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LEGAL FRAMEWORK FOR THE PREVENTION OF VIOLENT SECTARIAN CONFLICT IN NIGERIA

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ABSTRACT

Nigeria has enjoyed 61 years of independence from British colonial rule and within this period, several violent sectarian conflicts have been recorded and seems to be increasing. From the first recorded violent sectarian conflict in 1966 which had devastating effects on the Federal Government, to the civil war which threatened the corporate existence of Nigeria. In the 1980s, the Maitatsine Riot saw the reemergence of violent conflict after a period of relative peace. Since then, on and off conflicts continue in parts of Nigeria and have been lingering. There is legal framework in place for the prevention, mitigation and punishment of violent sectarian conflicts in Nigeria. The paper examined the local and international legal frameworks for the prevention of violent sectarian conflicts in Nigeria and the incidences of such conflicts and argued therefore that the legal frameworks are not effective in curbing violent conflicts as it is still evident in continuous recurrence of such conflicts.

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1. INTRODUCTION

Nigeria is a country that enjoys religious polarization as the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (CFRN) provides for freedom of thought, conscience and religion.[1] The country is also made up of different ethnic groups within a political system where language and culture are the most prominent attributes.[2] Ethnicity has been seen to be the main identifier of Nigerians as Nigerians tend to define themselves in terms of ethnic affinities as against other identities.[3] This ethnic identity and mobilization in the Nigerian political landscape has often times resulted in instability. Ethnic violence has been witnessed in almost all regions of the country especially in areas which constitute the Niger Delta, the North East and North West and along the Middle Belt.[4]

When modern Nigeria emerged through the amalgamation of 1914, writers like Moses Ochuno a Professor of African History considered the amalgamation as an act of convenience through merging two British colonial territories.[5] It made practical administration sense to the British colonizers to have one British colony rather than two and merged what they considered a revenue challenged colonial territory with a prosperous colonial neighbour, thereby making one to subsidize for the other.[6] This amalgamation has, however, been viewed by Nigerians as the foundation of the rancorous relationship between the two regions in Nigeria.[7] The two regions include the Northern region which is made up of several states and three geo political zones comprising of people of Islamic, Christian and traditional religious faiths and the South with states made up predominantly of Christians.[8] Each region had ethnic and religious minorities who harbour grievances which are sometimes expressed through sectarian crisis and violent insurgencies.[9] Amongst such expressions of

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[1] S.38 (1) CFRN

[2] C. Haidun, & O. Opeyemi, "Ethnic and Religious Crisis in Nigeria" [2016] AJCR p.42- 50.

[3] Ibid.

[4] Ibid.

[5] O. Moses, " The Roots of Nigeria's Religious and Ethnic Conflicts" [2014] available at pri.org/stories/2014-03-10/roots-Roots-nigerias-religious-ethnic-conflict.

[6] Ibid.

[7] Z. Dolapo & O. Adeniji, *Amalgamation without Integration: Nigeria on the Altar of Religious Conviction*. (John Archers, 2014), p.208.

[8] M. Isiani & N. Ani, "Amalgamation of Northern and Southern Protectorates of Nigeria: Blessing or Curse", [2019] *IKORO,* P.115.

[9] Ibid.

grievances was the Kano riot in 1953 which happened in the ancient city of Kano State where there were clashes between the Northerners who were opposed to Nigeria's independence and Southerners made up mainly of Yoruba and the Igbos.[10] In 1966, series of massacre committed against Igbo people and other people of Southern Nigeria origin which followed a counter coup and preexisting sectarian tension between the Igbos and the local Muslims ensued.[11] The 1980's also saw an upsurge in sectarian violence with the death of Mohammed Marwa popularly called "Maitatsine" and his followers "Yan Tatsine" which led to several thousands of death in Kano.[12]

There is no doubt that the issue of violent sectarian conflicts has devastating effects on the stability of the country. The effects of such conflicts cannot be quantified as it has put untold hardship on individuals in terms of loss of lives and properties, and on the Government in terms of relief materials for victims of such conflicts.[13] Apart from having adverse effects on the country, sectarian conflicts also affect the image of Nigeria in the international community. An example is where as a result of the frequent eruption of such conflicts, some countries, like the United States of America, issued out warnings to its citizens against travelling to Nigeria over the worsening security situation in the country.[14] Religious tension between some Muslim and Christian communities, often times, results in occasional acts of isolated communal violence that could erupt quickly and without warning.[15] The kind of warning by the United States does not go well for stability, order and the image of the country.

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[10] T. Omipidan, " The Kano Riot of 1953: Causes and Effects", [2019], available at http://olnaija.com/2019/03/19/the-.accessed 27th April, 2023.

[11] S. Alanamu, "Reflection of Religious Violence in Nigeria" [2005] *Issues of Political Violence in Nigeria Journal,* p.55.

[12] Ibid.

[13] U. Ushe, " Religious Conflicts and Education in Nigeria: Implication for National Security", [2015], *Journal of Education and Practice, P.17.*

[14] A. Olufemi, "Insecurity: Reconsider Travelling to Nigeria, U.S Warns American Citizens", available at https://www.premiumtimesng.com/news/headlines/457259-insecurity-reconsider-travelling-to-nigeria-u-s-warns american-citizens. Accessed 27th April, 2023.

[15] F. Ademola , *Theories of Social Conflicts; Introduction to Peace and Conflict Studies in Nigeria* (Spectrum Books Limited, 2006) 7-9.

It is safe to say that even after the 1980's, ethno religious violence have refused to go away with many springing up even till date.[16] Jos, in Plateau State, is a clear case of violent conflicts since 2001.[17] The state which was regarded a peaceful settlement with the main ethnic groups of Berom, Anaguta, Afizere, Igbo, Yoruba, Hausa Fulani experienced a period of separation between the Berom, Anaguta, and Afizere as the indigenous groups and the Hausa-Fulani as "Jasawa or Settlers".[18] This led to series of clashes between the two ethnic groups which resulted into ethno-religious and political violence.[19] According to a comprehensive research by the National Institute for Policy and Strategic Studies (NIPSS), at least 4000 people were killed in Jos and smaller urban areas and villages in Plateau State over the past decade.[20]

This article examines some of the violent sectarian conflicts in Nigeria and why such conflicts have continued over time even though there is a legal framework in place for the prevention, mitigation and punishment of violent sectarian conflicts in Nigeria. The paper considers the local and international legal frameworks for the prevention of violent sectarian conflicts in Nigeria and the challenges faced in implementing the legal frameworks. The paper goes further to make recommendations that will ensure that the legal frameworks are effective in the prevention of violent sectarian conflicts.

2. CONCEPTUAL ISSUES

Conflicts are more than just the narratives about them yet narratives play a significant role in how they are fought and what is considered justifiable.[21] Sectarian conflicts should be considered in several aspects and caution must

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[16] P. Ngwoke& E. Ituma, "Ethno-Religious Conflict and Sustainable Development in Nigeria", [2020] HTS, vol.76, p. 4,5.

[17] L. Ogbuleke, "Democracy and Ethno-Religious Conflicts in Jos, Plateau State, Nigeria", [2019] IIJSR, P.44.

[18] O. Winner, "Ethno-Religious Conflict in Nigeria: A case of Jos in Plateau State", [2020] *Eastern Mediterranean Journal,* pp1-4 .

[19] Ibid.

[20] Ibid.

[21] B. Koch., "Unmasking "Religious" Conflicts and Religious Radicalisation in the Middle East", [2019] *E- International Relations available at e-ir.info/2019/05/17/umasking-religious-conflicts-religious-radicalisation-in-the-middle-east* Accessed 28th Aprl, 2023..

be exercised when interpreting sectarian conflicts as only being religious.[22] The great *Fitna* (First major internal struggle within the Muslim community which resulted in civil war between the Sunnis and the Shi'ah) has been described as not only fought for religious reasons but was fought over leadership, morality and the allocation of resources.[23]According to available data on the Nigeria Security Tracker, Nigeria might have experienced over two hundred communal disturbances from 1960 to 2020[24]. It must be observed that accurate records of all the communal conflicts that occurred may not be possible because of the increasing frequency of conflicts and the fact that only major violent clashes are normally reported while those considered minor in remote areas usually go unreported.[25]

Conflicts have been categorized into distinct groups such as political, land, chieftaincy, economic, ethnic, religious, etc., according to the perceived immediate causes that triggered the conflicts.[26] This work will focus only on conflicts that have ethnic and religious differences which is known as sectarian conflicts.[27] However, accurate categorization of sectarian conflicts is difficult. This is because of overlapping and linkages of causes in most of such conflicts. For example, an ethno-religious conflict emanating from political contests for elections between two contestants who happened to come from two distinct ethno-religious groups cannot be categorized as either political or an ethnic conflict.[28]

2.1 Violent Sectarian Conflicts

Sectarian conflict is seen as any form of intolerance, discrimination, and hatred arising from attaching relations of inferiority and superiority differences between subdivisions within a group commonly found among different religions, denominations, ethnic identity and factions of political

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[22] M. Bonner, *Jihad in Islamic History: Doctrines and Practices* , (Princeton: Princeton University Press, 2006).

