

**ARMED CONFLICT AND HUMAN TRAFFICKING IN WOMEN
AND CHILDREN IN AFRICA: WHAT ROLE FOR THE RULE OF LAW? ***

Abstract

Africa has been contending with armed conflicts since the end of the Second World War. These conflicts are mostly intrastate. Although victims of such conflicts are usually not gender specific, women and female children suffer disproportionately as they are more predisposed to human rights abuses and sexual based violence. Existing literature suggests that armed conflict and human trafficking intersect as armed conflict increases the risks of human trafficking by weakening rule of law. Regrettably, despite the robust legal framework for human trafficking in Africa the problem persists. This paper examines human trafficking of women and children in times of armed conflict in two African countries: Nigeria and the Central African Republic. It states that human trafficking is a common occurrence during armed conflicts in these countries and suggest that African states, especially Nigeria and the Central African Republic, strengthen the rule of law by means of creative anti-trafficking strategies in humanitarian responses through collaboration with international community.

Keywords: Armed Conflict, Human Trafficking, Women, Children and Rule of Law

1. Introduction

Armed conflict and human trafficking often interconnect.¹ This interconnection has been noted by the United Nations; describing it as ‘multifaceted and transnational’.² The United Nations Security Council observed that human trafficking can both be instrumental and incidental to conflict. It is instrumental when ‘used as a method of recruitment or a method of warfare, in particular to terrorise and displace populations, and to subjugate them.’ It is incidental to conflict when ‘people affected and displaced by conflict become vulnerable to trafficking’.³ Human trafficking can take many forms, such as forced labour, domestic servitude, child soldiers, and sex trafficking, amongst others.⁴ The problem is perpetuated by different groups in times of armed conflict.⁵ Vulnerable persons such as women and children are compelled to contend with various forms of human rights violations that have mental, emotional, physical and material ramifications.⁶ These violations have become a thing of concern in some African states. This paper examines the role that can be ascribed to the rule of law in the fight against trafficking. It is divided into six sections. The first section is the introduction, the second, contains the conceptual foundation. The third deals with the legal framework on human trafficking in Africa. The fourth takes a look at armed conflict and human trafficking in Nigeria and Central African Republic (CAR). The fifth examines the place of the rule of law in curbing human trafficking in conflict and post conflict situations. The sixth and final sections contain practicable recommendations and conclusion.

2. Conceptual Clarifications**Armed Conflict**

Armed conflict was defined by the Appeals Chambers of the International Criminal Tribunal for Yugoslavia in the *Prosecution v. Tadic*, as the resort to ‘armed force between states or the protracted violence between governmental authorities and organised armed groups or between such groups within a state’.⁷ Wallenstein and Sollenberg defined armed conflict as a political conflict involving the use of armed force by two parties of which

* **By Flora Alohan ONOMRERHINOR, PhD, LLM, LLB, BL**, Lecturer, Department of Jurisprudence and International Law, Faculty of Law, University of Benin, Benin City, Nigeria, E- mail flora.alohan@uniben.edu, +234 703 442 8226; and

* **Juliet AIMIENROVBIYE, LLM, LLB, BL**, Lecturer, Department of Private and Property Law, Faculty of Law, University of Benin, (Doctoral Candidate, University of Benin), e-mail: Juliet.aimienrovbiye@uniben.edu, +2348034711405

¹United Nations, ‘Report of the Special Rapporteur on trafficking in persons, especially women and children’ (3 May 2016) <<https://www.unodc.org/documents/human-trafficking/2018/17-08776>> accessed 14 October 2018

² *Ibid*

³ *Ibid*

⁴Alys McAlpine, Mazeda Hossain and Cathy Zimmerman, ‘Sex trafficking and sexual exploitation in settings affected by armed conflicts in Africa, Asia and the Middle East: systematic review’ (2016) *BMC International Health and Human Rights* 1- 16 <<https://www.ncbi.nlm.nih.gov/pmc/articles>> accessed 8 July 2020

⁵ Michelle Lillie, ‘Human Trafficking and Armed Conflict’ <<https://humantraffickingsearch.org/author/michelle/>> accessed 8 July 2020

⁶ Dyan Mazurana and Khristopher Carlson, ‘The Girl Child and Armed Conflict: Recognizing and Addressing Grave Violations of Girls’ Human rights’ <<http://www.refworld.org/cgi-bin/texis>> accessed 10 November 2018 Also see Natalia Buchowska, ‘Violated or protected: Women’s Rights in Armed Conflicts after the Second World War’ [2016] (2) *International Comparative Jurisprudence Journal*; 72

