

CAN WAR CRIMES BE INTEGRATED INTO CRIMINAL/PENAL CODE SYSTEM? *

Abstract

International Humanitarian law is a branch of public international law whose aim is to regulate the methods and means of warfare and protect the victims of armed conflict. War crimes are grave breaches to the rules governing the conduct of hostilities (war) and punishable within the international legal regimes created for this purpose. The focus of this paper is to explore the possibility of extending the legal regime on war crime to municipal jurisdictions through their integration into criminal/penal code systems of individual states. The possibility of such integration will help and assist criminal investigation arms of the government and the Courts in the municipal system in dealing with such crimes bordering on insurgency, mercenary and those involved in internal armed conflicts. This will be a good handshake between international and municipal laws in fostering peace and security in our present time.

Keywords: War crimes, Integration, Criminal and Penal Codes.

1. Introduction

War has dealt a devastating blow to the succeeding generations of mankind, who have been seeking - for a way to stop or limit the consequences of war on individuals. The preamble to the Charter of the United Nations tried to summarize the aspiration of mankind where it says:

We the people of the United Nations determined to save succeeding generation from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and... , to practice tolerances and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims¹

The United Nations Charter attempted to ban war by providing that ‘all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations². The, whole of Chapter VII of the United Nations Charter empowers the Security Council to decide and plan for the application of armed force if the need arise. The chapter ended with the provision for inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and Security.³ Thus, if war is legally allowed because of its inevitability in the present global dispensation, it thus becomes a burden to be regulated in order to be able to cope with it. In that case, its regulation should not be left at the international level alone but the municipal legislation of each state whether member of the United Nations or otherwise should be involved in its regulation. That is all the more reason why the United Nations Charter provides that ‘The organization shall ensure that states which are not members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security⁴.

The above provision provides for an unusual contractual situation where the United Nations Charter being an intergovernmental agreement binds both parties and non-parties especially when it touches and concerns peace and security, that is, war situations. This being the essence and implication of the whole charter of the United Nations system under international law, the municipal legal systems of individual states should incorporate war crimes regulations into their criminal/penal code systems. The main question at this junction is whether this noble idea will blur the division between International law and Municipal law. This question need not arise as peace achieved at the International level may not have any meaning or importance if such peace is unattainable at the same time at the Municipal level and for the benefit of a human being who will always be a citizen of a state. It should be noted that war may be a political device or means of achieving a political goal by a State, the actors are human beings of whatever capacity and the victims in the first instance are always human beings

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¹Preamble to the Charter of the United Nations, 59 State 1031, T.S 993, 3 Bevans 1153. Signed at san Francisco, USA on June 26, 1945; entered into force on October 24, 1945

²United Nations Charter 1945 Art. 2(4)

³United Nations Charter 1945 Art. 51

⁴United Nations Charter 1945 Art. 2(6)

either as Combatants or Civilians. In this wise, it is apposite to start to see how these regimes of law can be harmonized concerning war situations being special situations so that the rights of the individual which is at the centre of both International law and Municipal law jurisdictions can be adequately protected at all times. The foregoing is the essence of this paper.

2. War Crimes

War is a forcible contention between one state or group of states through the application of armed force and other measures with the purpose of overpowering the other side and securing certain claims or demands⁵. It is to be distinguished from unilateral use of force at least by a declaration that they are deemed to be acts of war. War proper is international and to be distinguished from force between individuals or groups within a state such as repression of revolts, insurgency or privacy, and civil war, though if a revolting part of a state is itself a member of a federal state or is recognized as a breakaway state, the revolt may become war proper⁶. War is a condition recognized and sought to be regulated by international law, even though it does involve breach of peaceful relations between the belligerent states; it is not a state of anarchy. Its existence brings into play, a great body of legal rules attempting to define parties' right and duties⁷. The breach of any of the body of legal rules regulating war during its occurrence is termed war crimes. The term 'war crimes' are not used in the Geneva Conventions of August 12, 1949 instead the term 'Grave breaches'⁸ are used in all the four Geneva Conventions to describe what is herein called war crimes. According to M.N Shaw⁹, War crimes are now accepted by most authorities as subject to universal jurisdiction, though of course the issues are extremely sensitive and highly political¹⁰. While there is little doubt about the legality and principles of the war crimes, decisions emerging after the second world war, a great deal of controversy arose over suggestions of war crimes guilt appertaining to American personnel connected with the Vietnam war¹¹, and Pakistani soldiers involved in the Bangladesh war of 1971.