[23] Ibid.

[24] J. Campbell, "Nigeria Security Tracker", [2021] *Council on Foreign Relations,* available at http;///Nigeria/Nigeria-security-tracker/p29483 Accessed 27th March, 2023..

[25] Ibid.

[26] M. Perlman, "Civil Versus Sectarian Conflicts: How to Pick the Most Accurate War Word",[2014] Available at http:/archives.cjr.org/language_corner/ Accessed 28th March, 2023..

[27] Ibid.

[28] S. Joshua & J. Ebenezer, "Ethnicisation of Violent Conflicts?" [2013] *Global Journal of Human Social Science,* vol.17, Issue 7, P.97

movement. Sectarian conflicts can be viewed from two perspectives namely: the micro and the macro levels of violence.[29] Micro level of violence sees violence as hostility between neighbours that are of different ethnic groups, while macro level violence is as a result of change to the ethnic map[30]. Sectarian violence is also seen as a conflict between and among groups with a specific ethnicity or religion.[31] An example of such will be the notorious Boko Haram sect which combines a sectarian, radical Islamic agenda with violence with the sole purpose of establishing a sharia state.[32] Boko Haram is now considered a terrorist movement by the Nigerian government and internationally by the United States and British governments since 2014.[33] The conflict may have numerous causes but the result is violence based on ethnic or religious differences.[34] Conflict is when two or more values, perspectives and opinions are clashing in nature and have not been agreed upon or a compromise reached.[35]

2.2 Religion

Several scholars have attempted to define or give an explanation to the concept of religion. Religion has been defined as the "belief in spiritual things and the institutions and practices associated with it".[36] It gives guide to human behaviour, giving meaning to life and unites believers into a community.[37]

It can be said that Nigeria has three major religions namely, Christianity, Islam and Traditional.[38] The Constitution of the Federal

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[29] N. Weldman, "Violence from Above or Below? The Role of Ethnicity in Bosnia's Civil War", [2002], *The Journal of Politics,* p.54.

[30] Ibid.

[31] M. Perlman, " Civil Versus Sectarian Conflicts: How to Pick the Most Accurate War Word", [2014], *Columbia Journalism Review,* p.1,2,3.

[32] J. Campbell, "Boko Haram: Originsm Challenges and Responses", [2014], *Norwegian Peacebuilding Resource Centre Journal,* p.2.

[33] Ibid.

[34] Ibid.

[35] A. Bagaji, "Boko Haram and the Recurring Bomb Attacks in Nigeria: An Attempt to Impose Religious Ideology Through Terrorism", [2012], *Cross Cultural Communication,* pp. 33-41

[36] T. Bradfield, *Collins Dictionary of Sociology*, (Glasgow: Harpercollins Publishers, 2000), p.5.

[37] Ibid.

[38] Christianity was introduced in Nigeria in the mid 19th Century (19th) by the devoted Missionaries from Britain during the colonial era. Christianity is based on the life and

Republic of Nigeria provides for the freedom to practice these religions.[39] The Constitution of the Federal Republic of Nigeria 1999 also provides that neither the Federal nor State Government shall establish a state religion and gives no room for discrimination of any sort on religious grounds.[40] It provides for freedom of thought, conscience and religion, including the freedom to change one's religion and to propagate religion in "worship, teaching, practice and observance."[41]

The right to freedom of religion as contained in section 38 of the Constitution of the Federal Republic of Nigeria is, however, not absolute as section 45(1) of the Constitution provides for derogation in the interest of defence, public safety, public order, public morality, public health or in the interest of protecting the right and freedom of other persons.[42] The Supreme Court in the case of *Medical and Dental Practitioners Disciplinary Tribunal v Okonkwo*[43] Justice Ayoola JSC stated thus:

> The right to freedom of thought, conscience or religion implies a right not to be prevented without lawful justification from choosing the course of one's life, fashioned on what one believes, and the right not to be coerced into acting contrary to one's belief. The limits of these freedoms, as in all cases, are where they impinge on the rights of others or where they put the welfare of society or public health in jeopardy … the role of law here is to ensure the fullness of liberty when there is no danger to public interest. Ensuring liberty of conscience and freedom of religion is an important component. The courts

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teachings of Jesus Christ and since its advent into Nigeria by British Missionaries, it has expanded to almost every part of the country. Islam dates back to the 11th Century and can be traced to the old Borno empire and the Usman Dan Fodio caliphate, its teachings are based on prophet Mohammed and the religion is practiced more in the North while expanding to every part of Nigeria. The Nigerian Traditional religion is most moral and is common to African People in general even before the coming of the Colonial masters and practice of rituals, believe in symbols and retell tales are practiced in traditional religion. More information can be found at https://nigerianinfopedia.com.ng/major-types-of-religions-in-nigeria/ accessed 15th Marchr,2023.

[39] Section 38(1) Constitution of the Federal Republic of Nigeria, 1999 (as amended).

[40] Section 38(2) Constitution of the Federal Republic of Nigeria, 1999 (as amended)

[41] Section 10 Constitution of the Federal Republic of Nigeria,1999 (as amended).

[42] Section 45(1) Constitution of the Federal Republic of Nigeria, 1999 (as amended).

[43]FWLR [2001] (pt 44) pg 542 .

> are the institutions society has agreed to invest with the responsibility of balancing conflicting interests in a way to ensure the fullness of liberty without destroying the existence and stability of society.[44]

For example, the Court upheld the right of a Jehovah's Witness to object to a blood transfusion and held that a medical doctor had no right to overrule the patient's refusal of a blood transfusion on public interest grounds.[45] According to Mike and Onyinbo[46] "many Nigerians are religious and attend churches, mosques and other traditional worship centre's believing that God through his functionaries on earth would assist them where and when the state had failed'. Unfortunately, religion in Nigeria has notably been a source of conflict, instability and insecurity instead of being an instrument for peace, stability, harmony, security and national integration.[47] Naturally, religion ought to be a channel of security, an instrument for addressing threats to the national and all classes of insecurity in Nigeria.[48]

2.3 Ethnicity

Ethnicity is a social phenomenon that is manifested in interaction among individuals of different ethnic groups within a political system where language and culture constitute the most prominent attributes.[49] Ethnicity is a natural concept in almost all societies that are made up of more than one ethnic group and where interaction occurs between different ethnic groups within a single political set up, there will be ethnic identity.[50] Such interaction between ethnic groups can create a common consciousness of being in one relation to other relevant ethnic group, which in turn results in the emergence of in-group and out-group confines, which can be guarded

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[44] Ibid.
[45] Ibid.
[46] J. Mike & K. Onyinbo "*R*eligion is not Driving Extremist Violence in Nigeria, Poverty, Government role" [2009] available at http://www.newsrescuee.com accessed 14th March, 2023.
[47] Ibid.
[48] Ibid.
[49] C. Green, "Religion, Family Law and Recognition of Identity in Nigeria", [2011], *International Law Review,* pp.45.
[50] Ibid.

jealously over time.[51] Religion and ethnic differences have become prominent factors in instituting and executing socio-economic strategies and applications.[52]

Ethnicity has also been considered as the most basic and politically salient identity of Nigerians.[53] This is based on the premise that in their competitive and non-competitive contexts, Nigerians define themselves in terms of ethnic affinities as opposed to other identities.[54] A survey conducted in Nigeria found that almost half of Nigerians labelled themselves with one ethnic identity, 28.4 percent labelled themselves with respect to class, and 21 percent identified themselves with a religious group.[55] This invariably means that 66 percent of Nigerians view themselves as members of one ethnic group or another.[56] The Central Intelligence Agency puts the number of ethnic groups in Nigeria as at 2016 at 250 different ethnic groups; however the seven largest groups constituting about 88 percent of the population are the Hausa and Fulani, Yoruba, Igbo, Ijaw, Kanuri, Ibibio and Tiv and others.[57] The political influence of individual ethnic groups roughly classifies the Nigerian population into three major groupings of the Hausa-Fulani, the Yoruba and the Igbo.[58]

3. OVERVIEW OF VIOLENT SECTARIAN CONFLICTS

If sectarian conflicts are to be considered as they have happened in Nigeria from the time of independence to present day Nigeria, the conflicts that have occurred in the history of Nigeria reveal that there has been

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[51] Ibid.

