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THE RIGHT TO FAMILY LIFE IN ARMED CONFLICTS SITUATIONS

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Abstract

Armed conflicts signify anarchy, chaos and confusion with various effects on all parts of the society, including the family. The Universal Declaration of Human Rights in Article 16(3) recognises the family as the fundamental unit of the society. Families are disrupted in periods of war and conflict, which affects the social, economic and emotional support provided to individuals going through difficult times. This paper discusses war and conflict, the extent of damage done to the family and the implications for nations. The legal framework which seeks to protect the family and steps which should be taken in preserving the family in war and conflict are also discussed. It concludes by recommending measures that should be adopted to preserve families during conflicts such as re-establishment of family links upon the cessation of conflicts, family reunification, marriage counselling and provision of basic needs of families. This way, the value of families will be preserved and sustained in society.

1.0 INTRODUCTION

The word “family” does not have an internationally agreed definition and has been classified by different approaches depending on States, regions, cultures and religions.¹ Indeed, families have moved away from the traditional structure

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¹ Human Rights Committee, ‘General Comment on Article 23’, paragraph 2 (39th Session, 1990), <<https://www.equalrightstrust.org/ertdocumentbank/general%20comment%2019.pdf>> [Accessed 21 June 2022]

and are increasingly becoming unconventional, multicultural and transnational.² However, it has been recognised that “a family is[,] in its broadest sense, [objectively] considered to be a group of people living together, and subjectively, a group of people wanting to live together”.³

Precisely, the Commentary to the Additional Protocols of the Geneva Conventions of 1949, while stating that the definition of the family must not be rigid, gives a more precise definition covering “...persons related by blood and living together as one household. In a wider sense it covers all persons with the same ancestry.”⁴ The Commentary adds that the word family includes persons who are “relatives in a direct line, whether their relationship is legal or natural...” The concept of family also connotes a different type of understanding based on the rights and responsibilities of parties. For example, arrangements may be made for a family to provide care to orphans, whether they are related to them or not.

The African Charter on Human and People’s Rights (ACHPR) recognises the family as a fundamental unit of the society, which States must protect and assist when the need arises.⁵ State responsibility to the family enables the unit to efficiently perform its functions for the benefit of its members and the society.⁶

² Oreste Foppiani, ‘Introduction’ in Oreste Foppiani and Oana A. Scarlatescu (Eds.) *Family, Separation, and Migration: An Evolution-Involution of the Global Refugee Crisis* (International Academic Publishers, Bern 2018) 23.

³ Background Note for the Agenda Item: Family Reunification in the Context of Resettlement and Integration, Annual Tripartite Consultations on Resettlement Geneva, (20-21 June 2001), <<https://www.unhcr.org/3b30baa04.pdf>> [Accessed 21 June 2022]

⁴ The Commentary to the Additional Protocols of the Geneva Conventions of 1949, Paragraph 2997 (1987) <https://www.loc.gov/rr/frd/Military_Law/pdf/Commentary_GC_Protocols.pdf> [Accessed 21 June 2022]

⁵ See The African Charter on Human and Peoples’ Rights, 1981, Article 18(1, 2), Universal Declaration of Human Rights, 1948, Article 16(3), The International Covenant on Civil and Political Rights, 1966, Article 23(1), International Covenant on Economic, Social and Cultural Rights, 1966, Article 10(1) and the African Charter on the Rights and Welfare of the Child, 1990, Article 18(1).

⁶ Human Rights Council, Protection of the Family: Contribution of the Family to the Realization of the Right to an Adequate Standard of Living for Its Members, Particularly Through its Role in Poverty Eradication and Achieving Sustainable Development’ A/HRC/31/37, (2016) <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/163/18/PDF/G1516318.pdf>> [Accessed 2 July 2022]

The protection of the family unit is essential since the family plays an important role in the lives of individuals, societies and nations, as recognised by international human rights instruments. Similarly, preserving the family unit is especially important for children due to the care, attention, support and protection they receive, without which, they would encounter difficulties and challenges in their development.⁷ The 2030 Agenda for Sustainable Development indicates that the family also contributes significantly to the development of the nation. The Agenda identifies the family as important in providing a ‘nurturing environment’ for children and youths, thereby resulting in the fulfilment of their rights and capabilities. The realization of these rights enables them contribute to the development of the nation.

The right to family life includes the right of the members to live together and not to be forcefully separated. This violation has been recognised in situations where a forceful separation was directly perpetrated, as well as in cases where the State fails to protect this right.⁸ There are, however, some cases where the State interferes with family life for legitimate purposes where such interference is essential, permitted by law, and “proportional to the pursued goal”.⁹

When conflicts occur, there is a high risk of families getting separated, which affects them in diverse ways and changes their lives temporarily or permanently. The more vulnerable members like the aged, children, disabled and women, are subjected to higher forms of hardship due to lack of care.

Separation may occur as a result of the conscription or enlistment of a parent or child, either by the armed forces of a State or a non-state armed group. Family members may also disappear or get lost while fleeing from attacks.¹⁰ Sick, injured and aged persons may find it difficult to escape with other members of

⁷ Charlotte Lindsey, *Women Facing War* (ICRC, Geneva, Switzerland 2001) 124, 125.

⁸ Luis Lopez Guerra, ‘European Convention on Human Rights and Family Issues: Primary Issues’ in Maribel González Pascual and Aida Torres Pérez (Eds) *The Right to Family Life in the European Union* (Routledge New York, 2017) 12, 13.

⁹ These Cases Include Forcefully Separating a Child from Parents Due to The Mental, Physical and Financial Incapacity, Granting Divorce Orders to Couples to Save a Spouse from Domestic Violence and Separation Orders Granted to Couples of the Parents; Id, 13.

¹⁰ Alliance For Child Protection in Humanitarian Action, *Field Handbook on Unaccompanied and Separated Children* (2017) <<https://www.iom.int/sites/default/files/handbook-web-2017-0322.pdf>> [Accessed 3 July 2022]

their families and are therefore left behind.¹¹ Some persons may also be abducted for the purpose of being sold or receiving ransom from relatives.

Children and women are abducted to be used for various roles like wives, sex slaves, cooking, cleaning, human shields and suicide bombing. Others may also be killed, detained or imprisoned.¹² Enforced disappearances – where people are forcibly torn away from their families by the State or with the authority of the State – also occur in armed conflicts. The State or non-state actors thereafter cut off all forms of communication between them (abducted members) and their families and deny being responsible for their disappearance.¹³

Additionally, some families separate voluntarily in a bid to survive and ease their burdens. Children are, for example, sent to live temporarily with relatives or friends who reside in non-affected areas to avoid their exposure to harm.¹⁴ Aid-induced separation also occurs in some cases when humanitarian organisations make efforts to assist displaced persons – through the provision of accommodation, food, evacuation and medical assistance – without considering the importance of family togetherness. For example, providing separate accommodation for families and evacuating children who seem to be by themselves without making enquiries about their parents or keeping records of their new location.¹⁵

The Universal Declaration of Human Rights (UDHR) establishes that the family life of persons should not be arbitrarily interfered with.¹⁶ Persons have a higher tendency of coping with armed conflicts when they are together with their families.¹⁷ While attention has been devoted to various impacts of armed

¹¹ British Red Cross Et Al, Humanitarian Consequences of Family Separation and People Going Missing (2019) <https://Humanitarian-Consequences-Of-Family-Separation-And-People-Going-Missing.Pdf> [Accessed 3 July 2022]

¹² Save The Children, 'Training Manual on Child Rights and Child Protection for Unifil Peacekeepers' (2011) <https://Resourcecentre.Savethechildren.Net/Node/4397/Pdf/4397.Pdf> [Accessed 3 July 2022]

¹³ Dalia Vitkauskaitė-Meurice and Justinas Zilinskas, 'The Concept of Enforced Disappearances in International Law' (2010) 2 *Jurisprudence*, 197, 198.

¹⁴ ICRC, *Children in War* (ICRC Geneva 2009) 1.

¹⁵ Alliance for Child Protection in Humanitarian Action, *supra* (n 10).

¹⁶ The Universal Declaration of Human Rights, Article 12.

¹⁷ British Red Cross et al, *supra* (n 11).

conflicts on individuals such as health, conscription into armed groups, poverty and education, less emphasis is placed on the impact of armed conflicts on families.

This article, therefore, discusses the effects of armed conflict on families. It points out the legal framework which seeks to protect the family unit and explains measures that could be employed to reduce the incidences of separation of families in armed conflict situations.

2.0 SEPARATION OF FAMILIES IN ARMED CONFLICT AND REPERCUSSIONS

Armed conflicts have caused disruption and damage to individuals and cities.¹⁸ Families are not left out and members of this important unit have been exposed to various forms of distress and trauma, which has various consequences.¹⁹ These consequences are discussed below.

2.1 Children and Women Headed Households

When parents and relatives lose their lives or disappear in situations of armed conflicts, children have to take charge of their households, by caring for themselves and their siblings in addition to providing the basic needs of the home. These children face significant challenges because they are responsible for earning money in addition to performing household chores like cooking, cleaning and fetching water. This leaves them stressed with little means or time to engage in other activities essential to children such as rest, leisure and play.²⁰

The right to rest and play is established by Article 31 of the Convention of the Rights of the Child (CRC) – a right which States are expected to promote and encourage. Children are often unable to attend school because of their

¹⁸ Michelle Stone and Anat Shoshani, 'Children Affected by War and Armed Conflict: Parental Protective Factors and Resistance to Mental Health Outcomes', (2017) 8 *Frontiers Psychology* 1397.