War crime is one of the four cardinal crimes provided for under the jurisdiction of the international criminal court¹². War crimes have been most authoritatively and elaborately defined by the Rome statute¹³. The Rome statute provides that the court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large scale commission of such crimes. War crimes¹⁴ are grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the acts against persons or property protected under the provisions of the relevant Geneva Conventions. It should be noted that of all the main group of crimes the Rome Statute placed within the jurisdiction of the international criminal court, war crimes constitute the group of crimes that are more elaborated and seemed to have also provided, in substance, for the other groups of crimes¹⁵.

3. Perpetrators of War Crimes

War crimes are crimes committed during armed conflicts which are often international in character. War crimes are such acts which include but not limited to the following violations of laws or customs of war; a) willful killing, or ill-treatment or deportation t slave labour of the civilian population of occupied territory; b) murder or ill-treatment of prisoners of war or shipwrecked persons; c) taking and killing hostages; d) plunder of public or private property; e) wanton destruction of towns or villages; f) devastation not justified.¹⁶ Also considered as war crimes when they do not form part of the above named acts are grave breaches as provided for in the Geneva Conventions.¹⁷ War crimes are not subject to statutory limitations and the procedure has been established for international cooperation in the detection, arrest, extradition, trial and punishment of persons guilty of war crimes.¹⁸ The perpetrators of war crimes are:

i) Those persons and authorities of a state party who are directly involved in hostilities during armed conflict, According to the provisions of Additional Protocol I to the Geneva Conventions of 1949, the armed forces of a

⁵ David M. Walker: *The Oxford Companion to Law*, Clarendon Press, Oxford 1980, p. 1284.

⁶ David M. Walker: *The Oxford Companion to Law*, Clarendon Press, Oxford 1980, p. 1284

⁷ David M. Walker: *The Oxford Companion to Law*, Clarendon Press, Oxford 1980, p. 1284

⁸ Sec. GC I Art. 50; GC II Art. 51; GC III Art. 130

⁹ Malcolm N. Shaw; *International Law*, 2nd Edition, Grotius Publications Ltd. Cambridge, 1986, p. 360.

¹⁰ *ibid*

¹¹ *ibid*.

¹² Statute of the International Criminal Court Art. 5. The Statute entered into force on July 1st, 2002

¹³ Statute of the International Criminal Court Art. 8.

¹⁴ Statute of the International Criminal Court Art. 8

¹⁵The four groups of crimes are: the crime of genocide, crimes against humanity, war crimes and the crime of aggression. The crime of aggression is yet to be defined for the court. Please see Rome Statute of ICC Art. 5-8.

¹⁶ Pietro Verri: *Dictionary of the International Law of Armed Conflict*, ICCR; Geneva 1992, p. 123.

¹⁷ GC I Art. 50, GCII Art. 51, GC III Art. 130, GC IV Art. 147 and P1 Art, 75.

¹⁸ See the Rome State of the International Criminal Court.

party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that party for the conduct of its subordinates...¹⁹

ii) Members of armed forces of a party to a conflict other than medical personnel and chaplains covered by Article 33 of the third Geneva Convention are combatants who have the right to participate directly in hostilities²⁰.

iii) Paramilitary or armed law enforcement agents who are incorporated into the armed forces whose involvement is notified to the other parties to the conflict can also be perpetrators of war crimes²¹.

iv) A Head of State or Government, a Minister, elected parliamentarians or a government official *et cetera* shall not be exempted from the criminal responsibility under the Rome Statute nor shall such exalted position constitute a ground for reduction of sentence²². These officials of a state also fall under the category of perpetrators of war crimes.

v) Immunities or special procedure rules which may attach to the official capacity of a person whether under national or international law, shall not bar the court from exercising its jurisdiction over such a person.²³