[52] O. Eneye, " Ethno Religious Identity and Conflict in Northern Nigeria", [2018] available at http://www.ifra-nigeria.org/publication/ifra-e-papers/article/eneye-okpanachi-2010-ethno? Accessed 28th April, 2023.

[52] Ibid.

[53] Ibid.

[54] Ibid.

[55] L. Peter & M. Bratton, " Attitudes Towards Democracy and Markets in Nigeria: Report of a National Open Survey, January to February 2000", [2000] *International Foundation for Election Systems and Management Systems International,* p.7.

[56] Ibid.

[57]The Central Intelligence Agency the World Fact Book available at https://www.simonandschuster.co.uk/books/The-CIA-World-Factbook-2020-2021/Central-Intelligence-Agency/9781510758261 accessed 28th April, 2023 .

[58] Ibid.

reasonable sharp increase in number of conflicts almost on a decade basis from 1960 to 2020; though the highest number of conflicts were recorded in the decade 1900 to 2000, Nigeria has risen from the terrorism index as at 2020 from the 36th position to the 3rd position.[59] The first major communal disturbance in Nigeria after its independence was the political crisis in 1961 which subsequently led to the constitutional governance in the violent military coup of 1966. Further communal violence against Easterners across the Northern Region led to the civil war of 1967 to 1970 that threatened the very existence of Nigeria as a united country. After the civil war, the 1970s were relatively calm with more students' unrest than sectarian conflicts.[60] The conflicts of 1980s became the turning point for sectarian crisis in Nigeria.[61] The decade opened with the notorious Maitatsine Religious Riots of 1980 and closed up with a record of almost 30 major ethno-religious conflicts.[62] The *Kafanchan* Ethno-Religious Crises of 1987 influenced the splitting of old Kaduna State, and the fight of who should be considered an indigene or a settler became the order of the day that dominated ethno-religious communal conflicts in the 1990s.[63] The 1992 Zagon-Kataf crisis of Kaduna State where there was conflict on market relocation sparked two riots in Zagon Kataf which claimed thousands of lives.[64] The outburst from the nation made this incidence to record the first convictions of communal conflicts after public outcry and criticisms of government's lack of prosecutions as the bane of the worsening ethno-religious crisis plaguing the country.[65]

Reviewing the decade 2000-2009, though not highest in number, was the worst in terms of intensity.[66] Ethno-Religious crisis broke out in Jos

[59] N. Peace, & E. Ituma., "Ethno-Religious Conflict and Sustainable Development in Nigeria", [2020] *HTS Theological Studies Journal,* vol.76.
[60] Ibid.
[61] Ibid.
[62] E. Isichi., " The Matatsine Risings in Nigeria 1980-85: A Revolt of the Disinherited" [1987] *Journal of Religion in Africa* , pp194-208.
[63] Ibid.
[64] An Analysis, "A critical look at the Southern Kaduna Crisis", [2017] Available at https://reliefweb.int/report/nigeria/critical-look-southern-kaduna-crisis Accessed 26th April, 2023.
[65] Ibid.
[66] I. Osaretin, " Ethno Religious Conflict and Peace Building in Nigeria: The Case of Jos Plateau State", [2013] *Academic Journal of Interdisciplinary Studies, P.5.*

Plateau State in 2001 and sustained, on and off, even till present day.[67] In 2004, an estimated 700 people were killed in Jos sectarian violence which led to reprisal attacks in different parts of Plateau State prompting the federal government to declare a state of emergency in the state.[68] The gruesome murder of 19 military personnel in or around Zaki Biam in Benue State brought to the lime light the lack of confidence in law enforcement agents, notably the police and the army, by the warring parties. For a long time, there have been allegations of bias against the Police and the Army, who have been accused of showing preference to one of the conflicting parties especially one to which such police or army belonged to as well as *extra*-judicial killings during conflicts.[69] For some time, allegations of bias have been levelled against the Federal Government by state governments and vice versa. In an attempt at ensuring normalcy in the immediate aftermath of the violence, argument on which institution was vested with jurisdiction on investigative functions and the scope of such jurisdiction has been rife.[70] However, the height of such sentiments was in the aftermath of the 2008 Jos sectarian crisis when the government of Plateau State and the Federal Government were at loggerheads as to who should probe the disturbances.[71]The immediate cause of the 28 November, 2008 Jos sectarian disturbances was the result of the local government elections of Jos North Local Government Council in which the candidate of the People Democratic Party (PDP), a Christian from the Berom community was declared winner.[72] Supporters of the defeated candidate from the All Nigeria People's Party (ANPP), a Muslim from the Hausa community

[67]M. Mahdi, "Understanding Jos Unending Crisis", [2018], available at https://dailytrust.com/understanding-jos-unending- crisis accessed 11th April, 2023.

[68] U. Kalu, "A Cycle of Reprisals turns Jos into Killing Field" [2011] available at https://www.vanguardngr.com/2011/12/a-cycle- of-reprisals-turns-jos-into-killing-field/ accessed 29th April, 2021.

[69] N. Onisu, "Nigeria Army said to Massacre Hundreds of Civilians", [2001] *New York Times,* available at https://www.nytimes.com/2001/10/30/world/nigeria-army-said-to-massacre-hundreds-of-civilians.html accessed 29th April, 2023.

[70] Plateau State Government V. President of the Federal Republic of Nigeria and Attorney General of the Federation in suit no: SC/331/2008.

[71] Ibid.

[72] S. Adinoyi, " Nigeria: Dozens Killed in Jos LG Election Riot", [2008] available at https://web.archive.org/web/20081202101405/http://allafrica.com/stories/200811290039.html accessed 28th April, 2023.

protested.[73] Violence between supporters of the two candidates escalated to widespread communal violence between Christians and Muslims that engulfed the whole town.[74] Two days of rioting, on 28 and 29 November 2008, left over two hundred and eighty one killed and four hundred people injured before the Nigerian Army arrived on the 30th and restored order.[75] From police estimates, over five hundred youths, many armed, were arrested from both sides.[76] Several homes, Mosques and Churches were damaged or burned down by the mobs.[77] The Nigerian Red Cross reported that some 10,000 people fled their homes due to the crisis and sought refuge in government-provided shelters.[78]

The decade from 2010 to present day in Nigeria has also experienced series of sectarian conflicts which have earned Nigeria the 146th position in the 2021 Global Peace Index among 163 independent nations and territories, and the 8th least peaceful in Africa.[79] Nigeria was accessed in its level of societal safety and security, the extent of ongoing and international and domestic conflicts and the degree of militarization.[80] This is not surprising as Nigeria has experienced conflicts in several states over the past decade; Boko Haram alone accounts for an estimated 1,606 deaths in 125 fatal incidents in 2020 alone.[81]

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[73] Ibid.

[74] Ibid.

[75] S. Mohammed, "At least Two Hundred Killed in Clashes in Nigeria" [2008] *Reuters* , available at https://www.reuters.com/article/worldNews/idUSTRE4AS2N820081129? accessed 28th April, 2023.

[76] Ibid.

[77] Ibid.

[78] The Nigeria Red Cross Society (NRCS) was established in 1960 and is recognised by the Government of the Federal Republic of Nigeria as a voluntary aid society auxiliary to public authorities. Its driving principles are humanity, impartiality, neutrality, independence, voluntary service and universality. Its has over 500 volunteers and 300 permanent workers. More information about the organization can be found at, https://www.redcrossnigeria.org/about-us accessed 28th April, 2021.

[79] T. Templer, "Nigeria Ranks 146th on the Global Peace Index, 8th Least Peaceful in Africa", [2021], *Council of Foreign Relations,* available at https://guardian.ng/news/nigeria/nigeria-ranks-146th-on-global-peace-index-8th-least-peaceful- in-africa/ accessed 28th March, 2023.

[80] Ibid.

[81] J. Campbell, "Nigeria Security Tracker", [2021], *Council of Foreign Relations Journal* , available at cfr.org/nigeria/Nigeria- security-tracker/p29483 accessed 28th April, 2023.

