

## GUN VIOLENCE AND HUMAN RIGHTS ABUSES IN NIGERIA: A CASE FOR ADEQUATE GUN REGULATION AND RELATED VICTIM'S PROTECTION\*

### Abstract

Nigeria is currently facing serious security challenge as a result of heavy influx of arms. No part of the country is safe with sophisticated guns in the hands of criminals. The situation reflects in the arm conflicts in the northeast, herdsman killings across the nation, militancy in the Niger Delta, an increase in armed robbery, kidnappings, ritual killings, etc. Recently, there were moves by the House of Representatives to tighten gun control laws in the country but not much has been done, thereafter. Gun violence violates many fundamental human rights of the citizens. As if this is not bad enough, victims of gun shots in Nigeria are denied treatment in hospitals until they can produce police report. This has resulted in preventable deaths. Even with the Compulsory Treatment and Care for Gunshot Victims Act of 2017, the age long discrimination against victims of gunshot has not changed. This has led this researcher to conclude, amidst other things, that Nigeria needs adequate gun control measures to stop illegal importation of arms. It is recommending that Government must march the law with some advocacy and the bar, bench and police should be enlightened on the laws against arms control and the treatment of gun victims.

**Keywords:** Firearms, Human Rights, conflict, treatment, victims, insecurity.

### 1. Introduction

Most parts of the globe are facing security challenges due to the proliferation of small arms and light weapons especially, in the hands of non-state actors. The availability and accessibility of firearms in the world currently is a serious security risk. They are used to wreak havoc all over the globe. It is now very difficult to settle issues on a round table. Everything must be settled through violence because of the accessibility of small arms. The infiltration of small arms could be traced to the Cold War. According to the UN Disarmament Commission Report, 1995, the cause of the availability and circulation of firearms in different parts of the world could be traced to their former supply by opponents of the Cold War.<sup>1</sup> Also, the Cold War further encouraged globalization, which intensified the production of firearms.<sup>2</sup> There are illicit networking, procurement, transportation, sales and use of firearms across international boundaries, and African countries with their weak and porous borders, with little governmental control mechanisms and corruption, easily fall prey.<sup>3</sup> Globalization extended the arms trade, making it lucrative and rewarding for arms producers.<sup>4</sup> According to Milmo and Holt, there are nearly 650 million small arms floating round the world presently.<sup>5</sup> And about 8 million guns are being produced annually by over one thousand manufacturers in 92 countries of the world, the USA and Europe producing 75%.<sup>6</sup> Currently, there are enough ammunition to kill everyone on planet earth twice.<sup>7</sup> Thus, firearms accounts for the high global mortality daily, as more than 2,000 people die daily and nearly 750,000 yearly as a result of gun violence across the world.<sup>8</sup> There are 875 million guns in the world, 75% of which are controlled by civilians.<sup>9</sup> 48% are in the USA, which has the highest number of gun ownership in the world.<sup>10</sup> Guns cause much havocs globally, it has accounted for the highest number of deaths on earth.<sup>11</sup> Consequently, the proliferation of firearms has been detected to be a major factor in gun violence and arms conflict all over the world and which has encouraged the spate of crime, terrorism, displaced many people from their homes and communities, weaken the peaceful coexistence of humans, make reconciliation, security and sustainable social and economic advancement an unrealizable dream.<sup>12</sup> Africa is currently accommodating a large flow of illegal guns, which accounts for the spate of crimes and conflicts. Statistics shows that 2% of the continent's firearms resides with insurgents, 3% is with the police, 16% is with the military, while 79% is in the control of civilians or non-state actors.<sup>13</sup> This is a pointer that the security agents who are expected to protect the people are less in control of arms, while much of the arms are in the hands of the citizens. At the global scene, it is estimated that about 59% of small arms globally are in the hands of non-state actors, 38% is in the control

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<sup>1</sup> CN, Alimba, 'Controlling the Proliferation of Small Arms in Nigeria: Emerging Issues and Challenges,' (2017) *Global Journal of Arts, Humanities and Social Sciences* Vol. No. 10, pp.40-51.

<sup>2</sup> Ibid.

<sup>3</sup> Stemmet, A. 'Regulating Small Arms and Light Weapons. The African Experience' (2001) *African Security Review*, 10(3) TELL Magazine, 21 June, 2004.

<sup>4</sup> Ibid.

<sup>5</sup> Milmo, Cahil and Kate Holt, 'Global Arms Trade: Africa and the Curse of the AK47', (2006) accessed 10 December, 2021.

<sup>6</sup> Ibid.

<sup>7</sup> McCullum, H. *Small Arms: The World's favourite weapons of mass destruction*. Africa Files, (2016) No 4, 2-5- Published by European Centre for Research Training and Development UK available at [www.eajournals.org](http://www.eajournals.org) accessed 12 December, 2021.

<sup>8</sup> Kytomaki, E. 'The Arms Trade Treaty and Human Security Cross-cutting Benefits of Accession and Implementation' (2015) *International Security Department, Royal Institute of International Affairs*, Chatham House, London.

<sup>9</sup> Alpers, Philip and Wilson, Marcus, 'Global Impact of Gun Violence' (2013) *gunpolicy.org. Sydney School of Public Health*, The University of Sydney. Retrieved 10 October, 2021.

<sup>10</sup> Kara Fox, CNN Graphics by Henrik Pettersson. 'America's gun culture vs. the world' CNN, (2019), available at <https://www.cnn.com> accessed 10 October, 2021.

<sup>11</sup> GBD 2013 Mortality and Causes of Death, Collaborators (17 December 2014). 'Global, regional, and national age-sex specific all-cause and cause-specific mortality for 240 causes of death, 1990-2013: a systematic analysis for the Global Burden of Disease Study 2013'. *Lancet*. 385 (9963): 117-71. Doi:10.1016/SO140-6736(14)61682-2 PMC 4340604. PMID 25530442.

<sup>12</sup> Geneva Declaration *Global Burden of Armed Conflict Violence: Lethal Encounters*. (Cambridge: Cambridge University Press, 2011).

<sup>13</sup> Shattered Lives, *The Case for Tough International Arms Control*. London: Oxfam and International Publication; also, Small Arms Survey (2001). Profiling the Problem,' Oxford: Oxford University Press, (2003).

of the military, 0.2% is in the control of armed oppositions, and the remaining 3% is controlled by the police.<sup>14</sup> An estimated 100 million firearms are in circulation in Africa, specifically, in countries like Central Africa, Ethiopia, Somalia, South Sudan, and parts of West Africa,<sup>15</sup> with Nigeria topping the list in the region.<sup>16</sup> The accessibility of firearms illegally by civilians has denied the continent of peace and development. Unfortunately, while some persons are enjoying the illegal trade in firearms, this undermines human rights of the citizens. People are killed daily as a result of the influx of these weapons, without any compensation to their families who according to international law are the indirect victims of the illegal act of the offender. Many are injured and are left to die due to the age long practices of them having to get a police report before they are treated. In the light of these, the paper is divided into seven of Parts I to VII. Part I is the introduction; Part II discusses the menace of gun violence in Nigeria; Part III x-rays the regulatory framework of firearms in Nigeria; Part IV deliberated on the international human rights obligations of Nigeria; Part V discoursed the various human rights effects of gun violence, which the country is facing at this time; Part VI addressed the need for special protection for victims of gunshot in Nigeria and some key note provisions of the Compulsory Treatment and Care for Victims of Gunshot, 2017; and based on these, a conclusion is drawn, part of which is that Nigeria should not make the same mistake that America made in the past. Allowing the citizens to hold guns in self-defense is not an option but Government should rise up to its international obligation to protect its citizens and begin to adopt a human rights approach to the use of firearms in the country by putting the people first.