¹⁹ Theresa S. Betancourt and Kashif T. Khan, *The Mental Health of Children Affected by Armed Conflict: Protective Processes and Pathways to Resilience*, 20 *Int. Rev. Psychiatry* 317, 317.

²⁰ Kendra E. Dupuy and Krijn Peters, *War and Children: A Reference Handbook (ABC-CLIO 2010)* 42.

responsibilities in the home, which hinders their enjoyment of the right to education under Article 28 of the CRC. Some activities like farming, fetching water, and searching for firewood expose them to physical injury by landmine explosions or attacks by armed groups, while others like hawking and prostitution expose them to sexual abuse which may result in diseases and unwanted pregnancies. They also do not receive the vital care, love, and guidance required for their development.

Situations of armed conflict also lead to single parent households. In most cases, women head their households in the absence of men which usually increases insecurity and interrupts the support system they receive in the family. This changes their roles and lives since they become breadwinners through diverse means and struggle to provide for themselves and their children.²¹ These women have to ensure that their children survive the harsh conditions of armed conflict, receive an education, and enjoy access to other basic needs vital to their development. Women who have children with special healthcare needs are fully in charge of ensuring that these children receive the needed care.

The situation is harder for women who are pregnant since they have to cater for their own needs and those of the unborn, and also avoid engaging in strenuous activities that can cause harm to them and the growing foetus.

Women who are closer to cities or communities where hostilities are taking place are at a higher risk of attacks and have little or no means of defending themselves and their children which puts them in fear and affects their well-being. This is because armed conflicts in contemporary times no longer take place on battlefields, but within cities and communities with people.²²

In displaced camps, men are usually at the forefront of arranging for humanitarian assistance on behalf of their families. Compared to other households run by men, children and women headed households face the risk

²¹ Damilola Taiye Agbalajobi, 'The Role of Women in Conflict Resolution and Peacebuilding', In Richard Bowd and Annie Barbara Chikwanha (Eds) *Understanding Africa's Contemporary Conflicts: Origins, Challenges and Peacebuilding* (Institute for Security Studies 2010) 234.

²² Medina Haeri and Nadine Puechguirbal, 'From Helplessness to Agency: Examining the Plurality of Women's Experiences in Armed Conflict' (2010) 92 *IRRC* 112.

of not benefiting from adequate humanitarian assistance and may find it difficult to survive.²³ They therefore have to source for these resources outside the camp which puts them at the risk of being attacked, raped, or abducted.²⁴

In some countries, the eligibility of women in receiving inheritance or social assistance is dependent on the fate of their relatives.²⁵ Women whose husbands are missing as a result of armed conflicts do not have an official status and cannot be referred to as widows.²⁶ This is because it is not clear whether these men are dead or alive. Their capacity to inherit property and obtain assistance is thus restricted.²⁷ In some countries, a remedy would be to obtain death certificates, but most of them are reluctant to give up hope that their husbands would return, so, they would not choose this option. The processes for obtaining these documents and the costs also discourage them.²⁸

2.2 Psychological Problems

Families who experience difficult situations together tend to survive better due to the emotional support usually received from one another. This is different for disintegrated families. The disintegration of the family unit in armed conflicts often causes psychological distress for members of the family.²⁹ Persons whose family members are missing are thrown into a state of uncertainty and find it difficult to move on because they cannot mourn their missing relatives or stop their search.³⁰ They are, therefore, stressed and anxious while awaiting news of their loved ones.

This is amidst other challenges that are experienced in trying to adjust to the new life caused by the armed conflict.³¹ Some children lose both parents without dependable relatives or the extended family to support them and provide

²³ Lindsey, *supra* n (7) 79.

²⁴ Haeri and Puechguirbal, *supra*, n (22) 113.

²⁵ *Ibid* at 31

²⁶ *Ibid*

²⁷ *Ibid.* at 115.

²⁸ ICRC, *Addressing the Needs of Women Affected by Armed Conflict* (2004), <https://www.icrc.org/en/doc/assets/files/other/icrc_002_0840_women_guidance.pdf> [Accessed 10 July 2022]

²⁹ Stone and Shoshani, *supra*, n (18) 1397.

³⁰ Haeri and Puechguirbal, *supra*, n (22) 115.

³¹ British Red Cross et al, *supra*, n (11).

emotional care.³² According to Dixit, the United Nations Educational Scientific and Cultural Organisation (UNESCO) in a study stated that:

*“When we study the nature of the psychological suffering of the child who is a victim of the war, we discover that it is not the facts of war itself such as bombings, military operations which have affected him emotionally... it is the repercussion of events on the family affective ties and the separation with his customary framework of life which affect the child, and more than anything [,] the abrupt separation from his mother”.*³³

A study conducted in Liberia upon the cessation of armed conflicts revealed that children suffered from psychosocial and emotional health issues due to the loss of their parents. The fact that these participants understood the cause of death did not improve their health, however, having access to a substitute caregiver – who they had a strong connection with – helped in their recovery processes.³⁴

The separation of children from their family members makes them more vulnerable to abuse and exploitation which causes fear and anxiety. Fear and anxiety, according to the British Red Cross, affects physical health, causes weight loss, and reduces the ability to execute daily activities.³⁵ It also reduces their level of concentration in school and their ability to develop skills in regulating their emotions.³⁶ The fear experienced by children is worsened by the graphic and disturbing events shown in the media, which includes bombings, shootings, and the aftermath of these incidents.³⁷

³² Elizabeth J. Levey et al, ‘A Qualitative Analysis of Parental Loss and Family Separation among Youth in Post-Conflict Liberia’, (2017) 12 *Vulnerable Children and Youth Studies* 1, 9.

³³ Dixit, R. K. ‘Special Protection of Children During Armed Conflicts Under the Geneva Conventions Regime’ *ISIL Yb Int’l Human. & Refugee L.* 1 (2001): 17, 18.

³⁴ *Ibid.* at 7.

³⁵ British Red Cross et al, *supra*, n (11).

³⁶ Sharon Pexton et al, ‘The Impact of Fathers: Military Deployment on Child Adjustment. The Support Needs of Primary School Children and their Families Separated during Active Military Service: A Pilot Study’, (2018) 23 *Clinical Child Psychology and Psychiatry* 110, 111.

³⁷ See Aminu Abubakar, CNN News: Boko Haram Posts Video Purporting to Show Beheadings of Two Men (3 March 2015), <https://boko-haram-beheadings-video/index.html> [Accessed 10 July 2022]; Jonathan S. Comer, et al, ‘Children and Terrorism-related News: Training Parents in Coping and Media Literacy’ (2008) 76 *Journal of Consulting and Clinical Psychology*, 568-569.

The extent to which parental separation affects a child depends on the child's age, level of development, resilience, length of separation, the relationship the children had with the separated family member and the availability of other support systems.³⁸

Military officers are usually deployed to other countries to engage in operations, mostly through regional peacekeeping organisations like the African Union (AU) and the Economic Community of West African States (ECOWAS).³⁹ In cases where a parent or spouse who is a military officer is deployed to a conflict zone, the absence of such person is stressful on family members who worry about the wellbeing of that soldier and the risk of being killed or injured.⁴⁰

When deployed personnel return with injuries, it affects the children.⁴¹ A study was conducted on the mental health of over 300,000 children between the ages of 5 and 17, whose parents were US army personnel and had been deployed for operations in Iraq and Afghanistan. It reported that mental health issues related to depression and behavioural disorders were found in these children. The issues increased with a prolonged length of deployment.⁴²

Children are not the only persons affected. The absence of companionship affects the health of spouses especially if they had a close relationship. Men also experience psychological issues after they have been wounded in conflicts.⁴³ Furthermore, men who have been deployed on military assignments are not as emotionally sound as before deployment. In a study conducted on veterans, the report indicated that those who were not deployed away from their families

³⁸ Alliance for Child Protection in Humanitarian Action, *supra*, n (10).

³⁹ Rebecca Schiel, Jonathan Powell, and Ursula Daxecker. 'Peacekeeping Deployments and Mutinies in African Sending States' (2020) 16 *Foreign Policy Analysis* 251, 252.

⁴⁰ Pexton et al, *supra*, n (34).

⁴¹ Dawne Vogt, Alexandra Macdonald, and Tabatha Blount, 'Family-Related Experiences During Deployment and Their Role in The Post-Deployment Mental Health of Oef/Oif Veterans' in Shelley Macdermid Wadsworth and David S. Riggs (eds), *War and Family Life: Risk and Resilience in Military and Veteran Families* (Springer International Publishing Switzerland 2016) 18.

⁴² Alyssa J. Mansfield et al, *Deployment and Mental Health Diagnoses Among Children of US Army Personnel* (2011) 165 *Arch Pediatr Adolesc Med* 999.