Communal conflicts in Benue State continue to escalate over time spreading across boundaries and threatening the country's security and stability.[82] Familiar problems relating to land and water use, obstruction of traditional grazing routes, livestock rustling and crop damage tend to trigger such disputes with dire after effects.[83] It has been approximated that in 2016 alone, 2500 people lost their lives to such conflicts.[84] The Benue State government in 2017, as a result of the continuous conflicts, enacted the Open Grazing Prohibition and Ranches Establishment Law with the intention that the law will curb trespass on farms by migrating herders and reduce the increasing wave of farmer-herder violence; but the Fulani socio cultural group known as Miyetti Allah Cattle Breeders Association of Nigeria have vowed to resist the Law as it goes against their culture, movement and economic interest.[85]

4. THE LEGAL FRAMEWORK FOR THE PREVENTION OF VIOLENT SECTARIAN CONFLICTS

The legal frameworks for the prevention of sectarian conflicts are the principal laws that have been put in place to prevent, mitigate and mete out punishment for sectarian conflicts in Nigeria. They include every legislation or laws that can prevent violent sectarian conflicts. The Nigerian government has made attempts to prevent or mitigate the occurrence of violent sectarian conflicts by establishing peace building agencies operated by government which have offered localized approaches to the roots of violence.[86] Three Nigerian state governors namely Plateau, Kaduna and Adamawa States established peace agencies and commissions to address communal conflicts and the roots of insurgency through peace committees, peace education and local systems which monitor threats, provide early

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[82] S.O. Ajiye, "Communal Conflicts in Benue and the Herdsmen Conundrums", [2019], *Advances in Social Sciences Research Journal,* PP.12,13.

[83] Ibid.

[84] IbId.

[85] Ibid.

[86] D. Kew, " Facing Clashes and Insurgencies, Nigerian States have created Peace Building Agencies", [2021] *United States Institute of Peace,* available at http://www.usip.org/publications/2021/06/how-can-ciolent-crisis-nigeria-has-an-idea accessed 20th March, 2023.

response to prevent violence, development of mechanism for mediation and restorative justice.[87]

In terms of legal framework for the prevention of violent sectarian conflicts, there are several anti-sectarian conflict laws which have been divided into the international and domestic legal frameworks:

4.1 The International Legal Framework for the Prevention of Violent Sectarian Conflicts

At the international level, the first legal framework is the United Nations Convention Against Transnational Organized Crimes 1926 (UNCTOC) where transnational organized crime has been termed a legal concept and what it means for law making and enforcement.[88] The Convention obliges state parties to criminalize participation in an organized criminal group, corruption, the laundering of the proceeds of crime and the obstruction of justice.[89] It focuses on the 'enabling' or 'secondary activities' that are the characteristics of organized crimes and deals with international cooperation for the purpose of confiscation of proceeds of crimes, extradition and transfers of criminals, mutual legal assistance and joint investigation.[90] The UNCTOC has listed several crimes that have transnational characteristics. An example of such crimes is the trafficking of illegal firearms which have undisputedly fueled violent sectarian conflicts in Nigeria with very grave consequences.[91] This has led the government to put in measures for arms control.

The United Nations Convention against Transnational Organized Crimes (UNCTOC) was adopted in Palermo, Italy on the 15th day of December, 2000 with the primary purpose of promoting cooperation to prevent and combat transnational organized crime more effectively.[92] The UNCTOC has indicated that organized crimes have become a legal concept.[93] The definition of organized crimes has been the object of

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[87] Ibid.

[88] S. Xenakis, "Difficulties in Applying Generic Conceptualizations of Organized Crime to Specific National Circumstances", [2008], *ABC-CLIO,* P.47.

[89] Article 1 UNCTOC.

[90] Article 11.UNCTOC

[91] Ibid.

[92] Article1 of the UNCTOC 1926.

[93]S. Xenakis, "Difficulties in Applying Generic Conceptualizations of Organized Crime to Specific National Circumstances", [2008] Organized Crime an Encyclopedia*,* p.47.

controversy as it is often used without a clear reference point and is highly indeterminate and vague.[94] It can, however, be used to refer to certain types of more sophisticated criminal activities in one form or another, in complex illicit market in arms, drugs and human trafficking.[95] It can also be used in the sense of a criminal organization.[96] Article 2 contains definition for the purpose of the Convention and defines; (a) organized criminal group as a "structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention in order to obtain, directly or indirectly, a financial or other material benefits.[97] (b) serious crime as a conduct constituting an offence punishable by the maximum deprivation of liberty of at least four years or a more serious penalty. (c) Structured group as a group that is not randomly formed for immediate commission of an offence and that does not need to have formally defined role for its members, continuity of the membership or a developed structure.[98]

The Convention obliges state parties to determine participation in an organized criminal group, corruption, the laundering of the proceeds of crime (money laundering) and the obstruction of justice as a criminal offence.[99] It deals with international cooperation for the purpose of confiscating proceeds of crime, extradition and transfer of criminals, mutual legal assistance and joint investigations.[100] In addition, it addresses the protection of witnesses and victims, data collection and exchange, training and technical assistance.[101] Special provision is devoted to the prevention of organized crimes.[102]

It has been said that the United Nations Convention Against Transnational Organized Crimes is the most important and comprehensive

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[94] Ibid.

[95] A. Wright, *Organized Crime,* (William Publishing, 2006), p.11.

[96] Hagan proposes that 'organized crime' be used to refer to crime organization. That is crime that often require a degree of organization on the part of those committing them. F. Hagan, "Organized Crime: Indeterminate Problems of Definition", [2006] *Trends in Organized Crime,* p.134.

[97] See Article 2(a) of the UNCTOC 1926.

[98] See Article 5, 6,8 and 23 of the UNCTOC 1926.

[99] Ibid.

[100] See UNCTOC Article 11-21.

[101] Ibid, Article 20, 24-30.

[102] Ibid, Article 31.

international instrument to combat organized crimes.[103] This is especially true as states are able to establish offenses independently of the transnational nature or involvement of an organized criminal group.[104] With about 147 state parties as signatories to the Convention, the Palermo convention is gaining universal acceptance especially because the primary activities of the Convention are dealt with in autonomous international treaties which allow for the adoption of further protocols dedicated to specific aspects that are not covered by the existing instruments.[105]

Three Protocols supplement UNCTOC and deal with specific primary activities. One among this is the Protocol Against The Illicit Manufacturing Of And Trafficking In Firearms, Their Parts And Component And Ammunition (Firearms Protocol).[106] The preamble states that; "Aware of the urgent need to prevent, combat and eradicate illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, owing to the harmful effects of those activities on the security of each state, region and the world as a whole, endangering the well-being of people, their social and economic development and their right to live in peace, it is therefore necessary to establish this protocol".[107] The Firearms Protocol was difficult to negotiate and it was therefore not adopted until 2001 with only 79 states having ratified out of 147 states parties signatories to the Convention.[108] The reluctance of states is mainly due to economic considerations.[109] The Firearm Protocol is intended to play an important part in the violence and harm which is, often times, the resultant effects from firearms illegally produced and supplied by organized criminal groups.[110] This statement is not far-fetched from the sectarian conflicts experienced in Nigeria. The United Nations said in October, 2010, Nigerian authorities discovered 240

[103] UNCTOC, Article 34(2).
[104] Ibid.
[105] See generally, Nigeria is a signatory to UNCTOC available at http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html accessed 1st September, 2021.
[106] See Article 1 of the Firearms Protocol UNCTOC 1926
[107] See Preamble of the UNCTOC 1926
[108] See http://www.unodc.org/unodc/treaties/CTOC/signature/html Accessed 25th September 2021.
[109] N. Marsh, "Two Sides of the Same Coin? The Legal and Illegal Trade in Small Arms", *The Brown Journal of World Affairs, [2002]*, p.217.
[110] Ibid.

metric tons of ammunition from Iran in 13 supplying containers.[111] A lesser-known seizure occurred on the 17th June, 2009, when the Nigerian authorities in Kano seized an aircraft transporting weapons from Croatia to Guinea Bissau. The aircraft subsequently was released when Guinea Bissau assured the Nigerian government that the cargo was for official use.[112] The United Nations in a presentation on the Firearms Protocol recognized firearms control and trafficking of firearms as twin issues of significant concern for global peace and security and the states have been vested with the responsibility for establishing and implementing national control systems for the regulation of arms transfer.[113]

The International Humanitarian Law (IHL**),** as the name implies, works mainly for humanitarian reasons by limiting the effects of armed conflicts.[114] It protects those who are not, or no longer fighting and imposes restriction on the means of warfare, in particular weapons and the method of warfare such as military tactics.[115] International Humanitarian Law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflicts.[116] It is a branch of international law which seeks to limit the effects of armed conflicts by protecting persons who are not participating in hostilities by restricting the means and the methods of warfare.[117]The Geneva Convention also called the Fourth Convention in 1950 deals with humanitarian protection for civilians in a war zone.[118] The basic rules of the International Humanitarian Law include; (a) Persons who are *hors de combat* (outside of combat) and those who are taking part in hostilities in

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[111] See generally the United Nations Report on Firearms trafficking in West Africa, [2010] available at http://www.unodc.org/document/toc/reports/TOCTAWestAfrica/West-Africa_Toc_Firearms.Pdf. accessed 1st March, 2023.

