and Ahmadu Bello University, Zaria, 10.

¹⁹ Cook David, "The Rise of Boko Haram" As of February, 10, 2013 <https://www.ctc.usma.edu/post-the-rise-of-boko-haram-in-nigeria> accessed on 31/8/2024, 17.

²⁰ Emma Ujah and Others, "Yar Adua Orders Probe of Boko Haram Leaders Killing" *Vanguard Lagos*, 4 August, 2009, 8.

²¹ *Ibid.*

²² Mohammed Kyari, (n13)

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

other global Salafist movement, although heavily influenced by the message of *Al-Qaeda* and external development.²⁷

Boko Haram Insurgency

Insurgency is a protracted struggle conducted systematically, in order to achieve specific intermediate goals leading finally to the overthrow of the existing order.²⁸ According to the United States Counter-Insurgency Guide defined insurgency as: The organised use of subversion and violence to seize, nullify, or challenge political control of a region.²⁹ Insurgency seeks to subvert or displace the government and completely or partially control the resources and population of a given territory.³⁰ They do so through the use of force (including guerrilla warfare, terrorism and coercion/intimidation), propaganda, subversion and political mobilisation.³¹ Insurgency can also be understood as a strategy adopted by non-ruling groups within a state to obtain political objectives when they are unable to do so through conventional means.³² The main objective of insurgent groups is to discredit the existing government and gain popularity.

The reason behind the *Boko Haram* insurgency in Nigeria is strategically political in that the insurgents are attempting to replace the Nigerian State with an Islamic State governed by Sharia Law, especially in the Northern Muslim dominated region. Sharia Law is based on the Qur'an which regulates both public and private conduct.³³ *Boko Haram* believes a strict Islamic State under Sharia would address the problems of corruption, bad governance, and western influence which does not meet the desires of the Muslim population.³⁴ Since its emergency, the group has employed all forms of guerrilla tactics and violence unleash mayhem against the state and people in an attempt to replace the Nigerian institutions, which they perceived as corrupt and western inclined. The violence unleashed by the group on the Nigerian state is unprecedented in the history of insurgency in the country. *Boko Haram* has used bombs to launch attacks against government or western targets, to intimidate opponents and kill civilians.³⁵ Its fighters have slaughtered civilians during attacks on towns and villages, assaulted and abducted teachers and students, abducted at least 2000 young women and girls and subjected many of them to forced marriage, forcibly recruited men and boys and burned and destroyed houses and schools.³⁶

NATURE AND MEANING OF HUMAN RIGHTS

The term "human rights" is a very complex concept in that, it has no clear cut definition. Numerous attempts have been made by various scholars to define or conceptualise the term human rights. It suffices to examine the major trends in the various approaches to human rights. Human rights in general sense, are those rights which are "inherent" and "inalienable" in the nature of human beings and are very necessary for the expression of humanity and individuality without which nobody can live as human being.³⁷ Inherent and inalienability are two important characteristics of human rights that have made it clearly distinct from general rights.³⁸ Human rights from the literal sense of the term, are ordinarily understood to be the rights that one has, simply because he is human.³⁹ As such, they are equal rights because we are either or are not human beings equally.⁴⁰ Human

²⁷ Mantziko Loannis, *What Do We Really Know About Boko Haram*, (Espee Publication Company, 2010) 17.

²⁸ David G., *Counter-Insurgency Warfare Theory and Practice* (New York: Frederick. A. Prager, 1964), 64.

²⁹ United Nations Government, *Counter-Insurgency Guide*, 2009 <https://www.states.gov/Hpm/PPa/pmpat> accessed on 5/8/2024.

³⁰ *Ibid.*

³¹ *Ibid.*

³² Hussaini Shehu., *Insurgency, Security and Nigerian National Development*, (2018) (5) (10) *International Journal of Contemporary Applied Research*, 80-81.

³³ E. E. Alobo, and J. Inaku and R. O. Ipuole, (n882)

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ Shajahan Mondol, "*Human Rights under Labour Law: Application in Private Industrial Sector of Bangladesh*" Unpublished PhD. Thesis submitted to Islamic University Kashia Bangladesh, 2006, 4.

³⁸ *Ibid.*

³⁹ Jack Donnelly, "The Relative Universality of Human Rights" *Human Rights Quarterly* a Comparative and International (2007) (29) (2) *Journal of Social Science, Humanities and Law, The Johns Hopkins University Press July*, 282.

⁴⁰ *Ibid.*

rights are inalterable fact of nature, not something that is either earned or can be lost.⁴¹ Thus, human rights are “universal” rights in the sense that they are held “universally” by all human beings. Ostia defines human rights as: “That which represent demands or claims which individuals or groups made on society, some of which are protected by law and have become part of *lex lata* while others remain aspirations to be attained in the future.”⁴²

According to Umuzurike, human rights are claims, which are invariably supported by ethics and which should be supported by law, made on society, especially by its official managers by individual or groups on the basis of their humanity.⁴³ Maurice, defined human rights as “a universal moral rights something which all men everywhere at all times ought to have something of which is owing to every human being simply because he is human.”⁴⁴ From the above definitions, we may observe that, the terminologies used like, claims, and demands are common in the definitions and they are in relation to actualise the inherent rights of human beings that have been given by God or Man-made laws. If we consider part of Umuzurike’s definition of human rights as “invariably supported by ethics and which should be supported by law” many be legalised, may be enforced or unenforceable. Umuzurike, further stated that a particular violation may even be placed beyond the pale of law by an ouster clause.⁴⁵ However, these violations do not make them any less human rights just as the violation of international law does not make it any less law or consign it to John Austin’s positive international morality.⁴⁶ In the legal sense, human rights means those rights by different international or regional instruments.⁴⁷ In the case of *Ransome Kuti v. Attorney General of the Federation*⁴⁸ Kayode Eso JSC defines human rights as:

It is a right which stands above the ordinary laws of the land and which in fact is antecedent to political society itself. It is a primary condition to a civilised existence...and what has been done by Constitutions since independence is to have these rights enshrined in the constitution so that the rights could be immutable to the extent of the non-immutability of the Constitution itself...⁴⁹

To have a right is to have a claim to something and against someone, the recognition of which is called for by legal rules or in the case of moral rights by principles of enlighten conscience.⁵⁰ Human rights in the legal sense denotes an advantage to defeat other lesser claims, a benefit validly conferred by law, a claim which entitles the possessor to the good, services of others.⁵¹ Legal rights must be distinguished from moral claims which are mere assertions of notions of wrong and right without any legal backing of the legal and judicial sanction. The expression human rights in its connotation embrace those civil, political, economic, social, cultural, group solidarity and developmental rights which are all considered indispensable to the happiness of human existence.⁵² From the above mentioned definition, it may be observed that there are two types of human rights, legal human rights which are guaranteed by positive law (*lex lata*) and moral human rights which are aspirations of claims and ought to be in the positive law (*lex feranda*). Human rights that have been guaranteed by a positive law are the enforceable human rights, while those not yet guaranteed are so bound on ground of

⁴¹ *Ibid*

⁴² Ostia Chukwuemeka Eze, “*Human Rights in Africa: Some Selected Problems*”. The Nigerian Institute of International Affairs, Victoria Island Lagos, Nigeria, 1984, 5.

⁴³ Oji Umuzurike, “*Human Rights and Democracy in the 21st Century-The African Challenges*” Ladan, M.T. (ed), Law, Human Rights and The Administration of Justice in Nigeria: Essay in Honour of Hon. Justice Muhammad Lawal Uwais, Chief Justice of Nigeria, Zaria, Faculty of Law, Ahmadu Bello University Zaria, 2001, 38.