⁴³ Pexton et al, *supra*, n (36) 112.

during active service fared better due to the support they received emotionally.⁴⁴ Service members who were deployed also had a higher risk of mental health issues compared to those with their families.⁴⁵

2.3 Affects Marriages and Relationships

The separation of couples in armed conflicts affects their relationships. Apart from lack of communication, the spouse alone at home may face challenges such as financial difficulties and child care which increase the chances of a strained relationship. This may lead to separation or divorce.⁴⁶ Ruined marriages, in turn, affect the care and attention given to children due to emotional distress, anger, insomnia and irritation.⁴⁷

According to Karney and Crown, even though the media has focused more on the marriages of male military officers, it has been discovered that the marriages of deployed female military personnel, are more vulnerable to dissolution than those of their male counterparts.⁴⁸

The psychological trauma experienced by a spouse due to the loss or absence of a family member may also lead to abuse, neglect, bitterness, and anger in the home which may affect relationships between parents and children or between spouses.⁴⁹ In addition, children whose parent(s) remarry are sometimes subjected to neglect, sexual, emotional and physical abuse.⁵⁰ The relationship and attachment between parents and children, as well as between siblings, can

⁴⁴ Maria J. O'Connell and Robert Rosenheck, 'The Family Ties That Bind: Tangible, Instrumental, and Emotional Support Among Homeless Veterans', in Shelley Macdermid Wadsworth and David S. Riggs (eds), *War and Family Life: Risk and Resilience in Military and Veteran Families* (Springer International Publishing Switzerland 2016) 282.

⁴⁵ Vogt, Macdonald, and Blount, *supra* n (41) 18.

⁴⁶ Benjamin R. Karney and John S. Crown, 'Families Under Stress: An Assessment of Data, Theory, and Research on Marriage and Divorce in the Military' (2009), <https://www.rand.org/content/dam/rand/pubs/monographs/2007/RANMG599.pdf> [Accessed 22 June 2022]

⁴⁷ Pexton et al, *supra*, n (36) 112.

⁴⁸ Karney and Crown, *supra* n (46).

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

also be affected when they are separated from for long periods either due to voluntary separations or forced separations.⁵¹

Furthermore, racial, ethnic and religious conflicts affect marriages which are inter-racial, inter-ethnic and inter-faith in nature. Sometimes, a spouse may have to flee from home to avoid attacks by opponents who belong to the spouse's tribe or religion.⁵² This might cause resentment between couples – which may extend to the children – forcing them to take sides and detest the other parent. For example, the 1994 genocide which took place in Rwanda between two ethnic groups, the Tutsis and Hutus, generated a lot of hatred and inhumanity, leaving several persons dead.⁵³ It was reported that some Hutus killed their spouses who were Tutsi, while Tutsi men were threatened by the relatives of the Hutu women they were married to and sent out of their communities.⁵⁴

2.4 Higher Incidence of Sexual Abuse

Sexual abuse has been prohibited in international humanitarian and human rights law. It is, however, an incident that continues to occur in armed conflicts.⁵⁵ Sexual abuse in armed conflicts occurs in homes, displaced camps, fields, military barracks, armed groups' abode, among other places. It may take place either during armed conflicts or after they have ended.⁵⁶ It happens in different forms and those that are particularly common in armed conflicts include: forced marriages, prostitution, and rape.

Rape is often done for the purpose of humiliating and destroying families, which is why it is massively perpetrated on women and girls during armed conflicts as a method of warfare. The aim is to destroy family honour, culture, and identity particularly where the honour of a family or ethnic identity is tied to the virtue

⁵¹ Ibid.

⁵² Peter Uvin, Reading the Rwandan Genocide, (2001) 3 International Studies Review 75-99.

⁵³ Ibid

⁵⁴ United States Bureau of Citizenship and Immigration Services, 'Rwanda: Hutu and Tutsi Inter-marriage' (2000), <https://www.refworld.org/docid/3ae6a6a310.html> [Accessed 25 July 2022]

⁵⁵ Haeri and Puechguirbal, *supra*, n (22) 118.

⁵⁶ Megan Bastick et al, Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector (2007), <https://sexualviolenceconflict.full.pdf>. [Accessed 26 July 2022]

of their girls and women. This is the case in several African communities. Families and members of the community are often forced to watch the act being done so that victims can be humiliated and relationships ruined.

Men are shamed and embarrassed for the inability to protect their families, while some may detest their wives – finding it difficult to come to terms with her rape – especially when it is done in the presence of other persons.⁵⁷ Women (together with the husband) whose children result from rape tend to hate the children.⁵⁸

Sexual abuse occurs during armed conflicts whether families are together or separated. Thus, despite the presence of men, women and children can be raped or married off by armed groups to their members. However, women and girls who have been separated from their male family members are usually more vulnerable to being assaulted sexually. This is because men have a higher likelihood of resisting abuse either because of their physical strength or their possession of arms.⁵⁹

Also, many perpetrators are opportunists who offer food, water, or money to deprived women or children who have lost their relatives in return for sex, while others rape unprotected children. Furthermore, some women and children engage in prostitution in a bid to survive.

Under the Rome Statute of the International Criminal Court, all forms of sexual violence constitute a serious violation of the Geneva Conventions and are considered as war crimes.⁶⁰ In *Prosecutor v. Akayesu*,⁶¹ the International Criminal Tribunal for Rwanda (ICTR) held that sexual violence could be regarded as genocide in some circumstances.

⁵⁷ Ibid.

⁵⁸ UNFPA, *The Impact of Armed Conflict on Women and Girls* (2002), https://www.unfpa.org/sites/default/files/pub-pdf/impact_conflict_women.pdf [Accessed 12 July 2022]

⁵⁹ ICRC, *supra*, n (14).

⁶⁰ United Nations, 'Promotion and Protection of the Rights of Children: The Impact of Armed Conflict on Children' <https://promotion-and-protection-rights-children-impact-armed-conflict-children/> [Accessed 25 June 2022]

⁶¹ (1998) Case No. ICTR-96-4-T, Trial.

2.5 Human Trafficking

It has been estimated that about 600,000 to 800,000 persons are victims of trafficking every year.⁶² The collapse of legal, political, economic and social structures in armed conflicts usually increases the risk of trafficking.⁶³ Children separated from family members and are struggling to survive alone are at a higher risk of being trafficked, as the challenges they experience force them to grab any opportunity for a better life in other countries.⁶⁴ Women who have lost their husbands find it hard to support themselves and their children may be trafficked.

These children and women are abducted, deceived, and coerced into leaving their countries in search of greener pastures by taking up jobs as factory workers, housemaids, nannies, dancers, models and waitresses.⁶⁵ However, they are forced into prostitution, marriages, sexual slavery, and recruitment into armed groups upon getting to their destination countries. Victims of human trafficking are at a risk of reproductive health conditions such as sexually transmitted diseases and unwanted pregnancies due to sexual abuse. They may also experience physical abuse by their clients and handlers.⁶⁶

2.6 Loss of Family Incomes

Armed conflicts disrupt livelihoods due to the loss of jobs, inability to conduct businesses, as well as the destruction of resources and farmlands. When families split in these periods, their sources of livelihoods diminish as couples find it more difficult to support themselves and sustain their households.

For families deprived of their breadwinners, the availability of food, as well as the capacity to send children to school and adapt to the circumstances caused

⁶² National Criminal Justice Reference Service, 'Human Trafficking', https://www.ncjrs.gov/ovc_archives/ncvrw/2005/pg51.html [Accessed 23 June 2022]

⁶³ ICRC, 'Addressing the Needs of Women Affected by Armed Conflict' https://www.icrc.org/en/doc/assets/files/other/icrc_002_0840_women_guidance.pdf [Accessed 2 November 2022]

⁶⁴ Lindsey, *supra* n (7) 56, 57.

⁶⁵ UNFPA, *supra* n (58).

⁶⁶ *Ibid.*

by armed conflict is reduced.⁶⁷ Persons who did not have jobs before the commencement of the conflict or who lost their jobs while the conflict was going on are in worse conditions because getting a job in conflict settings is difficult. This is mainly because of injuries, psychological issues, the lack of places to keep children while working, as well as destruction of facilities, organisations, and businesses. Livelihoods like trade are also difficult to start due to lack of capital and the fear of attacks.⁶⁸ Elderly and disabled persons may not be able to earn a living when they have been separated from their support systems and may experience difficulties in feeding, shelter, and accessing health care.⁶⁹

Many rural communities in Africa depend on agriculture for consumption in the household as well as for commercial purposes.⁷⁰ The fear of attacks as well as destruction of farms deprive some people of harvesting crops especially in conflicts which are protracted in nature and whose end is difficult to ascertain.⁷¹

A study by Adelaja & George on Boko Haram induced conflict in Nigeria revealed that farms are destroyed due to conflict which affects farms, agricultural output and the livelihood of households.⁷²

Land, a major source of livelihood in rural Africa becomes a contentious issue in post conflict settings, especially when members of such communities had been displaced. Widows are often cheated with respect to their husband's land

⁶⁷ Bruck Tilman et al, 'The Effects of Violent Conflict on Household Resilience and Food Security: Evidence from the 2014 Gaza Conflict' (2019) 119 *World Development* 203, 211.

⁶⁸ Haeri and Puechguirbal, *supra*, n (22) 115.