[112] Ibid.

[113] See United Nations Presentation "From Arms Transfer to Firearms Trafficking: Application of the Firearms Protocol in Context of Diversion, Nigeria and Sub Saharan Perspective", [2021] available at www.unodc/documents/treaties/firearms/2021/presentation/item_3_Nigeria.pdf accessed 2nd March, 2023.

[114] See generally, "What is International Humanitarian Law" [2004] available at http://www.icrc/en/doc/assets/files/other/what-is-ihl.pdf accessed 1st March, 2023.

[115] Ibid.

[116] See ICRC, What is International Humanitarian Law? Available at http://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf. accessed 2nd March 2023.

[117] See Convention (IV) Protection of Civilians Persons in Time of War Geneva, 12th August, 1949.

[118] Ibid.

cases of armed conflict, shall be protected in all circumstances; (b) the wounded and the sick shall be cared for and protected by the party to the conflict which has them in its power; (c) captured persons must be protected against violence and reprisals. They shall have the right to correspond with their families and to receive rescue relief and; (d) no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.[119]

The IHL has principles which seek to protect civilians. These include; (1) The principle of distinction which protects civilian persons and civilian objects from the effects of military operations. It requires parties to an armed conflict to distinguish at all times and under all circumstances between combatants and military objectives on the one hand and civilians and civilian objects on the other – and to only target the former. It also requires that civilians lose such protection should they take a direct part in hostilities.[120]

(2) Necessity **and** proportionality are established principles introduced in humanitarian law. Under IHL, a belligerent can apply only the amount and kind of force necessary to defeat the enemy. Further, attacks on military objects must not cause loss of civilian life considered excessive in relation to the direct military advantage anticipated and every feasible precaution must be taken by commanders to avoid civilian causalities.[121]

(3) The principle of humane treatment requires that civilians are treated humanely at all times. It prohibits violence to life and person (including cruel treatment and torture), the taking of hostages, humiliating and degrading treatment, and execution without regular trial against non-combatants, including persons *hors de combat* (wounded, sick and shipwrecked). Civilians are entitled to respect for their physical and mental integrity, their honour, family rights, religious convictions and practices, and their manners and customs.[122]

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[119] See D. Preux, " Basic Rules of the Geneva Conventions and their Additional Protocol", [1988] Geneve ICRC, p.4.
[120] API, Art. 48,51,52.
[121] API, Art. 35, 51.
[122] API, Art.75 (1).

(4) The principle of non-discrimination is a core principle of IHL. Adverse distinction based on race, nationality, religious belief or political opinion is prohibited in the treatment of prisoners of war and persons *hors de combat*. All protected persons shall be treated with the same consideration by parties to the conflict, without distinction based on race, religion, sex or political opinion. Each and every person affected by armed conflict is entitled to his/her fundamental rights and guarantees, without discrimination.[123]

4.2 The United Nations Convention on the Rights of the Child 1989 (UNCRC) is another international legal framework which was adopted in 1989 with a promise to every child to protect and fulfill their rights.[124] The Convention has been considered the most widely ratified human rights treaty in history as children are entitled to survive and develop, to be protected from violence and exploitation.[125] The first Optional Protocol that was adopted on 25th day of May, 2020 prohibits the conscription of a child into the military or non-state armed groups for any violent acts.[126] Article 38 of the Act stipulates the right a child has not to join any criminal group or be forced to join.[127]The UNCRC is a legally binding international agreement which sets out political, economic, social and united rights of every child, regardless of their race, religion or abilities.[128]

Prior to the advent of the UNCRC, the rights of children were based solely on jurisprudential and intellectual debate.[129] The atrocities of the Second World War and other factors brought about thoughts of human rights and the resolve to strengthen international unity.[130] Efforts were subsequently made to establish a regime of international protection of the

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[123] API, Art. 76-78.

[124] The Convention on the Rights of a Child A/RES/54/25 1989

[125] United Nations General Assembly Session 54 Resolution 263 A/RES/54/263.Optional Protocol to the convention on the rights of the child on the involvement of children and armed conflict on the sale of children, child Prostitution and pornography.

[126] Ibid.

[127] Article 38 of the Child's Right Act, 2003.

[128] the United Nations Convention on the Rights of the Child (UNCRC) available at http://www.savethechildren.org.uk/what-we-do/childresns-rights/UnitedNations accessed 5th September,2021.

[129] J. Fortin, *Children's Rights and the Developing Law,* (New York: Cambridge University Press, 2009), p.34

[130] Ibid.

rights of the child.[131] World leaders came together in the year 1989 and made a historic commitment to the world's children by adopting an international legal framework for the protection of every child.[132] This adoption of the framework has been regarded as the most formidable document on child's right with the greatest number of ratification.[133]

The Convention defines a child to mean every human being below the age of eighteen years.[134] Nigeria is a member of the Convention and the ratification of the Convention was carried out in 1991.[135] The import of the ratification by Nigeria is that Nigeria becomes a state party and formally commits to safe-guarding the rights set out in the Convention. The strengthening of the children's right through the United Nations Convention and its three protocols influences general human rights protection at the universal and regional levels.[136] Article 3 of the Convention states that in all actions concerning children, whether undertaken by private or public social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.[137]

In order to achieve the objectives of the Convention, the Federal Government of Nigeria took administrative steps to ensure that the provisions of the UCRC are implemented through policy making and strengthening of the instruments of government.[138] Among such steps taken is the creation of a National Commission for Women immediately after the children summit of 1990 which later became the Ministry of Women Affairs and Youth Development which took over and pursued issues

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[131] Brief History of UNCRC available at www.childrensrightsindia.org/pdf/brief-history-uncrc-pdf.html accessed 26th September, 2021.

[132]UNICEF Analysis on What is the Convention on the Rights of a Child? available at http://www.unicef.org/child-rights-convention/ accessed 5th September, 2021.

[133] Ibid.

[134] Article 1, Convention on the Rights of a Child 1989.

[135] See B. Okpalaobi, " United Nations Convention on the Rights of a Child: Implementation of legal and Administrative Measures in Nigeria" [2015] *International and Juris Journal,* available at http://heinonline.org/HOL/Landingpage?handle=heinjournalsaccessed 6th September, 2021.

[136] S. Schmahl, *United Nations Convention on the Rights of a Child,* (Oxford: Hart Publishing, 2021), p.10.

[137] Article 3 UNCRC.

[138] See the Federal Government of Nigeria report on violence against children, available at http://www.ohchr.org/english/bodies/crc/docs/study/responses/nigeria accessed 26th September 2021.

relating to children.[139] Nigeria has, however, witnessed significant violations of the United Nations Convention on the Rights of a Child. Nigeria had the highest number of children (1596 boys and 351 girls) recruited for conflicts in Nigeria in 2018.[140] Nigeria also recorded the third highest number of abduction in 2018 when Boko Haram abducted approximately 8,000 children.[141] Even with the law in place, multiple instances of grave violations against children have still been reported including death, maiming, rape, other sexual violence, detention and attacks on schools and hospitals.[142] While many children are harmed by Boko Haram, others have been detained by the country's security forces due to their parents association with Boko Haram.[143]

Though the Convention on the Child's Right Act has been adopted and ratified in Nigeria, it is still not applicable in all states of Nigeria.[144] Nigeria operates a federal system of government, which makes the law not to be automatically applicable in all its 36 states.[145] It is the duty of each state legislature to make the national law applicable within its territory. Only 25 of the 36 states in Nigeria have localized the Child's Right Act.[146]

4.3 The National Legal Framework for the Prevention of Violent Sectarian Conflicts

The National framework followed the ratification of several international frameworks. An instance is the Child Right's Act which was adopted in 2003. The 1999 Constitution of the Federal Republic of Nigeria is a vital law as it made provision for freedom of religion with an exception especially when it pertains to the security of the country. The Violence Against Persons Act is

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[139] Ibid.