⁴⁴ Maurice Cranston, *What Are Human Rights?* (The Bindley Head London, 2008), 15.

⁴⁵ Oji Umuzurike, (n38)

⁴⁶ *ibid*

⁴⁷ *Ibid*

⁴⁸ (1985) NWLR (Pt.6) 211-230

⁴⁹ *Ibid*

⁵⁰ Erugo Onyekpere, “Human Rights Law and Practice in Nigerian Constitution” (1995) (5) (13), Journal of Human Rights Law and Practice in Nigeria, Civil Liberties Organisation January, 13.

⁵¹ *Ibid*

⁵² Rotimi Litinsi, *Economic Rights: Are They Justicial, and Should They Be?* Published by Civil Rights and Social Justice, Vol. 44, No. 3, 2019, 2.

morality and remain as aspirations to be attained in future. The above distinction received a judicial recognition in the case of *Ransome Kuti v. A. G. Federation*,⁵³ where Oputa JSC, said:

Not every civil or legal right is a fundamental right. The idea and concept of fundamental rights both derive from the premise of the inalienable right of man life, liberty and the pursuit of happiness. Emergent nations with written constitutions have enshrined in such constitution some of these basic human rights or fundamental human rights. Each right that is thus considered fundamental is clearly spelt out.

In Nigeria, the Constitution is the supreme law of the land on the basis of which the validity of any other law is determined.⁵⁴ Those rights that are considered fundamental human rights are contained in Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (as amended); similarly, the African Charter on Human and Peoples' Rights are also enforceable in Nigeria, while, Chapter II of the 1999 Constitution are non-justiciable rights which are not enforceable rights. Despite the protection of human rights accorded to individuals by the international, regional and domestic instruments, still human rights violations still rampant, particularly with the counter-insurgency measures adopted by the JTF has led series of human rights violations of the citizens. The following are the some of human rights violated by the JTF in their counter-insurgency measures against the *Boko Haram* in North-East Nigeria.

Extra-Judicial Killings

Extra-judicial killings are killings by government officials without due process of law.⁵⁵ It also includes killing by private groups if instigated by government. These killings may result from the deliberate, illegal and excessive use of lethal force by police, military or other security agencies of the state whether against criminal suspects, detainees, prisoners or others.⁵⁶ Simply put, an extra-judicial killing is taking the life of a person by government authorities without the sanction of any judicial proceeding or legal process.⁵⁷ Extra-judicial killings are against the legal and moral norms both at the international, regional and national levels. This is because right to life is the most basic, the fundamental, primordial and supreme right which human beings are entitled to have and without which the protection of all other rights becomes either meaningless or less effective.⁵⁸ Section 33 (1) of the 1999 Constitution provides that:

Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of court in respect of criminal offence of which he has been found guilty in Nigeria.

What this section means is that everyone is entitled to respect for his life and safety, because life is sacrosanct and intentional killing is abhorred in all societies. Article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR) provides that; "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of life." Here one should note that Article 6 of ICCPR does not provide an absolute prohibition of taking but only arbitrary deprivation of life as contained in section 33 (1) of the 1999 Constitution, as amended. Article 2 of the European Convention of Human Rights (ECHR) provides protection of rights to life as a non-derogable even in times of war and public emergency. Article 4 of ACHPR also guarantees the right to life providing that: "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrary deprive of this right." One would observe here that ACHPR did not provide for permissible limitations on the right to life.⁵⁹ However, the insertion of the provision that no one may be arbitrarily deprived of this right is that the right could be subject to restrictions in certain circumstances.⁶⁰ From the foregoing Sections and Articles one would observed that right to life is protected both international, regionally and nationally. Despite the protection of

⁵³ (1985) 8 NWLR (Pt.6), 211

⁵⁴ CFRN, 1999 (as amended) s 3 (1)

⁵⁵ CIRI, Human Rights Data Projects, <www.humanrightsdata.com> accessed on 20/9/2020, 6.

⁵⁶ *Ibid.*

⁵⁷ Wikipedia, <<https://www.Wikipedia-freeencyclopedia-definition>> accessed on 26/11/2020, 1.

⁵⁸ Chukwu Amari Omaka, *Right to Life and to Dignity of Human Person (Sections 33 and 34 of the 1999 Constitution) Human Rights Law and Practice in Nigeria*, Vol. 1 (Published by Chenglo Limited 2005), 112.

⁵⁹ Osita Ogbu, *Human Rights in Africa: Some Selected Problems*. (The Institute International Affairs, Victoria Island Lagos, 1984), 5.

⁶⁰ *Ibid.*

right to life both at the international and national levels, cases of extra-judicial killings by the security agencies is very rampant in Nigeria. This is particularly evident in counter-insurgency measures by the Joint Task Force (JTF) against the *Boko Haram* insurgency in the Northeast Nigeria. Readily available example is the extra-judicial killings of Muhammad Yusuf and other *Boko Haram* leaders which led to the escalating the sectarian violence that nearly consumed the whole of North Eastern Nigeria. Also, a lot of persons that were interviewed by Amnesty International described instances of extrajudicial killing of innocent people who were clearly not representing any threat to the JTF. A resident of *Mai Sandari* told Amnesty International that, in May 2012, he was watching with other people when JTF came to their neighbourhood and brought a man from their vehicle, got the man necked, gave him a football shirt to wear and fired him at a very close range with AK47 rifle.⁶¹

Amnesty International along with 28 prominent Human Rights Organisations in Nigeria released a joint statement titled “Nigeria: Unlawful Killings by the Joint Military Task Force in Maiduguri must stop.”⁶² The statement condemned human rights violations committed by the Nigeria Security Forces in Borno State in response to attacks by *Boko Haram*. Similarly, Human Rights Organisations issued a report that, it has evidence of extra-judicial killings and atrocities by troops fighting *Boko Haram* insurgents in Northeast Nigeria.⁶³ The report said that the *Baga* massacre occurred after *Boko Haram* insurgents killed a Nigerian soldier. It further stated that, in reprisal, Nigerian troops attacked the small fishing community of *Baga*, shooting at civilians and setting private buildings on fire. Resident claimed that 185 people were killed.⁶⁴ Thus, in view of the numerous accusation of human rights violations against the Nigerian military particularly right to life, in 2017 the Nigerian government set up a Presidential Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement.⁶⁵ The panel entertained over 150 testimonies include extra-judicial killings and other forms of serious human rights violations by the military.⁶⁶ During the panel’s proceedings, a series of testimonies were heard in Maiduguri, some of these cases were brought forth by legal associations such as the Nigerian Bar Association, Muslim Lawyers Association of Nigeria and NGOs like Amnesty International etc.⁶⁷ A number of these associations called for the prosecution of some soldiers as well as remedies for the victims.⁶⁸ At its conclusion, the committee made numerous recommendations which are yet to be shared with the public.⁶⁹ However, while it is unclear if the recommendations are indeed being implemented or not, a number of military personnel have faced Court Martial for some of the offences they committed during operations in the North East.⁷⁰ In the case of *Nigerian Army v Innocent Ototo*⁷¹ the accused was charged with the murder of a 13 year old boy of Zabarmari village contrary to Armed Forces Act, Section 106. On the 14th of May 2016, the accused, accused a 13-year-old boy from Zabarmari village of stealing his phone. To retrieve the phone through a confession, the accused with some of his subordinates beat the boy and tortured him by applying pepper to his wounds which subsequently led to the death of the boy. Though the accused was charged with murder, the court observed from the evidence before it that when the accused noticed the deteriorating health condition of the boy, he panicked and sought for the intervention of a doctor. This act mitigated the gravity of the offence and the accused was convicted for manslaughter under Section 105 Armed Forces Act and sentenced to life imprisonment. Also, in

⁶¹ Amnesty International, *Nigeria: Trapped in the Cycle of Violence*, (Published by Amnesty International, 2012), 3.