⁶⁹ UNHCR, 'Family Unity: Handbook for the Protection of Internally Displaced Persons', <<https://www.unhcr.org/4794b4bc2.pdf>> [Accessed 22 July 2022]

⁷⁰ Philip Verwimp, 'Food Security, Violent Conflict and Human Development: Causes and Consequences', <<file:///C:/Users/oolus/Downloads/Food%20Security%20Violent%20Conflict.pdf>> [Accessed on 25 July 2022]

⁷¹ In Sudan, armed conflicts forced farmers to restrict the farms they cultivated to only those closest to their homes while some livestock were lost. Maxwell, D et al, *Conflict and Resilience: A Synthesis of Feinstein International Centre Work on Building Resilience and Protecting Livelihoods in Conflict-related Crises* <https://www.alnap.org/system/files/content/resource/files/main/FIC-Publication-Q2_web_2.26s.pdf> [Accessed 20 June 2022]; Tilman Bruck and Kati Schindler, 'The Impact of Conflict and Fragility on Households: A Conceptual Framework with Reference to Widows' (2008) <<https://www.wider.unu.edu/sites/default/files/rp2008-83.pdf>> [Accessed 22 July 2022]

⁷² Adelaja Adesoji, and Justin George, 'Effects of Conflict on Agriculture: Evidence from the Boko Haram Insurgency' (2019) 117 *World Development* 184-195.

by male relatives and deprived of their rights over such land.⁷³ Discriminatory cultural practices are the basis for these actions as some communities believe only men have rights to inherit property and assets. Women who do not have children or who lost their children during armed conflict are in dire circumstances.⁷⁴

Women can obtain legal remedies for the deprivation of their entitlements and rights. To adequately have access to justice, they need to be aware of their rights, but many women in rural areas lack this awareness. Other challenges include inadequate funds and threats from family members.⁷⁵

2.7 Decline of Moral and Cultural Values

Article 18(2) of the ACHPR states that the family is the “*custodian of morals and traditional values recognised by the community*”. Moral virtues nurture, develop, and shape the perspectives of persons in different phases of life. They help them to determine actions and decisions that are right or wrong.⁷⁶ According to Mohammad Chowdhury: “*liberal democracy can only flourish if its citizens hold certain moral and civic values, and manifest certain virtues*”.⁷⁷

On the other hand, Cultural values can be defined as “*...a system of inherited conceptions expressed in symbolic forms by means of which men [and women] communicate, perpetuate, and develop their knowledge about and attitudes toward life*”.⁷⁸ Customs are prevalent in African countries especially concerning

⁷³ Maxwell et al, n (71).

⁷⁴ Tilman Bruck and Kati Schindler, ‘The Impact of Conflict and Fragility on Households: A Conceptual Framework with Reference to Widows’ (2008) <<https://www.wider.unu.edu/sites/default/files/rp2008-83.pdf>> [Accessed 2 August 2022]

⁷⁵ ICRC, supra, n (58).

⁷⁶ Champion School, ‘Spiritual, Moral, Social & Cultural Values’, <<http://www.champion.northants.sch.uk/205/spiritual-moral-social-cultural-values>> [Accessed 15 July 2022]

⁷⁷ Mohammad Chowdhury, ‘Emphasizing Morals, Values, Ethics, And Character Education in Science Education and Science Teaching’, (2016) 4 The Malaysian Online Journal of Educational Science 1.

⁷⁸ Johanna E. Bond, Gender, Discourse and Customary Law in Africa, (2010) 83 Southern California Law Review 509, 517.

issues related to marriage, divorce, succession and property rights, fashion, food, custody, burial, and inheritance.

Family life contributes a great deal to moral and cultural values held dear by African communities.⁷⁹ Traditionally, the older generation play a huge role in educating and guiding young ones to a path of responsibility and making the right decisions in their journey through life.⁸⁰ However, upon the separation of family members during armed conflicts, these values are not appreciated and practiced. The elders left in the home focus upon survival and meeting their basic needs, and values relegated to the background.

In protracted conflicts, children might be deprived of these morals and guidance throughout the whole length of their childhood.⁸¹ Furthermore, cultural practices that are supposed to help children cope with the trauma of armed conflicts, such as birthdays, coming of age celebrations, special foods, musical instruments, and traditional dresses are often unavailable.⁸²

3.0 INTERNATIONAL HUMANITARIAN LAW, HUMAN RIGHTS LAW AND PRESERVATION OF THE FAMILY UNIT IN ARMED CONFLICTS

International Humanitarian Law (IHL) is a body of laws, which seek to regulate activities during armed conflicts and ensure that there is minimal dehumanization of human beings.⁸³ These laws are codified in the fourth 1949 Geneva Conventions and its Protocols.

In addition to IHL, IHRL is applicable in armed conflicts. IHL is among the ‘oldest branches of public international law’ which is inspired by a feeling for

⁷⁹ Maribel González Pascual and Aida Torres Pérez, ‘Introduction’ In Maribel González Pascual and Aida Torres Pérez (eds) *The Right to Family Life in the European Union* (Routledge, 2017) 1.

⁸⁰ Family Policy Social Centre, ‘Family Values’ <<https://www.fpssc.org.uk/family-values/>> [Accessed 12 July 2022]

⁸¹ Save the Children, *Training Manual on Child Rights* supra, n (12).

⁸² United Nations, *The Rights and Guarantees of Internally Displaced Children in Armed Conflict* (2012) <<https://childrenandarmedconflict.un.org/publications/WorkingPaper-2-Rights-GuaranteesIDP-Children.pdf>> [Accessed on 12 July 2022]

⁸³ Chris C. Wigwe. *International Humanitarian Law* (Thompson Press 2010) 1.

humanity.⁸⁴ IHRL, on the other hand, is a much more recent branch, which highlights the rights of individuals and groups and the responsibilities conferred on States to ‘respect, protect and fulfil’ these rights.⁸⁵

The conceptual overlap between IHRL and IHL was made prominent at the Tehran human rights conference in 1968, which marked the twentieth anniversary of the Universal Declaration of Human Rights (UDHR). One of the key resolutions that was adopted at the conference was entitled, ‘Respect for Human Rights in Armed Conflicts’.⁸⁶ The title of the resolution confirms a consensus among States that human rights are applicable in armed conflict situations. The resolution gives a mandate to the Secretary-General of the UN to study ‘relevant developments concerning human rights in armed conflicts and report to the General Assembly.’⁸⁷ This request eventually led to the drafting of the Additional Protocols to the Geneva Conventions in the 1970s which demonstrated the growing connections between IHL and IHRL more than any other treaty before them.⁸⁸

Over the years, the application of human rights to armed conflict situations has been evident in Conventions, resolutions and judicial decisions.⁸⁹ IHL and IHRL are both based on the recognition of shared humanity despite the differences in their historical and doctrinal roots. Fundamental principles common to both bodies of law include: non-discrimination and security of the person.⁹⁰ It was noted in *Coard v. USA*⁹¹ that ‘both bodies of law share a common nucleus of non-derogable rights and a common purpose of protecting human life and dignity’.⁹²

⁸⁴ Katharine Fortin, ‘Complementarity between the ICRC and the United Nations and International Humanitarian Law and International Human Rights Law, 1948–1968’ (2012) 94/888 *International Review of the Red Cross* 1435.

⁸⁵ H. Haider, *International Legal Frameworks for Humanitarian Action: Topic guide* (DFID 2013) 8.

⁸⁶ See *Respect for Human Rights in Armed Conflict*, GA Res. 2444 (XXIII) (19 December 1968) <<http://www.refworld.org/docid/3b00f1d558.html>> [Accessed 27 April 2017]

⁸⁷ Amanda Alexander, ‘A Short History of International Humanitarian Law’ (2015) 26 *The European Journal of International Law* 120.

⁸⁸ Fortin (n 84)1437.

⁸⁹ Melanie Jacques, *Armed Conflict and Displacement: The Protection of Refugees and Displaced Persons under International Humanitarian Law* (Cambridge University Press 2012) 11.

⁹⁰ Haider (n 85) 20.

⁹¹ Case No. 10.951; 123 ILR, 156, 169.

⁹² Malcolm N. Shaw, *International Law* (Cambridge University Press 2008) 1197.

Nevertheless, despite the growing convergence between IHL and IHRL, significant differences remain. Human rights law operates primarily in peace time and also applies during armed conflict, while IHL gains full force upon the commencement of an armed conflict and seeks to regulate the relationship between adversaries.⁹³ Therefore, the relationship between IHL and IHRL is that of complementarity, in which both bodies are not identical, but complement each other. They are mutually supportive regimes, where human rights supplement the provisions of the laws of armed conflict in cases where the rules are unclear or only cover certain situations, vice-versa.⁹⁴ Their concurrent application has the potential to offer greater individual protection and enhances the other body of law to strengthen areas of relative weakness.⁹⁵ Both IHL and IHRL recognise the importance of preserving the unity of families both in armed conflicts (IHL) and in preserving the wellbeing and other rights of persons (IHRL). These two bodies of law have specifically made some provisions to that effect which will be discussed below.

3.1 International Humanitarian Law and Maintenance of Family Unity

3.1.1 Convention Relative to the Protection of Civilian Persons in Times of War, 1949

The Fourth Geneva Convention seeks to protect civilians who, during international armed conflicts, reside in territories occupied by opponents or find themselves in the territory of a party to a conflict where they are not citizens.⁹⁶ In such circumstances, it is difficult for people to maintain contact with each other and to preserve family ties. The Fourth Geneva Convention recognises that all persons protected by the Convention shall be allowed to convey personal messages to their family members irrespective of their location and receive news from them without any form of delay.⁹⁷

⁹³ Wigwe (n 83) 2, 3.