A current head of a government who is accused of war crime can be ordered to be arrested and brought before international criminal court for prosecution.²⁴ This is the present case of President Al Bashir of Sudan where a warrant of arrest is subsisting on him as issued by the prosecutor of the international criminal court. The issue of immunity for Heads of Government seems to have been settled as one of the preemptory norms of international law. It is of general knowledge and recognition in international law that the question whether a Head of State or government has immunity does not call for any special analysis or research before an answer can be proffered in favour of full immunity for the Head of State or Government.²⁵ This conflict of immunities offered by the constitution of respective states for their Heads of State and their officials on one hand and the immunity conferred by the international instruments (which are in themselves conflicting) on the other seems to confuse or displace a principle that seemed to have been settled in law, The various instruments of international cooperation gave the Head of state immunity but the Rome Statute does not see the reason while a head of state being accused of war crime should be accorded immunity. The provisions of the Rome statute has troubled the hitherto settled water of the immunity of the Head of state for whatever reasons and it will surely take some time before calmness will come in this area of the law. It should however be noted that immunity should not be allowed to be used as a shield by a Head of State accused of war crime.

4. The Present Regime of the Prosecution for War Crimes

International law traditionally do not accept individuals as having any direct right or obligation under it excepts states who can extend the accrued benefits of international law to its citizens, It has extremely become difficult if not entirely impossible to directly punish states for any criminal liability. The paradigm changed after the World War II to a situation where individual perpetrators are being prosecuted. The Nuremberg and Tokyo Tribunals set up by victorious Allies after the close of the war were a vital part of this process²⁶. Many of those accused were found guilty of crimes against humanity and against peace and were punished accordingly. This was recognition of individual responsibility under international law without the interposition of the state.²⁷ The International Criminal Tribunal set up for specific cases after the second world war were all directed at prosecution and punishment of individual perpetrators for diverse crimes be it war crimes, crime against humanity or crime against peace where available.²⁸ The present regime of prosecution for war crimes is

¹⁹ Protocol I Additional to the Geneva Conventions of 12 August 1949, Art. 43(1)

²⁰ Protocol I Additional to the Geneva Conventions of 12 August 1949 Art. 43(2)

²¹ Protocol I Additional to the Geneva Convention of 12 August 1949, Art. 43(3)

²² Statute of the International Criminal Court 1998, Art. 27(1).

²³ Statute of the International Criminal Court 1998, Art. 27(2)

²⁴Art. 21 of the Convention on Special Missions grants immunity to the Head of State, the foreign affairs minister and other persons of high rank to be enjoyed in the receiving State or in the third Sate, in addition to what is granted by the present convention, the facilities, privileges and immunities accorded by international law. Art. 4 of the Vienna Convention on Diplomatic relations provided for class of diplomats enjoying immunity as Ambassadors or Nuncios and envoys, Ministers and Intemuncios and other officers of equivalent rank accredited to the Heads of State and Charges D'affairs accredited to Ministers for Foreign Affairs. These categories of diplomats derive the enjoyment of diplomatic immunities and privileges from the Heads of States. Thus, the immunities of Heads of States will be much higher than those of Ambassadors extraordinary and plenipotentiary representing directly the Heads of States in the receiving State, For example, section 308 of Constitution of the Federal Republic of Nigeria confers immunity on the President, his vice, the state governors and their deputies.

²⁵ Malcolm N. Shaw, *op. cit.*, p. 42

²⁶ *ibid*

²⁷ *ibid*

²⁸*Marco Sassoli and Antonio Bourvier & Ors.* How 'does law protect in war: cases, documents and teaching materials on contemporary practice in international humanitarian law, ICRC, 1999, p. 214.

provided for by the Rome Statute of the international criminal court.²⁹ The court has international legal personality³⁰ and its seat is at The Hague in the Netherlands.³¹ The crimes within the jurisdiction of the court are: a. the crime of genocide; b. Crimes against humanity; c. War crimes; and, d. The crime of aggression.³² A state which becomes a party to the Rome Statute or a state not being a party but accepted the jurisdiction of the court by declaration lodged with the Court Registrar accepts the jurisdiction of the court with respect to the crimes referred to in Art. 5.³³ The court may exercise jurisdiction with respect to a crime referred to in Art. 5 if:

- a. a crime has been referred to the prosecutor by a state party;
- b. crime(s) is (are) referred to the prosecutor by the Security Council of the United Nations.³⁴ The prosecutor is the investigator and the link between the accused persons and the court.³⁵ The issues bordering on admissibility is determined by the court.³⁶

The applicable laws to be applied by the court include:

- a. The Rome Statute, elements of crimes, rules of procedure and evidence of the Court.
- b. Applicable treaties, principles and rules of international law including established principles of international law of armed conflict
- c. General principles of law derived by the court from national laws of legal systems of the world provided that those principles are consistent with the Rome Statute and with international law and internationally recognized norms and standards
- d. Principles and rules of law as interpreted in its previous decisions.
- e. The above laws, principles and other applications and interpretations must be consistent with internationally recognized human rights principles without distinction as to age, gender, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status.³⁷

The court is obliged to adopt and follow established principles inherent in the administration of criminal justices. These principles include:

- i. *Nullum Crimen Sine Lege*: A person shall not be criminally responsible under the Rome Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the court.³⁸
- ii. *Ne bis in idem*: No person shall be tried for a crime for which the person has been convicted or acquitted by the court or other courts on the crimes of genocide, war crimes, crimes against humanity or the crime of aggression.³⁹
- iii. *Nulla Poena Sine Lege*: A person convicted by the court may be punished only in accordance with this statute⁴⁰ i.e. no punishment if the crime is not prescribed in the statute book.
- iv. *Non-Retroactivity Ratione Personae*: No person shall be criminally responsible under this statute for conduct prior to the entry of the statute into force.⁴¹
- v. *Individual Criminal Responsibility*: A person who commits a crime as a natural person or as an accomplice with others within the jurisdiction of the court shall be individually responsible and liable for punishment in accordance with the Rome Statute.⁴²
- vi. *Exclusion of Jurisdiction over Persons under Eighteen*: The court shall exercise jurisdiction over adults who are above the age of 18 at the time of alleged commission of a crime.⁴³
- vii. *Irrelevance of Official Capacity*: The statute shall apply equally to all persons without any distinction based on the official position of a person in a given state. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the court from

²⁹Text of the Rome Statute circulated as document A/CONF. 1839 of 17 July 1998 and corrected by process. Verbaux of 10 November 1998, 12 July 1999, 30 November 1998, 8 May 2000, 17 January 2002. The statute entered into force on 1 July 2002, see Art. 8.

³⁰ Statute of the International Criminal Court 1998 Art. 4,

³¹ Statute of the International Criminal Court 1998 Art. 3

³²Statute of the International Criminal Court 1998 Art. 5. The court shall exercise jurisdiction over crimes of aggression once a provision is adopted in accordance with articles 121 and 123 defining the Crime and setting out the conditions under which the court shall exercise jurisdiction with repeat to this crime.

³³Statute of the International Criminal Court 1998 Art. 12

³⁴ Statute of the International Criminal Court 1998 Art 13

³⁵ Statute of the International Criminal Court 1998 Art. 15

³⁶ Statute of the International Criminal Court 1998 Art. 17

³⁷ Statute of the International Criminal Court 1998 Art. 21

³⁸ Statute of the International Criminal Court 1990 Art. 22

³⁹ Statute of the International Criminal Court 1998 Art. 20

⁴⁰Ibid. Statute of the International Criminal Court 1998 Art.23

⁴¹ Ibid. Statute of the International Criminal Court 1998 Art. 24

⁴² Ibid. Statute of the International Criminal Court 1998 Art, 25

⁴³ Ibid. Statute of the International Criminal Court 1998 Art. 26

exercising its jurisdiction over such a person.⁴⁴ This type of provision has enhanced the position of the prosecutor in issuing the warrant of arrest against the president of Sudan, Al-Bashir.