⁶² Donald Mosabala Thuso, State Response to Terrorism and Implications for Human Rights (2016) (16) (6) *Global Journal of Human-Social Sciences H Interdisciplinary*, 46-47.

⁶³ A. O. Aluko and P. Morgan, Observance of Human Rights and International Humanitarian Law by Nigeria Armed Forces in Internal Security Operations (2015) (5) (9) *International Journal of Humanities and Social Science*, 146.

⁶⁴ *Ibid*.

⁶⁵ Premium Times, Osinbajo Inaugurates Probe Penal on Alleged Military Abuse, August 11, 2017, 8.

⁶⁶ Recommendations of the means of Preventing Violations of International Humanitarian Law by Members of the Armed Forces Submission to the Penal by the Secretary Fatima Alkali, 2017, Unpublished.

⁶⁷ Amina Nur Alkali, *Challenges in the Application of the Principles of Jus Post Bellum to the Boko Haram Conflict: A Consideration of the Principles of Retribution and Reconciliation*. Being a Second Thesis Based Seminar Submitted to the School of Postgraduate Studies, University of Maiduguri in Partial Fulfilment of the Requirement for the Award of Degree of Doctor of Philosophy (Ph. D) in Law.

⁶⁸ *Ibid*

⁶⁹ *Ibid*

⁷⁰ Duku Joel, Army Puts 130 Soldiers on Court Martial in Borno, The Nation 19 November, 2019,

⁷¹ 97/A/45/6205 Sgt, General Court Martial held at 7 Division Garrison Media Centre Pompomari Bye Pass, Maiduguri, convened by Major General I. M. Yusuf (Ag GOC 7Div) Presided over by Bridg. Gen G. O. Adesina, President, Judge Advocate and 9 members of the Jury dated 15th December 2017.

the case of *Nigerian Army v LCpl John Godwin*⁷² the accused was charged for the murder of five (5) rescued male civilians at Yemteke village of Borno State. On 13th November 2015 some unarmed male civilians together with their families fled their village and surrendered themselves to the military. While the women and children were separated and given shelter, the men awaited the soldiers to find a suitable accommodation for them. The accused on his own volition shot and killed each of the five men who were aged between 18-28 years. The court found the accused guilty of murder under Section 106 of Armed Forces Act and sentenced him to death.

Torture, Cruel and Inhuman Degrading Treatment and Punishment

Torture and other forms of ill-treatment have been recognised as one of the worst crimes against humanity and violation of human rights.⁷³ The nature of torture and its impact has been captured best in this statement;

Torture is not only one of the vilest act that one human being can inflict on another, it is also among the most insidious of all human rights violations. All too often, it is veiled in secrecy, except from those who cowering in nearly prison cells, might be its next victims. Victims are often too ashamed or traumatized to speak out, or face further peril if they do; often, they die from their wounds. Perpetrators, meanwhile, are shielded by conspiracies of silence and by the legal and political machinery of states that resorts to torture.⁷⁴

The act of torture and other forms of ill-treatment is often perpetrated by organs of the state such as the military, the police, the prison and other law enforcement officials.⁷⁵ Torture and other forms of ill-treatment are violations of human rights and it is practiced in many countries. They are strictly prohibited by a number of international,⁷⁶ regional,⁷⁷ sub regional and national human rights instruments,⁷⁸ including the laws of war.⁷⁹ The general aim of torture is to destroy a human being,⁸⁰ destroy his or her dignity and self-esteem.⁸¹ Other reasons for torture include; extracting confessions, to gather information, as a method of sadistic punishment, to retain control by the state by means of intimidation and subjugation, or merely that the person being tortured belonged to a separate group.⁸² The act of torture and other forms of ill-treatment do not just occur. It is usually carried out by persons acting in official or personal capacity.⁸³ Such persons are referred to as perpetrators of torture or tortures as the case may be.⁸⁴ Therefore, perpetrators of torture can be referred to as person acting either under official or private capacity who inflicts severe pains (either physical or mental) on individuals for several reasons.⁸⁵ To this, Article 1 of the Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment (CAT) of December 10, 1984 defines torture as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he

⁷² 05NA/56/1673 General Court Martial held at 7 Division Garrison Media Centre Pompomari Bye Pass, Maiduguri. Convened by Major General I. M. Yusuf (Ag GOC 7 Div). Presided over by Bridg. Gen G. O. Adesina, President, Judge Advocate and 9 members of the Jury dated 12th September-15th December, 2017.

⁷³ Piwuma Morgan Gason, *The Acts of Torture and Other Forms of Ill-Treatment of Citizens by some Institutions and the Role of Criminal Justice System in Nigeria*, (2015) (5) (10) (1) *International Journal of Humanities and Social Sciences*, 208.

⁷⁴ Statement made by United Nations Secretary-General, Koffi Annan on the International Day in Support of Victims of Torture on June 26, 2000.

⁷⁵ Piwuma Morgan Gason, (n208).

⁷⁶ For instance, see United Nations Convention against Torture, Cruel, Inhuman and Degrading Treatment and Punishment.

⁷⁷ See African Charter on Human and Peoples' Rights, Article 5 Prohibit Torture.

⁷⁸ Constitution of the Federal Republic of Nigeria, 1999 as amended, s. 34 (1).

⁷⁹ The Four Geneva Convention of 1949 namely: Geneva Convention 1 for the Application of the Condition of the Wounded and the Sick of Armed Forces in the field; Geneva Convention II for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea Geneva Convention III, relating to the Prisoner of War and Geneva Convention IV, Relating to the Protection of Persons in Time of War (1949).

⁸⁰ M. Kosma and J. Cantell, *Neoconservative Ideology and the Use of Torture in Global War on Terror*, 81.

⁸¹ Miller, D. J. Holding States to their Convention against Torture, Cruel, Inhuman and Degrading Treatment and the need for Broad Interpretation of State Action (2003) (17) (2) *Georgetown Immigration Law Journal*, 229.

⁸² Piwuma Morgan Gason, (n208) 209.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

or third person has committed, or intimidating or coercing him or third person or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other persons acting in an official capacity. It does not include pain or suffering arising only from inherent in or incidental to lawful sanction.⁸⁶

From this definition, it can be said that torture is the intentional infliction of severe physical or mental pain or suffering by or with the consent of the state authorities for a specific purpose. From the foregoing, one would observe that torture has been prohibited both at the international, regional and national instruments. Article 7 of the ICCPR is very specific on the prohibition of torture. Nigeria, in compliance with the international obligation on the prohibition of torture, passed Anti-Torture Act, 2017 into law by President Muhammadu Buhari on December 29, 2017.⁸⁷ Prior to the coming into effect of the Act, there was no law in Nigeria whose sole objective is the prohibition and punishment of torture and other forms of ill-treatment.⁸⁸ Although, Section 34 of the 1999 Constitution provides that; “Every individual is entitled to respect for the dignity of his person, and accordingly, “No person shall be subject to torture or to inhuman or degrading treatment.” The Constitution did not explicitly state that the freedom from torture, cruel and inhuman treatment is a non-derogable right.⁸⁹ However, the Anti-Torture Act, 2017 fills the existing legislative gaps by explicitly making the right to freedom from torture, cruel, inhuman and degrading treatment or punishment a non-derogable right, criminalising torture and protecting victims and witnesses of torture.⁹⁰ Section 1 of the Act, imposes an obligation on government to ensure that all persons, including suspects, detainees and prisoners are respected at all times and that no person under investigation or held in custody is subjected to any form of physical or mental torture.⁹¹ The section goes further to admonish government to adhere to domestic and international standards on absolute condemnation and prohibition of torture.⁹² While, section 2 of the Act, clearly defines what amount to an act of torture, it states that:

Torture is deemed committed when an act by which pain and suffering whether physical or mental, is intentionally inflicted on a person;

- a. Obtain information or confession from him or a third person;
- b. Punish him for an act he or a third person has committed or suspected of having committed, or
- c. Intimidate or coerce him or third person for any reason based on discrimination of any kind.