⁹⁴ Noelle Quenivet, 'The History of the Relationship Between International Humanitarian Law and Human Rights Law' in Roberta Arnold and Noelle Quenivet (eds) *International Humanitarian Law and Human Rights Law: Towards a New Merger in International Law* (Martinus Nijhoff Publishers 2008) 9.

⁹⁵ *Ibid* at 4.

⁹⁶ See Geneva Convention IV, Article 4.

⁹⁷ Geneva Convention IV, Article 25.

When hindrances exist with respect to communication with families, the Central Tracing Agency (CTA) of the ICRC, with support from the National Red Cross Societies, is to be consulted by parties to the conflict. The International Committee of the Red Cross (ICRC) adds that this right is only applicable to personal information related to family issues and extends to the right of persons to receive such information. Belligerents are thus not to deliberately hinder such correspondence in anyway.⁹⁸

Circumstances common in armed conflicts situations might require that there is a limit to the messages sent out and, in such cases, standard forms used strictly for family issues and containing 25 words freely picked out by the person sending the news could be used and sent out once a month.⁹⁹ Article 26 establishes the right of family members to make enquiries from belligerents concerning their family members who have been separated from them due to armed conflicts.

These enquiries are to be facilitated and encouraged by parties to conflicts. According to the ICRC, this provision helps to preserve family ties by re-establishing contact between dispersed family members.¹⁰⁰ The ICRC further comments that efforts to be made in reunifying separated families should include: “the organization of official information bureaux and centres; notification by postal authorities of changes of address and possible places of evacuation; the arranging of broadcasts; the granting of facilities for forwarding requests for information and the replies; and, as a precautionary measure, the provision of identity discs for children under twelve years of age as provided in Article 24, paragraph 3 of the Convention...”.¹⁰¹

The ICRC notes, however, that for family reunification to be more effective, information centres are empowered to deal with only enemy nationals, except as otherwise agreed upon by parties to conflict. In addition, postage concerning

⁹⁸ ICRC, Convention IV Relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 available at <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/comment.xsp?action=open> [Accessed on July 25 2023]

⁹⁹ Geneva Convention IV, Article 25.

¹⁰⁰ ICRC, Convention IV Relative to The Protection of Civilian Persons in Time of War.

¹⁰¹ Ibid.

family enquiries should not incur charges.¹⁰² Article 26 adds that organisations who have been tasked with reuniting families should be supported by the State subject to the organisation's acceptability by parties to the conflict and their compliance with security regulations of the country where they work. The ICRC notes that organisations that do not receive such support will experience challenges.¹⁰³

Furthermore, Article 49 of the Convention provides that total or partial evacuation of a particular area by occupying powers must be carried out without the separation of family members to preserve their unity. Evacuated persons are to be returned to their homes upon the cessation of hostilities. The ICRC, in its commentary, notes that this paragraph aims at preventing a reoccurrence of happenings in the Second World War, where persons were torn away from their families and deported mostly to participate in forced labour, and women, children, the ill, and aged persons consequently experiencing traumatic conditions.¹⁰⁴

States have the right to imprison opposing parties, but there are restrictions to this right which protects families in armed conflict. Article 82 provides that interned persons who are family members, particularly parents and children, should be allowed to reside together for the whole period of internment. However, the interned persons can be temporarily separated in exceptional circumstances which involve their health, hygiene, medical attention, and employment. Children who would otherwise lack parental care, should, upon request, be allowed to stay with their parents.

This provision aims to mitigate the effects of family separation on individuals. According to Article 81, the detaining power is required to support dependents of the internees protected by the Convention who do not have a source of livelihood and form of assistance. Article 89 provides that "pregnant women, nursing mothers, and children below the age of fifteen shall be provided with extra meals in accordance with their 'physiological needs". Articles 81 and 89

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

are essential in improving the living conditions and nutrition of family members who have been separated from interned persons who they had relied on for survival.

Article 16 provides that parties to a conflict should take measures to search for the killed, wounded, and shipwrecked upon the cessation of a fight. Also, detaining authorities should ensure that those who die while being detained should be identified and the list of their graves forwarded through the National Information Bureau to the authorities in charge of the deceased.¹⁰⁵ These provisions seek to ensure that families know the fate of their loved ones and prevent the uncertainty, psychological distress, and deprivation of rights encountered by families of missing persons.

Furthermore, the Fourth Geneva Convention provides that children below the age of 15 years, who have lost their parents in situations of armed conflicts either permanently or temporarily, are to be provided with their religion and education facilitated by persons of the same culture.¹⁰⁶ Parties shall also make efforts to ensure that children below the age of 12 years who have lost their parents or are separated from them wear identity discs for purpose of identification.¹⁰⁷

According to Article 50, the occupying power need to identify children and register parentage. However, their personal status must not be changed as this would make it more difficult for them to be found. When local institutions cannot identify these children, arrangements should be made for their maintenance and education by “persons of their own nationality, language and religion”.¹⁰⁸

Children whose identity is in doubt should be properly identified through the establishment of a special Bureau set up for this purpose. Applications made for the special treatment of children below fifteen years of age – as well as pregnant mothers and mothers whose children are below seven years of age – concerning “food, medical care, and protection against the effects of war,” which

¹⁰⁵ Geneva Convention IV, Article 130.

¹⁰⁶ Geneva Convention IV, Article 24.

¹⁰⁷ Ibid.

¹⁰⁸ Geneva Convention IV, Article 50.

may have been in place before the occupation should not be denied by the occupying power.¹⁰⁹

The fourth Geneva Convention also protects the family unit by stating that internees who are to be transferred must be formally informed of the relocation and given details of the new postal address. Sufficient time must also be given to them to inform their next of kin.¹¹⁰ Visitors, especially relatives, shall be allowed to visit internees as regularly as possible. Internees shall also be allowed to visit their homes for pressing matters, especially those dealing with the death or sickness of a relative.¹¹¹ The ICRC comments that such visits are beneficial to the internee who is able to receive support from family members.

This buttresses the importance of visits by identifying Kenya where persons without families were allowed visits by friends upon the request of an ICRC delegate. The ICRC adds, however, that the frequency of visits in the Convention was purposely left to the discretion of belligerents, as it is important that they appraise security situations before visits are allowed.¹¹² The fourth Geneva Convention further provides that at the onset of a conflict, an information bureau shall be established by parties to the conflict, with the role of receiving and transmitting information concerning protected persons kept in their territory.¹¹³

3.1.2 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1977 (Additional Protocol I)

Additional Protocol 1 supplements the 1949 Geneva Conventions and protects victims of international conflicts. Article 74 of the Additional Protocol 1 affirms the principle of family unity by stating that the parties to a conflict shall make all efforts to facilitate the reunion of families dispersed as a result of armed

¹⁰⁹ Ibid.

¹¹⁰ Geneva Convention IV, Article 128; see also, Articles 70 and 71, Third Geneva Convention Relative to the Treatment of Prisoners of War, 1949 (Third Geneva Convention).

¹¹¹ Geneva Convention IV, Article 116.

¹¹² ICRC, Convention IV Relative to the Protection of Civilian Persons in Time of War, *supra* n (133).

¹¹³ Geneva Convention IV, Article 136.

conflict and shall particularly encourage efforts by humanitarian organisations to achieve this objective.

In addition, families who are detained or interned shall be accommodated in the same place.¹¹⁴ Article 76 (2) states that pregnant women and those with dependent infants who have been detained or interned for committing offences related to armed conflict should have their cases treated with priority. Upon the conclusion of such cases, the sentence of death should not be imposed against them and if imposed, should not be carried out.¹¹⁵ This provision will help to prevent mother-child separation and prevent situations where children will suffer from lack of nutrition and care of a mother.

Additional Protocol 1 further states that the consent of parents and legal guardians must be obtained before children are evacuated.¹¹⁶ According to Article 78(3), to enable the return of these evacuated children, they must be provided with a card and photographs, which shall be sent to the CTA of the ICRC. When non-nationals of a country die as a result of hostilities, occupation, or detention, their relatives shall be allowed to visit their gravesites whenever possible and as soon as circumstances allows, and their bodies shall be sent to their countries upon the application of the deceased country or next of kin.¹¹⁷

3.1.3 Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts, 1977 (Additional Protocol II)

Additional Protocol II protects civilians from IHL violations in non-international armed conflicts (NIAC). The Protocol addresses family unity in armed conflicts by encouraging continuous access to education for children, despite the outbreak of hostilities. The education made available should include moral and religious education and must receive the approval of parents or their guardians.¹¹⁸ According to the ICRC, the provision on continuity of education

¹¹⁴ Additional Protocol 1, Article 75(5).

¹¹⁵ Additional Protocol 1, Article 76(3).

¹¹⁶ Additional Protocol 1, Article 78(1).

¹¹⁷ Additional Protocol I, Article 34(2).