⁷ICTY, *The Prosecutor v. Dusko Tadic*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-A, 2 October 1995, para. 70

at least one is the government of a state and results in at least 25 battle-related deaths.⁸ To them, a 'major armed conflict' is a war between states and a current political conflict within a state in which armed fighting or clashes between government forces and its opponents result in at least 1,000 deaths in the course of the conflict.⁹ However, Pictet stated that any difference arising between two states and leading to the intervention of armed forces was an armed conflict within the meaning of Article 2, even if one of the Parties denied the existence of a state of war and it made no difference how long the conflict lasted, or how much slaughter took place.¹⁰ In a similar vein, Schindler stated that the existence of an armed conflict within the meaning of Article 2 common to the Geneva Conventions can always be assumed when parts of the armed forces of two states clash with each other. Therefore, any kind of use of arms between two states brings the Conventions, that is, the Geneva Convention of 1949 into effect,¹¹ which means in effect that in such situations a state of armed conflict can be said to exist. Gasser explained that any use of armed force by one State against the territory of another, triggers the applicability of the Geneva Conventions between the two States, and it is of no moment whether or not the party attacked resisted. For as soon as the armed forces of one state find themselves with wounded or surrendering members of the armed forces or civilians of another state on their hands, as soon as they detain prisoners or have actual control over a part of the territory of the enemy State, then they must comply with the relevant convention.¹² Articles 2 and 3 Common to the four Geneva Conventions of 1949 states that armed conflict could be either International or non-international. It is International where the armed conflict involves resort to armed force by two or more States. On the other hand, it is non-international where the armed conflict is a protracted armed confrontation occurring between a governmental armed force and the forces of one or more armed groups, or between such groups on the territory of a state party to the Geneva Conventions.¹³ However, for armed confrontation by non-governmental armed group to amount to such under this provision, the armed confrontation must reach a minimum level of intensity and the parties involved in the conflict must show a minimum of organization.¹⁴ Apart from regular, inter-state armed conflicts, Additional Protocol I extends the definition of International armed conflict to include armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes in the exercise of their right to self-determination, that is, wars of national liberation.¹⁵ Since contemporary armed conflict in Africa is essentially intrastate and often involves governmental and non-governmental military and paramilitary forces and militias, the definition armed conflict recognized in the Geneva Conventions is apt.

Human Trafficking

Trafficking in persons, especially women and children, has been said to be the purchase and sale of human beings as cargo for the purpose of engaging in exploitative forms of labour such as sex work' or participation in armed conflict.¹⁶ The most commonly used definition of human trafficking is the that set out in the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime.¹⁷ The said Protocol defined human trafficking as follows:

Trafficking in human beings shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the 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, at a minimum,

⁸ Peter Wallensteen, and Margareta Sollenberg, 'Armed Conflict and Regional Conflict Complexes 1989-97' [1998] (35)(5) *Journal of Peace Research*; 621

⁹ Ibid.

¹⁰ J. Pictet, *Commentary on the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* (ICRC, 1952), 32

¹¹ D. Schindler, 'The different Types of Armed Conflicts According to the Geneva Conventions and Protocols' [1979] (163) *RCADI*; 131

¹² H.P. Gasser, 'International Humanitarian Law: an Introduction' in H. Haug (ed), *Humanity for All: The International Red Cross and Red Crescent Movement* (Paul Haupt Publishers, 1993), 510 - 511

¹³ Common Article 3 to the Geneva Conventions of 1949

¹⁴ ICRC, 'How is the Term 'Armed Conflict' Defined in International Humanitarian Law?' *International Committee of the Red Cross (ICRC) Opinion Paper*, March 2008.

¹⁵ Additional Protocol I, article. 1, para. 4 defined armed conflicts as 'armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations'.