The Section goes on to suggest torture does not include pain or suffering in compliance with lawful sanctions. The Act, also list what constitutes torture. Some of the examples listed in the Act include:

1. Systematic beating head-banging, punching, kicking, striking with rifle butts and jumping on the stomach;
2. Food deprivation or forcible feeding with spoiled food, animal or human excreta or other food not normally eaten;
3. Electric shocks;
4. Cigarette burning, burning by electric heated rods, hot oil, acid by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wounds;
5. The submersion of head in water or water polluted with excrement, urine, vomit or blood;
6. Blindfolding;
7. Threatening a person or such persons related or known to him with bodily harm, execution or other wrongful acts;
8. Confinement in solitary cells against their will or without prejudices to their security;
9. Prolonged interrogation to deny normal length of sleep or rest and,

⁸⁶ CAT, Art 1.

⁸⁷ Vanguard, *Anti-Torture Act 2017: Issues, Implication for Police Officers*, (Vanguard May 31, 2018), 5.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ Anti-Torture Act, 2017, s 1.

⁹² *Ibid.*, s.1.

Causing unscheduled transfer of person from one place to another, creating the belief that he shall be summarily execute etc.⁹³

Section 3 of the Act is to the effect that no exceptional circumstances whatsoever, a state of war or a threat of war, internal political instability or any other public emergency may be invoked as a justification for torture. It prohibits secret detention facilities, solitary confinement, incommunicado detention where torture may be carried out.⁹⁴ It also makes it clear that evidence obtained from torture is inadmissible in any court except for use against a person accused of torture. The above Section, is in tandem with Section 29 (2) and (3) of the Evidence Act, 2011⁹⁵ which renders any confessional statement obtained from an accused person by torture, inhuman or degrading treatment involuntary and therefore inadmissible. The use or threat of violence is also considered involuntary hence would be classified as unreliable and inadmissible in evidence against the accused person.⁹⁶ It is pertinent to note that the Anti-Torture Act, 2017 provides that;

a person who commits torture shall be liable on conviction to imprisonment to a term of 25 years. If death occurs as a result of the torture, the person involved will be charged with murder.⁹⁷

The Section goes further to state that, this does not in any way take away the victims right to civil claim in court for damages or compensation for the act of torture.⁹⁸ However, despite the prohibition of torture by the international, regional and domestic laws, cases of torture by the security agencies in Nigeria are still rampant, particularly with regard to the *Boko Haram* insurgencies in the North east Nigeria. Amnesty International and other sister organisations have interviewed many people with regard to torture by the JTF in their counter-insurgency measures against *Boko Haram*. It is pertinent here to examine some of the interviews conducted by Amnesty International and other organisations in that regards. According to Amnesty International, that a one Sale Jega (not his real name), a 25-year-old carpenter from Maiduguri, who was arrested along with 18 others on the 25th November 2012 during a cordon-and search operation in *Gwange*, and taken to *Giwa* Barracks. He escaped after more than 15 months in detention when *Boko Haram* attacked the barracks. His story has it that, on some days 50 or up to 80 people died, mainly of starvation and thirst. Out of the 19 he was arrested with, only four survived.⁹⁹ He narrated his story thus:

We have a sense that they just want us to die. Many people died in the cell. Anytime we were denied water for two days, 300 people died (in those two days) sometimes we drink peoples' urine, but even the urine at times we could not get. Every day they died, and whenever someone died, we (the other detainees) were happy because of the extra space. And because we will be taken out, to take out the corpses and the military will give us water to wash our hands and when washing our hands, we drink the water.

Suleiman Ali was 15 year old when he was arrested by soldiers in northern Nigeria and taken to sector Alpha in Damaturu, Yobe State, a facility locally called as "*Guantanamo*."¹⁰⁰ Suleiman told Amnesty International that, he was beaten with gun butts, batons and machetes, and had melted plastic and cool water poured on him. He also says he was forced to watch the extra-judicial execution of other detainees and made to walk and roll over broken bottles.¹⁰¹ Suleiman was one of 50 people, mostly aged between 13 and 19, arrested in March 2013 on suspicion of being a member of *Boko Haram*. The arrests followed the killing of a soldier by unknown gunmen. Suleiman was detained for three weeks without being charged to court, and prevented from contacting his lawyers and family.¹⁰² Along with 31 other detainees, Suleiman was released in April 2013.

⁹³ *Ibid*, s.2.

⁹⁴ *Ibid*, s.3.

⁹⁵ Cap E14 LFN 2004.

⁹⁶ Babagana Karumi, Protection of the Right against Torture under International Human Rights Law: A Critical Appraisal, (2015) (37) *Journal of Law, Policy and Globalization*, 209.

⁹⁷ Anti-Torture Act, 2017, S.9.

⁹⁸ *Ibid*.

⁹⁹ C. Obi and U. Ezeogu, International Torture as an Abuse of Human Rights in the Fight against Terrorism in Nigeria: An Ethical Evaluation, (2017) (13) *Ogirisi: A New Journal of African Studies*, 135

¹⁰⁰ Amnesty International, *Stop Torture, Country Profile: Nigeria under Embargo until* (Published by Amnesty International, 2014), 10.

¹⁰¹ *Ibid*.

¹⁰² *Ibid*.

Within a week, 30 of those people had died.¹⁰³ Suleiman survived and provided a witness account of the violence. A 15 year old Mariam (not her real name) said she was beaten in *Monguno* Barracks after she had been rescued from *Boko Haram* custody, even though she explained that she and her friends had been abducted by *Boko Haram*.¹⁰⁴ She said:

The soldiers started beating us saying we are *Boko Haram* wives. When the beating started, one soldier will come and beat us and then leave, and then another will beat us and leave. We were beaten with a stick and a cane. All parts of our bodies were hit including our heads. You can see the signs of the beating even now on our back...she also said that before transporting them to their barracks with their vehicles, the soldiers made us to lie on the road and threatened to run them over.¹⁰⁵

A 25-year-old Falta (not her real name) told Amnesty International that, her child died in *Giwa* Barracks in or around Mid-2016. She said:

My daughter was five months old when she died. She always fainted whenever she went to the toilet. They gave us drugs in the barracks but she was not responding to them and when I took her to the soldiers to complain, they would chase me away. They never admitted her in the hospital or carried out test on her to find out what was wrong. She was sick for two weeks before she died.¹⁰⁶

Enforced Disappearance

Enforced disappearance is one of the most serious forms of human rights violation, as it includes violations of series of fundamental rights, including the right to life, integrity, free development of the personality, personal liberty and security, presumption of innocence, due process, right to defence and effective recourse before the court.¹⁰⁷ Furthermore, on the one hand the rights of the missing person are violated and on the other hand, the victim's relatives are denied the right to know the truth about what happened, the whereabouts of the victim, the receipt of remains and the process of grieving.¹⁰⁸ This fact was upheld by the United Nations General Assembly (UNGA) in its first resolution on disappearances, in 1978, stating that; "It is deeply moved at the anguish and sorrow which such circumstances cause to the relatives of disappeared persons, especially to spouses, children and parents."¹⁰⁹ The recognition of the serious suffering inflicted on relatives because of the enforced disappearance of a loved one has been enshrined in the Declaration on the Protection of All Persons from Enforced Disappearance (DED). In fact, it expressly states that; "any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families."¹¹⁰ A further development in the evolution of international law, the International Convention for the Protection of All Persons from Enforced Disappearance (ICPED), defines Enforced Disappearance as:

The arrest, detention, abduction or other form of unauthorised deprivation of liberty of a person by a state, agents acting for the state, or persons or groups of persons acting with the authorisation, support or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the person's fate or whereabouts, placing him or her outside the protection of the law.¹¹¹

Article 1 of the Convention further states that:

¹⁰³ *Ibid.*

¹⁰⁴ Amnesty International, *'They Betrayed Us' Women Who Survived Boko Haram Raped, Starved and Detained in Nigeria*, (Published by Amnesty International 2018), 70.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ Federico Andreu Guzman, *Enforced Disappearance and Extrajudicial Execution: The Rights of Family Members, A Practitioners' Guide No. 10*, (Published by International Commission of Jurists 2016), 12.