## **2. Gun Violence in Nigeria**

Nigeria, a once peaceful and violence-free state, is currently bedeviled by criminality and violence. The country has been overwhelmed by guns and violent men. There is gun violence daily across the country, on the highways, villages, farmlands, worship centres, schools, etc., gun men are wreaking havoc on defenseless Nigerians. The country is faced with boko haram insurgency and Islamic terrorism in the northeast, Fulani herdsmen killings in the middle belt and south west, unknown gun men killings in the east, bandits in the north, militants in the Niger Delta, and kidnappings, armed robbery, and ritual killings all over the country. Military formations are attacked with arduous firearms. The country is losing many gallant soldiers daily to terrorists. It appears the Buhari-led government has ceded the control of power to hoodlums. Insurgents and hooligans are now dictating the pace to government. Government is negotiating dubious reprieve and compensation deals with terrorists.<sup>17</sup> The entire country is reeling under a deluge of guns. The closing up of borders in 2020 did not reduce the continuous influx of illicit arms nor did it have any effect on the upsurge of kidnappings, banditry, cultism, insurgency, and insecurity generally. Gun business continues to boom in the country.<sup>18</sup> Senate observed the unfortunate influx of guns and the havoc it is wreaking on the country and concluded that insecurity in the country is as a result of the continuous proliferation of weapons into the country and moved against arms trade in Nigeria.<sup>19</sup> Gun violence has cost the country much blood shed and damage. Following the amnesty programme in the Niger Delta region, many militants surrendered huge accumulation of weapons but till date, they are still well armed and ready to resume their nefarious activities on government and its innocent citizens.<sup>20</sup> The Nigerian police is not spared the fury of unknown gunmen. Boldly, hooligans invade police stations, kill police men and cat away with their guns. For example, a gang invaded the Divisional Police Headquarters in Imo State on February 6, 2021, killing two police officers and getting away with the armory.<sup>21</sup> In February 7, a police officer was killed by gunmen who made away with his rifle. According to the Inspector-General of Police, the police force lost 100 AK47 rifles due to attacks on 37 police stations from the activities of hoodlums.<sup>22</sup> In January 2021, bandits killed 19 villagers in two local government areas of Kaduna state.<sup>23</sup> It has become very risky travelling on Nigerian roads because the highways are not safe. The Kaduna-Abuja Expressway has been a lethal route in the past decade. Many innocent travelers have lost their lives there.<sup>24</sup> The activities of gunmen are a daily occurrence in Nigeria with no one to challenge them. It was said that gun violence killed 8,000 persons between 2011 and 2020.<sup>25</sup>

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<sup>14</sup> Shattered Ibid.

<sup>15</sup> McCullum, note 7.

<sup>16</sup> Alimba, C.N., *Small Arms Proliferation and High Incidence of Crimes in West Africa: The Nigeria Experience*. (A Masters Dissertation in Peace and Conflict Programme, Institute of African Studies, University of Ibadan, Ibadan), (2004).

<sup>17</sup> Owonikoko, S.B., 'Amnesty for Boko Haram members: Lessons from the amnesty programme for militants in the Niger Delta region,' (2021 ) *African Journals Online*, available at <https://www.ajol.info> accessed 15 November, 2021. Also, 'Amnesty: Price for Peace?' *Nigeria ReliefWeb*, available at < <https://reliefweb.int>> accessed 15 November, 2021.

<sup>18</sup> 'Firearms in Nigeria- Firearm law and policy bulletin' *GunPolicy.org*, available at <https://www.gunpolicy.org>. accessed 15 November, 2021. Also, see 'Local blacksmiths now manufacture AK-47, says defense agency'. Available at <<https://punchng.com> accessed 15 November, 2021.

<sup>19</sup> 'Senate moves against illicit arms trade in Nigeria' –*Vanguard News*, 11 November, 2020 available at <https://www.vanguardngr.com/2020/11/senate-moves-against-illicit-arms-trade-in-nigeria> accessed 14/11/2021.

<sup>20</sup> 'Act now on avalanche of guns and gunmen' available at [punchng.com](https://punchng.com) accessed 15 November, 2021.

<sup>21</sup> 'Gunmen attack third police station in Imo in less than 72 hours' available at <https://www.premiumtimesng.com> accessed 12 November, 2021. Also, 'Abia, Imo, Anambra, Ebonyi see 11 gunmen police attacks in three months' available at <https://www.bbc.com> accessed 12 November, 2021. And 'Gunmen Attack Imo Police headquarters, kill Two Officers, Injure Others' available at <<http://saharareporters.com>. accessed 12 November, 2021.

<sup>22</sup> #EndSARS: Hoodlums looted 100 AK-47 rifles in Lagos Police Stations-Force' available at <https://punchng.com>. accessed 12 November, 2021.

<sup>23</sup> 'Bandits Kill 19, Raze Houses in Two Kaduna LGAs-' available at <https://thenationonlineng.net> accessed 15/11/2021. Also, 'Nigeria: Suspected bandits kill at least 34 civilians in Kaduna State' Sept. 26-27 available at <https://www.garda.com> accessed 15 November, 2021.

<sup>24</sup> 'Kaduna govt. confirms attack on travellers on Abuja-Kaduna highway' available at <https://www.premiumtimesng.com> accessed 15 November, 2021. Also, 'Suspected Fulani bandits attack travelers on Lagos-Ibadan expressway' *The Guardian*. Available at <https://guardian.ng> accessed 15 November, 2021.

<sup>25</sup> 'Nigeria-International Crisis Group' 2020 Report, available at <https://www.crisisgroup.org> accessed 15 November, 2021.

Firearms are smuggled into Nigeria from war-torn West African countries like Mali, Libya, Gaza etc. through leaky borders.<sup>26</sup> At the wake of elections, politicians empower their supporters mostly the youths with guns. With these guns, elections are rigged, voters are scared away from polling booths, and after the elections, these guns are never withdrawn from these youths, who employ them into other nefarious acts. Government is at a loss of how to control the influx of guns in the country. According to statistics, Nigeria is accommodating 350 million out of 500 million illegal arms in West Africa, which is about 70% of the estimated total.<sup>27</sup> In her report, the UNREC's director Olatokunbo Ige, went on to add that these Small arms and Light Weapons, unfortunately, are in the hands of non-state actors who employ such weapons in illegal acts.<sup>28</sup> These are utilized in killings, intimidation and many vices in the country. No part of Nigeria is free from these hoodlums.<sup>29</sup> These have occasioned disparaging consequences, which has caused and is still causing the country much loss of lives and property, as well as numerous physical injuries daily.<sup>30</sup> From time to time, there are agitations and riots here and there and fire arms are engaged to kill and maim people. An example is the recent EndSars peaceful protest in October 2020, which was suddenly hijacked by hoodlums, with some viral clips of unlawful killings and gunshot wounds.<sup>31</sup> Traditionally, herdsmen are known to wield grazing sticks but presently, herdsmen go about with highly sophisticated and deadly guns, with which they are known to kill farmers and innocent villagers on their ancestral lands.<sup>32</sup> How herdsmen and hoodlums get these guns, continue to be a puzzle considering the fact that an average cow cost N200,000.00, while one AK-47 in the black market costs as much as N500,000.00. Nigeria, unlike advanced countries like the United States of America (USA) and the United Kingdom (UK), lacks proper statistics of gun victims killed or wounded annually, so it is difficult to come up with an official documentation of gun related deaths in the country. Many Nigerians have died from gun shots and there are still daily occurrences of violence going on unaccounted for.