¹⁶ Susan Tiefenbrun, 'Child Soldiers, Slavery and the Trafficking of Children' [2007] (31)(2) *Fordham International Law Journal*; 416

¹⁷ Korin Lebov, 'Human Trafficking in Scotland' [2010] (7) *European Journal of Criminology*; 78

the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹⁸

From the above definition the three key elements that must be present for a situation of trafficking in persons to exist are: the act, which could involve recruitment, transportation, transference, harbouring and or receipt of persons; the means, which covers threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, giving payments or benefits; and the purpose of exploitation which could also include sexual exploitation, forced labour, slavery or similar practices, removal of organs and other types of exploitation.¹⁹ The recruitment of a child, that is, persons under the age of eighteen for the purpose of sexual exploitation or participation in armed conflict falls under the definition of trafficking in persons.²⁰

Rule of Law

According to Dicey there are three connotations of the rule of law.²¹ First is the absence of discretionary powers and supremacy of the law; Second, equality before the law or the equal subjection of all classes of persons to the law of the land as administered by the ordinary courts of justice; and third, the predominance of legal spirit.²² The definition of the rule of law adopted in this paper is one that emphasizes the ends that the rule of law is intended to serve within society as well as the elements necessary to actuate the rule of law such as comprehensive laws, well-functioning courts and trained law enforcement agencies. To enthrone the rule of law, the following must be present: a government bound by law, equality before the law, the establishment of law and order, predictable and efficient justice delivery system and human rights protections.²³

3. Legal Frame Work Regulating Human Trafficking of Women and Children in Armed Conflict in Africa

There are both international and regional legal frameworks for regulating human trafficking in Africa. Some examples of International instruments on trafficking include:

1. The Anti-Trafficking Protocol 2000 which provides that states should adopt both legislative and other measures to criminalise all the conducts of trafficking in persons.²⁴
2. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) 1979.²⁵ Article 6 CEDAW provides that state parties should take appropriate measures including legislations to suppress all forms of trafficking in women and exploitation or prostitution of women.
3. The United Nations Convention on the Rights of the Child 1989 (CRC).²⁶ Article 38 of this instrument provides that state parties to the convention are to respect and ensure the conformity to rules of international humanitarian law relevant to the child in armed conflicts situation. This includes trafficking and related acts.
4. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Other of 1949/1951 which recognises that the trafficking in person for the purpose of prostitution are 'incompatible with the dignity and worth of the human person'.²⁷
5. The Rome Statute of the International Criminal Court, article 7(1) of which recognises acts such as enslavement; sexual slavery, rape, enforced prostitution as 'crimes against humanity'. Enslavement as used in article 7(1) includes the exercise of 'powers attaching to the right of ownership over a person' in the course of trafficking in person particularly women and children.²⁸

Some example of regional instruments on human trafficking in Africa includes:

1. The African Charter on Human and Peoples' Rights 1981 (ACHPR) recognises the need to promote and protect human and peoples' rights in African states. Though not specifically containing any provision on

¹⁸ Article 3a of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000

¹⁹ UNODC, *Thematic Paper: Countering Trafficking in Persons in Conflict Situations* (United Nations, 2018): vii

²⁰ Susan Tiefenbrun, 'Child Soldiers, Slavery and the Trafficking of Children' [2007] (31)(2) *Fordham International Law Journal*; 418

²¹ A.V. Dicey, *An introduction to the Law of the Constitution* (10th edn, Palgrave Scholarly 1985), 202-203

²² Ibid

²³ Anna W. Shavers, 'Human Trafficking, The Rule of Law, and Corporate Social Responsibility' [2012] (9)(1) *South Carolina Journal of International Law and Business*; 39

²⁴ Article 5.

²⁵ All African countries are state parties to CEDAW except Somalia and Sudan. See OHCHR, <<http://indicators.ohc hr.org>> accessed 22 November 2018

²⁶ All countries in African according to the United Nations Human Rights Office of the High Commissioner all African countries are state parties to the CRC. See United Nation, 'Parties to the CRC' <<http://indicators.ohchr.org>> accessed 22 November 2018

²⁷ Preamble, para 1.

²⁸ Article 7(2)(c) Rome Statute.

- trafficking the ACHPR recognises rights that the very act of human trafficking violates. The ACHPR recognises the right of every individual to respect for his life and integrity of his person.²⁹ In article 5 the ACHPR recognises that every individual has the right to dignity. Hence the ACHPR prohibits all 'forms of exploitation and degradation of man particularly slavery, slave trade, cruel, inhuman or degrading punishment and treatment'. Trafficking of women and children in armed conflict is a clear form of exploitation and sometimes trafficked women and girls are exploited as domestic slaves and sexual slaves.
2. The Protocol to the ACHPR on the Rights of Women in Africa 2002 (Women Protocol 2002) which provides that women are to be protected in Armed Conflicts irrespective of the population to which they belong.³⁰
 3. The African Charter on the Rights and Welfare of the Child 1990 (ACRWC). This instrument in its preamble notes that the situation of most African children could be deemed critical due to unique factors amongst which is armed conflict. States are enjoined to respect the rules of international humanitarian law applicable in armed conflicts which affect children.³¹
 4. The Ouagadougou Action Plan of 2006. This instrument which was jointly entered by the European Union and African States sets out four comprehensive principles to combat the trafficking in human beings especially women and children.