¹⁰⁸ *Ibid.*

¹⁰⁹ United Nations General Assembly Resolution No. 33/173, "missing persons" of 20 December 1978. In the same vein see, for example, Resolutions No. 35/193 of December 15, 1980; 36/163 of December 16, 1981; 37/180 December 17, 1982; 38/94 of December 16, 1983; 39/111 of December 14, 1984; 40/147 of December 13, 1985; 41/145 of 4 December 1986; 42/142 of December 7, 1987; 43/159 of 8 December 1988; 44/160 of 15 December 1989; 45/165 of December 18, 1990; 46/125 of December 17, 1991; 47/132 of December 18, 1992.

¹¹⁰ DED, Art 1 (2).

¹¹¹ ICPED, Art 2.

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency may be invoked as a justification for enforced disappearance.¹¹²

The widespread or systematic use of enforced disappearance is further declared in article 6 of the Convention as: “a crime against humanity”.¹¹³ The ICPEP, uses a broad definition of the victim of enforced disappearance than the DED. The ICPEP states that victim means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.¹¹⁴ This provision, reflect the content of article 8 of the Principles on Reparation.¹¹⁵ Note that, during the process of drafting and negotiating the ICPEP, the delegations agreed to recognised that the notion of victim should not be restricted to disappeared persons only, and should encompass both relatives, including spouses, children, parents and siblings of deceased as well as others who might be adversely affected by the disappearance.¹¹⁶ International jurisprudence is unanimous in considering that the anguish and suffering caused to the family by the disappearance of a loved one and the continuing uncertainty over the person’s fate and whereabouts are a form of torture or cruel and inhuman treatment.¹¹⁷ This has been stated on several occasions by the Human Rights Committee,¹¹⁸ the European Court of Human Rights,¹¹⁹ the Inter-American Commission and Court of Human Rights.¹²⁰

Nigeria acceded to the International Convention for the Protection of All Form of Enforced Disappearance on 27th July, 2009.¹²¹ As a country that acceded to the Convention, Nigeria also accepted the International obligation not to act contrary to the object and purpose of the convention on enforced disappearance.¹²² In addition, Nigeria has become a party to other human rights treaties that addresses matters related to human rights violations that occur in the course of an enforced disappearance, and is bound by norms of customary international law. It has also undertaken certain obligations outside of the convention on enforced disappearance that protect individuals from enforced disappearance.¹²³ For example, enforced disappearances often occur in conjunction with other human rights violations, such as arbitrary detention, extrajudicial execution, *incommunicado* detention, torture, or rape.¹²⁴ These violations are prohibited under the International Convention on Civil and Political Rights (ICCPR), a treaty to which Nigeria is a party.¹²⁵ It should be noted that once violations has occurred, whether during the time of peace or conflict, state parties are obligated to ensure that victims have access to a remedy.¹²⁶ The right to a remedy is a well-established norm of international law; however, their substance continues to develop. The emerging view of the right to a remedy identifies four substantive components of the right to a remedy, the right to justice, the right to truth, the right to reparations, and guarantee of non-recurrence.¹²⁷ The right to justice requires that states criminally prosecute perpetrators of gross human rights violations and serious violations of international humanitarian law.¹²⁸ The right to truth requires that state should adequately investigate serious human rights violations and provide

¹¹²*Ibid*, Art 1.

¹¹³*Ibid*, Art 6.

¹¹⁴*Ibid*, Art 6.

¹¹⁵ Report of the Intercessional Open-Ended Working Group to Elaborate a Draft Legally Binding Normative Instrument for the Protection of All Persons from Enforced Disappearance, E/CN.4/2003/71 of 12 February 2003, para. 83.

¹¹⁶Frederion Andreu Guzman, (n12) 13.

¹¹⁷*Ibid*.

¹¹⁸ See inter alia: views of July 21, 1983, Communication No. 107/1981, case of *Maria Del Carmen Almeida De Quinteros v. Uruguay*, para. 14; views of March 25, 1996, Communication No. 542/1993, case of *Katombe L. Tshishimbi v. Zaire*, para. 5.5; views of March 25, 1996, Communication No. 540/1996, case of *Ana Rosario CelisLaureano v. Peru*. 8.5.

¹¹⁹ See the case of *Kurt v. Turkey* Judgment of May 25, case No. 15/1997/799/1002.

¹²⁰ See Annual Report of the Inter-American Commission on Human Rights, 1997, OEA/ser.L/V/II.43, doc.21, corr.1, of April 20, 1978. Also see Reports of the Working Group E/CN.4/1984/21, para.172 E/CN.4/1985/15, para. 291; E/CN.4/1990/13, para.339; and “General Comment on article 19 of the Declaration on the Protection of All Persons from Enforced Disappearance,” E/CN.4/1998/43, para.72.

¹²¹ Amnesty International, Nigeria: *Trapped in the Cycle of Violence*, (n3) 27.

¹²²*Ibid*.

¹²³*Ibid*.

¹²⁴ International Human Rights Law Clinic, *The Right in India: A Legal Analysis of International and Domestic Law Relating to Victims of Enforced Disappearances*, (Berkeley Law University of California, 2004), 3.

¹²⁵ Amnesty International, Nigeria: *Trapped in the Cycle of Violence*, (n3) 28.

¹²⁶*Ibid*.

¹²⁷ International Human Rights Law Clinic, (n3).

¹²⁸*Ibid*.

individuals and communities with the result of its investigation.¹²⁹ The right to reparations requires that states provide access to redress and compensation for violations.¹³⁰ A guarantee of non-recurrence requires that states take concrete measures to prevent similar violations from occurring in the future.¹³¹ The types of human rights violation determine the applicability of each of these four dimensions in satisfying the right to a remedy. However, despite the prohibition of enforced disappearance by the international, regional and national instruments, there are still cases of enforced disappearance resulting from *Boko Haram* insurgency as demonstrated by Amnesty International. It is pertinent to examine some of the instance of such alleged enforced disappearance.