Nigeria's gun violence is almost extreme.<sup>33</sup> It is evident in the boko haram insurgency, militancy, armed banditry, armed robbery,<sup>34</sup> cultism,<sup>35</sup> ransom kidnap, herdsmen killings, unknown gun men killings, political assassinations;<sup>36</sup> killing for rituals, extra-judicial killings;<sup>37</sup> community clashes;<sup>38</sup> etc. the spread of small arms has increased death rate among the youths in Nigeria.<sup>39</sup> Cult clashes are reported daily in many locations of the country, with religious violence topping the list.<sup>40</sup> The accessibility of firearms illegally has increased ethnic and religious conflicts in the land. There is the Movement for the Actualization of the Sovereign State of Biafra (MASSOB); the Movement for the Emancipation of the Niger-Delta (MEND); the Oodua People's Congress (OPC); the Indigenous People of Biafra (IPOB); the Avengers; Boko Haram insurgents, and the Fulani herdsmen. All these may have genuine grievance against government but the fact remains that their actions are always overtaken by violence, which no doubt is due to their accessibility of weapons.<sup>41</sup> In fact, more guns are being smuggled in daily.<sup>42</sup> Gun violence in the country is not undeterred by the 2019 executive order by the President Muhammadu Buhari's revocation of the right of private persons' licenses on short guns and firearms in the state.<sup>43</sup> According to the approximation of the United Nations (UN), Nigeria holds 70% of illegal guns in West Africa.<sup>44</sup> And it is no longer news that the informal access to firearms is the main cause of violence and conflicts in the country. Government seems unable to regulate the influx of firearms into the country. This is one of the root causes of insecurity which is currently plaguing the country. The major way to tackle insecurity in Nigeria is to address the country's illegal firearm trade among

<sup>26</sup> 'Unsecured Libyan Weapons: Regional Impact and Possible Threats- ReliefWeb,' available at <https://reliefweb.int/pdf> accessed 15 November, 2021.

<sup>27</sup> Statistics from the National Consultation on Physical Security and Stockpile Management (PSSM) in Abuja, Nigeria, organized by the United Nations Regional Centre for Peace and Disarmament in Africa (UNREC) and the Presidential Committee on Small Arms and Light Weapons (PRESCOM).

<sup>28</sup> Ibid.

<sup>29</sup> Olanrewaju, O., 'The Position of the Law Vis-à-vis Victims of Gunshots in Nigeria,' available at <https://djelawyer.com> accessed 12/11/2021.

<sup>30</sup> Ibid.

<sup>31</sup> 'Lekki Shootings: Survivor who took a bullet to the chest recounts ordeal,' available at <https://punch.com> accessed 14/11/2021; also, 'Analysis of CCTV footage from Lekki toll gate raises new questions-CNN,' available at <https://www.cnn.com> accessed 14 November, 2021.

<sup>32</sup> 'Fulani herdsmen and Military Grade Rifles: Who Issues the Licenses...' available at <https://www.nairaland.com> accessed 14 November, 2021. Also, 'Bauchi Gov. clarifies comments on herdsmen carrying guns for self-defense' available at [www.premiumtimesng.com](http://www.premiumtimesng.com) accessed 14/11/2021; and 'Where Do Herdsmen Get Guns From?' available at [www.thenigerianvoice.com](http://www.thenigerianvoice.com) accessed 14 November, 2021.

<sup>33</sup> 'Nigeria's Gun Problem- Nextier SPD' available at <https://nextierspd.com>. accessed 14 November, 2021.

<sup>34</sup> Abayomi, A. A., 'Sociological implications of domestic violence on children's development' *J Afr Stud Dev* (2014); 6:8-13.

<sup>35</sup> Olushoga, M. 'Violence and parenting in Nigerian families' Available at [www.omojuwa.com](http://www.omojuwa.com) (4 April 2018) accessed 10 October, 2021.

<sup>36</sup> The Child's Right Act (No 116, 90 Federal Republic of Nigeria Official Gazette A451-679 2003). Law Library of congress collection. Available at [http://www.loc.gov/lawweb/servlet/Ilocnews?usp312\\_05401712](http://www.loc.gov/lawweb/servlet/Ilocnews?usp312_05401712) (18 April 2018) accessed 10 October, 2021. Also, R. Gilbert, A. Kemp and J. Thoburn, et al. Recognizing and responding to child maltreatment. *Lancet* 2009; 373:167-80.

<sup>37</sup> Section 261, criminal Code Act of Nigeria, Cap c38 LFN (2004).

<sup>38</sup> 'Land tussle: 6 killed, several missing as gunmen attack Kogi community' available at <https://tribuneonline.ng> accessed 22 December, 2021. Also, 'Residents Desert Imo Community As Unknown Gunmen Attack Nigerian Soldiers, Kill One' available at <http://saharareporters.com> accessed 22 December, 2021; and 'Gunmen Kill Six in Rivers Community'- *ThisDaylive*, available at <https://www.thisdaylive.com> accessed 22 December, 2021.

<sup>39</sup> 'Nigeria's Gun Problem' available at [nextierspd.com/nigerias-gur](http://nextierspd.com/nigerias-gur) accessed 14 November, 2021.

<sup>40</sup> Oladele, S.O., Ayodeji, O. I. and Kehinde, S.O., 'Profile of non-accidental childhood injury at a tertiary hospital in south-west Nigeria' *Journal of Tropical Pediatrics*, 2015; 61: 174-181.

<sup>41</sup> On the 5<sup>th</sup> of January, 2020, the Nigerian Police Command in Oyo state decried the use of unlicensed firearms in the country.

<sup>42</sup> 'Illegal guns flooding Nigeria fueling violence,' *Daily Trust* (2016). The newspaper reported that there were over 3 million small arms and light weapons in the country.

<sup>43</sup> Kytomaki, note 8.

<sup>44</sup> Available at <https://www.vanguardngr.com/2016/08/un-nigeria-accounts-for-70-of-500m-illicit-weapons-in-west-africa/> accessed 12 November, 2021.

the people.<sup>45</sup> Gunshot wounds were sternly connected to the military during the Nigerian civil war<sup>46</sup> or by mistake during festivals<sup>47</sup> and the burial of a renowned or very old man in the community.<sup>48</sup> But nowadays, gunshot injuries are now a daily event.

Notwithstanding, state of insecurity in the country has given rise to individual and group resistant militias springing up violently to defend themselves since it is clear that government can no longer guarantee their protection. Due to insecurity, many are currently agitating for government to make the use of guns legal for Nigerians to own for survival.<sup>49</sup> Others feel that legalizing the use of guns is impracticable.<sup>50</sup> The state is enjoined to live up to their obligation to protect lives and property in the country. This calls for complete implementation of laws regulating firearms in the country. Law enforcement agents and a delegated task force must ardently follow up on both the importation and use of firearms in the country. It is a notorious fact that illegal trade on firearms is thriving and very lucrative, so unless government adopts very drastic measures, illegal trades on small arms will continue.

#### **4. Nigeria Regulatory Framework for Firearms**

The framework for the regulation of firearms in Nigeria starts from the international legal norms put in place by the *international* community to guide state parties to develop an operative national framework for curbing the occurrence of firearms within their state. It is true that such norms are merely<sup>51</sup> persuasive without legal backing but the fact remains that states are morally bound by them. Thus, the responsibility to protect human rights at all costs confers the need to regulate arms through the instrumentality of the law.<sup>52</sup> Nigeria as a state party has ratified some of these international and regional regulations of firearms, and thus, expected to respect them.<sup>53</sup> It failed to define what amounts to effective control of firearms but provides the fundamental international standard for determining the adequacy of local regulation. Therefore, at the international scene, the foremost instrument to regulate firearms is the *United Nations Programme of Action on Small Arms and Light Weapons* (UNPoA)<sup>54</sup> It places an obligation on state parties to make adequate laws to regulate and administer effective control over the export, transit, or importation of firearms.<sup>55</sup> There is also the *UN Illicit Firearms Protocol*,<sup>56</sup> which encourages equal international standards for transporting guns. It places an obligation on state parties to criminalize illegal production and trafficking of arms. There is the *International Instrument to Enable States to Identify and Trace Illicit Small Arms and Light Weapons*, which sets standards for the prevention, combating and eradicating of illegal firearms.<sup>57</sup> It specifically stated its intention to assist states launch a machinery to expedite the documentation and tracking of illegal firearms.<sup>58</sup> At the *regional* scene, the most exceptional resourcefulness on the control of firearms in Africa is the *Bamako Declaration*, which directs state parties to create detailed legal system with particular structures and methods to handle the problem of illegal firearms at the regional and national scenes. It also stimulated the enrichment of the capability of the law enforcement and security officials at the local scene. At the ECOWAS regional level, Nigeria, as a state party, is under obligation to address the spread of firearms. Specifically, the *ECOWAS Revised Treaty of 1999*,<sup>59</sup> directs state parties to strive to protect and unite to maintain peace and security within the region, as well as, create and support suitable machinery for timely preclusion and determination of conflicts. It insists that regulating firearms within the ECOWAS Community is fundamental to the maintenance of peace. Currently, the leading instrument on the proliferation of firearms within the sub-region is the *ECOWAS Convention*, which replaced the *ECOWAS Moratorium*,<sup>60</sup> because it was limited in time and lacked the requisite force.<sup>61</sup> The Moratorium was the foremost initiative to check the production of firearms in the sub-region, following its threat to peace and security in the ECOWAS sub-region.<sup>62</sup> However, the Convention addresses issues bearing on the production, documentation and transfer of firearms within West Africa. It commissions the National Commission to coordinate the war against illegal firearms at the state level. It also forbids the transfer of arms to non-state actors without