In addition to the above, most countries in Africa have domestic legislation criminalising trafficking in persons. According to Human Trafficking Search 26 countries in sub Saharan Africa currently have legislation criminalising the trafficking of women, children and men. Other Countries like Benin, Togo, Gabon, Burundi, Togo, Guinea, Congo and Cote d'Ivoire have anti-human trafficking legislation that only cover child trafficking.³² Regrettably, despite the robust legal framework for human trafficking in Africa, the problem persists due to the complex nature of the crime and inadequate response by states. Generally speaking, African States have not achieved much in terms of investigation, disruption and dismantling of trafficking network. This paper examines human trafficking of women and children in times of armed conflict in two African countries: Nigeria and Central African Republic. Existing literature considered in this paper reveals that human trafficking is a common occurrence during armed conflicts in these countries.

4. Trafficking in Women and Children in Situation of Conflict in Africa

Human trafficking is a serious problem in Africa.³³ In times of armed conflict the problem becomes even worse.³⁴ As state and non-state structures weaken, and people turn to negative coping strategies in order to survive, not only does the risk of falling victim to trafficking increase, but so does the risk of perpetrating it against others. At the same time, conflict also increases the demand for goods and services provided by exploited persons and creates new demands for exploitative combat and support roles.³⁵ Slavery, servitude, child sexual exploitation, forced marriage, servile forms of marriage, child marriage, enforced prostitution and the exploitation of prostitution are all trafficking-related practices that are prohibited by law³⁶ but occur during armed conflicts. During the civil war that lasted seventeen years in Sierra Leone, more than one million children were displaced, and twenty-five thousand children (some as young as six) were abducted and forced to become members of armed groups. Trafficking in children for their use on the battlefield has been said to be a human rights violation that rises to the level of slavery.³⁷ Women and young girls are abducted as well and constitute a large chunk of the ranks of armed groups some African countries. Almost a third of the child soldiers are young girls,⁴² who are raped, enslaved, given to military commanders as 'wives,' and victimized by sexual violence on a daily basis. Girl soldiers encounter serious abuse, including forced pregnancy. During the 1990s over eight hundred children were

²⁹ Article 4 ACHPR.

³⁰ Article 11(2) Women Protocol 2002.

³¹ Article 22(1) ACRWC 1990.

³² Ruby Andrew and Benjamin N. Lawrance, 'Anti-Trafficking Legislation in Sub-Saharan Africa: Analysing the Role of Coercion and Parental Responsibility' [2012] *Fourth Annual Interdisciplinary Conference on Human Trafficking*; 17

³³ Tom Obokata, 'Human Trafficking in Africa: Opportunities and Challenges for the African Court of Justice and Human Rights' <<https://www.cambridge.org/core/>> accessed 8 July 2020

³⁴ Kieran Guilbert, 'Human Trafficking Worsens in Conflict Zones as Militants Deploy Slaves' (United Nations, 7 January 2019) <https://www.reuters.com/article/us-global-trafficking-un/human-trafficking-worsens-in-conflict-zones-as-militants-deploy-slaves-un-idUSKCN1P11BV>> accessed 8 July 2020

³⁵ UNODC, *Thematic Paper: Countering Trafficking in Persons in Conflict Situations* (United Nations, 2018), vii

³⁶ United Nations, *Human Rights and Human Trafficking, Fact Sheet No. 36* (United Nations, 2014), 6

³⁷ Susan Tiefenbrun, 'Child Soldiers, Slavery and the Trafficking of Children' [2007] (31)(2) *Fordham International Law Journal*; 418 Fighting forces in African countries such as Sierra Leone, Angola, Liberia, Uganda, Rwanda, Burundi, Kenya, Central African Republic, Tanzania, Congo-Brazzaville, Ivory Coast, Ethiopia, and Democratic Republic of the Congo, Algeria, Egypt, Sudan, Chad, Democratic Republic of Congo, Ivory Coast, Somalia, Sudan, Uganda, Nigeria and the Central African Republic have been known to employ child soldiers.

born to the Lords' Resistance Army ('LRA') 'wives' who were concentrated at Jabelein camp in southern Sudan.³⁸ Nigeria and Central African Republic will be considered:

Nigeria

Women and children in Nigeria faced various trafficking-related practices including forced labour and sex trafficking.³⁹ The continuing Boko Haram⁴⁰ terrorist activities have increased the incidence of human trafficking in Nigeria, especially in the north eastern part of the country. The activities of the group have led to the exploitation of children and women as foot soldiers, suicide bombers and the abduction of women and young girls for servitude, child sexual exploitation, forced marriage, servile forms of marriage and child marriage.⁴¹ The United Nations International Children's Emergency Funds (UNICEF) reported that between 2014 and 2015 alone the incidence of suicide attacks by Boko Haram rose considerably and 20 percent of such attacks were committed by young children sometimes as young as eight.⁴² It also reported that since 2013, a staggering number of children have been abducted by Boko Haram in north eastern Nigeria for these purposes. In 2014 Boko Haram abducted about 276 young school girls in Chibok town of Borno State.⁴³ In a video released by the group's leader, it was stated that the girls were to be sold, forced into marriages or use as slaves.⁴⁴ The group's activities have seen significant number of children in Internally Displaced Persons (IDP) camps where they are left vulnerable as targets for sex trafficking rings.⁴⁵ The 2017 Trafficking in Persons Reports noted that during the conflict the Nigerian Security Forces exploited children as young as 12 in support roles. Children were said to have been recruited by the Civilian Joint Task Force (CJTF) working closely with the Nigerian Military.⁴⁶ Since successful trafficking and enslavement of human beings requires the exercise of complete control over victims, it often entails corruption in all levels of government, including immigration, customs, banking and even law enforcement agents such as the police, especially as strategies to combat trafficking rely on law enforcement officers charged with enforcing strong laws and ending the practice.⁴⁷ In Nigeria and most African states, human trafficking flourishes because law enforcement and other government employees' are complicit in the commission of human trafficking offenses. The complicity is encouraged by general levels of poverty, low police wages, lack of accountability in law enforcement, and the high payoffs traffickers can offer the police and such employees. As a result, vulnerable individuals and potential victims lack trust in the police, thus eroding law enforcement efficacy and undermining the rule of Law which in turn prevent the protections of good laws from becoming a reality in the lives of victims, allowing human traffickers to operate with impunity.⁴⁸ It is therefore not surprising that the presence of laudable

³⁸ See Payam Akhavan, 'The Lord's Resistance Army Case: Uganda's Submission of First State Referral to the International Criminal Court' [2005] (99) *American Journal of International Law*; 403 See generally Nsongurua J. Udombana, 'War is Not Child's Play! International Law and the Prohibition of Children's Involvement in Armed Conflicts' [2006] (20) *TEMP INT'L & COMP LJ*; 57

³⁹ United States Department, 'Nigeria: Office to Monitor and Combat Trafficking in Persons' (2018 Trafficking in Persons Report) Tier 2 Watch List' <<https://www.state.gov/j/tip/rls>> accessed 1 November 2018

⁴⁰ Also known as *Jama'atu Ahlis Sunna Lidda'awati Wal-Jihad*: The *boko haram* insurgency is reported to have commenced in the northeast region of the country around 2009. See United Nations, 'Office of the Special Representative of the Secretary General for Children and Armed Conflict' <<https://childrenandarmedconflict.un.org>> accessed 3 November 2018

⁴¹ UNODC, *Global Report on Trafficking in Persons 2018, Booklet 2: Trafficking in persons in the context of armed conflict*, (United Nations publication, Sales No. E.19.IV.2, New York, 2018), 65

⁴² Ibid

⁴³ This incidence has 'brutishly underscored the most basic violation of human rights—human trafficking'. See Keshar Pate, 'Boko Haram: Spotlight on Human Trafficking' (22 May 2014) <<http://worldpolicy.org/2014/05/22/boko-haram-spotlight-on-human-trafficking>> accessed 30 October 2018

⁴⁴ UNODC, *Global Report on Trafficking in Persons 2018, Booklet 2: Trafficking in persons in the context of armed conflict*, (United Nations publication, Sales No. E.19.IV.2, New York, 2018): 9.