Goni Ali was arrested by members of the JTF at his home in Maiduguri with three others on 16 October 2011. They were taken to *Giwa* barracks, 21 Army Brigade. Two of the men arrested with him were released the following day and the third was released four days later. Goni Ali's family has not heard any information about him since. In July, 2012 they told Amnesty International that: "Whenever I go I ask about my brother I don't get any response from the JTF; sometimes they say they don't know him."¹³²

Following a court hearing on 4 January, 2012 into the disappearance of Goni Ali, at which the JTF failed to appear, the judge commented in his ruling:

All parties have been served ...none of them has the courtesy to even write or sent a representative to state why they do not avail court. Military or paramilitary like all other indigent individuals are subject to the constitution of Nigeria which is sacrosanct. Nobody can claim monopoly of force or coercion except legitimately. In a situation where people who are the custodians of the law defy constituted authorities what would then happen to poor, unprivileged persons? It is barbaric, uncalled for and against all civilised standards. We cannot sanitise a society where those custodians defied all standards of civility with contempt. I really cannot know where we are heading to. It is high time we change our barbaric behaviour.¹³³

On 25 January 2011, 64 people were presented in the Federal High Court Maiduguri. Sixty-five persons were named on the charge sheet. Abatcha Mohammad's name was listed but he was not produced in court, neither the police nor the prison service could account for his whereabouts. The 65 people were arrested at various locations in Maiduguri in November 2010 by police. Initially detained at Crack Police Station, Maiduguri, they were then transferred to Police Headquarters Abuja, then to Police Borno State Headquarters. At some point between his arrest and the date he was due to be arraigned in court, Abatcha Mohammad went missing.¹³⁴

Rape

Rape and sexual violence have an extremely long history and it occurs both in peace time and also during conflict or war situation.¹³⁵ For many centuries, women were viewed as "victor's Spoils," in ancient Greece, as in many other societies, victors in war gained the "right to rape." Women are raped in all forms of armed conflict, both international and internal, whether the conflict is fought primarily on religious, ethnic, political or nationalist grounds, or a combination of all these.¹³⁶ Rape are committed by men from all sides i.e. both enemy and friendly forces.¹³⁷ Rape, is a crime whose phenomenon is highly controversial, and emotional issues are really involved. Its social context cannot be ignored, yet it is one of the most under reported crimes.¹³⁸ It is difficult to obtained accurate official statistics to show the frequency of this offence but one can say that it is on the increase.¹³⁹ The rampancy and ferocity of rape today either in peace or war situation is of

¹²⁹*Ibid.*

¹³⁰*Ibid.*

¹³¹*Ibid.*

¹³² Amnesty International, *Nigeria: Trapped in the Cycle of Violence*, (n3) 28.

¹³³*Ibid.*

¹³⁴*Ibid.*

¹³⁵ Babalola Abegunde, Re-Examination of Rape and its Growing Jurisprudence under International Law, (2013) (6) (4) *Journal of Politics and Law*, 187.

¹³⁶ De-Tham C. and Shorts, C. *International Criminal Law and Human Rights* (Sweet & Maxwell, London, 2013), 345-386 at 347.

¹³⁷ Babalola Abegunde, (n187).

¹³⁸*Ibid.*

¹³⁹*Ibid.*

global concern. The law sought to give protection to a father's interest in the virginity of his daughter or a husband's interest in his wife's fidelity. It was therefore observed in the case of *People v. Al Berta*¹⁴⁰ that: "The purpose behind early rape laws is to protect the chastity of women and thus their proprietary value to their fathers and husbands."¹⁴¹ However, there is no universally accepted legal definition of rape; definitions vary between different legal systems.¹⁴² Increasingly however, the elements of crime of rape by the Rome Statute for the International Criminal Court, and International and Regional Human Rights Tribunals have developed principles which should govern definitions of rape in domestic laws.¹⁴³ The definition of rape in the elements of crime to the Rome Statute of the International Criminal Court is the most advanced definition available to international lawyers.¹⁴⁴ Rome Statute of the International Criminal Court 1998, defines rape as a crime against humanity in article 7 (1) (g) which provided that:

- i. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body;
- ii. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of coercive environment, or the invasion was committed against a person incapable of giving genuine consent.¹⁴⁵

Amnesty International recommends that this definition should be fully incorporated into domestic laws so as to maximise the protection of the human rights of women and girls to ensure the right to redress and reparations in case of rape.¹⁴⁶ Acts of rape and discriminatory laws that condone rape or prevent its successful prosecution amount to violations of various international human rights treaties such as United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),¹⁴⁷ The International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), as well as regional treaties such as the African Charter on Human and Peoples' Rights (ACHPR).¹⁴⁸ Rape of women and girls is an act of gender based violence and constitutes discrimination as prohibited by CEDAW, which sets out a detailed mandate to secure equality between men and women and to prohibit discrimination against women.¹⁴⁹ The definition of discrimination against women in article 1 of CEDAW includes violence against women. The definition of discrimination includes gender based violence, that is, violence that is directed against women because she is woman or that affect women disproportionately.¹⁵⁰ It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.¹⁵¹ The International Criminal Tribunal for the Former Yugoslavia in its judgment in the *Furundzija's* case held that: "rape as coercion or force or threat of force against the victims or a third person."¹⁵² Also in the case of *Akayesu*, the Tribunal held that; 'rape is a form of aggression' and that the central element of the crime of rape cannot be captured in a mechanical description of objects and body parts.¹⁵³ The Optional Protocol to CEDAW offers women a direct means of seeking redress at the international level for violations of their rights.¹⁵⁴

¹⁴⁰ (1984) N.Y. 2d 154, 167.

¹⁴¹ *Ibid.*

¹⁴² O. T. Akinwale and O. S. Omoera, *A Review of Literature: Rape and Communication Media Strategies in Nigeria*, <<https://www.researchgate.net/publication>>.pdf>6. accessed on 30/11/2020, 1.

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*, Art 7 (1) (g).

¹⁴⁶ O. T. Akinwale and O. S. Omoera, (n6) 13.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*

¹⁵⁰ CEDAW, Art 1.

¹⁵¹ *Ibid.*

¹⁵² M. S. Gay and J. McDougall, *Contemporary Forms of Slavery, Systematic Rape, Sexual Slavery and Slavery Practice during Armed Conflict*, E/CN.4/SUB. 2/1998/13.

¹⁵³ *Prosecutor v. Jean Paul Akayesu*, ICTR 96-4-T <[https:// inctr.irmct.org/en/cases/ictr-96-4.](https://inctr.irmct.org/en/cases/ictr-96-4)> accessed on 30/11/2020, 96.

¹⁵⁴ M. O. A. Ashiru and O. A. Orifowomo, *Law of Rape in Nigeria and England: Need to Re-Invent in the Twenty-First Century*, (2015) (38) *Journal of Law, Policy and Globalization*, 32.

Nigeria has ratified CEDAW without reservation on 13 June, 1985 and the Optional Protocol on 22 November, 2004.¹⁵⁵ The law of rape under Nigeria law is based on statute. The application of the law of rape under statute depends on which part of the country it is being applied. If its application is in the Southern States of the country, the Criminal Code Act would be applied¹⁵⁶ while in the Northern States of Nigeria the Penal Code Act is applied.¹⁵⁷ The relevant section of the Criminal Code Act with regard to crime of rape is contained in section 357 which provides that:

Any person who has unlawful carnal knowledge of a woman or girl without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or, in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.¹⁵⁸

Under the Penal Code Act, section 282 provides that:

A man is said to commit rape who ...has sexual intercourse with a woman in any of the following circumstances: -

- a. Against her will;
- b. Without her consent;
- c. With her consent, when her consent has been obtained by putting her in fear of death or of hurt;
- d. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;
- e. With or without her consent when she is under fourteen years of age or of unsound mind.