- viii. *Responsibility of Commanders and other Superiors*: A military commander or person effectively acting as a military commander shall be criminally responsible for crimes committed within the jurisdiction of the court by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces.⁴⁵
- ix. *Non-Applicability of Statute of Limitations*: The crimes committed within the jurisdiction of the court shall not be subject to any statute of limitations.⁴⁶

Organs of the Court

The court is administered and runs like any judicial legal system in a state. The court shall be composed of the following organs:

- a. The presidency comprising of 18 judges
- b. An appeals division, a trial division and a pre-trial division
- c. The office of the prosecutor
- d. The Registrar⁴⁷

The above officers enjoy privileges and immunities⁴⁸ and can be disciplined⁴⁹ or removed from office⁵⁰ as a result of breach of the conditions of their employment.

5. Mechanism of Integration of War Crimes into Criminal/Penal Codes of States

The incorporation or transformation of international legal rules into municipal legal system for effectiveness is a question of implementation of international legal provisions to the benefit of all,

The essence of the relationship between international law and municipal law is for states to come together to formulate general principles of legal rules as -international legal rules. These international legal rules are in-turn to be adopted, ratified and domesticated as municipal legal rules in a state.

In international law, different theories are used to achieve domestication of international legal rules into the municipal legal system.

These theories include:

The Dualist or Pluralist Theory

The dualist or pluralist theory tries to compare international law with municipal law to the effect that neither legal order has the power to create or alter the rules of each other. However, if there is a conflict between the two legal systems, the dualist would hold that the courts should apply municipal law.⁵¹ Nigeria operates the dualist theory vis-a-vis international law. But in the classical Nigerian case of *Fawehinmi v. Abacha & Ors*⁵² the court upheld the provision of international law where it held that no government will be allowed to contract out by local legislation international obligations and that ouster clauses cannot affect the operation of African Charter on Human and Peoples' Rights in Nigeria. It should be noted that Nigeria has ratified and domesticated the African Charter on Human and Peoples Rights. Nigeria has also ratified the four Geneva Conventions of 1949 and the additional protocols I & II of 1977.

The Monist Theory

This theory asserts that neither international law nor any system of municipal law is superior to the other but that all form parts of one legal order or system of norms binding states and individuals alike, their rules being interrelated.⁵³ If there is conflict, international law rules will take precedence. In the case of *Costa v. ENEL*⁵⁴ it was held that European communities law prevailed over subsequent (Italian) incompatible national laws.

Theories of Coordination

These theories characterize international law as a law of coordination which does not provide for automatic abrogation of internal rules in conflict with obligations on the international plane. Here practice is preferred over theory. States practice in

⁴⁴ Ibid Statute of the International Criminal Court 1998 Art. 27

⁴⁵ Ibid. Statute of the International Criminal Court 1998 Art. 28

⁴⁶ Ibid. Statute of the International Criminal Court 1998 Art. 29

⁴⁷ Ibid. Statute of the International Criminal Court 1998 Art.34, 35, 38, 42 and 43

⁴⁸ Ibid. Statute of the International Criminal court 1998 Art. 48

⁴⁹ Ibid. Statute of the International Criminal Court 1998 Art. 47

⁵⁰ Ibid. Statute of the International Criminal Court 1998 Art.46

⁵¹ Olaoluwa, R.O., *Introduction to International Law*, Silk Communication Ltd Ikeja, 2000, p. 30,