[140]See United Nations General Assembly, Children and Armed Conflict: Report of the Secretary General, UN DO. A/73/907- 5/2019/5019.

[141]See generally, the United Nations Office on Drugs and Crime, *Handbook on Children Recruited and Exploited by Terrorist and*

[142]See R. Connor & N. Enelamah, "Safeguarding the lives of Children Affected by Boko Haram: Application of the Safe Model of Children Protection to a Right Based Situation Analysis", [2021] *Health and Human Rights Journal, PP.27,28.*

[143] Ibid.

[144]U. Assim, "Why the Child's Right Act still doesn't Apply throughout Nigeria",[2020] *The Conversation Journal,* available at http://www.theconversation.com/why-the-child-right-act-still-does-not-apply-throughout-nigeria accessed 28th April, 2023.

[145] Ibid.

[146] Ibid.

also an improvement on the Penal and Criminal Code in relation to violence of inflicting bodily harm or injury to another.

4.3.1 The Terrorism (Prevention) (Amendment) Act, 2022

The Terrorism (Prevention) Act amends the Terrorism (Prevention) Act No. 10 2011.[147] The amendment was done by the National Assembly of the Federal Republic of Nigeria to deal with offenses regarding terrorism under the Act.[148] The new amendment brought some changes like the enormous power of the National Security Adviser, the Inspector General of Police and the State Security Service under the TPA is now vested on the Attorney General of the Federation or in a manner as prescribed by the Act shall be the authority for the effective implementation and administration of this Act and shall strengthen and enhance the existing framework.[149] The historical antecedent of the making of the law on terrorism in Nigeria, can be attributed to the 9/11 attacks as the event marked a turning point in the global perspectives of what terrorism portends and the necessity to wage a concerted war against it globally.[150] The United Nations Security Council (UNSC) reaction to this was to pass resolution 1373 by which all member states were required to make terrorism a serious crime in domestic legislation along with terrorists funding and other ancillary offences.[151] The UNSC also set up the Counter-Terrorism Committee (CTC) to follow up progress in the implementation of the Resolution by member states.[152] The Nigerian government did not however react immediately to the resolution by the United Nations until in 2010 when Boko Haram had successfully carried out over fifty attacks.[153] This brought the enactment of the Terrorism Act in Nigeria.

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[147] See generally the Explanatory Memorandum of the Terrorism Prevention Act. Available at http://www.ctc.gov.ng/terrorism-prevention-amenment-act-2003 accessed 29th April, 2023.

[148] See the Amended Act TPA of NO 10 2011.

[149] See Section 1a (2) of the TPA (Prevention) (Amendment) 2013.

[150] On September 11, 2001, 19 Militants associated extremist group al qaeda hijacked for airplanes and carried out suicide attacks against targets in the United States. More information available at https://www.history.com/topics/21st-century/9- 11-attacks.

[151] United Nations Resolution 1373 (2001) available at https://undocs.org/S/RES/1373(2001) accessed 26th April, 2023.

[152] Ibid.

[153] M. Ioannis "Boko Haram Attacks in Nigeria and Neighbouring Countries: A Chronology of Attacks, available at http://www.terrorismanalysis.com accessed 26th April, 2023

The TPA (as amended) carefully avoids the definition of terrorism, rather, it defines acts of terrorism as: (a) any act deliberately done with malice, afterthought or intended to unduly comply with the government or international organization to perform or abstain from performing any act, or when an act is done with the requisite intent to seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or international organization by intimidation or coercion.[154] It further went on to say that it constitutes acts of terrorism where it involves or causes an attack upon a person's life that possibly results in serious bodily harm or death or coercing or intimidating a government or international organization by kidnapping a person, destruction of government public facility amongst others.[155] The Act criminalizes terrorism and prescribes punishment for acts of terrorism.[156]

The following offences have been created under the TPA (as amended): a) murder, kidnapping and other attacks on a person or liberty of an internationally protected person[157] (b) Terrorist meetings,[158] soliciting and giving support to terrorist groups for the commission of a terrorist act, harbouring terrorists or hindering the arrest of a terrorist, provision of training and instruction to terrorist group or terrorist, concealment of information about acts of terrorism, provision of devices to a terrorist, recruitment of persons to be members of terrorist groups or to participate in terrorist acts.[159] Incitement, promotion or solicitation of property for the commission of terrorist acts, provision of facilities in support of terrorist acts, financing of terrorism, dealing in terrorist property, hostage taking, membership of a terrorist group or proscribed organization, conspiracy to commit terrorist acts, aiding and abetting terrorist acts, escape or aiding and abetting escape, attempt to commit an offence under the Act, preparation to commit terrorist acts, unlawful assumption of character of officers of any law enforcement or security, tampering with evidence witness, obstruction of any officer of a law enforcement or security agency amongst others.[160] An act which disrupts a service but is committed in

[154] See Section 1(3) of the TPA (as amended) 2013.
[155] Ibid.
[156] See Section 10 of the Terrorism (prevention) (amendment) Act 2013.
[157] Section 3(b) of the Terrorism (prevention) (amendment) Act 2013.
[158] Section 4 c) of the Terrorism (prevention) (amendment) Act 2013.
[159] Ibid.
[160] Ibid.

pursuance of a protest is also a terrorist act.[161]However, strikes and demonstrations are excluded from the definition of terrorist acts, provided they are not intended to result in any harm referred to in subsection (2) (b) (i) (ii). The harm referred to in the section includes seriously intimidating a population, influencing a government or international organization by coercion or intimidation.

4.3.2 The Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Constitution of the Federal Republic of Nigeria 1999 (CFRN) (as amended) was enacted on the 29th day of May, 1999 to provide a constitution for the purpose of promoting the good governance and welfare of all persons in the country on the principles of freedom, equality and justice and for the purpose of consolidating the unity of our people.[162] The primary purpose of the government of Nigeria, as stipulated by Section 14 (1) (b) of the Constitution of the Federal Republic of Nigeria, is the security and welfare of the people.[163] The destruction of lives and properties that happens during sectarian conflicts in Nigeria, which often times goes unpunished, undermine the primary purpose of the government of Nigeria as enshrined in the Constitution. This not only encourages more frequent conflicts, but also poses serious legal and human rights implications for Nigeria. The Constitution, guarantees “right to life” and “right to acquire and own immovable property” anywhere in Nigeria.[164] Other constitutional provisions violated include the free movement of people and goods and services, freedom from discrimination on the grounds of place of origin, sex, religion and ethnicity.[165] Government is the primary institution with the responsibility of preventing or mitigating ethno-religious conflicts. It does so by meeting its social, educational and economic responsibilities to the people as provided under the fundamental objectives and direct principles of state policy in the successive Nigerian constitutions through observing

[161] Section 1(3) (d) of the Terrorism (prevention) (amendment) Act 2013.
[162] See the Preamble of the CFRN 1999 (as amended).
[163] See Section 14 (1) of the CFRN 1999 (as amended).
[164] See Chapter IV Section 33 and Section 41 of the CFRN 1999 (as amended).
[165] Ibid.

the fundamental rights of citizens and bring to justice those who violate the law.[166]

Section 33(1) of the CFRN 1999 (as amended) provides for the right to life by providing that "every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of a sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria."[167] The section went on to provide that a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as a result of, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary; (a) for the defence of any person from unlawful violence or for the defence of property; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; and (c) for the purpose of suppressing a riot, insurrection or mutiny.[168]

A notable part of the above sub-section is the fact that the right to life extends to "every person" who happens to be in Nigeria, whether legally or illegally. This is because the language of the sub-section mentions "every person" instead of "every citizen" that is used in other rights, which are exclusively reserved for Nigerian citizens such as the right to freedom of movement.[169] This demonstrates the sanctity of human life, for the right to life extends to every person, be it an illegal alien or a criminal, who can only be deprived of his right to life through due process; i.e. being arrested, duly charged to court, allowed to defend himself, and convicted if found guilty.[170]

The above provision of the 1999 Constitution established in clear terms the sanctity of human life which often times is not respected in violent sectarian conflicts. Where a person is killed during sectarian conflict and his killing cannot be accommodated under any of the exceptions provided under S.33(2) of the Constitution, the act of killing such a person is a violation of his fundamental human right to life apart from it being a criminal offence. Sectarian conflicts have resultant effects of loss of lives which is a breach of the fundamental human right as enshrined in the

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[166] See Chapter IV of the CFRN 1999 (as amended).
[167] See Section 33 CFRN 1999 (as amended).
[168] Ibid.
[169] See Section 41 CFRN 1999 (as amended).
[170] See section 33 CFRN 1999 (as amended).