⁴⁵ Philip Obaji, 'In North-Eastern Nigeria, Traffickers are Preying on Vulnerable Children in IDP Camps' (Equal Times, 9 July 2018) <https://www.equaltimes.org/in-north-eastern-nigeria?lang=en#_W_btVOhKjIU> accessed 22 November 2018

⁴⁶ U.S Department of State, 'Office to Monitor and Combat Trafficking in Persons' (2018 Trafficking in Persons Report) <<https://www.state.gov/j/tip/rls/tiprpt/index.htm>> accessed 12 October 2018

⁴⁷ Reagan R. Demas, 'All Hands on Deck: Collaborative Global Strategies in the Battle against Corruption and Human Trafficking in Africa' [2008] (6) *University of St. Thomas Law Journal*; 211

⁴⁸ Ibid, 214.

international, regional⁴⁹ and domestic⁵⁰ legal framework prohibiting the practice of human trafficking in Nigeria as evident in the ratification of international instruments and the enactment of domestic legislation is yet to translate to actual elimination of the practice. Nigerian is yet to report investigations, prosecutions, or convictions for child soldiering offenses. Sexual exploitation of women and girls displaced by Boko Haram is on the increase.⁵¹ Some cases of the sexual exploitation are even alleged to be perpetuated by state security, military personnel, and CJTF.⁵² This is an indication that the rule of law is either absent or threatened. It is therefore time to strengthen the rule of law, as countries prone to political unrest, weak or corrupt infrastructures combined with widespread poverty, as is the case with Nigeria, will continue to constitute breeding grounds for international criminal networks where human trafficking can thrive and cases of conflicts will only serve to fuel such activities.

53

Central African Republic (CAR)

One of the unfortunate impacts of the civil war in CAR since 2012 is the large-scale exploitation of women and children. Children are trafficked for exploitation and recruited by warring parties as combatants, informants and even sex slaves.⁵⁴ In 2014, the United Nations Children's Funds estimated that due to the increased activities of anti-Balaka in the region since 2013, between 6000 and 10000 children have been associated with the armed conflict.⁵⁵ Children as young as 3 years were abducted during the conflict and abducted children were used not only as combatants but as porters to loot goods while the girls were used as cooks, and shared as 'wives'.⁵⁶ Children were recruited from schools, in villages and even at refugee camps. The Trafficking in Persons Report of 2017 placed CAR on the tier 3 list.⁵⁷ CAR is still a source, transit and destination country for trafficking of children into forced labours and sex slavery. Women too are not spared from forced prostitution and forced labour.⁵⁸ Some victims are exploited within the country while others are transported into Nigeria, Cameroun, Chad, Sudan, South Sudan and Democratic Republic of Congo.⁵⁹ Trafficking occasioned by surges in violent conflict in recent years have resulted in chronic instability and accounts for the displacement of nearly one million people, increasing the vulnerability of men, women and children to forced labour and sex trafficking.⁶⁰ Like Nigeria, The presence of a laudable international⁶¹, regional⁶² and domestic⁶³ legal framework prohibiting the

⁴⁹ Nigeria is a signatory to the following international legal instruments: Trafficking Protocol 2000; the CRC, ratified 16 April 1991; OPSC 2000, ratified 27 September 2010; the Rome statute, Ratified 27 September 2001; the International Labour Convention No. 182 on the Worst Forms of Child Labour 1999, ratified 2 October 2002; CEDAW, ratified 13 June 1985; Op CEDAW, ratified 22 November 2004. In addition to these, Nigeria is a signatory to regional instruments such as ACRWC, ACHPR and the Women's Protocol and has committed itself to various action plans to help combat and prevent trafficking in persons especially women and children. Some of these Action plans are the ECOWAS Action Plan of 2002; the ECOWAS Interim Plan of Action to combat trafficking in human beings 2002-2003; the Common Platform for Action of the Sub-Regional Consultation on the Development of Strategies to Fight Child Trafficking for Exploitative Labour Purposes in West and Central Africa 2002; and also, the Ouagadougou Action Plan. See the United Nations Educational, Scientific and Cultural Organisation (UNESCO), Human Trafficking in Nigeria: Root Causes and Recommendations Policy Paper 14.2(E) (2016) 46.

⁵⁰ The Child Rights Act 2003, the Criminal and Penal codes as well as the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015, as amended 2015

⁵¹ U.S Department of State, 'U.S Department of State Office To Monitor and Combat Trafficking in Persons' (2018 Trafficking in Persons Report) <<https://www.state.gov/j/tip/rls/tiprpt/index.htm>> accessed 12 October 2018. See Richard Carmel, 'Human Trafficking Reports Show Sub-Saharan Africa a Global Player', <<http://africalii.org/article/20190718/human-trafficking-reports-show-sub-saharan-africa-global-player>> accessed 8 July 2020

⁵² Ibid

⁵³ Loring Jones and David W. Engstrom and Tricia Hilliard and Mariel Diaz, 'Globalization and Human Trafficking' [2007] (34) *Journal of Sociology & Social Welfare*; 113. Also see L. Shelley, 'Unraveling the New Criminal Nexus' [2005] (6)(1) *Georgetown Journal of International Affairs*; 5

⁵⁴ United Nations Security Council; S/2016/133 'Reports of the Secretary-General on children and armed conflict in the Central African Republic' (12 February 2016), para 17.