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<sup>45</sup> Ibid.

<sup>46</sup> Odling-Smee, G.W., 'Ibo civilian casualties in the Nigerian Civil War' *Br. Med J* 1970; 2:592-6.

<sup>47</sup> Adesanya, A.A., Afolabi, I.R. and da Rocha-Afodu, J.J., 'Civilian abdominal gunshot wounds in Lagos' *J R CollSurgEdinb* 1998; 43: 230-4.

<sup>48</sup> Ogunlusi, J.D. and Oginni, L.M. 'Death from Celebratory gunshots injuries' *Internet J Surg* 2006;8: ISSN 1528-8242.

<sup>49</sup> 'Nigeria-International Crisis Group' 2020 Report, note 25.

<sup>50</sup> *Daily Analysis*, 'Nigeria's Gun Problem,' <https://nextierspd.com/category/daily-analysis/> accessed 12 November, 2021.

<sup>51</sup> Chuma-Okoro, H., 'Proliferation of Small Arms and Light Weapons in Nigeria: Legal Implications' - *Law and Security in Nigeria*, available at <https://nairametrics.com.pdf>, accessed 16 November, 2021.

<sup>52</sup> Ibid.

<sup>53</sup> Although, for these laws to be effective in Nigeria, they must satisfy the requirement of section 12(1) of the Constitution on implementation of treaties, which states that 'No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.' So it is only when such treaty has been enacted into law by the National Assembly that they can have the force of law.

<sup>54</sup> Resolution A/RES/75/241.

<sup>55</sup> Article II (2) of the UNPoA.

<sup>56</sup> Adopted by the UN General Assembly (A/RES/55/25) on May 31, 2001, which entered into force in 2005. It assists the UN Convention against Transnational Organized Crime. Available at [www.undocuments.net/uncatoc.htm](http://www.undocuments.net/uncatoc.htm) accessed 11 November, 2021.

<sup>57</sup> Available at [http://www.poa-iss.org/InternationalTracing/ITI\\_English.pdf](http://www.poa-iss.org/InternationalTracing/ITI_English.pdf)> accessed 17/11/2021. See its Preamble.

<sup>58</sup> Article 1.

<sup>59</sup> Article 58, of the Revised Treaty of the Economic Community of West African States (ECOWAS), 24<sup>th</sup> July, 1993, available at <http://www.unhcr.org/refworld/docid/492182d92.html>>

<sup>60</sup> The Moratorium was signed on 31 October, 1998, at the 21<sup>st</sup> Ordinary Session of the Authority of Heads of State and Government of ECOWAS Member States in Abuja, Nigeria.

<sup>61</sup> Ilhan Berkol, *An Analysis of the ECOWAS Convention on Small Arms and Light Weapons Recommendations for the Development of an Action Plan: Note d'Analyse du GRIP* April 1, 2007, Brussels; available at <http://www.grip.org/bdg/g107len.pdf> accessed 10 October, 2021.

<sup>62</sup> As stated in its Preamble.

due authorization of the importing state.<sup>63</sup> It provides measures, which include, assembling and destroying excess weapons,<sup>64</sup> public education,<sup>65</sup> and information exchange.<sup>66</sup>

At the national scene, the Firearms Act is the principal law regulating the use of firearms in Nigeria. Firearms fall under the Exclusive Legislative List of the Constitution, meaning that only the Federal Government of Nigeria can make laws to that regard. Other laws include the Robbery and Firearms (Special Provisions) Act,<sup>67</sup> the Criminal Code, Penal Code, and the Defense Industries Corporation of Nigeria Act, (DICON), 1964.<sup>68</sup> The foremost institutions implementing and enforcing these laws are the National Committee on the Proliferation and Illicit Trafficking in Small Arms and Light Weapons (NATCOM),<sup>69</sup> the Nigerian Police Force, and the Courts.

- i. *The Firearms Act* - dates back to 1959.<sup>70</sup> It defines firearms to mean any deadly weapon from which a shot, bullet or any other projectile can be discharged.<sup>71</sup> It categorized firearms to include artillery, rocket weapons, machine guns, bombs and grenades, machine pistols, apparatus for the discharge of any explosive or gas diffusing projectile, military rifles, short guns, revolvers and pistols, sporting rifles, Dane guns, flint-lock guns, humane killers cap guns, and any other firearm not stated in Part II and Part III of the Act.<sup>72</sup> The Act provides that possession of firearms and ammunitions is by a grant of license by the relevant authorities except for certain persons.<sup>73</sup> It permits only registered dealers to sell or transfer ownership of firearms.<sup>74</sup> It restricts the importation or exportation of firearms except through authorized means.<sup>75</sup> Anyone importing or exporting weapons must first declare same to the relevant authority.<sup>76</sup> It prohibits importation of firearms by post.<sup>77</sup> It forbids the production, assembly and repair of firearms except at authorized designations established for the purpose of the armed forces, and with the approval of the President.<sup>78</sup> The Inspector-General of Police (IGP) may grant permission to deal on the production and repairs of firearms as referred to in Part III of the Schedule to the Act.<sup>79</sup> The Act criminalizes and imposes penalties for breaches ranging from 2 years imprisonment or N1000 or both to 10 years imprisonment without option of fine.<sup>80</sup> It exempts members of the police force and the armed forces from arms issued them for official reasons.<sup>81</sup> The Firearms Regulations were made pursuant to section 32 of the Act to complement it. It provides for the renewal of licenses;<sup>82</sup> the marking and stamping of firearms;<sup>83</sup> revocation of license;<sup>84</sup> application and registration as a dealer;<sup>85</sup> sale and transfer of weapons by registered dealers;<sup>86</sup> and contravention and penalties.<sup>87</sup>
- ii. *The Robbery and Firearms (Special Provisions) Act*<sup>88</sup> - also regulates firearms possession and sanctions for related crimes. It makes the possession of guns illegal with a penalty of N20,000 or a minimum of 10 years' incarceration, or both. It specifies death by firing squad or hanging as a penalty for armed robberies, and a life imprisonment for attempted robbery, involving the use of guns.<sup>89</sup> The Act is detailed, but yet to meet the international standard as regards regulation and deterrence of the production of illegal weapons. The penalties are inadequate, especially, where it involves fines, and enforcement has been forestalled by corruption and lack of adequate institutional capability to secure a good conviction against offenders. Besides, the Act fails to recognize measures considered to be of importance by the international community in fighting and averting illegal production of arms.<sup>90</sup>
- iii. *Institutional Framework* – the institutional framework for regulating firearms in Nigeria is mainly the NATCOM, the police and the courts. It was initiated in 2001 to regulate and control firearms in the country, regulate the importation and exportation of firearms; detect and destroy illegal arms; grant permission for exemptions as provided by the ECOWAS Moratorium. NATCOM is however ineffective due to some constraints, which include

<sup>63</sup> Chapter II of the Convention.