Both under the Criminal Code and the Penal Code Acts, mere penetration is sufficient to constitute the offence of rape or sexual intercourse as the case may be.¹⁵⁹ The Penal Code Act also makes specific provision in relation to children under 16 years of age, who have been sexually assaulted by those in position of authority. Section 283 of the Penal Code Act stated that; any consent given by the girl under the age of 16 to her teacher, guardian or any person entrusted with her care or education is not valid consent.¹⁶⁰ Despite the prohibition of rape and other sexual violence by the international, regional and domestic instruments, still Amnesty International and other Human Rights Organisations have accused Nigerian Military Joint Task Force JTF for commission of crime of rape and sexual violence against women and girls in their counter measures against *Boko Haram* insurgency. Amnesty International and the Human Rights Watch have interviewed some of the victims of alleged rape and sexual violence by the JTF and it is pertinent to examine some of these interviews. At *Kaleri* neighbourhood in Maiduguri on July, 9, 2011 after the raid, which resulted in burning houses, cars and killing men of the neighbourhood, two JTF soldiers were said to have raped a woman whose husband they had killed. An eye witness to the incidence stated that:

I saw two soldiers beat a woman in her compound. They then raped her one after the other. It was very close to where I was hiding...she lay there until the morning when people came to carry her to hospital. They have since taken her to the village for treatment. Because of shame she cannot come back.¹⁶¹

Twenty (20) year old Ama (not her real name) told Amnesty International that she was raped after accepting food from a JTF member who then felt entitled to payment. She said:

The soldiers and civilian Joint Task Force CJTF will give you food but in the night they will come back around 5pm or 6pm and they will tell you to come with them...one JTF man came and brought food to me, he came back in the evening, but I hid myself. The next day he said I should take water from his place and I went. He

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.*

¹⁵⁸ Criminal Code Act, s, 357.

¹⁵⁹ Criminal Code Act, s. 6 and Penal Code Act, s. 282.

¹⁶⁰ M. O. A. Ashiru and O. A. Orifowomo, (n32) 33.

¹⁶¹ Human Rights Watch, *Spiraling Violence: Boko Haram Attacks and Security Forces Abuses in Nigeria*, (Human Rights Watch, USA 2012,) 9.

then closed the tent door behind me and raped me. He said I gave you these things, if you want them we have to be husband and wife.¹⁶²

Twenty-Five (25) year old Kale (not her real name) told Amnesty International that she was raped on two occasions in the camp. She said:

There was a day (in or around April, 2015), I was pregnant, and a soldier raped me. He knew I was five or six months pregnant. He said he saw me three times before. He did not offer me any food, he called me and I ignored him, but on the third day after I ignored him, he forced me to a room, and raped me.¹⁶³

Scores of Internally Displaced Persons (IDPs) said that women and girls were being sexually exploited and raped by the soldiers and CJTF members in the satellite camps. They said women and girls were coerced to become the “girlfriend” or “wife” of the soldiers or CJTF members, which involved being available for sex on a regular basis.¹⁶⁴ Women and girls said that they were coerced to become girlfriends of soldiers or CJTF in *Bama Hospital Camp* during the famine like situation of late 2015 and early 2016, when people were dying daily from hunger.¹⁶⁵

Unlawful Detention

All human beings have the right to enjoy their liberty and security. It is axiomatic that, without an effective guarantee of the liberty and security of the human person, the protection of other individual rights becomes increasingly vulnerable and often illusory.¹⁶⁶ Yet, as it evidenced by the most of the international monitoring organs, arrest and detention without reasonable cause, and without there being any effective legal remedies available to the victims concerned, are commonplace.¹⁶⁷ In the course of such arbitrary and unlawful deprivations of liberty, the detainees are frequently also deprived of access both to lawyers and to their families, and also subjected to torture and other forms of ill-treatment.¹⁶⁸ Article 9 (1) of the ICCPR provides that:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

While, Article 6 of the ACHPR provides that:

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrary arrested or detained.

The above human rights treaties stipulated, though in a differing terms, that deprivation of liberty must be in all cases be carried out in accordance with the law, the Principle of Legality. Also, the deprivations of liberty must not be arbitrary; a wide notion was made possible for the international monitoring organs to consider factors that make the domestic laws or their application unreasonable in the circumstances. As to the principle of legality, the Human Rights Committee has held that:

¹⁶² Amnesty International, Interview with victims of Rape by JTF in the IDPs Camp in Italic, (Published by Amnesty International, 2017) 42.

¹⁶³ Amnesty International, ‘They Betrayed Us’ Women How Survived Boko Haram Raped, Starved and Detained in Nigeria, (n70) 53.

¹⁶⁴ *Ibid.*

¹⁶⁵ *Ibid.*

¹⁶⁶ Human Rights and Arrest, *Pre-Trial Detention and Administrative Detention: Human Rights in the Administration of Justice*, A Manual on Human Rights for Judges, Prosecutors and Lawyers, 159.

¹⁶⁷ *Ibid.*

¹⁶⁸ See United Nations Doc. E/CAN.4/1999/63, Report of the Working Group on Arbitrary Detention.

It is violated if an individual is arrested or detained on grounds which are not clearly established in domestic legislation. In other words, the grounds for arrest and detention must be established by law.¹⁶⁹

In a case where a person was arrested without a warrant, which was issued more than three days later, contrary to the domestic law that lays down that a warrant must be issued within 72 hours after arrest.¹⁷⁰ The Committee concluded that article 9 (1) had been violated because the author had been deprived of his liberty in violation of a procedure as established by law.¹⁷¹ With regard to the meaning of the words arbitrary arrest in article 9 (1), the Committee has explained that:

Arbitrariness is not to be equated with against the law, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law...this means that remand in custody pursuant to lawful arrest must not only be lawful but reasonable in the circumstances. Remand in custody must further be necessary in all the circumstances, for example, to prevent flight, interference with evidence or the recurrence of crime.¹⁷²

In other words, remand in custody pursuant to lawful arrest must not only be 'lawful' but also 'reasonable' and 'necessary' in all the circumstances for the aforementioned purposes. It is for the state party concerned to show that these factors are present in the particular case.¹⁷³ It is also pertinent to note that, state parties undertake to ensure the enjoyment of rights and fundamental freedoms without distinction on such grounds as race, colour, sex, language, religion, and political or other opinion. The African Commission on Human and Peoples' Rights, consequently concluded that arrests and detentions carried out by Rwandan Government on grounds of ethnic origin alone...constitute arbitrary deprivation of the liberty of an individual; such acts are thus, clear evidence of a violation of article 6 of ACHPR.¹⁷⁴ In another, case the African Commission held that:

The indefinite detention of persons can be interpreted as arbitrary as the detainee does not know the extent of his punishment, Article 6 of the African Charter had been violated in this case because the victims concerned were detained indefinitely after having protested against torture.¹⁷⁵

Furthermore, it constitutes an arbitrary deprivation of liberty within the meaning of article 6 of the African Charter to detain people without charges and without the possibility of bail; in this particular case against Nigeria the victims had been held in these conditions for over three years following elections.¹⁷⁶ In Nigeria, the Constitution of the Federal Republic of Nigeria, 1999 as amended is the Supreme law of the land. The right against unlawful detention is provided under section 35 of the 1999 Constitution and the section provides that:

Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in following cases and in accordance with a procedure permitted by law...¹⁷⁷

This means that an accused person can be deprived of his personal liberty is against one of the pillars of any democratic set up because it directly in conflict with or offends the power of the state to remove a person out

¹⁶⁹ Communication No. 702/1996, *C Mclawrence Jamaica* (views adopted on 18 July 1997), in UN doc. GAOR, A/52/40 (Vol.II) pp 230-231, para. 5.5.

¹⁷⁰ *Ibid.*

¹⁷¹ Communication No. 770/1997, *Gridin v. Russian Federation* (views adopted on 20 July, 2000), in UN doc. GAOR, A/55/40 (Vol. II), p. 175, para. 8.1.

¹⁷² Communication No. 458/1991, *A. W. Mukony v. Cameroon* (views adopted on 21 July 1994), in UN doc. GAOR, A/49/40 (Vol. II), P. 181, para. 9.8.

¹⁷³ Communication No. 305/1988, *H. Van Alphen v. the Netherlands* (views adopted on 23 July, 1990), in UN doc. GAOR, A 45/40 (Vol. II), 115, para. 5.8.