⁵⁵ Ibid

⁵⁶ Ibid, para 38 and 39.

⁵⁷ Countries in Tier 3 do not meet the Trafficking Victims Protection Act's minimum standard and are not making any significant efforts to do so. U.S Department of State, 'U.S Department of State Office To Monitor and Combat Trafficking in Persons' (2018 Trafficking in Persons Report) <<https://www.state.gov/j/tip/rls/tiprpt/index.htm>> accessed 12 October 2018

⁵⁸ U.S Department of State, 'U.S Department of State Office To Monitor and Combat Trafficking in Persons' (2018 Trafficking in Persons Report) <<https://www.state.gov/j/tip/rls/tiprpt/index.htm>> accessed 12 October 2018

⁵⁹ Ibid

⁶⁰ Ibid

⁶¹ CAR is also a party to the Trafficking Protocol 2000, accession 6th October 2006; Rome Statute, accession 21st June 1991; CEDAW, accession 21st June 1991; the Op CEDAW, accession 11th October 2016; CRC, ratification 23rd April 1992; the OPAC 2000, ratified on 21st September 2017; OPSC 2000, ratified 24th October 2012.

⁶² CAR is a party to the ACHPR; ACRWC Ratified on 7 July 2016. but not the Women Protocol of 2002.

⁶³ Article 151 of the Penal Code of CAR deals with trafficking in persons and criminalises all forms of trafficking in persons with five to ten years imprisonment. Sex trafficking of a child or forced labour similar to slavery attracts life imprisonment

practice of human trafficking in CAR as evident in the ratification of international instruments and the enactment of domestic legislation has not translated to actual elimination of the practice. CAR has laws penalising human trafficking but have not reported the prosecution of any trafficking case or convicted any traffickers since 2008.⁶⁴

5. The Place of the Rule of Law in Human Trafficking in Women and Children in Armed Conflict

The rule of law is a veritable tool for addressing the problem of human trafficking of women and children in conflict and post conflict situations. Respect for the rule of law is crucial because trafficking as a criminal act transpires where the officials with the duty to monitor borders, protect children and enforce the rights of the vulnerable are compromised. The crime is often aided by corrupt officials in countries of origin, transit, and destination, thereby threatening the rule of law.⁶⁵ Aside from conflict situations, the rule of law has a significant role to play even in post conflict situations. As stated by a former UN Secretary General, the consolidation of peace in the immediate post-conflict period, as well as the maintenance of peace in the long term, cannot be achieved unless the population is confident that redress for grievances can be obtained through legitimate structures for the peaceful settlement of disputes and the fair administration of justice.⁶⁶ However, the heightened vulnerability of women and children in conflict and post-conflict situations in Africa makes the restoration of the rule of law imperative.⁶⁷ The presence of legislation alone has not been enough to surmount the problem of trafficking because mere presence of laws without more, does not adequately enthrone the rule of law.

6. Conclusion and Recommendations

Trafficking in persons in times of armed conflict is a serious problem in Africa and victims are mostly women and children. Abducted children constitute a large chunk of the ranks of armed groups in some African countries. Slavery, servitude, child sexual exploitation, forced marriage, servile forms of marriage, child marriage, enforced prostitution and the exploitation of prostitution are all trafficking-related practices that are prohibited by law but occur during armed conflicts. In spite of the adoption of various legal mechanisms and resolutions, violations remain widespread as does the impunity for violations. The rule of law could be a veritable tool for addressing the problem of human trafficking in women and children in conflict situations in Africa but it is important to understand that the mere presence of laws without more, does not adequately enthrone the rule of law. It is important that African countries strengthen the rule of law by adopting creative measures to assist existing legislation in their role in curbing human trafficking in times of armed conflict in the continent. African states should include creative strategies such as anti-corruption initiatives, accountability and cooperation of law enforcement, investigation and intelligence-sharing to enthrone the rule of law in combating human trafficking of women and children in conflict and post conflict situations. Secondly, efforts should be made to strengthen the enforcement mechanism of existing laws through the establishment of mobile justice courts. Such courts will help protect the rights of persons affected and achieve lasting peace in Africa. This can be done in collaboration with international organisations. For instance, in 2013, Somaliland UNDP supported mobile courts heard 1,824 cases.⁶⁸ Other African countries can take a clue from the success recorded and such collaboration with the international community could be extended to the area of provision of humanitarian assistance to victims of trafficking, particularly women and children. Thirdly, African states should adopt a human rights-based approach to curbing trafficking. This approach works towards strengthening the capacities of rights holders to secure their rights and of duty bearers to meet their obligations.⁶⁹ Fourthly, Africa states should pay attention to preventive and not just combative measures. On the need for prevention, the 2030 Agenda for Sustainable Development is a key guide in this respect.⁷⁰ A holistic implementation of the 2030 Agenda will provide adequate response to the economic,