<sup>64</sup> Article 16, *ibid.*

<sup>65</sup> Article 17, *ibid.*

<sup>66</sup> Articles 8-11, *ibid.*

<sup>67</sup> Act Cap. 398 Laws of the Federation of Nigeria, 1990.

<sup>68</sup> Established by an Act of parliament in 1964. As a result of its enactment, a West German manufacturing firm Fritz Werner was assigned the task of providing technical expertise and set up the Ordinance Factory in Kaduna State.

<sup>69</sup> NATCOM was inaugurated in 2001.

<sup>70</sup> It was reviewed in 1966 as the Firearms (Amendment) Decree No. 31 of 1966, wherein the penalties for illegal trading and possession of firearms was increased.

<sup>71</sup> Section 2 of the Firearms Act.

<sup>72</sup> Sections 3, 4, 5 and 8, *ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> Section 9, *ibid.*

<sup>75</sup> Section 17 and 20, *ibid.*

<sup>76</sup> Section 19 and 21, *ibid.*

<sup>77</sup> Section 20, *ibid.*

<sup>78</sup> Section 22, *ibid.*

<sup>79</sup> These include cap guns, Dane guns, and flint-lock guns.

<sup>80</sup> Section 27, *supra*, note 76.

<sup>81</sup> Section 38, *ibid.*

<sup>82</sup> Section 3, the Firearms Regulations.

<sup>83</sup> Sections 7 and 42, *ibid.*

<sup>84</sup> Section 9, *ibid.*

<sup>85</sup> Section 12, *ibid.*

<sup>86</sup> Section 12, *ibid.*

<sup>87</sup> Section 27, *ibid.*

<sup>88</sup> Initially, the Robbery and Firearms (Special Provisions) Decree No. 5 of 1984.

<sup>89</sup> Section 1-3 of the Robbery and Firearms (Special Provisions) Act.

<sup>90</sup> Chuma-Okoro, note 51.

lack of an independent status, lack of expertise, under-funding, corruption, and lack of political will on the part of government to help it to succeed.<sup>91</sup> The police and the court are directly accountable for enforcing these Acts against illegal weapons dealings. However, both are currently overwhelmed by their characteristic weaknesses and other extraneous issues.<sup>92</sup>

- iv. *Criminal Code*- the Criminal Code makes the following acts criminal; promoting inter-communal wars;<sup>93</sup> membership of secret cults or unlawful societies;<sup>94</sup> going about with arms so as to instill fear or terror on the public;<sup>95</sup> threatening violence with firearms;<sup>96</sup> kidnapping;<sup>97</sup> willful killing;<sup>98</sup> intentional causing of grievous harm;<sup>99</sup> kidnapping; illegal possession of firearms;<sup>100</sup> robbery with guns;<sup>101</sup> The production of illegal firearms encourages the commission of these criminal acts in the society and its attendant collapse of law and order. Besides, such guns in the hands of civilians, some state agents like the law enforcement agents carry guns without the appropriate orientation and tutorship on the rules and regulations guiding the use of arms. A police officer or soldier can shoot at a defenseless civilian at the slightest provocation.<sup>102</sup> It is typical of the Special Anti-Robbery Squad (SARS)<sup>103</sup> to killing extra judicially by gunshot<sup>104</sup> and simply allege “stray bullets”<sup>105</sup> or “accidental discharge.”<sup>106</sup> These undermine the statutory role of the Nigerian police to secure lives and property of the people.<sup>107</sup> It also offends all the human rights of the people as entrenched in chapters II and IV of the Constitution of the Federal Republic of Nigeria (CFRN).<sup>108</sup>

## 5. International Human Rights Obligations of Nigeria

Nigeria is a state party of the UN and consequently, under obligation to protect human rights at all cost. These are rights due every human being by reason of their humanity, and which if denied or violated makes the human being less human. In the case of *Abacha v. Fawehinmi*,<sup>109</sup> a case of arbitrary detention, the Supreme Court in relying on the provisions of the African Charter<sup>110</sup> held that anyone whose rights have been violated or about to be violated is entitled to a legal remedy. Nigeria is therefore, bound under international and regional treaties, as well as its constitution,<sup>111</sup> to guarantee the fundamental human rights of people as well as their socio-economic rights.<sup>112</sup> At the international<sup>113</sup> and regional levels,<sup>114</sup> Nigeria has ratified most of the human rights treaties.<sup>115</sup> The Constitution provides these political,<sup>116</sup> economic,<sup>117</sup> social,<sup>118</sup> and environments

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<sup>91</sup> Ibid.

<sup>92</sup> Ibid.

<sup>93</sup> Section 42 of the Criminal Code Act.

<sup>94</sup> Sections 60, 62, 63 and 64, Criminal Code Act.

<sup>95</sup> Section 80, Criminal Code Act.

<sup>96</sup> Section 86, Criminal Code Act.

<sup>97</sup> Section 364 criminal Code Act.

<sup>98</sup> Section 316, Criminal Code Act.

<sup>99</sup> Section 335, Criminal Code Act.

<sup>100</sup> Section 428 Criminal Code Act; sections 3 Robbery and Firearms (Special Provisions) Act; section 26 of the Firearms Act, makes acts which contravenes the Act and prescribes penalty for them.

<sup>101</sup> Section 401 Criminal Code Act, and section 3 Robbery and Firearms

<sup>102</sup> ‘Police Inspector kills civilian in Abuja beer parlour’- *Peoples Gazette*, available at <https://gazettengr.com> accessed 16/11/2021. Also, ‘Drunk Policeman Shoot Man Dead at Ekiti Hotel’- Sahara Reporters, available at <http://saharareporters.com> accessed 16/11/2021. And ‘How ‘drunk’ Nigerian policeman shot unarmed young man dead’, available at <https://www.premiumtimesng.com> accessed 16 November, 2021.

<sup>103</sup> An arm of the police force

<sup>104</sup> ‘Nigeria Records 122 Extra-Judicial Killings in Nine Months’, available at [www.thisdaylive.com](http://www.thisdaylive.com) accessed 16 November, 2021; ‘SARS executed 82 people in 3years-Amnesty International- *Vanguard News*, available at <https://www.vanguardngr.com> accessed 16 November, 2021; ‘Five SARS operatives found guilty of extrajudicial killing-Punch Newspapers, available at <https://punchng.com> accessed 16 November, 2021.

<sup>105</sup> ‘TIMELINE: Lagos State Records Increasing Victims of Police Stray Bullets’ available at <[saharareporters.com](http://saharareporters.com)> accessed 16/11/2021. Also, ‘Police arrest officer whose ‘stray bullet’ killed passenger in Edo’- *TheCable*, available at <https://www.thecable.ng> accessed 16 November, 2021. And ‘Police Stray Bullet Kills Pastor During Morning Devotion in Ebonyi,’ available at <http://saharareporters.com> accessed 16 November, 2021.

<sup>106</sup> ‘Accidental shootings: Causes, prevention and policy’ available at [punchng.com](http://punchng.com) accessed 16 November, 2021; also, ‘Police Wrongly Discharge their Weapons More Often Than You May Think’-*Insider* available at <https://www.insider.com> accessed 16 November, 2021.

<sup>107</sup> Section 4 of the Police Act, Cap. P19, Laws of the Federation Act, 2020.

<sup>108</sup> Constitution of the Federal Republic of Nigeria, 1999.

<sup>109</sup> [2000] 4 F.W.L.R. 533.

<sup>110</sup> Article 12 of the African Charter on Human and People’s Rights.

<sup>111</sup> Chapter IV of the Constitution of the Federal Republic of Nigeria (CFRN), 1999.

<sup>112</sup> Chapter II, *ibid*.