¹¹⁸ Additional Protocol II, Article 4 (3)(a).

aims to ensure that children separated from their families are not totally detached from their cultural identity and roots by being initiated into strange cultures not approved by their parents.¹¹⁹

Furthermore, Article 4 (3) (b) also provides that separated family members should be reunited; the process should be facilitated by parties to the conflict. The ICRC notes that the above provision was triggered by Article 26 of the fourth Geneva Convention and identifies the CTA as one of the humanitarian organisations rendering excellent services in reuniting separated families. The Agency also transmits messages between families who find it difficult to communicate with each other and register civilians during evacuation processes.¹²⁰

Article 5 also recognises that families detained or incarcerated as a result of armed conflicts, can be accommodated together.¹²¹ The ICRC notes that this provision originates from Article 82 of the Fourth Convention and emphasizes the importance of communication to the mental health of persons deprived of their liberty and their families. Such correspondence also aids peaceful reintegration upon the cessation of hostilities as it reduces the number of individuals cut off from their families due to the inability to locate them. The ICRC also specifies that when challenges arise leading to the collapse of postal services, the CTA's 25 maximum word form could be employed in NIAC.

According to the ICRC, correspondence with relatives "is a legal right" and its deprivation should not be used as a "disciplinary measure or as a means of exerting pressure, even though it may sometimes prove necessary to limit the number of cards and letters".¹²² Children can only be removed temporarily from unsafe areas when the approval of their parents or guardians have been obtained. These children must also be accompanied by persons who have a duty

¹¹⁹ ICRC, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977 available at <https://ihl.databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument> [Accessed on July 25 2023]

¹²⁰ Ibid.

¹²¹ Additional Protocol II, Article 5(2) a.

¹²² ICRC, Protocol Additional to the Geneva Conventions.

to protect them and ensure they are safe.¹²³ Also, to further protect the right of children to a family, the Protocol forbids subjecting expectant mothers and those with young children to death sentences.¹²⁴

3.1.4 United Nations Guiding Principles on Internal Displacement, 1998

The United Nations Guiding Principles on Internal Displacement is a non-binding document which highlights the rights of displaced persons in addition to the responsibilities of appropriate authorities in charge of IDPs.¹²⁵ The Guiding Principles discourage the arbitrary displacement of persons from their homes, except for security purposes or military reasons.¹²⁶ In the event that such displacement has to occur, the right of persons to “life, dignity, liberty and security” should be considered.¹²⁷

The Guiding Principles protect the right to family life of displaced persons by stating that families should be allowed to live together if they so request and those who have been separated in the process of displacement should be reunited “as quickly as possible”.¹²⁸ Internally displaced families who have been interned or confined in displacement camps have the right to live together.¹²⁹ Internally displaced minors who are unaccompanied are to be assisted and cared for in accordance with their special needs.¹³⁰

According to the Guiding Principles, persons who are displaced have the right to information about their relatives who are missing, and relevant authorities in cooperation with international organisations should assist in this regard. The next of kin should be notified of updates and when these missing persons are discovered to have died, their bodies should be identified and returned to their next of kin or disposed of respectfully. Respect and adequate protection should

¹²³ Additional Protocol II, Article 4(3) e.

¹²⁴ Additional Protocol II, Article 6(4).

¹²⁵ Olusegun, Olaitan and Adedokun Ogunfolu. ‘Protecting Internally Displaced Children in Armed Conflicts: Nigeria in Focus’ (2019) 9 *Notre Dame J. Int'l Comp. L* 44

¹²⁶ UN Guiding Principles, Principle 6 (2) (b).

¹²⁷ UN Guiding Principles, Principle 8.

¹²⁸ UN Guiding Principles on Internal Displacement, Principle 17(2, 3).

¹²⁹ UN Guiding Principles on Internal Displacement, Principle 17(4).

¹³⁰ UN Guiding Principles on Internal Displacement, Principle 4(2).

be accorded to the gravesites of displaced persons and they should have access to the locations where their relatives are buried.¹³¹

3.2 Human Rights Law and Maintenance of Family Unity

3.2.1 The African Charter on the Rights and Welfare of the Child (ACRWC)1999

The African Charter on the Rights and Welfare of the Child (ACRWC)1999 is a regional human rights treaty which recognises that children occupy a special place in the African society and are to “grow up in a family environment in an atmosphere of happiness, love, and understanding”, so as to ensure their proper development.¹³² In addition, Article 23 provides that refugees and internally displaced children who have suffered from the effects of NIAC should receive adequate protection and assistance. This assistance should cover those who have lost their parents and need to be cared for.

Also, according to Article 23(2), States shall undertake to assist humanitarian organisations in obtaining sufficient information necessary to reunite these children with their families. Article 23(3) states that “where no parents, legal guardians, or close relatives can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason”. Article 19(1) seeks to ensure that children enjoy care and protection from their parents and emphasise their right to reside with their parents.

Children must not forcefully be disconnected from their parents except where a judicial authority decides that such separation will be in accordance with their best interests. When children are separated from their parent(s) however, they must be allowed to keep in touch regularly.¹³³

When the action of a state causes separation, the family must be provided with sufficient details of the location of the absent member, while ensuring that the

¹³¹ Un Guiding Principles on Internal Displacement, Principle 16 (1-4).

¹³² Preamble, ACRWC, 1999.

¹³³ ACRWC, Article 19(2).

absent member will not be endangered.¹³⁴ When a child is apprehended by a state party, his or her parents or guardians must be informed.¹³⁵ This will help families know the fate of their loved ones and prevent the uncertainty and psychological distress encountered by families of missing persons. According to Article 25(1), “any child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance.” Alternative family care, including foster placement and institutional care, should be provided for such a child.¹³⁶

3.2.2 Convention on the Rights of the Child, 1990 (CRC)

The CRC is a comprehensive treaty which protects the rights of children. The CRC seeks to preserve the family unit by providing that members stay together instead of being separated. Article 9(1) establishes the right of children not to be separated from their parents against their will, except where it has been judicially determined that such separation is in their best interests. According to Article 9(3), separated children have the right to communicate with their parents except such relations is not in accordance with their best interests. Article 9(4) provides that where parents and children have been separated due to the action of a State, the location of the absent person must be made known to the others.

Children or their parents can apply to a state to leave or enter that state to reunite with a family member. Such applications should be handled positively, compassionately, and quickly by the State while ensuring that the family will not be affected negatively.¹³⁷ Article 20 also approves of the provision of alternative care for children temporarily or permanently deprived of their family environment. Unlike the ACRWC, it adds “*kafalah*”¹³⁸ of Islamic law and adoption to the options of alternative care, and adds that in considering the best

¹³⁴ ACRWC, Article 19(3); See also, CRC, Articles 9(1-4).

¹³⁵ ACRWC, Article 19(4).

¹³⁶ ACRWC, Article 25(2) a.; See also, the CRC, Article 20.

¹³⁷ CRC, Article 10.

¹³⁸ Kafalah is ‘an alternative family care option for children outside of parental care practised by Muslims around the world’. See UNICEF, ‘An Introduction to Kafalah’ available at <<https://www.unicef.org/esa/media/12451/file/An-Introduction-to-Kafalah-2023.pdf>> [Accessed 11 June 2023]

option, the child's background and the likelihood that he or she will continue to receive an education, must be factored in.¹³⁹

3.2.3 United Nations Convention on the Rights of Persons with Disabilities, (CRPD) 2007

This CRPD was adopted for the purpose of protecting the rights of persons with disabilities. It provides that persons with disabilities shall not be discriminated against in all circumstances, including issues related to the family.¹⁴⁰ They therefore have the right to get married, start a family, and make appropriate decisions within that unit just like other people.¹⁴¹ The CRPD provides that persons with disabilities have rights to guardianship, wardship, trusteeship and adoption of children, which must all be in accordance with the best interest of the child.¹⁴²

Children with disabilities are also entitled to family life on an equal basis with others. Preventing the neglect of these children requires States to provide "early and comprehensive information, services, and support" to them and their families.¹⁴³ Separation of children from parents is also prohibited except where such separation is in the best interests of the child. Disability should never be the basis of separation between a child and his or her parents.¹⁴⁴ Where a child cannot be cared for by the immediate family, the State shall provide an alternative among extended relatives and if that fails, a family that resides in the same community shall be called upon to assist.¹⁴⁵

3.2.4 International Covenant on Civil and Political Rights (ICCPR)

The ICCPR was adopted in 1966 to promote the civil and political rights of individuals. According to Article 17, the right of persons to enjoy family life

¹³⁹ CRC, Article 20(3).

¹⁴⁰ Convention on the Rights of Persons with Disabilities, Article 23(1).

¹⁴¹ Convention on the Rights of Persons with Disabilities, Article 23(1)A, B.

¹⁴² Convention on the Rights of Persons with Disabilities, Article 23(2).

¹⁴³ Convention on the Rights of Persons with Disabilities, Article 23(3).

¹⁴⁴ Convention on the Rights of Persons with Disabilities, Article 23(4).

¹⁴⁵ Convention on the Rights of Persons with Disabilities, Article 23(5).

should not be unlawfully interfered with. It adds that States should protect this right through legislation.¹⁴⁶

The Human Rights Committee while commenting on the above provision, adds that all persons are entitled to enjoy protection from unlawful interference whether they originated from the State or from individuals. The Committee also requires the adoption of national legislation to ensure that families will not be unduly interfered with and persons will be effectively protected from human rights violations.¹⁴⁷ The Committee specifies that interference is arbitrary when the provisions of a Law is unreasonable and contradicts the ‘provisions, aims and objectives’ of the ICCPR.¹⁴⁸

Furthermore, the UN General Assembly in its resolution on the rights of the child, also recognises the significance of the family unit in armed conflicts. It thus calls upon States to ‘prioritise family tracing and reunification and to continue to monitor the care arrangements for unaccompanied refugees and internally displaced persons’.¹⁴⁹ The Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, in her report on ways to improve their rights, enjoined States to:

*“Prioritize the prevention of family separation, notably by helping communities to prepare for any eventual displacement and mitigate the risks associated with it, as well as by raising awareness on the part of authorities of the importance of preserving family unity, and support family tracing and reunification during displacement and in the return and reintegration process”.*¹⁵⁰

The UN Commission on Human Rights recognises that the family is the basic unit of the society and thus enjoins States to ensure that children live with their

¹⁴⁶ ICCPR, Article 17(1-2).