¹⁷⁴ ACHPR, *Organization Contre La Torture and Others v. Rwanda*, Communications No. 27/89, 46/91, 49/91, and 99/93, decision adopted during the 20th Ordinary session, October 1996, para. 28. https://www.umn.edu/hu-manrts/africa/comcases/27-87_46-91_49-91_99-93.html. Accessed on 10/10/2020.

¹⁷⁵ ACHPR, *World Organization against Torture and Others v. Zaire*, Communications No. 25/89, 47/90, 56/91 and 100/93, decision adopted during the 19th Session, March 1996, para. 67. <<https://www.up.ac.za/chr/>>. Accessed on 1/12/2020, 45.

¹⁷⁶ ACHPR, *Constitutional Rights Project and Civil Liberties Organization v. Nigeria*, Communication No. 102/93, decision adopted on 31 October 1998, para. 55.<<https://www.umn.edu/humanrts/africa/comcases/102-93.html>> accessed on 4/12/2020, 62.

¹⁷⁷ CFRN, 1999 as amended, s. 35.

of circulation. In the case of *Onu Obekpa v. Commissioner of Police*¹⁷⁸ where the accused was held in custody on an allegation of theft, when he applied for bail, the police opposed the application. However, the court, in granting bail, noted that the spirit behind the provision of section 32 (4) (a) of the 1979 Constitution, now section 35 of the 1999 Constitution is to keep an accused person out of incarceration until found guilty. It is a constitutional privilege which he is entitled to under the constitution. It will be counted as a failure on the part of the police taking long time in investigating and also on the part of judicial officers if they fail to attend to application of bail promptly and expeditiously, as justice delayed is justice denied.¹⁷⁹ This is where granting of bail as a pre-trial remedy is very important, as it will ease the prison congestion. Today, bail serves to give life to the abstract concept of the right to liberty by acting as a reconciling mechanism whereby in the pre-trial stage the liberty, interest of the society and of the defendants are both accommodated.¹⁸⁰ Bail serves to give substance to the presumption of innocence under which every person who is charged with a criminal offence is presumed innocent until he is proved guilty.¹⁸¹ The meaning of this presumption is that a person should not be punished until he has been found guilty by due process of law. In the case of *FamiFalana & 2 Ors v. the Attorney General of the Federation & 2 Ors*¹⁸² where the applicant was arrested and detained by the Federal Government and he went to court and challenged his detention which was never contended by government. The Court then ordered his immediate release and awarded 4,000.00 naira damages against the Federal Government for the unlawful arrest and detention of the applicant. However, despite the prohibition of unlawful arrest and detention by the international, regional and domestic laws, cases of unlawful arrest and detention is very rampant in Nigeria, especially with regards to counter measures against *Boko Haram* insurgency by the JTF. The Joint Military Task Force was accused of human rights violation by the international and other human rights organizations. Amnesty International and other human rights defenders have interviewed many victims of unlawful arrest and detention by the JTF, and it is pertinent to examine some of these interviews as conducted by the above human rights organizations.

Sa'adatu Umar, a nursing mother, was arrested on 20th March 2011 in Bauchi with her three children aged five, three and ten months. She was accused of aiding her husband evade arrest. After two days they were transferred to Abuja where they were detained at Area 10 Police Station for almost three months; Sa'adatu Umar was never charged or arraigned before a court of law. She was eventually released on 15 June 2011 after Non-Governmental Organisation Legal Defence and Assistance Project (LEDAP) filed a petition at the ECOWAS Community Court of Justice in Abuja, seeking an order declaring her detention illegal and ordering her release. She said that she and her three children became ill while in police custody as a result of inadequate food, water, medical care and clothing.¹⁸³ Muhammed Mari Abba, a 35-year-old medical practitioner and consultant for the World Health Organisation (WHO) was arrested on 20th October 2012 in Yobe State. According to his lawyer, Dr. Abba was stopped at a police checkpoint while travelling with three other passengers from *Damaturu* to *Jakusko* and *Nalgere* Local Government Areas of Yobe State. The other passengers run away and were chased by the police; Dr. Abba stayed in the car and gave a statement to the police. He was then allowed to go, leaving the car behind. When he later realised that he had left his wallet in the car, he went to Damaturu police station, where he was detained. Dr. Abba was neither released nor arraigned before a court of law.¹⁸⁴ Also a 13 year old girl was arrested in April 2014 after she was abducted and forced to marry a *Boko Haram* member, the reason for her arrest according to the Defence Headquarters, that she was confirmed to have killed 4 people with rifle and she has never been arraigned between a court of law.¹⁸⁵ Another 16 year old girl detained in *Giwa* Barracks was arrested because her father is a *Boko Haram* member, she married a *Boko Haram* member and her dowry was paid to her in the presence of her father in *Boko Haram* camp.¹⁸⁶ It is also worthy to note that, even the Nigeria military authority had admitted the fact of detention without trial. The authority revealed that one thousand four hundred *Boko Haram* terror suspects

¹⁷⁸ (1981) 2 NCLR, 420.

¹⁷⁹ *Ibid.*

¹⁸⁰ Okagbue Isabella, *Bail Reform in Nigeria, Ibadan Oyo State, Nigeria, Ariwola House* (Caltop Publications Nigeria Limited, 1996), 2.

¹⁸¹ CFRN, 1999 as amended, s. 36 (5)

¹⁸² (Unreported) Suit No. M/288/92 of June 8, 1992.

¹⁸³ Amnesty International, Nigeria: *Trapped in the Cycle of Violence*, (n3) 39.

¹⁸⁴ *Ibid.*

¹⁸⁵ *Ibid.*

¹⁸⁶ *Ibid.*

were held for many months without trial. The military authority stated that one hundred and sixty-seven suspects were to be freed while the cases of six hundred and fourteen suspects were for review by the Defence Headquarters.¹⁸⁷

CONCLUSION AND RECOMMENDATIONS

The paper appraised human rights violations by the JTF in its efforts of counter-insurgency operations against *Boko Haram* in the North-East Nigeria. The paper revealed that, the JTF in their counter-insurgency operations against *Boko Haram* have engaged in serious human rights violations of the citizens. Some of the typical human rights violations by the JTF include: extra-judicial killings, torture and other forms of ill-treatment, enforced disappearance, rape and unlawful detention. The Nigeria government has a responsibility both under the international and domestic laws to prevent, investigate and punish the perpetrators of human rights violations among the JTF. However, the government have failed in its responsibility to do so, despite the Presidential Investigative Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement constituted in 2017 to identify the perpetrators of human rights violations among the JTF and the panel concluded its assignment and a report identifying the perpetrators of human rights violations among the JTF was submitted to the government yet the report was neither made public nor any perpetrator was brought to justice. Also the legal framework put in place as the existing laws have proven to be inadequate in preventing and punishing the practice of human rights violations by the JTF, particularly violations like war crimes and crimes against humanity of which international organisations have accused the JTF, the accusation of which this paper found to be true. Therefore, the paper recommends that, there is a need to domesticate the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Optional Protocol on the Rights of Women in African, under the African Charter on Human and People's Rights (ACHPR). This will go a long way in addressing some of the inadequacies in the legal framework in protecting human rights. There is also a need to strengthen the institutional mechanism to ensure proper protection and promotion of human rights in line with the international standard and victims of human rights violations by the JTF be adequately compensated by the government through a well organised program, where such victims will be identified, assessed and compensated. Finally, the report on the Presidential investigative panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement be made public and the perpetrators identified in the report should be brought to justice.

¹⁸⁷ "Military Admits, 1,400 Detained without trial," (Daily Trust, December 5, 2013), 1-5.