<sup>113</sup> These include: The Universal Declaration of Human Rights (UDHR); international Covenant on civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention on the rights of Persons with Disabilities (CRPD); Convention on the Rights of the child (CRC); Convention for the Protection of All Persons from Enforced Disappearance (CED); International Convention on the Elimination of all Forms of Racial Discrimination (CERD); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

<sup>114</sup> These include: the African Charter on Human and People’s Rights; African charter on the Rights and Welfare of the Child; AU Convention Governing Specific Aspects of Refugee Problems in Africa; Protocol to the African Charter on Human and People’s Rights on the Establishment of the African court on Human and People’s Rights; Protocol to the African Charter on Human and People’s Rights on the rights of Women in Africa; and the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

<sup>115</sup> On 25 October, 2013, Nigeria invited the UN Special procedures, which implies that any special rapporteurs or working groups are welcome to conduct visits in Nigeria. For example, the Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment conducted a mission to Nigeria in March 2007, and published a report in November 2007.

rights.<sup>119</sup> Rights under its chapter IV include rights to life;<sup>120</sup> right to the dignity of human person;<sup>121</sup> right to personal liberty;<sup>122</sup> right to fair hearing;<sup>123</sup> right to presumption of innocence until proven guilty;<sup>124</sup> right of freedom of thought, conscience and religion;<sup>125</sup> it prohibits the membership of secret cults.<sup>126</sup>

The right to security is not favourable, as such, but chapter II provides that government shall ensure that its citizens are secured along with other socio-economic and environmental rights.<sup>127</sup>

Notwithstanding these beautiful provisions of the Constitution, the production, illegal trafficking and misuse of firearms by both state and non-state actors have made way for the violation of these rights. None of these rights is spared. People are killed indiscriminately, depriving them of their right to life both from the extra-judicial killings, accidental discharges and stray bullets of state actors or by criminals, protesters, vigilante groups, etc. The police and soldiers employ their professional tactics to repress civil uproar as was the case in Odi, Bayelsa state in 1999;<sup>128</sup> Tivs, Benue state in 2001,<sup>129</sup> and the Niger Delta, 2002,<sup>130</sup> where state agents violated international, regional and national obligations to human rights. Up till now, these communities violated by state actors have not fully recovered from the aftermath of the destruction by the state. This has impeded on the growth and development of the area, thereby undermining their core right, which is the right to development of the people, besides other fundamental rights.<sup>131</sup>

## 6. Human Rights Effects of Gun Violence

Nigeria is not at war but the proliferation and abuse of firearms accounts for so many grave human rights violations in the country. As stated earlier, at times, these offenders are state agents who flout international norms. At other times, perpetrators are non-state agents flouting state criminal laws.<sup>132</sup>

- i. *Abuse by State Actors* – In the cause of their law enforcement role, state agents like the police, military, paramilitary, vigilantes and peacekeepers, abuse human rights of defenseless citizens through their unwarranted use of guns, thereby, undermining international laws.<sup>133</sup> The police, military and paramilitary in Nigeria lacks quality training and accountability skills required of their profession and how and when to use the weapon officially granted them. Guns confer power, even without being put in use. Thus, such powers are used to exploit, extort, rape, torture, loot, intimidate, and harass innocent civilians.<sup>134</sup> Another form of abuse by state agents is in inciting armed violence or recruit armed thugs to carry out attacks for political objectives. This is more profound during elections, riots and in political assassinations.<sup>135</sup>
- ii. *Abuses by Governments failure to Exercise Adequate Control* – The primary obligation of government is to respect human rights by providing security of lives and property. It is the duty of the state to provide protection from private actors and punish perpetrators but Nigerian government has lost this duty completely. This has encouraged

<sup>116</sup> Section 15, *ibid*, which provides that ‘the state shall foster a feeling of belonging and of involvement among the various peoples of the federation to the end that loyalty to the nation shall override sectoral loyalties.’

<sup>117</sup> Section 16, *ibid*, which declares that government will control the national economy in a manner that secures the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity: and that government will ensure that suitable and adequate shelter and food is guaranteed; and old age care, unemployment and sick benefits and welfare of disabled are provided for all.

<sup>118</sup> Section 17, *ibid*, which provides that ‘the social order of the state is founded on the freedom, equality and justice and declares that every citizen shall have equality of rights, obligations and opportunities before the law. It went on to add that government should ensure the following: - that the sanctity of the human person is recognized and human dignity maintained; governmental actions are human; exploitation of human and natural resources in any form whatsoever for ‘reasons other than the good (of the community is prevented.

<sup>119</sup> Section 20, *ibid*.

<sup>120</sup> Section 33 of the 1999 Constitution.

<sup>121</sup> Section 34 (no person shall be subjected to torture or inhuman or degrading treatment.

<sup>122</sup> Section 35, *ibid*.

<sup>123</sup> Section 36(1), *ibid*.

<sup>124</sup> Section 36(5), *ibid*.

<sup>125</sup> Section 38(1), *ibid*.

<sup>126</sup> Section 38(4), *ibid*.

<sup>127</sup> Section 14(1), *ibid*, which provides that ‘the Federal Government shall be a state based on the principles of democracy and social justice and that the security and welfare of the people shall be the paramount purpose of government. It further provides that the affairs of government shall be conducted in such a manner as to ‘command loyalty and promote a sense of belonging and loyalty among all the peoples of the Federation.’ These are provisions of the Constitution which provides responsibility for government to protect its citizens.

<sup>128</sup> ‘Odi Massacre: Court orders Nigerian Government to pay N37bn damages...’ available at <https://www.premiumtimesng.com> accessed 17 November, 2021. Also, ‘The Destruction of Odi and Rape in Choba-Human Rights Watch’ available at <https://www.hrw.org> accessed 17 November, 2021.

<sup>129</sup> ‘Zaki Biam Massacre’ - *Wikipedia*, available at <https://en.m.wikipedia.org> accessed 22 November, 2021. The Zaki-Biam massacre was a mass execution of hundreds of unarmed Tiv civilians by the Nigerian Army between 20-24 of October, 2001, which left over 200 persons dead including civilians, men, women and children. The army carried out this reprisal attack with machine guns, helicopters gunship, armoured tanks, grenades, whips and fire.

<sup>130</sup> Centre for Law Education (CLEEN) World Organization Against Torture (OMCT), *Hope Betrayed? A Report on Impunity and State-Sponsored Violence in Nigeria*, (Lagos: CLEEN/OMCT, 2002); In Chima-Okoro, note 90, p 295.

<sup>131</sup> Udombana, N. J. *Human Rights and Contemporary Issues in Africa*, Lagos: Malthouse Press Limited, (2003), pp16-17. Declaration on the Right to Development: resolution adopted by the General Assembly, 4 December, 1986, A/RES/41/128, available at <http://www.unhcr.org/refworld/docid/3b00f22544.html> accessed 17 November, 2021.

<sup>132</sup> Small Arms and Human Rights: The Need for Global Action,’ A Human Rights Watch Briefing Paper for the U.N. Biennial Meeting on Small Arms, held 7 July, 2003.

<sup>133</sup> The U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides that law enforcement agents must use the minimum force necessary and may use lethal force only where there is an imminent threat to life.

<sup>134</sup> *Ibid*.

<sup>135</sup> Nigeria-Human Rights Watch, available at <https://hrw.org>, accessed 22 November, 2021.

many to insist that since government cannot protect lives, they should allow the people access to guns for self-protection.<sup>136</sup> It is the duty of government to enforce laws, and control the proliferation and abuse of firearms in the country. As well as provide needed security and enabling environment for the enjoyment of rights. The inability of government to carry out this all important obligations encourages the abuse of life, security and the breakdown of the rule of law, which undermines all human rights. Government is unable to effectively control its borders, regulate the influx of arms, and those who get hold of these weapons in the country.

- iii. *Abuses by private actors* – Nigeria is having serious security challenges and influx of arms, much of which falls into the hands of criminals. This has encouraged criminality in no small way in the country, resulting in daily loss of lives and property. The right to life is no longer guaranteed in Nigeria. Innocent citizens are tortured, raped, killed, displaced, injured, and humanized. Farmers are not safe on their farm lands, thereby, scaring them away from the farms with resultant food shortages in the country.