¹⁴⁷ UN Human Rights Committee (HRC), CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honor and Reputation, 8 April 1988, <<https://www.refworld.org/docid/453883f922.html>> [Accessed 20 July 2023]

¹⁴⁸ Ibid at 7.

¹⁴⁹ UN General Assembly Resolution 53/128, 23 February 1999 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/768/97/PDF/N9976897.pdf?OpenElement>> [Accessed 12 July 2023]

¹⁵⁰ Seventy-fourth session Item 72 (b) of the Provisional Agenda 31 July 2019, Promotion and Protection Of Human Rights: Human Rights Questions, Including Alternative Approaches For Improving The Effective Enjoyment Of Human Rights And Fundamental Freedoms <file:///C:/Users/DELL/Downloads/A_74_261-EN.pdf> [Accessed 22 July 2022]

parents and are not disconnected from them, except in accordance with the provisions of the UNCRC.¹⁵¹

Compliance with the law during armed conflict situations is however low due to the chaotic nature of armed conflicts and the desire of parties to take revenge and inflict harm as much as possible.¹⁵² In some cases, parties, especially non-state actors in non-international armed conflicts, have little or no regard for the law and are mostly not even aware of its contents. The use of unconventional methods during hostilities like nuclear, chemical, biological information operations and terrorism also undermine the observance of IHL as vulnerable persons get harmed in the process.¹⁵³

Other challenges include insufficient funding in some developing countries to implement the provisions of extant law like conducting tracing and reunification programs, providing meals for families whose breadwinners have been interned, providing suitable accommodation to allow displaced and interned families live together, sending messages to family members of opponents and taking care of children in need who lost their parents during armed conflicts. Lack of political will to take extra steps in ensuring that the required resources are made available and to comply with IHL and IHRL laws concerning family preservation is also a challenge in these countries. This is mostly because they do not consider such issues necessary enough for actions to be taken to achieve the desired result.

4.0 CUSTOMARY INTERNATIONAL LAW AND FAMILY UNITY IN ARMED CONFLICT SITUATIONS

The Statute of the ICJ describes customary international law as ‘a general practice accepted as law’.¹⁵⁴ A customary international law exists upon the existence of two elements, namely State practice and “*opinio juris*”, that is, the

¹⁵¹ UN Commission on Human Rights, Res. 2005/44, 19 April 2005, Preamble and S 16 c.

¹⁵² Toni Pfanner, ‘Various Mechanisms and Approaches for Implementing International Humanitarian Law and Protecting and Assisting War Victims’ (2009) 91 *International Review of the Red Cross* 280.

¹⁵³ Ajey Lele, ‘Asymmetric Warfare: A State vs Non-State Conflict’ (2014) 20 *Oasis* 97, 99.

¹⁵⁴ ICJ Statute, Article 38(1)(b).

acceptance of a practice as being 'legally binding' in a state.¹⁵⁵ Most of the Conventions regulating armed conflict situations have been stated by the ICRC to be customary in nature. They include: 'the rules relating to the use of certain means of warfare, relief assistance, the principle of distinction between civilian objects and military objectives and the prohibition of certain methods of warfare'.¹⁵⁶ Respect for the family life of persons is also an customary international law principle applicable in both international and non-international armed conflicts.¹⁵⁷ Customary rules are significant and beneficial because they apply to all parties to an armed conflict, even when they are not signatories to the relevant Convention. It has therefore 'extended and strengthened the rules of IHL applicable in non-international armed conflicts'.¹⁵⁸ On the other hand, provisions that have not been established as customary international law will not be binding on States that are not signatories to those Conventions.

5.0 RECOMMENDATIONS

5.1 Strengthening and Implementation of Legal Framework

Laws and policies within countries which focus on family separation in armed conflicts should be strengthened. These laws should specifically recognise the importance of the family unit and rights to family unity in armed conflicts in accordance with the international legal instruments discussed earlier. Provisions that do not value the family unit and its importance in the lives of individuals and the society during armed conflicts should be amended.

¹⁵⁵ Noora Arajärvi, *The Changing Nature of Customary International Law: Methods of Interpreting the Concept of Custom in International Criminal Tribunals* (Routledge 2014) 2.

¹⁵⁶ *Id.* 60.

¹⁵⁷ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law Volume I: Rules*, (Cambridge University Press, UK) 379.

¹⁵⁸ ICRC, 'International Humanitarian Law and the Challenges of Contemporary Armed Conflicts' <https://www.icrc.org/eng/assets/files/other/ihl-challenges-30th-international-conference-eng.pdf> [Accessed 12 November 2018]

Laws should also explicitly establish government authorities or agencies in charge of tracing and reunification programs, as well as their responsibilities.¹⁵⁹ States that have not adopted relevant international legal instruments should do so and apply its comprehensive provisions in their countries. Implementation of laws is more difficult in situations of armed conflicts due to the breakdown of institutions and the chaos surrounding these periods. More efforts must, therefore, be made to effectively implement relevant laws protecting the family unit.

5.2 Tracing and Reunification of Family Members

The right to family life established in legal instruments includes the principle that family ties broken in situations of armed conflict are expected to be restored as quickly as possible.¹⁶⁰ Family tracing programs should be established to reunite missing persons with their relatives as these programs help people recover from trauma more quickly and aids their reintegration into the society.¹⁶¹ To achieve a successful tracing program, an adequate assessment must have been carried out to know the circumstances surrounding the separation and all relevant issues that could arise during tracing.

Also, identification, registration, and documentation must be done to identify those who have lost their families and record all necessary information about them, including their special needs.¹⁶² Mechanisms for tracing include, posting names and photographs in IDP camps and other public places; broadcasting names on radio networks; distributing tracing pamphlets to communities; traveling to the last location where families were together; and urging persons

¹⁵⁹ Rhodri C. Williams, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Oct 2008), <<https://www.refworld.org/pdfid/4900944a2.pdf>> [Accessed 23 July 2022]

¹⁶⁰ Lindsey, *supra*, n (7) 125, 126.

¹⁶¹ Neryl Lewis, *Women and Children in the Recovery Process* in Geoff Harris (Ed) *Recovery from Armed Conflict in Developing Countries* (Routledge 1999) 18F6.

¹⁶² European Commission, *Children on the Move, Family Tracing and Needs Assessment: Guidelines for Better Cooperation Between Professionals Dealing with Unaccompanied Foreign Children in Europe* (2014), <<http://www.oijj.org/sites/default/files/netforu-report-childrenonthemove.pdf>> [Accessed 22 August 2022]

to contact the nearest office of the particular agency in charge.¹⁶³ Members of communities should be asked to assist in the tracing process because they have better access to some areas and can provide important information to aid the process.¹⁶⁴

Tracing programs should take place as early as possible, as it is easier at such periods to find family members.¹⁶⁵ Early tracing also helps to remove the uncertainty in people's future and facilitates the early review of options.¹⁶⁶ When a substantial number of persons need to trace their families, priority should be given to persons who are most at risk such as young children, children in difficult situations, the sick, and the disabled.¹⁶⁷ Co-ordination of relevant stakeholders at all stages of family tracing is important and increases the effectiveness of the process. In cases of unsuccessful tracing, timely information framed delicately should be provided to those who are seeking to be reunited with their families, especially to children who may be more emotional. Psychological support should also be available to those who need it.¹⁶⁸

Upon a successful tracing, verification and reunification should take place. The purpose of verification is to ensure that the tracing process was correctly done and the right family was found, in addition to ensuring that reunification will be in the best interest of the child. It is also important to confirm that children indeed desire to be reunited with their family members.

Family reunification, on the other hand, consists of all actions taken to bring all family members together and re-establish broken ties.¹⁶⁹ Family reunification is important in sustaining the bond between family members, nurturing children in a family setting and sustaining the connection between parents and

¹⁶³ Marco Sassoli Et Al, *How Does Law Protect in War? Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law* (3rd ed, ICRC 2011) 2, 3.

¹⁶⁴ Alliance for Child Protection in Humanitarian Action, *supra*, n (10).

¹⁶⁵ UNICEF, *Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World* (2009) <https://childrenandarmedconflict.un.org/publications/MachelStudy-10YearStrategicReview_en.pdf> [Accessed 23 July 2022]

¹⁶⁶ Lopez Monica, et al, 'Factors Associated with Family Reunification for Children in Foster Care' (2013) 18 *Child & Family Social Work* 226-236.

¹⁶⁷ ICRC, *Children in War* *supra* n (14) 4.

¹⁶⁸ European Commission, *supra*, n (131).