with hard labour. Additionally, articles 7 and 8 of the 2009 Labour Code of CAR criminalises forced and bonded labour with 5 to 10 years imprisonment.

⁶⁴ U.S Department of State, 'U.S Department of State Office To Monitor and Combat Trafficking in Persons' (2018 Trafficking in Persons Report) <<https://www.state.gov/j/tip/rls/tiprpt/index.htm>> accessed 12 October 2018

⁶⁵ Reagan R. Demas, 'All Hands on Deck: Collaborative Global Strategies in the Battle against Corruption and Human Trafficking in Africa' [2008] (6) *University of St. Thomas Law Journal*; 211

⁶⁶ United Nations Security Council, 'The rule of law and transitional justice in conflict and Post-conflict Societies' (Report of the Secretary-General, August 23, 2004) <<https://www.un.org/ruleoflaw/files>> accessed 12 November 2018.

⁶⁷ Ibid

⁶⁸ UNDP, 'Evaluation of UNDP's Support to Mobile Courts in Sierra Leone, the Democratic Republic of Congo and Somali' (5 November 2014) <<https://reliefweb.int/report/sierra-leone/evaluation-undps-support-mobile-courts-sierra-leone-democratic-republic-congo>> accessed 10 July 2020

⁶⁹ United Nations, *Human Rights and Human Trafficking Fact Sheet No. 36* (United Nations, 2014); 8

⁷⁰ This International Policy document emphasises the need for states to take immediate and effective measures to eradicate forced labour, end modern slavery, human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers and end child labour in all its forms. The Sustainable Development Goals also seek to end abuse, exploitation trafficking and all forms of violence against women and children. See Goal 8, target 8.7; See United Nations, 'Transforming Our World: The 2030 Agenda for Sustainable Development' <<https://www.sustainabledevelopment.un.org>> accessed 8 July 2020

social, cultural and structural inequalities that engender trafficking. This suggests that trafficking risks should be factored into any strategies undertaken in areas affected by conflict.⁷¹ Furthermore, African states should adopt the strategy of involving leading members of local communities. They can initiate round table discussion with religious leaders, women leaders of different groups, members of the academic community, non-governmental organizations, civil society groups and similar organisations to brainstorm on effective measures for curbing trafficking in women and children.⁷² The CEDAW Committee decided at its forty-seventh session in October 2010 to adopt a general recommendation on the protection of women's human rights in conflict and post-conflict situations. Since then, the international community has called on member states to adopt measures to achieve women's meaningful participation in all conflict prevention, resolution and peace building processes.⁷³ In Nigeria, for instance trafficking in women and children during Boko haram crisis can be prevented if government involves the religious leaders, non –governmental organisations, journalists⁷⁴ and similar groups.

⁷¹United Nations Office on Drugs and Crime, 'Countering Trafficking in Persons in Conflict Situations' (Vienna 2018) <<https://www.unodc.org/documents/human-trafficking/2018>>, accessed 29 October 2018

⁷² In its resolution 2331 of 2016, the United Nations Security Council emphasized that it is important to engage religious and traditional leaders in measures for combating trafficking in persons in armed conflict and in resolution 1325 of 2000, it equally stressed the importance of equal and full participation of women in efforts for prevention and resolution of conflicts and maintenance and promotion of peace and security. See United Nations Office on Drugs and Crime, 'Countering Trafficking in Persons in Conflict Situations' (Vienna 2018) <<https://www.unodc.org/documents/human-trafficking/2018>>, accessed 29 October 2018

⁷³ Ibid

⁷⁴ See Philip Obaji, 'How Journalism Can Help Beat Human Traffickers in Nigeria' <<http://www.newsdeeply.com/refugees/community>> accessed 2 November 2018.