Gun violence generally undermines human rights on all fronts, and a direct affront on the rule of law and the supremacy of the Constitution.<sup>137</sup> The report of OHCHR was a call for states to take steps to protect their people from gun violence, which goes with the illegal sale and misuse of arms.<sup>138</sup> Gun violence impairs all the rights in chapters II and IV of the Constitution and depicts a failure on the part of government to its fundamental obligation to protect its citizens. For that reason, it becomes a double jeopardy for hospitals to reject victims of gun violence in Nigeria.

### **7. Special Protection for Victims of Gun Shot in Nigeria**

The failure of government to protect its citizens in the face of the current influx and abuse of arms results in many havocs to innocent Nigerians. The rule<sup>139</sup> before now is against the treatment of victims of gun violence by both private and public hospitals without first producing a police report.<sup>140</sup> This was nonetheless, a misinterpretation of a section of the Robbery and Firearms (Special Provisions) Act, 1990.<sup>141</sup> The rationale behind getting a police report is to certify that the victim is not a criminal who was shot by the police or private persons, while trying to escape arrest.<sup>142</sup> This law undermined the right to life<sup>143</sup> of even the criminals who by law are presumed innocent until found guilty by a court of competent jurisdiction.<sup>144</sup> This notion also undermines the fact that not all gunshot victims are criminals. Most of them are innocent Nigerians shot by criminals.<sup>145</sup> Hospitals were forbidding from treating these victims and most at times, they lost their lives out of neglect or before the police report will come. The non-treatment of gunshot victims was against their fundamental right to life as provided by the Constitution.<sup>146</sup> The bill for the compulsory treatment of victims was first presented to the National Assembly in 2009 but it took them about 8 years to pass the bill. Then in 2017, President Buhari signed it into law as the Compulsory Treatment and Care for Victims of the Gunshot Act, 2017, wherein, some protection was granted to gunshot victims. 2015 saw further increase in the spate of gun violence as a result of terrorism, armed robbery, militancy, kidnapping, communal clashes, etc.<sup>147</sup> People continue to die of lack of care and treatment<sup>148</sup> Considering the insecurity in the country, every stakeholder became concerned; the government, lawmakers, entire public and hospitals, became aware that something is not right after all. This was the situation until the passing of the Compulsory Treatment and Care for Victims of Gunshots, 2017, which defines a victim as anyone who sustains wounds from gunshot or other firearms.<sup>149</sup> The Act specifically stated that every hospital, whether private or public should treat gunshot victims with or without police clearance.<sup>150</sup> It follows that hospitals will no longer be persecuted if they should treat victims of gunshot.<sup>151</sup> Also, private persons who assist gunshot victims to get medical assist will not be persecuted by the police.<sup>152</sup> No hospital in the country must refuse to treat victims of gunshot wounds for lack of initial payment.<sup>153</sup> No one including the law enforce agencies must make victims pass through any kind of torture.<sup>154</sup> It is the duty of the hospital management or anyone treating gunshot

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<sup>136</sup> The Guardian, 'Insecurity and the right to bear arms' *The Guardian Nigeria News*, available at <https://guardian.ng> accessed 22 November, 2021.

<sup>137</sup> In 2016, Prince Zeid Ra'ad al-Hussein, came up with a detail report of human rights violations that go with the misuse of firearms. The reported captured the fact that 'firearms-related violence and insecurity...pose direct risks to the rights to life, security and physical integrity, and also affect other civil, political, social, economic and cultural rights such as the rights to health, good standard of living, education, security and right to participate in cultural life, peaceful assembly, religion, movement, etc.

<sup>138</sup> U.N. High Commissioner for Human Rights, Human Rights and the Regulation of Civilian Acquisition, Possession and Use of Firearms, 52, U.N. Doc. A/HRC/32/21 (Apr. 15, 2016).

<sup>139</sup> It was never a law or a legislation as many thought but a mere police ethic and rule, which has resulted in the death of many Nigerians.

<sup>140</sup> Imosemi, A.F., 'Compulsory Treatment for Victims of Gunshot Act, 2017: Saving Lives in Nigerian Hospitals of a Contradiction of the Provisions of the Administration of Criminal Justice Act, 2015?' (2018) *Nigerian Journal of Medicine*, Vol. 27 No. 4, p 335.

<sup>141</sup> Section 4 (1) TO (4) of the Robbery and Firearms (Special Provisions) Act, 1990.

<sup>142</sup> Ibid.

<sup>143</sup> Section 33(1), CFRN, 1999, which states that 'every person has a right to life and no one shall be intentionally deprived of his life. Save in execution of a sentence of a court in respect of a criminal offence in which the person has been found guilty in Nigeria.'

<sup>144</sup> Section 36(5), CFRN, 1999, which states that an accused is presumed innocent until proven guilty by a court of law.

<sup>145</sup> Ibid.

<sup>146</sup> Section 33, CFRN, 1999. Fundamental rights are natural rights, which must be protected at all cost and not to be violated except where the victim has been found convicted for

<sup>147</sup> Ethelbert, O.L., 'Nigeria and the Incidences of Homicide' (2015) *Am. Int. J of Soc. Sciences*; 4: 103-114.

<sup>148</sup> 'Assassination of Mr. Alhaji Saula Saka-NGA 001/0108/OBS 008, available at <https://www.fidh.org/en/region/Africa/nigeria/Assassination-of-Mr-Alhaji-Saula>, accessed 19 November, 2021.

<sup>149</sup> Section 15, the Compulsory Treatment and Care of Gunshot Victims Act, 2017.

<sup>150</sup> Section 1 of the compulsory Treatment and Care for Victims of Gunshots Act, 2017 (Act No. 22 2017).

<sup>151</sup> Section 2, Compulsory Treatment for Victims of Gunshot act, 2017.

<sup>152</sup> Section 10, *ibid*.

<sup>153</sup> Section 3(1), *ibid*.

<sup>154</sup> Section 3(2), *ibid*.



injuries to report to the police within 2 hours of commencing treatment.<sup>155</sup> On getting such report, the police must immediately commence investigations into the facts of the report.<sup>156</sup> While such investigations are ongoing, the police need not forcefully eject the victim from hospital care until the Chief Medical Director of the hospital confirms him fit and not in a serious health need.<sup>157</sup> The Act also places an obligation on the hospital to alert the family of such a victim within 24 hours of ascertaining the victim's identity.<sup>158</sup>

The Compulsory Treatment and Care for Victims of Gunshots Act, 2017 (the Act) made it an offence for any hospital to give dishonest report to the police. If convicted, such hospital shall be liable to a fine of one hundred thousand naira (N100,000.00) and the doctor behind such information shall be liable to 6 months' imprisonment or a fine of one hundred thousand naira (N100,000.00) or both.<sup>159</sup> It is also a crime for anyone to deliberately refuse to give the police all necessary information,<sup>160</sup> such offender is liable to one month (1month) imprisonment or N50,000.00 fine or both.<sup>161</sup> Anyone who is found guilty of an offence under the Act, particularly, where such an offence leads to a substantial mental, physical, psychological, and emotional damage to the victim, shall be liable on conviction to imprisonment for not more than 15 years and not less than 5 years.<sup>162</sup> It is criminal for anyone, hospital or security officers to stand by and watch a victim of gunshot wounds die. Such a person will be liable on conviction to 5 years imprisonment or a fine of N50,000.00 or both.<sup>163</sup> It is the duty of hospitals to keep an adequate record of gunshot victims they treated.<sup>164</sup> If convicted, any person or body corporate shall be liable to pay a financial compensation of an amount equal to the loss incurred by such a victim.<sup>165</sup> The victim shall apply for restitution order of court just like he would in a civil judgement.<sup>166</sup> It is the High Court that has an original jurisdiction to entertain matters arising from the provisions of the Act.<sup>167</sup> This Act has been in operation since 2017, however, not much has changed in the treatment and care of gunshot victims as seen in the EndSars protest of 2020, which was later hijacked by hoodlums, and the Nigerian Army in a reprisal attack used the guns, which resulted in the death of some innocent Nigerians and many others injured.<sup>168</sup> Regrettably, most hospitals denied the injured victims access to medical treatment and care.<sup>169</sup> This is about 3 years of the enactment of the law to abolish the age long mentality of rejecting gunshots victims.<sup>170</sup> Adequate implementation of laws is one of the problems facing the country. It is one thing to have a law but another to make it work in Nigeria. The continuous rejection of gunshots victims is a direct violation of the right to life, which government is duty bound to protect under international, regional and local laws.