CFRN and should be punished under the Nigerian law to serve as a deterrence to other people. In the case of *Fawehinmi v. Akilu*,[171] the victim of an unresolved murder was not biologically related to the plaintiff, who initiated action against certain people he felt were responsible for the crime, and was unsuccessfully challenged on the issue of *locus standi*.[172] The Supreme Court held that "the peace of the society is the responsibility of all persons in the country and as far as the protection against crime is concerned, every person in the society is each other's keeper.[173] This case demonstrates the importance attached to the right to life.

5. IMPLEMENTATION OF THE LEGAL FRAMEWORK

The legal frameworks for the prevention of sectarian conflicts are the principal laws that have been put in place to prevent, mitigate and also prescribe punishment sectarian conflicts in Nigeria which has been discussed in this paper. They include every legislation or laws that can prevent violent sectarian conflicts. The Nigerian government has made attempts to prevent or mitigate the occurrence of violent sectarian conflicts by establishing peace building agencies operated by government which have offered localized approaches to the roots of violence.[174] Three Nigerian state governors namely Plateau, Kaduna and Adamawa States established peace agencies and commissions to address communal conflicts and the roots of insurgency through peace committees, peace education and local systems which monitor threats, provide early response to prevent violence, development of mechanism for mediation and restorative justice.[175]

In terms of legal framework for the prevention of violent sectarian conflicts, several factors are often responsible for the increase such as the complex nature of sectarianism, human rights challenges, religion, poverty, unemployment and illiteracy, amongst others, pose a challenge to curbing of violent sectarian conflicts. It can also be safely asserted that there are

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[171] [1987] 4NWLR 797.
[172] Ibid.
[173] Ibid.
[174] D. Kew, "Facing Clashes and Insurgencies, Nigerian States have created Peace Building Agencies", [2021] *United States Institute of Peace,* available at http://www.usip.org/publications/2021/06/how-can-ciolent-crisis-nigeria-has-an-idea accessed 27th April, 2023.
[175] Ibid.

factors that limit the implementation of the legal framework as there is no gainsaying the fact that for any meaningful impact of such laws to be felt in the country, the system put in place must be working effectively. The weak criminal justice system, inadequate strategies for the prevention of violent sectarian conflicts and the government attitude towards the prevention of violent sectarian conflicts must also be put into consideration. The percentage of illiteracy in Nigeria according to the National Commission for Mass Illiteracy, Adult And Non-Formal Education (NMEC) is above 35 percent.[176] The NMEC defines literacy rate as the rate or as the percentage of people from the age of 15 and above who can read and write simple statements on their everyday life.[177] There is need to get everybody educated as this would help alleviate the level of hostility, suspicion and fear among the people of different ethnic and religious groups as a result of illiteracy and ignorance.[178] It is rarely the case to see educated elites be the cause of wars and would never be part of it on the battle field; it is the people left uneducated that always persecute these wars.[179] So, if the educational aspect is sorted out, it would be most likely to have liberal, understanding, empathetic and sympathetic citizens.

The Criminal Justice System of a nation (CJS) represents a system or structure through which the laws guiding the existence and order of such society is applied and the rights of citizens are upheld.[180] There are certain characteristics associated with CJS which include fairness, justice, equality, effectiveness and efficiency.[181] The *Black Law's Dictionary* defines a Criminal Justice System as the "collection of institutions through which an accused offender passes until the accusations have been disposed of or the

[176] The NMEC was established under Decree 17 of 1990 with the duties of developing policies and strategies aimed at eradicating illiteracy in Nigeria and making literate all those who for one reason or the other did not or could not benefit from the formal school system. More information at https://www..allafrica.com/stores/202005220290.html accessed 20th March, 2023.

[177] Ibid.

[178] B. Ousmane & K. Ozden, " Historical Background of Ethno Religious Conflicts in Nigeria", [2020] available at https://www.researchgate.net/publication/34279279/ accessed 21st March, 2023.

[179] Ibid.

[180] E. Amelika & I. Chukwuma, *Crime and Policing in Nigeria; Challenges and Options,* (CLEEN Foundation: 2005) p. 12.

[181] Ibid.

assessed punishment concluded"[182] The system typically has three components: law enforcement which includes the police, sheriffs, marshals, the judicial process, (judges, prosecutors, defence lawyers) and corrections (prison officials, probation officers, parole officers).[183] Amnesty International Organization said the Nigerian Criminal Justice System is utterly failing the Nigerian people calling it a conveyor belt of injustice from beginning to end.[184]

The Nigerian Constitution establishes the Nigerian Police Force as a body charged with maintaining law and order. The Police Act (Cap 359) Laws of the Federation 1990 provides that "The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of lives and property and the due enforcement of all laws and regulations with which they are directly charged".[185] This section of the Police Act places the security of the state in the Nigerian Police Force. The police by this provision is the institution responsible for the prevention and detection of violent conflicts in the country by gathering intelligence on the possibility of the occurrence of such conflicts before they occur and preventing them from occurring.[186]

Section 10 (2) went on to state that the police is mandated to provide for public safety and public order and are empowered to control and suppress the conflict as the Act in this regard provides that the President may give to the Inspector General of Police such directions with respect to the maintaining and securing of public safety and public order as he may consider necessary, and the Inspector General shall comply with these directions or caused them to be complied with.[187] This invariably means that if the President does not give the Inspector General of Police the needed directions, the Inspector General cannot act to suppress any violent conflict. Where therefore, the President chooses to withhold such

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[182] B. Garner, *Black Law Dictionary,* 12th Edition, (Thompson Reuters, 2019).

[183] Ibid.

[184] Amnesty International is a global movement of more the 10 million people who take injustice personally. It campaigns for a world where Human Rights are enjoyed by all More Information at https://www.org/en/latest/press-release/2089/02/nigeria-criminal-justice-system-utterly-failing-nigeria-people-majority accessed 27th March, 2023.

[185] Section 10 of the Nigeria Police Act (cap359) Laws of the Federation of Nigeria 1990.

[186] Ibid.

[187] Section 10 (1) Nigeria Police Act (cap 359) Laws of the Federation of Nigeria 1990.

direction or delays it, a lot of destruction would be inflicted on the society where such conflict is taking place. This provision also applies at the state level as it is only the Governor who can consent before the Commissioner of Police acts in a state.[188]

The provision of this section of the Police Act makes it, most times, difficult for the police to intervene in breach of the peace of the country until considerable damage has been done as a result of such violent conflicts. Resolving conflict, whether between individuals or groups or between individuals and groups with government, as well as identifying problems that have the potentials for becoming more serious in addition to maintaining a feeling of security in communities are also the responsibilities of the Police which the Act should allow to be carried out effectively.[189] Often times, law enforcement agencies appear unaware of security challenges and only act after the occurrence of security breaches, even when informed of such violent conflict. They ignore or are slow to act for the fear of death or harm befalling them.[190] This reason, however, could be attributed to the law enforcement agents are not adequately provided for in terms of life insurance, accommodation, adding that their salaries are too meager with no welfare package.[191]

The judiciary is one of the three arms of government that is essentially empowered by the 1999 Constitution of the Federal Republic of Nigeria, 1999 (amended) to make legal decisions in both criminal and civil matters.[192] Despite such powers of the judiciary, most cases of violent conflicts in Nigeria are being tried by special tribunals as section 6(4) allows the National Assembly and State Houses of Assembly to establish courts other than those established by subsection 6 provided such courts have subordinate jurisdiction to those established by section 6(5) of the 1999 Constitution of the Federal Republic of Nigeria.[193] The use of tribunals may not be in the best long-term image and interest of government, for, either

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[188] Section 10(2) Nigeria Police Act (cap 359) Laws of the Federation of Nigeria 1990.

[189] L. Cohen, *The Police and the Enforcement of Law and Order,* (London: Little Press, 2001), p.189.

[190] B. Oyeniyi, "Terrorism in Nigeria: Group, Activities and Politics", [2010] *International Journal of Politics and Good Governance,* p.11.

[191] Ibid.

[192] Section 6 of the 1999 CFRN (as amended).