¹⁶⁹ *Ibid.*

children.¹⁷⁰ While making efforts at reunification, the principles of non-discrimination, participation of all relevant stakeholders, and best interests of the child must be adhered to.¹⁷¹

The reunification process must protect children and ensure they do not fall into wrong hands. Reuniting them with parents is placed as a priority, but in the event of unsuccessful reunification with parents, other relatives would serve as alternatives. Furthermore, the national laws regulating the reunification of children with their families must not be contrary to international human rights and IHL standards.¹⁷²

Tracing and reunification are the duty of the State. They may, however, be supported by the ICRC through its CTA and with collaborations with National Red Cross and Red Crescent Societies.¹⁷³ After reunification involving a child, some form of monitoring and follow-up may be needed especially if they had been apart for a long time or when the child is placed with distant relatives. Follow-up is also necessary when the family is in very difficult circumstances or when children return as mothers.¹⁷⁴

States are not to establish unreasonable conditions for a valid reunification to take place as this would be discriminatory and contrary to the right to family life. This position was taken in the European Court of Human Rights case of *Haydarie and Others v. the Netherlands*,¹⁷⁵ where a person seeking to be reunited with her children was asked to prove that ‘she has sufficient independent and lasting income not being welfare benefits, to provide for the basic costs of subsistence of the family members with whom reunion is sought’. The conditions in this case were found to be reasonable. In the case of *Abdul-Aziz, Cabales and Balkandali v. United Kingdom*,¹⁷⁶ it was decided that

¹⁷⁰ Anthony N. Maluccio and Frank Ainsworth, ‘Drug Use by Parents: A Challenge for Family Reunification Practice’, 25 *Children and Youth Services Review* 511, 518 (2003).

¹⁷¹ UNHCR, *supra*, n (81).

¹⁷² Interagency Guiding Principles on Unaccompanied and Separated Children, <https://www.icrc.org/en/doc/assets/files/other/icrc_002_1011.pdf> [Accessed 25 July 2022]

¹⁷³ Wigwe, *supra* n (83) 152.

¹⁷⁴ ICRC, *supra*, n (12) 4.

¹⁷⁵ Admissibility decision 8876/04 ECTHRs.

¹⁷⁶ 15/1983/71/107-109.

reunification conditions should not be discriminatory against persons on grounds of gender.¹⁷⁷

5.3 Alternative Care Arrangements for Children

In cases where reunification could not be achieved or was discovered to be in conflict with the child's wellbeing, alternative arrangements concerning the care of the child is expected to be made to avoid deprivation of care and support.¹⁷⁸ However, these alternatives must be provided in accordance with the best interests of the child and with proper monitoring.¹⁷⁹ It has been suggested that children are placed in institutional care as a last resort, as family and community-based care arrangements are preferable for those who have lost their family members in conflicts than institutional care.¹⁸⁰

Studies conducted on institutional care in Romania discovered that children raised in foster homes and were attached to their foster families were not diagnosed with anxiety and depression compared with those who were in institutions.¹⁸¹ According to United Nations Children Education Fund (UNICEF):

*“Institutionalization hurts children and communities because it tends to constrain children’s cognitive and emotional development, ultimately hindering their social and economic performance as adults. This is true in both emergency and non-emergency settings. The length of stay and a child’s age are key factors: The longer children spend in orphanages, the more likely their development will be compromised”.*¹⁸²

¹⁷⁷ International Commission of Jurists, Access to Justice in the Protection of their Right to Private and Family Life Training Materials on Access to Justice, <<https://www.icj.org/wp-content/uploads/2018/06/Europe-FAIR-module-4-Training-modules-2018-ENG.pdf>> [Accessed 22 May 2022]

¹⁷⁸ Save the Children, Alternative Care in Emergencies (Ace) Toolkit (2013), <https://resourcecentre.savethechildren.net/node/7672/pdf/ace_toolkit_0.pdf> [Accessed 12 August 2022]

¹⁷⁹ ICRC, ‘Guiding Principles for The Domestic Implementation of a Comprehensive System of Protection For Children Associated with Armed Forces or Armed Groups’ <[File:///C:/Users/User/Downloads/Guiding-PrinciplesChildren-Icrc%20\(2\).Pdf](File:///C:/Users/User/Downloads/Guiding-PrinciplesChildren-Icrc%20(2).Pdf)> [Accessed 16 August 2022]

¹⁸⁰ Save the Children, Training Manual on Child Rights supra, n (12).

¹⁸¹ Katie A McLaughlin et al, Attachment Security as a Mechanism Linking Foster Care Placement to Improved Mental Health Outcomes in Previously Institutional d Children, (2012) 53 Journal of Child Psychology and Psychiatry, and Allied Disciplines 46, 48.

¹⁸² UNICEF, Machel Study 10-Year Strategic Review, supra n (165).

Institutional care could be especially detrimental to children below the ages of five, as they tend to develop “physical, psychological, and social skills” in these periods, which will be vital to their future. Children do not also experience the benefits of growing up in a family setting and are also at a high risk of experiencing abuse, particularly when they have a disability.¹⁸³

To ensure adequate protection for children placed in alternative arrangements, support should be provided by governments and humanitarian agencies to vulnerable families who have taken them in. Policies should be adopted by governments on how resources will be earmarked for this purpose.¹⁸⁴ Adequate and regular monitoring of the well-being of these children is therefore required by relevant authorities to ensure that they are safe in their new homes.¹⁸⁵

Children should be given the opportunity and provided with the mechanisms to make complaints as regards abuse, exploitation, and neglect. Response plans and processes must be included in policies.¹⁸⁶

5.4 Provision of Assistance to Families

States should assist families in situations of armed conflict and this can be done in several ways. It is more important to assist them by taking early actions in preventing and minimising their risk of separation and its effects on members and the society. The risk of separation can be reduced through the sensitisation of communities on giving their children necessary details about themselves, their parents, home, and the actions to take when they find themselves lost.

Parents should be told to keep their children with them or with other adult relatives for as much as they can in periods of armed conflict so that they can flee from attacks together when necessary. Community members should be informed of their role in supporting children, disabled persons, or the aged when they have lost family members.¹⁸⁷

¹⁸³ UNICEF, *supra*, n (124).

¹⁸⁴ Save the Children, *Alternative Care in Emergencies (ACE) Toolkit*, *supra*, n (178).

¹⁸⁵ UNICEF, *Machel Study 10-Year Strategic Review*, *supra* n (165).

¹⁸⁶ *Ibid.*

¹⁸⁷ Save the Children, *Training Manual on Child Rights* *supra*, n (12).

In displacement camps, arrangements should be made for families to live together so that the more vulnerable members of the family can enjoy better protection. Furthermore, displacement camps should be adequately fenced, flooded with lights, and guarded by security officers.¹⁸⁸ Women headed households should be registered and monitored to ensure they are provided with basic resources, so as to prevent their vulnerability to sexual abuse and trafficking.¹⁸⁹

Governments should explore alternative education methods outside of formal school buildings such as establishing classes in safe and undisclosed community spaces where children will be supervised by adults and would not have to walk long distances to school.¹⁹⁰ Psychological support should be provided for individuals and families who have lost loved ones or whose family members are missing. Legal support is also required for women who have been deprived of their homes, property or assets due to the loss of their husbands.

Arrangements should be made for resources donated by humanitarian organisations to reach women and children without abuse or harassment. Women whose houses were destroyed should also be assisted with accommodation after armed conflicts have ended.¹⁹¹

The assistance of humanitarian organisations must not affect family unity and actions that will hinder efforts to trace family members should be discouraged. For example, humanitarian evacuation of children without other family members and without obtaining the consent of the children and parents, changing a child's name and disposing the items found in his or her possession as well as placing a child far away from his or her community.¹⁹²

¹⁸⁸ Lindsey, *supra*, n (7) 73.

¹⁸⁹ ICRC, *supra*, n (58).

¹⁹⁰ Human Rights Watch, 'Schools and Armed Conflict: A Global Survey of Domestic Laws and State Practice Protecting Schools from Attack and Military Use' https://reliefweb.int/sites/reliefweb.int/files/resources/Full_report_145.pdf [Accessed 5 July 2022]

¹⁹¹ Lindsey, *supra* n (7) 102, 103.

¹⁹² Save the Children, *Alternative Care in Emergencies (Ace) Toolkit*, *supra*, n (178).

In addition, international organisations have in the past launched programs after armed conflicts have ended such as “food-for-work projects, small enterprise development, and credit schemes” which have been beneficial for women in starting their own small businesses.¹⁹³ Lessons should be learnt from these previous activities to establish more effective programs, so as to prevent the intentional separation of parents and children due to poverty.

National institutions established to find missing persons and transmit messages should be well-funded to increase the effectiveness of their services. Their response level and coordination with the ICRC should be strengthened, so that individuals who have missing families will quickly find respite.

6.0 CONCLUSION

The family has a significant role to play in the development of nations, as recognised by the 2030 Agenda for Sustainable Development, which identified the family as important in providing a “nurturing environment” for children and youths. A suitable environment to grow, develop, and learn will aid the fulfilment of rights and capabilities. The realization of these rights will help in contributing to the development of the nation.

Armed conflicts have caused the separation of several families due to deaths, conscription, abduction, detainment, internment, and voluntary separation. To avoid the detrimental effects of family separation due to armed conflicts, parties to both international and NIAC must comply with the IHL rules and human rights treaties established for this purpose. Other efforts targeted at assisting individuals recover lost contact with their families must be taken by all relevant stakeholders, including States, agencies, individuals, communities, and international organisations.

¹⁹³ Lindsey, *supra* n (7) 99, 100.

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