## 8. Conclusion and Recommendations

The United Nation has been at the forefront in the campaign against the global firearms challenge, since 2001 it held its first conference on small arms and light weapons. It has incited action at the international, regional and national levels to sit up against the menace of illegal production, export, import and abuse of firearms. The problem is of a grave national concern in Nigeria, with the spate of insecurity, killings and damages being done daily in the country. The federal government of Nigeria has continued to see the problem of insecurity more as a national security challenge rather than as a human security issue, which undermines all persons irrespective of status, gender, age, ethnic group, and educational status. Government should rise up to its international obligation to the security of its citizens and begin to adopt a human rights approach to the use of firearms in the country by putting the people first.<sup>171</sup> Nigeria should not make the same mistake that America made in the past. After its civil war, which lasted from 1861 to 1865, there were excess guns all over the place. These guns were used to plague and destroy lives and property. The government then instituted the Second Amendment to the American Constitution to guarantee the right of its citizens to keep guns for self-defense.<sup>172</sup> A right to bear arms is fundamentally a right to kill. The right to hold guns for self-defense eventually transcended into a tool of mass destruction, which has given right to the spate of killings till today. According to Ajare, it is wrong to use more violence to cure violence.<sup>173</sup> No one can effectively predict a gun in a wrong hand. It is the guns that entered into the wrong hands after the Nigerian civil that is the genesis of the armed robberies, kidnappings, assassinations, militancy, etc. we are facing in the country now. And government and its law enforcement agents are too weak, corrupt, and careless to take stern initiatives for gun control.

<sup>155</sup> Section 4, *ibid.*

<sup>156</sup> Section 5, *ibid.*

<sup>157</sup> Section 6, *ibid.*

<sup>158</sup> Section 12, *ibid.*

<sup>159</sup> Section 4, *ibid.*

<sup>160</sup> Section 7, *ibid.*

<sup>161</sup> Section 8, *ibid.*

<sup>162</sup> Section 9, *ibid.*

<sup>163</sup> Section 11, *ibid.*

<sup>164</sup> Section 13, *ibid.*

<sup>165</sup> Section 15, *ibid.*

<sup>166</sup> Section 16(1), *ibid.*

<sup>167</sup> Section 16(2), *ibid.*

<sup>168</sup> 'Lekki Toll Gate Shooting in Nigeria was a Massacre,' *Telegram News* available at [www.nytimes.com](http://www.nytimes.com) accessed 20 November, 2021. Also, 'Army shot unarmed protesters in Lagos 'massacre'- leaked report- *The Guardian*, available at <https://www.theguardian.com> accessed 20 November, 2021.

<sup>169</sup> 'The Position of the Law Vis-à-vis Victims of Gunshots in Nigeria' available at <https://djetlawyer.com> accessed 3 November, 2021.

<sup>170</sup> Okpe Nicholas, one of the EndSars protesters, who was shot at the Lekki Toll Gate on October 20, 2020, later told a Premium Times reporter (Ibekwe) that his case was so critical that three hospitals rejected him before Grandville accepted to treat him.

<sup>171</sup> Imosemi, note 137.

<sup>172</sup> Noah Ajare, 'Critical Analysis of Gun Laws in Nigeria', available at <https://www.linkedin.com> accessed 22/12/2021.

<sup>173</sup> *Ibid.*

Effective gun control is possible. Some countries have done that effectively and are enjoying the resultant peace.<sup>174</sup> Thus, a good gesture of government to allow the citizens to protect themselves eventually grew out of the control of government till today.<sup>175</sup> Nigeria is gradually toeing same part as America as people have begun to call on government to legalize the use of guns.<sup>176</sup> But will legalizing the use of guns solve Nigeria's gun situation?<sup>177</sup> Since the enactment of the Compulsory Treatment and Care for Victims of Gunshot Act, 2017, not much has changed in the treatment of gun shots victims, even though hospitals have no more reason to continue rejecting victims on the basis of lack of police report. It clearly shows that the law only is not enough. Government must march the law with

Government at all levels must adopt stern measures to stop and regulate the influx of guns into the country as well as, discourage its use by first checking its own abuse of guns and firearms. They should as much as possible comply with international human rights and humanitarian laws, by regaining their lost glory to checkmate private actors. It must train its police, military and paramilitary to comply with international standards and expectations. These state agents should be well provided for. It is the ill motivating conditions of service that contributes to their frustrating behaviours. Police and the military in advanced countries are well trained, equipped and made comfortable to enjoy their job. State agents should apply stringent norms of discipline and accountability in the discharge of their duties. They should be trained in human rights and humanitarian law. There should be a security sector reform programme. Civilians and local communities should be banned from forming civil militias or engaging in private security. Security should solely be for government. But if they should be allowed, then it should be with strict surveillance and adequate training to that effect. Children and under aged should not be engaged for military services. They should be disarmed, demobilized and socially rehabilitated. The Compulsory Treatment and Care for Victims of Gunshot, Act, 2017, is a commendable Act, which needs strict implementation. The health sector and the general public need to be educated on the provisions of the law to treat gunshot victims, the Nigerian Bar Association, human rights activists and civil organizations should be involved in ensuring that the Act is implemented and that there is no more discrimination against victims of gunshot. The law enforcement agents should not hesitate to prosecute offenders of the Act. The Inspector General of Police must sensitize the police that the medical personnel do not need police permission to carry out the responsibility of their calling to save lives. Since the enactment of the Compulsory Treatment and Care for Victims of Gunshot Act, 2017, not much has changed in the treatment of gunshot victims, even though hospitals have no more reason to continue rejecting victims on the basis of lack of police report. It clearly shows that the law only is not enough. Government must march the law with some advocacy, review the administrative procedures of operation of hospitals, the Medical and Dental Practitioners Council of Nigeria must restate compliance with the Act in their professional ethics with some sanctions for non-compliance. Finally, the Act should be imbued in the Police College and Medical Schools' Curriculum.

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<sup>174</sup> '6 Countries with the strictest Gun Laws in the World' available at Countries like Singapore, China, Japan, United Kingdom, and Australia have effective gun laws and are the most peaceful in the world.

<sup>175</sup> 'America is one of 6 countries that make up more than half of gun deaths worldwide', available at [www.vox.com](http://www.vox.com) accessed 19 November, 2021. Also, '2020 Ends as One of America's Most Violent Years in Decades' available at [time.com](http://time.com) accessed 19 November, 2021.

<sup>176</sup> SELF-DEFENSE: Masari not crying wolf, we're now helpless- Nigerians' available at [www.vanguardngr.com](http://www.vanguardngr.com) accessed 19 November, 2021. Also, 'Insecurity and the right to bear arms' *The Guardian Nigeria News*, available at <https://guardian.ng> accessed 19 November, 2021. And, 'Calls for self-defense show Nigerians are vulnerable, government helpless...', available at [punchng.com](http://punchng.com) accessed 19 November, 2021.

<sup>177</sup> 'Viewpoint: Self-defense not the answer to Nigeria's kidnap crisis' available at [www.bbc.com](http://www.bbc.com) accessed 19 November, 2021. Also, 'Will Owning Guns Make Nigerians Safer?' available at [republic.com.ng](http://republic.com.ng) accessed 19 November, 2021.