[193] Section 6(4) of the 1999 CFRN (as amended).

way a tribunal's decision goes, government is always accused of manipulation by the other side to the conflict.

Government's attitude towards violent sectarian conflicts has been reactive rather than proactive.[194] This means that the government waits for the occurrence of such conflicts, and in response, the government tries to curtail militia activities, sectarian and ethnic violence and also deter plausible re-occurrences of such conflicts.[195] The security measures are usually slow and ineffective and weak which, often times, makes the state respond in an unhurriedly manner with the resultant effect of killings and destruction.[196]

The government is also very slow in response to the provision of relief materials when such conflicts occur which makes victims of such conflicts resort to other means to provide their basic amenities. Since the early years of the violent conflicts, Nigeria's international partners have cautioned Nigeria that Boko Haram is unlikely to be defeated on the battlefield alone.[197] They have stressed the need for a multidimensional response that tackles the drivers of insecurity in the region, including chronic weaknesses in service delivery, corrupt governance, and environmental degradation.[198] The Lake Chad Basin Commission and the African Union Commission have adopted a regional stabilization strategy, which highlights short term and long term stabilization, resilience, and recovery needs.[199] These efforts have generally fallen into three main categories: programs aimed at strengthening local conflict prevention and mitigation systems, programs aimed at restoring local governance and basic services, and programs aimed at fostering social cohesion and ensuring the

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[194]A. Ikelegbe, "State, Ethnic Militias and Conflict in Nigeria", [2005], *Canadian Journal of African Studies,* p.6.

[195] Ibid.

[196]S. Lugga, *Conflict and Security Management: A Traditional Approach to Security and Conflict Management in Hausa Land, Nigeria,* (Katsina Nigeria: Lugga Press, 2009), p.89.

[197] S. Brechenmacher,"Stabilizing Northeast Nigeria After Boko Haram", [2019], available at https://carnegieendowment.org/2019/05/03/stabilizing-northeast-nigeria-after-boko-haram-pub-79042 accessed 28th March, 2023.

[198] Ibid.

[199]Ministerial Conference on the Adoption of the Regional Stabilization Strategy for the Lake Chad Basin Region," African Union's Peace and Security Department, August 31, 2018, available at http://www.peaceau.org/en/article/lake-chad-basin- commission-and-the-african-union-convene-a-ministerial-conference-to-adopt-the-regional-stabilization-strategy-for-the- areas-of affected by-the-activities-of-boko-haram.

reintegration of former combatants.[200] It was, however, stated after efforts were made for the implementation that the Nigerian case exemplifies the difficulties of implementing effective local-level stabilization efforts while working with a host government that lacks political commitment, transparency, and coordination.[201] While local-level programs have shown positive impacts in various areas, they have struggled to gain wider traction particularly since donors are often working through or dependent on the government to operate.[202] Nigerian authorities have pushed aggressively for displaced civilians to return to their home communities, while President Buhari has repeatedly declared that Boko Haram has been "technically defeated.[203] Humanitarian actors warned that a change in donor priorities from prevention of such conflicts to stabilization, which is an aftermath of conflict, may lead to aid being allocated based on the Nigerian government's political priorities rather than civilian needs, thereby leaving vulnerable groups without assistance.[204]

Government attitude and pronouncement to the Boko Haram insurgency in the past has also been a thing of concern. For instance, government has, at several times, maintained that the Boko Haram has sponsors who are only out to blackmail and intimidate the government.[205] No conclusive link has, however, been established between Boko Haram with any individual or political group nor has Boko Haram made any overtly political demand.[206] Government reaction to the challenges of violence has not been swift as the government, from the beginning of the Boko Haram phenomenon, asserted at the time that it was a phase in the nation's life

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[200] Ibid.
[201] Ibid.
[202] Ibid.
[203]See "Boko Haram Technically Defeated, Buhari Insists", [2016], available at https://punchng.com/boko-haram-technically-defeated-Buhari-insists/ accessed 27th April 2023.
[204]See the United Kingdom Government's Approach to Stabilization, available https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/767466/The_UK_Governments_Approach_to_Stabilisation_-_A_Guide__web_ accessed 27th April, 2023.
[205] B. Ojo, "Smoke out Boko Haram Sponsors, Jonathan Orders Security Chiefs", [2011] , *All Africa,* available at https://allafrica.com/stories/201112300822.html accessed 28th September, 2021.
[206] Ibid.

that will soon pass away.[207] When the sect did not disappear and it was apparent more violence was imminent, the government promised to wipe them out in a short while and made feeble efforts to combat the violence which ultimately did not produce much.[208]

6. CONCLUSION

The paper set out from the beginning to examine the legal framework for the prevention of violent sectarian conflicts in Nigeria. Sectarian conflicts continue to increase from the early Nigerian state to the present-day Nigeria causing immeasurable loss of lives, destruction of properties and constant fear in the lives of citizens. With the prevalence of violent sectarian conflicts in Nigeria, it may seem as though it will not be going anywhere anytime soon. It has become necessary, therefore, to examine the legal framework for the prevention of violent sectarian conflicts to determine the efficacy of the framework in the prevention of the conflicts. There are laws in place for the prevention of violent sectarian conflicts in Nigeria. Sectarian conflicts have, however, continued to escalate because more attention is given to political solutions which are not producing any results at the expense of legal solutions which include the legal framework for the prevention of such conflicts. Government concentrates on the remote causes of such conflicts rather than the immediate causes. Government's reaction to ethno-religious conflicts, often times, is the escalation of the remote causes which include poverty, unemployment, lack of infrastructure and people contesting for the little wealth that is not enough. While such remote causes are political in nature still government is unable to achieve desired results, at the expense of immediate causes, which are legal in nature such as murder and arson thereby undermining the law that government is supposed to uphold. If homicide, the unlawful killing of just one person, is considered a serious capital offense carrying the penalty of a death sentence, then genocide, the unlawful killing of a group of people such as hundreds of people resulting in the wiping out of almost a whole ethnic or religious group, should be the worst type of homicide with more serious consequence. Unfortunately, suspects of genocide cases go

[207] See the "Nigerian State as an Equilibrium of Violence: An Explanation of the Boko Haram Insurgency in Northern Nigeria" [2015], available at https://www.accord.org.za/ajcr-issues/the-nigerian-state-as-an-equilibrium-of-violence/ accessed 28th September, 2021.
[208] Ibid.

free in almost all sectarian conflicts in Nigeria. This attitude, of government, reduces the value, dignity and sanctity of human life that the Nigerian Constitution, as well as Human Rights Conventions seeks to protect. It is therefore pertinent that the laws, both international and national, which exist for the prevention of violent sectarian conflicts in Nigeria be adequately implemented for the prevention and mitigation of such conflicts.

7. RECOMMENDATIONS

From the observations made above, it is hoped that the recommendations may be a necessary aspect in the prevention of violent sectarian conflicts in Nigeria which have become a prevalent occurrence in Nigeria. Therefore, this work makes the following recommendations:

Review of the legal framework for the prevention of violent sectarian conflicts and make amendments where necessary to meet advancements and realities created by the offence of sectarian conflicts. This will ensure that the laws are not jeopardized and the perpetration of such crimes will be adequately managed. Where punishments are prescribed enforced, it will serve as deterrence to the commission of sectarian conflicts.

The legal framework for the prevention of violent sectarian conflict should apply to every state in Nigeria. The reason why it is not applied now must be tackled which can be achieved through creating awareness and orientation that such laws do not go against religious and ethnic beliefs.

It is recommended that the provisions of section 147 of the Constitution of the Federal Republic of Nigeria 1999 as it relates to indigeneship be subject to constitutional amendment. This amendment should either abolish the requirement of indigeneship from the section or an additional section should be provided in the Constitution enabling an indigene as a Nigerian citizen that lives for a specified number of years in a locality to become indigenes of the locality.

It is recommended that a special agency of government or a permanent Judicial Commission of Inquiry be established which will be an independent body with the sole purpose of addressing sectarian conflicts in Nigeria with a distinct name like the Independent Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC). Criminal justice institutions such as the police, ministries of justice

and the court system, should be encouraged for investigation and prosecution of incidences of sectarian conflicts through the agency.

Modern conflict management strategies should be used together with the legal framework. These include community grassroots activities, good governance, collaboration, mediation, negotiation, arbitration and crisis management which will go a long way in curbing or preventing violent sectarian conflicts in Nigeria.

It is also recommended that only those who are qualified through education and training should be allowed to serve as religious leaders and have the right to preach in Nigeria.