⁵² (1996), 9 NWLR pt. 475 p. 710 C.A

⁵³ Rufus O. Olaoluwa Op. Cit., p. 30

⁵⁴ (1964) ECR 585 at 593

the application of international law is based on either the doctrine of incorporation or transformation. The practice of states can be found in the Constitution and other principal laws which are consistent with the constitution especially when it relates to the implementation of international law in the municipal law of states. For instance, Section 12 of the Constitution of Nigeria provides 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...'⁵⁵ A careful perusal of the offence of war crimes as provided for by the Rome Statute⁵⁶ and some national (municipal) legislation will reveal that the same spirit is flowing in these rules. The provisions on willful killing, torture, willful causing of great suffering or serious injury to the body and health are replete in the provisions of Military Codes, Criminal Codes and Penal Codes. If one looks at the Criminal Code in Nigeria, unlawful homicide is defined thus: 'any person who unlawfully kills another is guilty of an offence which is called murder or manslaughter according to the circumstances of the case'.⁵⁷ The Criminal Code provides that it is unlawful to kill any person unless such killing is authorized or justified or excused by law.⁵⁸ The Criminal Code provides for many crimes that do occur during armed conflict. The crimes include unlawful killing⁵⁹, injury causing death in consequence of subsequent treatment and grievous harm⁶⁰, attempting to injure by explosive substances⁶¹, assault occasioning harm⁶², rape⁶³, stealing⁶⁴, robbery⁶⁵ among others. Also the penal code made provision for such offences such as culpable homicide⁶⁶, grievous hurt⁶⁷, assault⁶⁸, rape⁶⁹, extortion⁷⁰ and robbery⁷¹.

The above mentioned provisions in the above laws are consistent with the Constitution of Nigeria. Section 36(12) of the Constitution provides to the effect that all crimes must have been provided for in a written law before their commission.⁷² The analysis of the provisions of the Criminal Codes with the Penal Codes are only deficient with some provisions of the laws of armed conflict which are packaged as special laws for the military. The incorporation of war crimes provision into the criminal and penal code systems will not be difficult as laws of armed conflict are binding on all states whether the States have ratified them or not. This is principally in view of the provision of the United Nations Charter to the effect that all members and even states which are not members of the United Nations shall act in accordance with the principles in the Charter as may be necessary for the maintenance of international peace and security⁷³. The merger of the criminal code, penal code, military code⁷⁴, police code and any such other codes relating to criminal acts and their consequences may be the magic wand in achieving the integration of war crimes provision into the criminal/penal code systems of states.

6. Conclusion

The integration of war crimes provision into the municipal criminal/penal code system is a desirable situation in order to achieve better peace and security. In order to achieve an enduring unification of war crime provisions with the provisions of criminal/penal code systems, the following will be suggested: All states should strive to ratify and domesticate all instruments on armed conflicts especially, the four Geneva Conventions on armed conflicts of 1949 and the Additional Protocols I and II of 1977 and Protocol III of 2005, the Rome Statute of 1998 and other instruments in this field of International Humanitarian Law and Human Rights Law. The criminal/penal codes should be amended to accommodate special provisions concerning hostilities which are not presently provided for in the municipal instruments in crime control. The contents of criminal law in military and all other Para-military institutions in the states should be extracted and merged with the criminal law provisions as amendment or a fresh Statute. The above will not only educate the general public which will in-turn yield dividends during armed conflicts, but will expose the obligations of combatants to civilians especially during armed conflicts.

⁵⁵ Constitution of the Federal Republic of Nigeria 1999, Section 12(1)

⁵⁶ Rome Statute, Op. Cit. Art. 8.

⁵⁷ The Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code, Section 315

⁵⁸ The Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code Section 306

⁵⁹ The Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code Section 306

⁶⁰ The Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code Section 313 and 335

⁶¹ The Law of the Federal Republic of Nigeria 1980, cap 42, Criminal Code Section 336

⁶² The Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code Section 355

⁶³ Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code Section 357

⁶⁴ The Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code Section 383

⁶⁵ The Law of the Federal Republic of Nigeria 1980, Cap 42, Criminal Code Section 401

⁶⁶ Penal code Cap. 89 A law to establish penal code for Kano State, Nigeria, Section 220 and 221

⁶⁷ Penal code Cap. 89 A law to establish penal code for Kano State, Nigeria Section 241

⁶⁸ Penal code Cap. 89 A law to establish penal code for Kano State, Nigeria Section 264

⁶⁹ Penal code Cap. 89 A law to establish penal code for Kano State, Nigeria Section 282

⁷⁰ Penal code Cap. 89 A law to establish penal code for Kano State, Nigeria Section 291

⁷¹ Penal code Cap. 89 A law to establish penal code for Kano State, Nigeria Section 296

⁷² Constitution Federal Republic of Nigeria 1999, S. 36(12).

⁷³ The UN Charter, 1945 Art. 2(6)

⁷⁴ Operational code of conduct for the Nigerian Army, see Marco Sassoli and Antoine Bourvier, op. cit., p. 793-794.